

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

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

6 19.03 Title, Authority and Purpose

7 19.06 General Provisions

8 19.09 Definitions

9 19.12 Zoning Districts

10 19.15 R-1 One-Family Residence District

11 19.16 R-1X District

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

13 [19.19 R-2A Residential Occupancy Overlay District](#)

14 19.21 R-3 Multifamily Residence District

15 [19.22 R-3A University Residential Density West Overlay District](#)

16 [19.23 R-3BA University Residential Density South Overlay District](#)

17 19.24 R-4 Mobile Home District

18 19.25 R-O Non-Family Residential [Restriction](#) Overlay District

19 19.27 B-1 Community Business District

20 [19.28 B-1A University Mixed-Use Neighborhood Overlay District](#)

21 19.30 B-2 Central Business District

22 [19.31 B-2A Downtown Housing Overlay District](#)

23 19.33 B-3 Highway Commercial and Light Industrial District

24 19.36 M-1 General Manufacturing District

25 19.37 M-2 Manufacturing and Miscellaneous Use District

26 19.38 Whitewater University Technology Park District (WUTP District)

27 19.39 ~~PCD~~ Planned ~~Community~~ Development District

28 19.42 AT Agricultural Transition District

29 19.45 C-1 Shoreland Wetland District

30 19.451 C-2 Nonshoreland Wetland District

31 19.46 Floodplain Regulations

32 19.461 FWW Floodway/Wetland District

33 19.48 I Institutional District

34 19.485 Large Retail and Commercial Service Development Standards

35 19.49 Wellhead Protection

36 19.51 Traffic, Parking and Access

37 19.54 Signage Regulations

38 19.55 Wireless Telecommunications Facilities

39 19.57 General Performance Standards

40 19.58 Noise Restrictions

41 19.60 Nonconforming Uses, Structures and Lots

42 19.63 Plan Review

43 19.66 Conditional Uses

44 19.69 Changes and Amendments

45 19.72 Board of Zoning Appeals
46 19.75 Administration and Enforcement

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

49 Sections:

50 [19.03.010 Title.](#)

51 [19.03.020 Authority.](#)

52 [19.03.030 Purpose.](#)

53 [19.03.040 Intent.](#)

54 [19.03.050 Abrogation and greater restrictions.](#)

55 [19.03.060 Interpretation.](#)

56 [19.03.070 Severability and nonliability.](#)

57 [19.03.080 Effective date.](#)

58

59 **19.03.010 Title.**

60 This title shall be known as, referred to, or cited as the "zoning ordinance, City of Whitewater,
61 Wisconsin."

62 (Ord. 994 § 1.1, 1982).

63

64 **19.03.020 Authority.**

65 The regulations are adopted under the authority granted by Article XI, Section 3, Wisconsin
66 Constitution and Sections 62.23, 62.231, 66.01, 87.30 and 144.26 of the Wisconsin Statutes and
67 amendments thereto.

68 (Ord. 1196 § 1(part), 1990: Ord. 1060 § 5, 1985).

69

70 **19.03.030 Purpose.**

71 The purpose of this title is to promote the health, safety, and general welfare of this
72 community.

73 (Ord. 994 § 1.3, 1982).

74

75 **19.03.040 Intent.**

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

87 (Ord. 60 § 6, 1985).

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19.03.050 Abrogation and greater restrictions.

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

19.03.060 Interpretation.

In their interpretation and application, the provisions of this title shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
(Ord. 994 § 1.6, 1982).

19.03.070 Severability and nonliability.

- A. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- B. If any application of this chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- C. The city does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the common council, its agencies or employees for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this chapter.
(Ord. 1060 § 8, 1985).

19.03.080 Effective date.

This title was effective on June 24, 1982.
(Ord. 1060 § 7, 1985; Ord. 994 § 1.7, 1982).

Chapter 19.06 GENERAL PROVISIONS

Sections:

- [19.06.010 Jurisdiction.](#)
- [19.06.020 Plan and architectural review commission--Created.](#)
- [19.06.030 Plan and architectural review commission--Qualifications and functions.](#)
- [19.06.040 Plan and architectural review commission--Architectural function.](#)
- [19.06.050 Plan and architectural review commission--Organization.](#)
- [19.06.060 Compliance required.](#)
- [19.06.065 Municipalities and state agencies regulated.](#)
- [19.06.070 Use restrictions.](#)
- [19.06.080 Accessory uses and structures.](#)

- 132 [19.06.090 Unclassified or unspecified areas.](#)
- 133 [19.06.100 Temporary uses.](#)
- 134 [19.06.110 Height modifications.](#)
- 135 [19.06.120 Yard modifications.](#)
- 136 [19.06.130 Reduction or joint use.](#)
- 137 [19.06.140 Lots to abut street and frontage.](#)
- 138 [19.06.150 Structures to be located on a lot.](#)
- 139 [19.06.160 Lots on undedicated portion of street.](#)
- 140 [19.06.170 Private sewer and water service.](#)
- 141 [19.06.180 Average street yards.](#)
- 142 [19.06.190 Lots abutting more restrictive districts.](#)
- 143 [19.06.200 Animal raising.](#)

144
145 **19.06.010 Jurisdiction.**

146 The jurisdiction of this title shall include all lands and water within the corporate limits of the
147 city.
148 (Ord. 994 § 2.1, 1982).

149
150 **19.06.020 Plan and architectural review commission--Created.**

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

163
164 **19.06.030 Plan and architectural review commission--Qualifications and functions.**

165 The city plan and architectural review commission shall have the qualifications and perform the
166 functions required by this code and the Wisconsin Statutes, Section 62.23. [The council or](#)
167 ~~mayor~~[city manager](#)~~administrator~~ [may, at their discretion, request that new members of the](#)
168 [plan and architectural review commission receive instructions regarding the standards, rules,](#)
169 [and regulations to be applied by the commission.](#)
170 (Ord. 994 § 2.2(part), 1982).

171
172 **19.06.040 Plan and architectural review commission--Architectural function.**

173 The city plan and architectural review commission is empowered with the architectural
174 function as provided in Chapter 19.63, for the purpose of promoting compatible development,
175 aesthetics, historic preservation, and stability of property values. [The aesthetic review function](#)

176 [of the of the city plan and architectural review commission shall be \(a\) limited to any guidelines](#)
177 [established by the City for reviewing aesthetic decisions and \(b\) intended to ensure](#)
178 [compatibility between new buildings and their surrounding built environment.](#)

179 (Ord. 994 § 2.2(part), 1982).

180
181 **19.06.050 Plan and architectural review commission--Organization.**

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

184 A. Officers shall be elected from the membership for terms of one year.

185 B. Meetings shall be held at the call of the chairman or when requested by the zoning
186 administrator and shall be open to the public.

187 C. Minutes shall be kept showing all actions taken and shall be a public record.

188 D. Quorums shall be five members, and all actions shall require the concurring vote of at least
189 four members.

190 E. Alternate members shall be voting members of the commission in cases when any of the
191 original seven members are absent or abstaining from a vote.

192 (Ord. 994 § 2.2(part), 1982).

193
194 **19.06.060 Compliance required.**

195 All structures and uses of structures, land or water, and any development as defined in this
196 title, shall comply with this title and all other applicable local, county, state and federal
197 regulations.

198 (Ord. 1060 § 9, 1985).

199
200 **19.06.065 Municipalities and state agencies regulated.**

201 Unless specifically exempted by law, all cities, villages, towns, and counties are required to
202 comply with this title and obtain all required permits. State agencies are required to comply if
203 Section 13.48(13) of the Wisconsin Statutes applies. The construction, reconstruction,
204 maintenance and repair of state highways and bridges by the Wisconsin Department of
205 Transportation are exempt from compliance when Section 30.12(4)(a) of the Wisconsin
206 Statutes applies.

207 (Ord. 1196 § 1(part), 1990).

208
209 **19.06.070 Use restrictions.**

210 Only those principal uses specified for a district, their essential services, and the uses noted in
211 this chapter shall be permitted in that district.

212 (Ord. 994 § 2.4(part), 1982).

213
214 **19.06.080 Accessory uses and structures.**

215 Accessory uses and structures are permitted but not until their principal structure is present or
216 under construction. Residential accessory uses shall not involve the conduct of any business,
217 trade or industry except home occupations as defined. Accessory uses and structures include
218 gardening, storage, parking areas, private swimming pool, private emergency shelters and
219 communications structures and similar uses and structures.

220 (Ord. 1082 § 1, 1986).

221

222 **19.06.090 Unclassified or unspecified areas.**

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

226 B. If a determination cannot be made by the zoning administrator, as an unclassified or
227 unspecified use may be permitted by the board of zoning appeals, provided that the use is
228 found to be consistent with the intent of this title.

229 (Ord. 994 § 2.4(B), 1982).

230

231 **19.06.100 Temporary uses.**

232 Temporary uses and structures, such as produce stands, real estate sales field offices, or
233 shelters for materials and equipment being used in the construction of a permanent structure,
234 and similar uses and structures, may be permitted by the zoning administrator for periods not
235 to exceed one year. Establishing a temporary use for longer periods shall require approval of
236 the plan commission.

237 (Ord. 994 § 2.4(C), 1982).

238

239 **19.06.110 Height modifications.**

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

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

245 B. Essential services, utilities, observation towers, water towers and electric power and
246 conventional (wired) telephonic communication transmission towers are exempt from the
247 height limitations of this title. Wireless telecommunications facilities, as defined in Chapter
248 19.09, shall meet the height limitations established in Chapter 19.55.

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

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

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

257

258 **19.06.120 Yard modifications.**

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

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

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

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

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

273 E. Swimming Pool Fencing. Any public or private swimming pool shall be completely enclosed
274 within a fence at least four feet in height.

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

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

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

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

291 (Ord. 1364 §§ 2 and 3, 1997; Ord. 1313 § 1, 1995; Ord. 1166 § 1, 1989; Ord. 1165, 1989; Ord.
292 1082 § 3, 1986; Ord. 994 § 2.5(B), 1982).

293

294 **19.06.130 Reduction or joint use.**

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

298 (Ord. 994 § 2.6, 1982).

299

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

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

304 (Ord. 994 § 2.7, 1982).

305

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

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

312
313 **19.06.160 Lots on undedicated portion of street.**
314 No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion
315 of its proposed width.
316 (Ord. 994 § 2.9, 1982).

317
318 **19.06.170 Private sewer and water service.**
319 Where public sewerage service is not available, the width and area of all lots shall be sufficient
320 to permit the use of an on-site sewage disposal system designed in accordance with Section
321 H63 of the Wisconsin Administrative Code. Any structure or use proposing to be served by
322 private sewer and water service shall be considered as conditional use within any district.
323 (Ord. 994 § 2.10, 1982).

324
325 **19.06.180 Average street yards.**
326 A property owner may decrease the required street yard in any residential or business district
327 to the average of the existing street yards of the adjacent structures on each side. Where the
328 setback of existing adjacent structures is greater than setbacks required by this code, the
329 setback for the intervening lot shall be determined by the average of the setback of the
330 structures on each side. On corner lots, the required setback shall be determined by averaging
331 the setback of the adjacent structure with the required setback of the district in which it is
332 located. The setback of any structure may be increased or decreased by a conditional use
333 permit if there are substantial reasons to vary from the requirements of the district.
334 (Ord. 1446 § 1, 2000: Ord. 994 § 2.11, 1982).

335
336 **19.06.190 Lots abutting more restrictive districts.**
337 Lots abutting more restrictive districts boundaries shall provide side and rear yards not less
338 than those required in the more restrictive abutting district. The street yards on the less
339 restrictive district shall be modified for a distance of not more than one hundred feet from the
340 district boundary line so as to equal the average of the street yards required in both districts.
341 (Ord. 994 § 2.12, 1982).

342
343 **19.06.200 Animal raising.**
344 The raising of animals shall be permitted in any zoning district in compliance with Title 9 of this
345 code.
346 (Ord. 994 § 2.13, 1982).

347
348 **Chapter 19.09 DEFINITIONS**

349 Sections:
350 [19.09.010 Generally.](#)

351 [19.09.015 A Zones.](#)
352 [19.09.020 Accessory use or structure.](#)
353 [19.09.025 Adult-oriented establishments.](#)
354 [19.09.030 Alley.](#)
355 [19.09.035 Alternative support structure.](#)
356 [19.09.040 Apartment-style building.](#)
357 [19.09.050 Arterial street.](#)
358 [19.09.055 Base flood.](#)
359 [19.09.060 Basement.](#)
360 [19.09.063 Bed and breakfast establishment.](#)
361 [19.09.065 Block.](#)
362 [19.09.070 Building.](#)
363 [19.09.080 Building, accessory.](#)
364 [19.09.090 Building area.](#)
365 [19.09.100 Building height.](#)
366 [19.09.110 Building, principal.](#)
367 [19.09.113 Building scale.](#)
368 [19.09.114 Bulkhead line.](#)
369 [19.09.115 Campground.](#)
370 [19.09.116 Camping unit.](#)
371 [19.09.117 Certificate of compliance.](#)
372 [19.09.120 Classes of notice.](#)
373 [19.09.125 Channel.](#)
374 [19.09.128 Co-location.](#)
375 [19.09.130 Commercial use.](#)
376 [19.09.140 Commonly owned open space.](#)
377 [19.09.150 Community living arrangements.](#)
378 [19.09.155 Comprehensive \(master\) plan.](#)
379 [19.09.160 Conditional uses.](#)
380 [19.09.170 Corner lot.](#)
381 [19.09.171 Crawlways or crawlspace.](#)
382 [19.09.173 Day care center, adult.](#)
383 [19.09.177 Day care center, child.](#)
384 [19.09.178 Deck.](#)
385 [19.09.180 Development.](#)
386 [19.09.185 District, basic.](#)
387 [19.09.190 Drive-in establishment.](#)
388 [19.09.191 Driveway](#)
389 [19.09.195 Dryland access.](#)
390 [19.09.200 Dwelling.](#)
391 [19.09.210 Dwelling, attached.](#)
392 [19.09.220 Dwelling, detached.](#)
393 [19.09.230 Dwelling, multiple-family.](#)
394 [19.09.240 Dwelling, single-family.](#)

395 [19.09.250 Dwelling, two-family.](#)
396 [19.09.260 Dwelling unit.](#)
397 [19.09.270 Dwelling unit, efficiency.](#)
398 [19.09.275 Encroachment.](#)
399 [19.09.280 Essential services.](#)
400 [19.09.285 Existing manufactured home park or subdivision.](#)
401 [19.09.286 Expansion to existing mobile/manufactured home park.](#)
402 [19.09.290 Family.](#)
403 [19.09.295 Federal Emergency Management Agency.](#)
404 [19.09.296 Flood frequency.](#)
405 [19.09.300 First floor.](#)
406 [19.09.305 Flood.](#)
407 [19.09.306 Flood Insurance Rate Map.](#)
408 [19.09.307 Flood Insurance Study.](#)
409 [19.09.310 Flood Hazard Boundary Map.](#)
410 [19.09.312 Flood profile.](#)
411 [19.09.314 Flood protection elevation.](#)
412 [19.09.315 Floodplain.](#)
413 [19.09.316 Flood stage.](#)
414 [19.09.318 Floodlands.](#)
415 [19.09.320 Floodfringe.](#)
416 [19.09.321 Floodplain island.](#)
417 [19.09.322 Floodproofing.](#)
418 [19.09.323 Floodplain management.](#)
419 [19.09.324 Floodway.](#)
420 [19.09.326 Flood storage.](#)
421 [19.09.330 Fraternity or sorority house.](#)
422 [19.09.333 Freeboard.](#)
423 [19.09.335 Freestanding wireless telecommunications facility.](#)
424 [19.09.340 Garage, private.](#)
425 [19.09.350 Garage, public or commercial.](#)
426 [19.09.360 Group lodging facilities.](#)
427 [19.09.370 Group lodging house.](#)
428 [19.09.375 Habitable structure.](#)
429 [19.09.376 Hearing notice.](#)
430 [19.09.377 High flood damage potential.](#)
431 [19.09.380 Historic landmark.](#)
432 [19.09.385 Historic structure.](#)
433 [19.09.390 Household occupation or home occupation.](#)
434 [19.09.400 Incidental repairs.](#)
435 [19.09.401 Increase in regional flood height.](#)
436 [19.09.403 Land use.](#)
437 [19.09.405 Letter of Map Change \(LOMC\).](#)
438 [19.09.410 Living rooms.](#)

439 [19.09.420 Loading area.](#)
440 [19.09.430 Lodginghouse.](#)
441 [19.09.440 Lodging rooms.](#)
442 [19.09.450 Lot.](#)
443 [19.09.455 Lot width.](#)
444 [19.09.457 Major subdivision.](#)
445 [19.09.458 Manufactured home.](#)
446 [19.09.460 Maximum lot coverage.](#)
447 [19.09.470 Minor structures.](#)
448 [19.09.480 Mobile home.](#)
449 [19.09.490 Mobile home park.](#)
450 [19.09.495 Mobile recreational vehicle.](#)
451 [19.09.500 Modular home.](#)
452 [19.09.501 Motor vehicles.](#)
453 [19.09.502 Municipality or municipal.](#)
454 [19.09.504 National geodetic vertical datum.](#)
455 [19.09.505 Navigable water.](#)
456 [19.09.507 Neighborhood development plan.](#)
457 [19.09.508 New construction.](#)
458 [19.09.510 Nonconforming structure.](#)
459 [19.09.511 Nonconforming use.](#)
460 [19.09.520 Non-family household.](#)
461 [19.09.521 Obstruction to flow.](#)
462 [19.09.522 Official floodplain zoning map.](#)
463 [19.09.524 Open space use.](#)
464 [19.09.525 Ordinary high water mark.](#)
465 [19.09.526 Original bedroom.](#)
466 [19.09.527 Outdoor lighting fixture.](#)
467 [19.09.528 Overlay Permission Area Map](#)
468 [19.09.529 Overlay Zoning District](#)
469 [19.09.530 Parking lot.](#)
470 [19.09.540 Parking space or parking stall.](#)
471 [19.09.550 Parties of interest.](#)
472 [19.09.555 Person.](#)
473 [19.09.560 Planting screen.](#)
474 [19.09.570 Principal use or structure.](#)
475 [19.09.580 Private club or lodge.](#)
476 [19.09.585 Private sewage system.](#)
477 [19.09.590 Professional home offices.](#)
478 [19.09.600 Professional offices.](#)
479 [19.09.602 Public utilities.](#)
480 [19.09.604 Reach.](#)
481 [19.09.605 Reasonably safe from flooding.](#)
482 [19.09.608 Regional flood.](#)

483 [19.09.609 Start of construction.](#)
484 [19.09.610 Story.](#)
485 [19.09.620 Public or semipublic uses.](#)
486 [19.09.623 Shielded light fixture.](#)
487 [19.09.625 Shorelands.](#)
488 [19.09.630 Sign.](#)
489 [19.09.640 Sign, directional.](#)
490 [19.09.650 Sign, nonaccessory.](#)
491 [19.09.660 Street.](#)
492 [19.09.670 Street line.](#)
493 [19.09.680 Structural alterations.](#)
494 [19.09.690 Structure.](#)
495 [19.09.700 Structure, accessory.](#)
496 [19.09.710 Structure, permanent.](#)
497 [19.09.720 Structure, principal.](#)
498 [19.09.730 Structure, temporary.](#)
499 [19.09.732 Substantial damage.](#)
500 [19.09.735 Substantial improvement.](#)
501 [19.09.740 Tourist home.](#)
502 [19.09.750 Townhouse-style building.](#)
503 [19.09.760 Townhouse-style dwelling units.](#)
504 [19.09.765 Traditional Neighborhood Development \(TND\).](#)
505 [19.09.770 Trailer camp.](#)
506 [19.09.775 Unnecessary hardship.](#)
507 [19.09.780 Usable open space.](#)
508 [19.09.790 Use, accessory.](#)
509 [19.09.800 Use, legal nonconforming.](#)
510 [19.09.810 Use, permitted.](#)
511 [19.09.820 Use, principal.](#)
512 [19.09.830 Utilities.](#)
513 [19.09.833 Variance.](#)
514 [19.09.834 Vehicle.](#)
515 [19.09.835 Violation.](#)
516 [19.09.836 Watershed.](#)
517 [19.09.837 Water surface profile.](#)
518 [19.09.838 Well.](#)
519 [19.09.839 Wetland.](#)
520 [19.09.840 Wireless telecommunications facility.](#)
521 [19.09.841 Wireless telecommunications support facility.](#)
522 [19.09.845 Yard.](#)
523 [19.09.850 Yard, rear.](#)
524 [19.09.860 Yard, shore.](#)
525 [19.09.870 Yard, side.](#)
526 [19.09.880 Yard, street \(front yard\).](#)

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19.09.010 Generally.

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

19.09.015 A Zones.

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

19.09.020 Accessory use or structure.

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

19.09.025 Adult-oriented establishments.

- A. "Adult-oriented establishments" shall include the following:
 - 1. "Adult bath house" means an establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its customers an opportunity for engaging in specified sexual activities as defined in this section.
 - 2. "Adult body painting studio" means an establishment or business wherein customers are afforded an opportunity to paint images on a body which is wholly or partially nude.
 - 3. "Adult bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein. The term includes an establishment having as its stock in trade, for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, compact discs, digital video discs, computers or computer programs in any format, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment for observation by customers therein. The term includes a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

- 571 4. "Adult cabaret" means a nightclub, dance hall, bar, restaurant, or similar commercial
572 establishment that regularly features:
- 573 a. Persons who appear in a state of nudity or semi-nudity; or
 - 574 b. Live performances that are characterized by sexual activities; or
 - 575 c. Films, motion pictures, videocassettes, slides, or other photographic or computer
576 reproductions or depictions that are characterized by the depiction or description of sexual
577 activities or nudity.
- 578 5. "Adult entertainment" means any exhibition of any motion pictures, live performance,
579 display or dance of any type, wherein a significant or substantial portion of such performance is
580 distinguished or characterized by an emphasis on any actual or simulated performance of
581 specified sexual activities, the exhibition and viewing of specified anatomical areas, or the
582 removal of articles of clothing to reveal specified anatomical areas.
- 583 6. "Adult mini-motion picture theater" means an enclosed building with a capacity for less
584 than fifty customers, including establishments that have coin-operated video or motion picture
585 booths, used for presenting material distinguished or characterized by an emphasis on matters
586 depicting, describing, or relating to specified sexual activities or specified anatomical areas as
587 defined herein for observation by customers therein.
- 588 7. "Adult motel" means a hotel, motel, or similar commercial establishment which:
- 589 a. Offers accommodations to the public for any form of consideration; provides customers
590 with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or
591 other photographic reproductions which are characterized by the depiction or description of
592 specified sexual activities or specified anatomical areas; or
 - 593 b. Offers a sleeping room for rent for a period of time that is less than ten hours; or
 - 594 c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time
595 that is less than ten hours.
- 596 8. "Adult motion picture theater" means an enclosed building with a capacity of fifty or more
597 persons at which a significant or substantial portion of the material presented is distinguished
598 or characterized by an emphasis on matter depicting, describing, or relating to specified sexual
599 activities or specified anatomical areas for observation by customers therein.
- 600 9. "Adult motion picture theater (outdoor)" means a parcel of land from which individuals may
601 view a motion picture presented out of doors which presents material distinguished or
602 characterized by an emphasis on matter depicting, describing, or relating to specified sexual
603 activity or specified anatomical areas for observation by customers.
- 604 10. "Adult novelty shop" means an establishment or business having as a substantial or
605 significant portion of its stock and trade in novelty or similar items which are distinguished or
606 characterized by their emphasis on specified sexual activities or specified anatomical areas or
607 for simulation of the foregoing.
- 608 11. "Miscellaneous adult-oriented establishment" means an establishment which includes, but
609 is not limited to, adult bookstores, adult motion picture theaters, outdoor adult motion picture
610 theaters, adult mini-motion theaters, adult theaters, adult bath houses, adult body painting
611 studios, adult motels, adult novelty shops or adult cabarets, sexual encounter centers, escort
612 agencies, establishments featuring live sexually explicit performances, and any premises to
613 which public customers or members are invited or admitted and which are so physically
614 arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the

615 common area of the premises for the purposes of viewing adult-oriented motion pictures, or
616 wherein an entertainer provides adult entertainment to a member of the public, a customer or
617 a member, whether or not such adult entertainment is held, conducted, operated or
618 maintained for profit, direct or indirect. An adult-oriented establishment further includes,
619 without being limited to, any adult entertainment studio or any premises that is physically
620 arranged and used as such whether advertised or represented as an adult entertainment
621 studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or
622 any other term of like import.

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

- 624 1. Theaters, performing arts centers, civic centers, and dinner theaters where live dance,
625 ballet, music and dramatic performances of serious artistic, social or political merit are offered
626 on a regular basis; and in which the predominant business or attraction is not the offering of
627 entertainment which is intended for the sexual interests or titillation of customers; and where
628 the establishment is not distinguished by an emphasis on or the advertising or promotion of
629 nude or semi-nude performances; or
- 630 2. Any public or private school, as defined in Chapter 115, Wis. Stats., when instructing pupils
631 as part of its curriculum.
632 (Ord. 1614A § 1, 2006).

633

634 **19.09.030 Alley.**

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

638

639 **19.09.035 Alternative support structure.**

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

645

646 **19.09.040 Apartment-style building.**

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

651

652 **19.09.050 Arterial street.**

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

657

658 **19.09.055 Base flood.**

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

663

664 **19.09.060 Basement.**

665 "Basement" means that portion of any structure located partly below the average lot grade,
666 which if occupied for living purposes shall be counted as a story for purpose of height
667 measurement.

668 (Ord. 994 § 12.0(part), 1982).

669

670 **19.09.063 Bed and breakfast establishment.**

671 "Bed and breakfast establishment" means a place of temporary lodging that provides eight or
672 fewer sleeping rooms for paying lodgers, allows a maximum individual lodger stay of one
673 month, provides meals only to paying lodgers, also serves as the principal residence for the
674 operator/owner (who shall live on the premises at all times when the establishment is active),
675 and meets all requirements of HFS 197 of the Wisconsin Administrative Code. Does not include
676 "tourist homes," "lodginghouses," or "group lodging houses" defined elsewhere in this chapter.

677 (Ord. 1580A § 1(part), 2005).

678

679 **19.09.064 Bedroom**

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

685

686 **19.09.065 Block.**

687 A "block" means a unit of land bounded by streets or by a combination of streets and public
688 land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

689 (Ord. 1511 § 1(part), 2002).

690

691 **19.09.070 Building.**

692 "Building" means any structure having a roof supported by columns or walls used or intended
693 to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

694 (Ord. 994 § 12.0(part), 1982).

695

696 **19.09.080 Building, accessory.**

697 "Accessory building" means a building or portion of building used for a purpose customarily
698 incident to the permitted principal use of the lot, and located on the same lot as the principal
699 use.

700 (Ord. 994 § 12.0(part), 1982).

701

702 **19.09.090 Building area.**

703 "Building area" means the total living area bounded by the exterior walls of a building at the
704 floor levels, but not including basement, garages, porches, breezeways and unfinished attics.
705 (Ord. 994 § 12.0(part), 1982).
706

707 **19.09.100 Building height.**

708 "Building height" means the vertical distance measured from the main elevation of the finished lot grade
709 along the street yard face of the structure to the mid-point between the eave and highest point of the
710 roof, not including ornamental features or architectural projections. ~~highest level between the eaves~~
711 ~~and ridges of gable, gambrel, hip and pitch roofs; or to the deck line of mansard roofs.~~
712 (Ord. 994 § 12.0(part), 1982).
713

714 **19.09.110 Building, principal.**

715 "Principal building" means the building on a lot in which is conducted the principal use as permitted on
716 such lot by the regulations of the district in which it is located.
717 (Ord. 994 § 12.0(part), 1982).
718

719 **19.09.113 Building scale.**

720 "Building scale" means the relationship between the mass of a building and its surroundings, including
721 streets, open spaces, and surrounding buildings. Mass is the three-dimensional bulk of a structure:
722 height, width, and depth.
723 (Ord. 1511 § 1(part), 2002).
724

725 **19.09.114 Bulkhead line.**

726 "Bulkhead line" means a geographic line along a reach of navigable water that has been adopted by a
727 municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11,
728 Wisconsin Statutes and which allows limited filling between this bulkhead line and the original ordinary
729 high-water mark, except where such filling is prohibited by the floodway provisions of this title.
730 (Ord. 1600 § 1(part), 2006).
731

732 **19.09.115 Campground.**

733 "Campground" means any parcel of land which is designed, maintained, intended or used for the
734 purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is
735 advertised or represented as a camping area.
736 (Ord. 1600 § 1(part), 2006).
737

738 **19.09.116 Camping unit.**

739 "Camping unit" means any portable device, no more than four hundred square feet in area, used as a
740 temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck,
741 tent, or other mobile recreational vehicle.
742 (Ord. 1600 § 1(part), 2006).
743

744 **19.09.117 Certificate of compliance.**

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

748 (Ord. 1600 § 1(part), 2006).

749

750 **19.09.120 Classes of notice.**

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

752 (Ord. 994 § 12.0(part), 1982).

753

754 **19.09.125 Channel.**

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

757 (Ord. 1060 § 10(part), 1985).

758

759 **19.09.128 Co-location.**

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

763 (Ord. 1499 § 3(part), 2001).

764

765 **19.09.130 Commercial use.**

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

767 (Ord. 994 § 12.0(part), 1982).

768

769 **19.09.140 Commonly owned open space.**

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

773 (Ord. 994 § 12.0(part), 1982).

774

775 **19.09.150 Community living arrangements.**

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

784 (Ord. 994 § 12.0(part), 1982).

785

786 **19.09.155 Comprehensive (master) plan.**

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

791 (Ord. 1511 § 1(part), 2002).

792

793 **19.09.160 Conditional uses.**

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

797

798 **19.09.170 Corner lot.**

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

803 (Ord. 994 § 12.0(part), 1982).

804

805 **19.09.171 Crawlways or crawlspace.**

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

808 (Ord. 1600 § 1(part), 2006).

809

810 **19.09.173 Day care center, adult.**

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

813 (Ord. 1452 § 3(part), 2000).

814

815 **19.09.177 Day care center, child.**

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

819 (Ord. 1452 § 3(part), 2000).

820

821 **19.09.178 Deck.**

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

824 (Ord. 1600 § 1(part), 2006).

825

826 **19.09.180 Development.**

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

831 (Ord. 994 § 12.0(part), 1982).

832

833 **19.09.185 District, basic.**

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

836 (Ord. 1060 § 10(part), 1985).

837

838 **19.09.190 Drive-in establishment.**

839 "Drive-in establishment" means a building and the lot on which it is situated, or a portion thereof which
840 is used for off-street quick-service business purposes catering primarily to automobile trade wherein the
841 customer is served directly at the automobile or the automobile is parked temporarily and the customer
842 is served from a counter or pass-through window. Drive-in food service establishments may contain very
843 limited seating accommodations for walk-up customers.
844 (Ord. 994 § 12.0(part), 1982).

845
846 **19.09.191 Driveway**

847 An improved access which is used primarily to connect off-street parking spaces to the public right-of-
848 way. New or substantially improved Areas intended to be utilized as driveways shall be surfaced with
849 bituminous or concrete to control dust and drainage, except in the case of farm dwellings and
850 operations. Plans for surfacing and drainage of driveways shall be submitted to the Neighborhood
851 Services Department for the City Engineer for his 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 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 ~~or adoption, common-law domestic partnership, or civil union, or equivalent social connection, (limited~~
934 to immediate family members, grandparents, aunts, uncles, nieces, nephews, and first cousins) together
935 with not more than two additional persons not so related, living as a single household in a dwelling unit.
936 (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
966 Administration has delineated both special flood hazard areas (the floodplain) and the risk premium
967 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).

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19.09.321 Floodplain island.

"Floodplain island" means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
(Ord. 1600 § 1(part), 2006).

19.09.322 Floodproofing.

"Floodproofing" means measures designed to prevent and reduce flood damage for those uses which cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from structural modifications through installation of special equipment or materials to operation and management safeguards, such as the following: reinforcing of basement walls; underpinning of floors; permanent sealing of all exterior openings; use of masonry construction; erection of permanent watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood-vulnerable utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of sealtight windows and doors; installation of wire-reinforced glass; location and elevation of valuable items; waterproofing, disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable areas; temporary removal or waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valves; placement of plugs and flood drain pipes; placement of movable watertight bulkheads; and the shoring of weak walls or structures. Floodproofing of structures shall be extended at least to a point two feet above the elevation of the regional flood. Any structure that is located entirely or partially below the flood protection elevation shall be anchored to protect it from larger floods.
(Ord. 1060 § 10(part), 1985).

19.09.323 Floodplain management.

"Floodplain management" means policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
(Ord. 1600 § 1(part), 2006).

19.09.324 Floodway.

"Floodway" means a designated portion of the one-hundred-year recurrence interval flood that will safely convey the regulatory flood discharge into small, acceptable upstream and downstream increases, limited in Wisconsin to 0.01 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain needed to convey the regional flood discharges and is not suited for human habitation. All fill, structures and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.
(Ord. 1196 § 1(part), 1990).

19.09.326 Flood storage.

"Flood storage" means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
(Ord. 1600 § 1(part), 2006).

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 communications facility" means a self-supporting telecommunications tower or
1084 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 a parcel of land for which the deed is recorded, with the
1219 respective county register of deeds on or before June 24, 1982, the effective date of the ordinance
1220 codified in this title, occupied or intended to be occupied by a principal structure or principal group of
1221 structures or use and sufficient in size to meet the lot width, lot frontage, lot area, yard parking area,
1222 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 recorder 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 Construction Standards under 42 U.S.C.
1247 Sections 5401 to 5426. For the purposes of the floodplain regulations in this title only, the term
1248 "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

1249 (Ord. 1600 § 1(part), 2006; Ord. 1511 § 1(part), 2002).

1250

1251 **19.09.460 Maximum lot coverage.**

1252 "Maximum lot coverage" is the total buildable area that can be occupied by principal accessory
1253 structures. Parking areas, drives, sidewalks and similar at-grade structures shall not be included when
1254 figuring maximum lot coverage.

1255 (Ord. 994 § 12.0(part), 1982).

1256

1257 **19.09.470 Minor structures.**

1258 "Minor structures" meets all regulations for conventional construction, sections of which are built in a
1259 factory and joined on a permanent foundation.

1260 (Ord. 994 § 12.0(part), 1982).

1261

1262 **19.09.480 Mobile home.**

1263 "Mobile home" means a transportable factory built structure as is defined in Wisconsin Statutes Section
1264 101.91(2)(k), designed for long term occupancy by one family and built prior to June 15, 1976, the
1265 effective date of the Federal Manufactured Housing Construction and Safety Standards Act. A mobile
1266 home is not considered to be a type of single-family dwelling for the purposes of this title.

1267 (Ord. 1600 § 1(part), 2006: Ord. 994 § 12.0(part), 1982).

1268

1269 **19.09.490 Mobile home park.**

1270 "Mobile home park" means a site with required improvements and utilities for the long-term parking of
1271 mobile homes, which may include services and facilities for the residents.

1272 (Ord. 994 § 12.0(part), 1982).

1273

1274 **19.09.495 Mobile recreational vehicle.**

1275 "Mobile recreational vehicle" means a vehicle which is built on a single chassis; is four hundred square
1276 feet or less when measured at the largest horizontal projection; is designed to be self-propelled; is
1277 carried or permanently towable by a licensed, light-duty vehicle; is licensed for highway use if
1278 registration is required; and is designed primarily not for use as a permanent dwelling, but as temporary
1279 living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or
1280 carried onto a parcel of land, but do not remain capable of being towed or carried, including park model
1281 homes, do not fall within the definition of a "mobile recreational vehicle." Also referred to as
1282 "Recreational Vehicle" or "RV."

1283 (Ord. 1600 § 1(part), 2006).

1284

1285 **19.09.500 Modular home.**

1286 "Modular home" means a dwelling unit which meets all regulations for conventional construction,
1287 sections of which are built in a factory and joined on a permanent foundation.

1288 (Ord. 994 § 12.0(part), 1982).

1289

1290 **19.09.501 Motor vehicles.**

1291 "Motor vehicle" means a vehicle, including a combination of two or more vehicles or an articulated
1292 vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. "Motor vehicle" includes,
1293 without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power
1294 obtained from overhead trolley wires but not operated on rails. A snowmobile and an all-terrain vehicle
1295 shall only be considered motor vehicles for purposes made specifically applicable by ordinance.

1296 (Ord. 1364 § 5, 1997).

1297

1298 **19.09.502 Municipality or municipal.**

1299 "Municipality" or "municipal" means the City of Whitewater, Wisconsin. Also referred to as "City."
1300 (Ord. 1600 § 1(part), 2006).

1301

1302 **19.09.504 National geodetic vertical datum.**

1303 "National geodetic vertical datum" or NGVD means elevations referenced to mean sea level datum,
1304 1929 adjustment.
1305 (Ord. 1600 § 1(part), 2006).

1306

1307 **19.09.505 Navigable water.**

1308 "Navigable water" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all
1309 rivers, streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state,
1310 including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.
1311 The Wisconsin Supreme Court has declared navigable all bodies of water with a bed differentiated from
1312 adjacent uplands and with levels or flow sufficient to support navigation by a recreational craft of the
1313 shallowest draft on an annually recurring basis. [Muench v. Public Service Commission, 261 Wis. 492
1314 (1952), and DeGaynor and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]

1315

1316 For the purpose of this title, rivers and streams will be presumed to be navigable if they are designated
1317 as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps
1318 until such time that the Wisconsin Department of Natural Resources has made a determination that the
1319 waterway is not, in fact, navigable.

1320 (Ord. 1196 § 1(part), 1990).

1321

1322 **19.09.507 Neighborhood development plan.**

1323 "Neighborhood development plan" means a city, developer, or property owner prepared plan for the
1324 future development of a part of the community, and including the proposed land use pattern, zoning,
1325 street alignments, lot patterns, locations of utilities and public buildings, parks, open spaces,
1326 environmental corridors, trails, and a development phasing timetable.

1327 (Ord. 1511 § 1(part), 2002).

1328

1329 **19.09.508 New construction.**

1330 For floodplain management purposes, "new construction" means structures for which the start of
1331 construction commenced on or after the effective date of the original floodplain zoning regulations
1332 adopted by the city and includes any subsequent improvements to such structures. For the purpose of
1333 determining flood insurance rates, it includes any structures for which the "start of construction"
1334 commenced on or after the effective date of an initial Flood Insurance Rate Map (FIRM) or after
1335 December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

1336 (Ord. 1600 § 1(part), 2006).

1337

1338 **19.09.510 Nonconforming structure.**

1339 A "nonconforming structure" means a structure, or portion thereof, that was legally established prior to
1340 the effective date of this title, or subsequent amendments thereto, which does not conform with one or
1341 more of the dimensional requirements applicable within the zoning district in which the structure is
1342 located.

1343 (Ord. 1600 § 1(part), 2006; Ord. 994 § 12.0(part), 1982).

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19.09.511 Nonconforming use.

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

19.09.520 Non-family household.

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

19.09.521 Obstruction to flow.

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

19.09.522 Official floodplain zoning map.

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

19.09.524 Open space use.

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

19.09.525 Ordinary high water mark.

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

1390 **19.09.527 Outdoor lighting fixture.**
1391 "Outdoor lighting fixture" means an outdoor artificial illuminating device, either permanent or portable,
1392 used for illumination or advertisement of parking lots, architecture, signage, landscaping, entryways, or
1393 areas requiring security.
1394 (Ord. 1452 § 3(part), 2000).

1395
1396 **19.09.528 Overlay Permission Area Map**
1397 A map depicting the boundary lines within which applications ~~are may be~~ allowed for changing the
1398 zoning district designation to that of a specific overlay zone

1399
1400 **19.09.529 Overlay Zoning District**
1401 A type of zoning district that offers alternative regulations for an existing zoning district. The properties
1402 which can apply for an overlay zoning district map change ~~are may be~~ limited by boundaries as depicted
1403 in an Overlay Permission Area Map.

1404
1405 **19.09.530 Parking lot.**
1406 "Parking lot" means a structure or premises containing parking spaces open to the public. Curb cut
1407 openings shall be designed to facilitate traffic safety and pedestrian movement.
1408 (Ord. 994 § 12.0(part), 1982).

1409
1410 **19.09.540 Parking space or parking stall.**
1411 "Parking space" or "parking stall" means a graded and paved area of not less than one hundred eighty
1412 square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress
1413 and egress to a public street or alley except as additionally provided for in Section 19.50.010. New or
1414 substantially improved a~~Areas intended to be utilized for parking and driveways shall be surfaced with~~
1415 bituminous or concrete to control dust and drainage, except in the case of farm dwellings and
1416 operations. Plans for surfacing and drainage of stalls and driveways for five or more vehicles shall be
1417 submitted to the Neighborhood Services Department City Engineer for his-for review. Curb-cut openings
1418 shall be a minimum of five feet from the side yard property line in all districts.
1419 (Ord. 994 § 12.0(part), 1982).

1420
1421 **19.09.550 Parties of interest.**
1422 "Parties of interest" includes all abutting property owners, all property owners within three hundred
1423 feet, and all property owners of opposite frontage. For purposes of this title, property ownership shall
1424 be determined from property tax billing records available within municipal records at the time the
1425 notification is sent.
1426 (Ord. 994 § 12.0(part), 1982).

1427
1428 **19.09.555 Person.**
1429 "Person" means an individual, or group of individuals, corporation, partnership, association, municipality
1430 or state agency.
1431 (Ord. 1600 § 1(part), 2006).

1432
1433 **19.09.560 Planting screen.**
1434 "Planting screen" means an arrangement of living vegetation reaching an anticipated height of four feet
1435 or more, which may or may not be accompanied by materials used to construct fences and the like,

1436 which is intended to provide a reasonable separation of vision between abutting lots or the lot and the
1437 street line.

1438 (Ord. 994 § 12.0(part), 1982).

1439

1440 **19.09.570 Principal use or structure.**

1441 "Principal use or structure" means a use or structure specified as a principal use under the district
1442 regulations of this title; such uses or structures must occur or be built prior to or concurrently with any
1443 accessory uses or structures.

1444 (Ord. 994 § 12.0(part), 1982).

1445

1446 **19.09.580 Private club or lodge.**

1447 "Private club or lodge" means a structure or grounds used for regular or periodic meetings or gatherings
1448 of a group of persons organized for a nonprofit purpose, but not groups organized to render a service
1449 customarily carried on as a business.

1450 (Ord. 994 § 12.0(part), 1982).

1451

1452 **19.09.585 Private sewage system.**

1453 "Private sewage system" means a sewage treatment and disposal system serving one structure with a
1454 septic tank and soil absorption field located on the same parcel as the structure. It also means an
1455 alternative sewage system approved by the Department of Commerce, including a substitute for the
1456 septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system
1457 located on a different parcel than the structure. Also referred to as "septic system" or "private on-site
1458 waste treatment system."

1459 (Ord. 1600 § 1(part), 2006).

1460

1461 **19.09.590 Professional home offices.**

1462 "Professional home offices" means residences of doctors of medicine, practitioners, dentists, clergymen,
1463 architects, landscape architects, professional engineers, real estate and insurance offices, registered
1464 land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions, used to
1465 conduct their professions, where the office does not exceed one-half of the area of only one floor of the
1466 residence and only one nonresident person is employed.

1467 (Ord. 994 § 12.0(part), 1982).

1468

1469 **19.09.600 Professional offices.**

1470 "Professional offices" means doctors of medicine, practitioners, dentists, clergymen, architects,
1471 landscape architects, professional engineers, real estate and insurance offices, registered land
1472 surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions not able to
1473 meet professional home office requirements.

1474 (Ord. 994 § 12.0(part), 1982).

1475

1476 **19.09.602 Public utilities.**

1477 "Public utilities" means those utilities using underground or overhead transmission lines such as electric,
1478 telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, and
1479 storm sewer.

1480 (Ord. 1600 § 1(part), 2006).

1481
1482 **19.09.604 Reach.**
1483 "Reach" means longitudinal segment of a stream, generally including those floodlands wherein flood
1484 stages are primarily and commonly controlled by the same manmade or natural obstructions to flow.
1485 (Ord. 1060 § 10(part), 1985).
1486
1487 **19.09.605 Reasonably safe from flooding.**
1488 "Reasonably safe from flooding" means base flood waters will not inundate the land or damage
1489 structures to be removed from the special flood hazard area and that any subsurface waters related to
1490 the base flood will not damage existing or proposed buildings.
1491 (Ord. 1600 § 1(part), 2006: Ord. 1580A § 1(part), 2005).
1492
1493 **19.09.608 Regional flood.**
1494 "Regional flood" means a flood determined to be representative of large floods known to have generally
1495 occurred in Wisconsin and which may be expected to occur on a particular stream because of like
1496 physical characteristics. The flood frequency of the regional flood is once in every one hundred years;
1497 this means that in any given year, there is a one percent chance that the regional flood may occur or be
1498 exceeded. During a typical thirty-year mortgage period, the regional flood has a twenty-six-percent
1499 chance of occurrence.
1500 (Ord. 1060 § 10(part), 1985).
1501
1502 **19.09.609 Start of construction.**
1503 "Start of construction" means the date the building or zoning permit was issued, provided the actual
1504 start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement
1505 was within six months of the permit date. The actual start means either the first placement of
1506 permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the
1507 construction of columns, or any work beyond initial excavation, or the placement of a manufactured or
1508 mobile home on a foundation. Permanent construction does not include land preparation, such as
1509 clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it
1510 include excavation for a basement, footings, piers or foundations or the erection of temporary forms,
1511 nor does it include the installation on the property of accessory buildings, such as garages or sheds not
1512 occupied as dwelling units or not part of the main structure. For an alteration, the actual start of
1513 construction means the first alteration of any wall, ceiling, floor or other structural part of a building,
1514 whether or not that alteration affects the external dimensions of the building.
1515 (Ord. 1600 § 1(part), 2006).
1516
1517 **19.09.610 Story.**
1518 "Story" means that portion of a building included between the surface of a floor and the surface of the
1519 floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next
1520 above it. A basement or cellar having one-half or more of its height above grade shall be deemed a story
1521 for purposes of height regulation.
1522 (Ord. 994 § 12.0(part), 1982).
1523
1524 **19.09.620 Public or semipublic uses.**
1525 For purposes of this title, the following uses shall be considered "public and semipublic uses":
1526 government office buildings, fire and police stations, public garages, libraries, museums, community

1527 centers, churches, cemeteries, public and private elementary and secondary schools, colleges and
1528 universities, and similar uses not specifically listed but similar in character.
1529 (Ord. 994 § 12.0(part), 1982).

1530
1531 **19.09.623 Shielded light fixture.**

1532 "Shielded light fixture" means an outdoor lighting fixture which through design is shielded in such a
1533 manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture,
1534 are projected at least fifteen degrees below a horizontal plane running through the lowest point on the
1535 fixture where light is emitted. Except for ground and sign mounted light fixtures, that horizontal plane
1536 shall be parallel to the surface of the ground.
1537 (Ord. 1452 § 3(part), 2000).

1538
1539 **19.09.625 Shorelands.**

1540 "Shorelands" are those lands lying within the following distances from the ordinary high water mark of
1541 navigable waters: one thousand feet from a lake, pond or flowage; and three hundred feet from a river
1542 or stream; or to the landward side of the floodplain, whichever distance is greater. Shorelands shall not
1543 include those lands adjacent to farm drainage ditches where (a) such lands are not adjacent to a
1544 navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were not
1545 navigable streams before ditching or had no previous stream history; and (c) such lands are maintained
1546 in nonstructural agricultural use.
1547 (Ord. 1196 § 1(part), 1990).

1548
1549 **19.09.630 Sign.**

1550 "Sign" means any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs,
1551 pictures, symbols, trade names or trademarks by which anything is made known, and which are used to
1552 advertise or promote an individual, firm, association, corporation, profession, business, commodity or
1553 product, located outside a structure or incorporated into the structure, and which are visible from any
1554 public street or highway ~~on the outside of buildings.~~
1555 (Ord. 994 § 12.0(part), 1982).

1556
1557 **19.09.640 Sign, directional.**

1558 "Directional sign" means a sign intended solely for the purpose of directing patrons or customers to an
1559 establishment off the main-traveled road, and not including promotional advertising unnecessary to
1560 such directional purpose.
1561 (Ord. 994 § 12.0(part), 1982).

1562
1563 **19.09.650 Sign, nonaccessory.**

1564 "Nonaccessory sign" means a sign related to commercial or similar activities other than those actually
1565 engaged in on the site on which such nonaccessory sign is located.
1566 (Ord. 994 § 12.0(part), 1982).

1567
1568 **19.09.660 Street.**

1569 "Street" means a public right-of-way not less than sixty feet wide providing primary access to abutting
1570 properties. Existing streets with rights-of-way less than sixty feet shall also be included in this definition.
1571 (Ord. 994 § 12.0(part), 1982).

1572
1573 **19.09.670 Street line.**
1574 "Street line" means a dividing line between a lot, tract, or parcel of land and a contiguous street.
1575 (Ord. 994 § 12.0(part), 1982).
1576
1577 **19.09.680 Structural alterations.**
1578 "Structural alterations" means the erection, strengthening, removal or other change of the supporting
1579 elements of a building or structure. Such elements shall include, but shall not be limited to, footings,
1580 foundations, bearing walls, columns, beams, girders, joists and decking. The enlargement of an existing
1581 building or structure shall be considered a structural alteration for the purpose of this title.
1582 (Ord. 994 § 12.0(part), 1982).
1583
1584 **19.09.690 Structure.**
1585 "Structure" means any erection or construction, above or below grade, to form a shelter, enclosure,
1586 retainer, container, support or decoration, such as, but not limited to, buildings, towers, tanks, masts,
1587 poles, booms, signs, sculpture, carports, tents, machinery and equipment (excluding driveways and on-
1588 grade parking lots).
1589 (Ord. 994 § 12.0(part), 1982).
1590
1591 **19.09.700 Structure, accessory.**
1592 "Accessory structure" means a structure or portion of a structure customarily incident to any permitted
1593 principal use of such lot and located on the same lot as such principal use.
1594 (Ord. 994 § 12.0(part), 1982).
1595
1596 **19.09.710 Structure, permanent.**
1597 "Permanent structure" means a structure placed on or in the ground or attached to another structure in
1598 a fixed and determined position, and intended to remain in place for a period more than nine months.
1599 (Ord. 994 § 12.0(part), 1982).
1600
1601 **19.09.720 Structure, principal.**
1602 "Principal structure" means a structure used or intended to be used for the principal use as permitted
1603 on such lot by the regulations of the district in which it is located.
1604 (Ord. 994 § 12.0(part), 1982).
1605
1606 **19.09.730 Structure, temporary.**
1607 "Temporary structure" means any structure other than a permanent structure.
1608 (Ord. 994 § 12.0(part), 1982).
1609
1610 **19.09.732 Substantial damage.**
1611 "Substantial damage" means damage of any origin sustained by a structure, whereby the cost of
1612 restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the
1613 equalized assessed value of the structure before the damage occurred.
1614 (Ord. 1600 § 1(part), 2006).
1615
1616 **19.09.735 Substantial improvement.**

1617 "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of
1618 which equals or exceeds fifty percent of the present equalized assessed value of the structure either
1619 before the improvement or repair is started or, if the structure has been damaged and is being restored,
1620 before the damage occurred. The term does not, however, include either: (a) any project for
1621 improvement of a structure to comply with existing state or local health, sanitary or safety code
1622 specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a
1623 structure or site documented as deserving preservation by the Wisconsin State Historical Society or
1624 listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered
1625 structural repairs, modifications or additions; such ordinary maintenance repairs include internal and
1626 external painting, decorating, paneling, and the replacement of doors, windows and other nonstructural
1627 components.

1628 (Ord. 1060 § 10(part), 1985).

1629

1630 **19.09.740 Tourist home.**

1631 "Tourist home" means a building in which lodging, with or without meals, is offered to transient guests
1632 for compensation and having no more than five sleeping rooms for this purpose, with no cooking
1633 facilities in any such individual room or apartment.

1634 (Ord. 994 § 12.0(part), 1982).

1635

1636 **19.09.750 Townhouse style building.**

1637 "Townhouse ~~style building~~" means a building having three or more attached dwelling units with each
1638 unit having separate primary ground level access to the outside, each unit has a first floor at ground
1639 level, and the units are attached by vertical common walls. ~~Units may be attached either vertically or~~
1640 ~~horizontally.~~

1641 (Ord. 994 § 12.0(part), 1982).

1642

1643 **19.09.760 Townhouse style dwelling units.**

1644 "Townhouse style dwelling units" means attached single-family dwellings having direct outside access
1645 from each unit. Units may be attached either vertically or horizontally.

1646 (Ord. 994 § 12.0(part), 1982).

1647

1648 **19.09.765 Traditional Neighborhood Development (TND).**

1649 "Traditional Neighborhood Development" means a compact, mixed-use neighborhood where
1650 residential, commercial and civic buildings are within close proximity to each other; with interconnected
1651 pedestrian and vehicular circulation and public open space systems; and with careful attention to the
1652 design, layout, and relationships between different land uses.

1653 (Ord. 1511 § 1(part), 2002).

1654

1655 **19.09.770 Trailer camp.**

1656 "Trailer camp" means any tract or parcel of land upon which two or more trailers, camp cabins, house
1657 cars, or other mobile homes are located, or trailer or camp sites are provided for the purpose of either
1658 temporary or permanent habitation.

1659 (Ord. 994 § 12.0(part), 1982).

1660

1661 **19.09.775 Unnecessary hardship.**

1662 "Unnecessary hardship" is that circumstance where special conditions, which are not self-created, affect
1663 a particular property and make strict conformity with the restrictions governing dimensional standards

1664 (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome
1665 or unreasonable in light of the purpose of the ordinance. Unnecessary hardship is present only where, in
1666 the absence of a variance, no feasible use can be made of the property.
1667 (Ord. 1196 § 1(part), 1990).

1668
1669 **19.09.780 Usable open space.**

1670 "Usable open space" means land used for recreation, resource protection, amenity or buffers, is freely
1671 accessible to all residents, and is protected by the provisions of this title to ensure that it remains in such
1672 uses. Usable open space does not include land occupied by buildings, roads, road right-of-ways or
1673 drives, nor does it include the yards of single, two-family or multifamily dwellings used for parking areas.
1674 (Ord. 994 § 12.0(part), 1982).

1675
1676 **19.09.790 Use, accessory.**

1677 "Accessory use" means a use customarily incident to the permitted principal use of property and on the
1678 same lot as the principal permitted use.
1679 (Ord. 994 § 12.0(part), 1982).

1680
1681 **19.09.800 Use, legal nonconforming.**

1682 "Legal nonconforming use" means a use not in compliance with the regulations of this title, but which
1683 existed lawfully in April, 1982.
1684 (Ord. 994 § 12.0(part), 1982).

1685
1686 **19.09.810 Use, permitted.**

1687 "Permitted use" means that utilization of land by occupancy, activity, building or other structure which is
1688 specifically enumerated as permissible by the regulations of the zoning district in which the land is
1689 located.
1690 (Ord. 994 § 12.0(part), 1982).

1691
1692 **19.09.820 Use, principal.**

1693 "Principal use" means the main or primary use of property or structures as permitted on such lot by the
1694 regulations of the district in which it is located.
1695 (Ord. 994 § 12.0(part), 1982).

1696
1697 **19.09.830 Utilities.**

1698 "Utilities" means public and private facilities such as water wells, water and sewage pumping stations,
1699 water storage tanks, power and communication transmission lines, electrical power substations, static
1700 transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation
1701 stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and
1702 storage yards.
1703 (Ord. 994 § 12.0(part), 1982).

1704
1705 **19.09.833 Variance.**

1706 "Variance" means an authorization granted by the zoning board of appeals to construct, alter, or use a
1707 building or structure in a manner that deviates from the dimensional standards of this title. A variance
1708 may not permit the use of a property that is otherwise prohibited by the ordinance codified in this title
1709 or allow floodland construction that is not protected to the flood protection elevation.

1710 (Ord. 1196 § 1(part), 1990).

1711

1712 **19.09.834 Vehicle.**

1713 "Vehicle" means every device in, upon or by which any person or property is or may be transported or
1714 drawn upon a highway, except railroad trains. A snowmobile shall not be considered a vehicle except for
1715 purposes made specifically applicable by ordinance.

1716 (Ord. 1364 § 6, 1997).

1717

1718 **19.09.835 Violation.**

1719 With respect to the floodplain regulations of this chapter, "violation" means the failure of a structure or
1720 other development to be fully compliant with the floodplain zoning provisions of this title. A structure or
1721 other development without required permits, lowest floor elevation documentation, floodproofing
1722 certificates or required floodway encroachment calculations is presumed to be in violation until such
1723 time as that documentation is provided.

1724 (Ord. 1600 § 1(part), 2006).

1725

1726 **19.09.836 Watershed.**

1727 "Watershed" means the entire region contributing runoff or surface water to a watercourse or body of
1728 water.

1729 (Ord. 1600 § 1(part), 2006; Ord. 1196 § 1(part), 1990).

1730

1731 **19.09.837 Water surface profile.**

1732 "Water surface profile" means a graphical representation showing the elevation of the water surface of
1733 a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface
1734 profile of the regional flood is used in regulating floodplain areas.

1735 (Ord. 1600 § 1(part), 2006; Ord. 1499 § 3(part), 2001).

1736

1737 **19.09.838 Well.**

1738 "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or other
1739 methods, to obtain groundwater regardless of its intended use.

1740 (Ord. 1600 § 1(part), 2006; Ord. 1499 § 3(part), 2001).

1741

1742 **19.09.839 Wetland.**

1743 "Wetland" means an area where water is at, near, or above the land surface long enough to be capable
1744 of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

1745 (Ord. 1600 § 1(part), 2006).

1746

1747 **19.09.840 Wireless telecommunications facility.**

1748 "Wireless telecommunications facility" means a facility that consists of or includes one or more
1749 antennas, antenna arrays, telecommunications towers, microwave relay systems, satellite dish antennas
1750 of at least thirty-six inches in diameter, or other similar communications devices used for transmitting,
1751 receiving, or relaying radio, microwave, digital, cellular, or other wireless telecommunications signals.

1752 For the purposes of this title, wireless telecommunications facilities shall not include conventional, non-
1753 wireless telephone poles (unless also serving as an alternative support structure), residential satellite
1754 dishes less than thirty-six inches in diameter, residential television antennas, and amateur radio
1755 facilities.

1756 (Ord. 1600 § 1(part), 2006: Ord. 994 § 12.0(part), 1982).

1757

1758 **19.09.841 Wireless telecommunications support facility.**

1759 "Wireless telecommunications support facility" means any and all ancillary structures, mechanicals,
1760 shelters, devices, or equipment, other than attached antennas, that are incidental or accessory to the
1761 operation of a wireless telecommunications facility.

1762 (Ord. 1600 § 1(part), 2006).

1763

1764 **19.09.845 Yard.**

1765 "Yard" means the space on the same lot with a principal structure, between such structure and the
1766 street line and the lot lines, unoccupied and unobstructed from the ground upward except for
1767 vegetation, and with the exception of allowed accessory structures.

1768 (Ord. 1600 § 1(part), 2006).

1769

1770 **19.09.850 Yard, rear.**

1771 "Rear yard" means a yard extending across the full width of the lot, the depth of which shall be the
1772 minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest
1773 point of the principal structure.

1774 (Ord. 994 § 12.0(part), 1982).

1775

1776 **19.09.860 Yard, shore.**

1777 "Shore yard" means a yard extending across the full width or depth of a lot, the depth of which shall be
1778 the minimum horizontal distance between a line intersecting both side lots at the same angle and
1779 containing the point of the high-water elevation of a pond, stream or lake nearest the principal structure
1780 and a line parallel thereto containing the point of the principal structure nearest the high-water line.

1781 (Ord. 994 § 12.0(part), 1982).

1782

1783 **19.09.870 Yard, side.**

1784 "Side yard" means a yard extending from the street yard to the rear yard of the lot, the width of which
1785 shall be the minimum horizontal distance between the side lot line and a line parallel thereto through
1786 the nearest point of the principal structure.

1787 (Ord. 994 § 12.0(part), 1982).

1788

1789 **19.09.880 Yard, street (front yard).**

1790 "Street yard (front yard)" means a yard extending across the full width of the lot, the depth of which
1791 shall be the minimum horizontal distance between the existing or proposed street or highway line and a
1792 line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such
1793 yards.

1794 (Ord. 994 § 12.0(part), 1982).

1795

1796

1797 **Title 19 ZONING***

1798

1799 _____

1800

1801 **Chapter 19.12 ZONING DISTRICTS**

- 1802 Sections:
- 1803 [19.12.010 Districts--Established.](#)
- 1804 [19.12.020 Districts--Boundaries.](#)
- 1805 [19.12.030 Vacation of streets and alleys.](#)
- 1806 [19.12.040 Annexations and consolidations.](#)
- 1807 [19.12.050 Zoning map.](#)

19.12.010 Districts--Established.

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

TABLE **INSET**_[LW2]:

R-1	One-family residence district
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
PCD PCDD	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.

1813 (Ord. 1196 § 1(part), 1990).

1814

1815 **19.12.020 Districts--Boundaries.**

1816 A. Boundaries of all districts shall be as shown on the map entitled "Zoning Map, City of Whitewater,
1817 Wisconsin," which accompanies and is a part of the ordinance codified in this title. The district
1818 boundaries in all districts, except the C-1 shoreland wetland district, the C-2 nonshoreland wetland
1819 district, FW floodway district, the FWW floodway/wetland district, and the FFO floodplain fringe overlay
1820 district, shall be construed to follow: corporate limits; U.S. Public Land Survey lines; lot or property lines;
1821 centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended.

1822 B. Boundaries of the FW floodway district shall be determined by use of the scale contained on the
1823 map. The boundaries of the FFO floodplain fringe overlay district shall be determined by the floodland
1824 limits shown on the map entitled, "Flood Hazard Investigation--Whitewater Creek, Spring Brook-City of
1825 Whitewater," dated May 1979, which accompanies and is made a part of the ordinance codified in this
1826 title. The flood stages, under floodway conditions, contained in the Flood Hazard Investigation map
1827 were developed from technical data contained in the "Flood Insurance Study--City of Whitewater,
1828 Walworth County, Wisconsin," published by the Federal Emergency Management Agency (FEMA) and
1829 dated December 1, 1981. The information contained in the flood insurance study is further illustrated in
1830 FEMA "Floodway and Flood Boundary Map" and "Flood Insurance Rate Map," both maps dated June 1,
1831 1982. Where a conflict exists between the floodland limits as shown on the flood hazard investigation
1832 map and actual field conditions, the elevations from the one hundred year recurrence interval flood
1833 profile shall be the governing factor in locating the regulatory floodland limits.

1834 C. Boundaries of the C-1 shoreland wetland district, the C-2 nonshoreland wetland district, and the
1835 FWW floodway/wetland district are based on the Wisconsin Wetland Inventory Maps for the City of
1836 Whitewater, dated July 2, 1987, and stamped "FINAL." The C-1 district includes all shoreland wetlands,
1837 five acres or greater in area shown on those maps.
1838 (Ord. 1196 § 1(part), 1990).

1839

1840 **19.12.030 Vacation of streets and alleys.**

1841 Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same
1842 district as the abutting side to which the vacated land reverts.
1843 (Ord. 994 § 3.3, 1982).

1844

1845 **19.12.040 Annexations and consolidations.**

1846 A. Annexations to or consolidations with the city subsequent to June 24, 1982, the effective date of the
1847 ordinance codified in this title shall be placed in the AT agricultural transition district, unless the
1848 annexation ordinance temporarily places the land in another district. Within one year, the city plan
1849 commission shall evaluate and recommend a permanent classification to the common council.

1850 B. Annexations containing floodlands and shorelands shall be governed in the following manner:

1851 1. Annexations containing floodlands shall be governed by the provisions of the Walworth County
1852 floodplain zoning ordinance until such time that the Wisconsin Department of Natural Resources (DNR)
1853 certifies that amendments to the City of Whitewater zoning ordinance meet the requirements of
1854 Chapter NR 116 of the Wisconsin Administrative Code.

1855 2. Annexations containing shorelands. Pursuant to Section 59.971(7) of the Wisconsin Statutes, any
1856 annexation of land after May 7, 1982, which lies within shorelands, as defined in this title, shall be
1857 governed by the provisions of the Walworth County shoreland zoning ordinance until such time that the
1858 City of Whitewater adopts an ordinance which is at least as restrictive as the Walworth County
1859 shoreland zoning ordinance. Said regulations shall be administered and enforced by the City of
1860 Whitewater building inspector.

1861 (Ord. 1196 § 1(part), 1990).

1862

1863 **19.12.050 Zoning map.**

1864 A certified copy of the zoning map shall be adopted and approved with the text as part of this title, and
1865 shall bear upon its face the attestation of the city manager and city clerk and shall be available to the
1866 public in the office of the city clerk. Changes thereafter to the districts shall be entered and attested on
1867 this certified copy.

1868 (Ord. 994 § 3.5, 1982).

1869

1870

1871 **Chapter 19.15 R-1 ONE-FAMILY RESIDENCE DISTRICT**

1872 Sections:

1873 [19.15.010 Purpose.](#)

1874 [19.15.020 Permitted uses.](#)

1875 [19.15.030 Conditional uses.](#)

1876 [19.15.040 Lot area.](#)

1877 [19.15.050 Lot width.](#)

1878 [19.15.060 Yards.](#)

1879 ~~[19.15.065 Parking](#)~~

1880 [19.15.070 Coverage.](#)

1881 [19.15.080 Building height.](#)

1882 [19.15.090 Park fees.](#)

1883

1884 **19.15.010 Purpose.**

1885 The R-1 one-family residence district is established to stabilize and protect the essential characteristics
1886 of low-density residential areas. [A non-family household in R-1 shall be limited to three unrelated](#)
1887 [persons.](#)

1888 (Ord. 994 § 3.6(part), 1982).

1889

1890 **19.15.020 Permitted uses.**

1891 Permitted uses in the R-1 district include:

1892 A. One-family detached dwellings;

1893 B. The second or greater wireless telecommunications facility located on an alternative support
1894 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
1895 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
1896 accessory uses, all per the requirements of Chapter 19.55.

1897 (Ord. 1499 § 4, 2001; 1149 § 1, 1988; Ord. 994 § 3.6(A), 1982).

1898

1899 **19.15.030 Conditional uses.**

1900 Conditional uses in the R-1 district include:

1901 A. Public and semipublic uses, to include public and private schools; churches and religious institutions;
1902 government facilities; active recreational parks; museums, hospitals, public transportation terminals,
1903 and similar uses;

1904 B. Planned residential developments such as townhouses, condominiums and cluster housing. In order
1905 to allow increasing the intensity of use, the plan commission may allow as a conditional use the
1906 following variations from the district requirements:

1907 1. In an approved planned residential development, each dwelling structure need not have an
1908 individual lot or parcel having the requisite size and dimensions normally required in the districts.

1909 However, the size and the entire development parcel divided by the number of dwellings shall be equal
1910 to or larger than the minimum lot area for the district where the site is located,
1911 2. The yard requirements between buildings shall be fixed by the plan commission. Building setbacks
1912 from the perimeter of the site shall comply with the front yard, rear yard and side yard requirements of
1913 the district,
1914 3. Private streets may be approved to serve uses within the site, provided that the site proposed for
1915 **PRD** has frontage on a public street;
1916 C. Home occupations/professional home offices. (Subject to issuance of zoning permit.)
1917 D. The first wireless telecommunications facility located on an alternative support structure only, per
1918 the requirements of Chapter 19.55.
1919 E. Real estate sales offices, subject to the following requirements:
1920 1. May only be placed within a major subdivision with twenty or more lots;
1921 2. Shall occupy a maximum of one building within any major subdivision;
1922 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than
1923 ninety days from the date when ninety percent of the lots or units within the subdivision or
1924 development are initially sold or leased, or five years from the date of initial establishment of the use,
1925 whichever comes first;
1926 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than
1927 two thousand dollars shall be required, with such deposit or guarantee released by the city once the
1928 sales office is removed or converted to a permitted use in the district;
1929 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
1930 uses open to the public;
1931 6. Shall be compatible in character, materials, placement, and design with other existing and planned
1932 buildings within the subdivision;
1933 7. Signage shall be in accordance with standards for conditional uses in the district, per Section
1934 19.54.052 of this title.
1935 F. Bed and breakfast establishments.
1936 G. Keeping of horses, subject to the standards in Section 19.57.160 of this title.
1937 (Ord. 1589A § 1, 2005; Ord. 1580A § 2, 2005; Ord. 1499 § 5, 2001; Ord. 1149 § 5, 1988; Ord. 1082 § 5,
1938 1986; Ord. 994 § 3.6(B), 1982).

1939
1940 **19.15.040 Lot area.**

1941 Minimum lot area in the R-1 district is ten thousand square feet.
1942 (Ord. 1174 § 1, 1990; Ord. 994 § 3.6(C), 1982).

1943
1944 **19.15.050 Lot width.**

1945 Minimum lot width in the R-1 district is eighty feet.
1946 (Ord. 994 § 3.6(D), 1982).

1947
1948 **19.15.060 Yards.**

1949 Minimum yard requirements in the R-1 district are as follows:

- 1950 A. Front, twenty-five feet; (not more than 50% of the front yard may be a paved surface)
1951 B. Side, ten feet, corner lot, twenty-five feet;
1952 C. Rear, thirty feet;
1953 D. Shore, seventy-five feet.
1954 (Ord. 994 § 3.6(E), 1982).
1955

1956 **19.15.065 Parking**
1957 Parking spaces permitted for units with R-1 zoning shall be limited to the total number of occupants
1958 within the housing unit, with a maximum of three vehicles parked in any combination of the front and
1959 side yards. Driveway areas cannot exceed 24' in width. This maximum width is, inclusive of any outdoor
1960 parking areas served by the driveway. Any width in excess of 12' feet will be counted towards allowable
1961 parking areas with an allowance of 200 square feet for each parking space. For example, a driveway 20'
1962 wide and 100 feet long would be considered to include 800 square feet (100x8) of parking area which
1963 would be sufficient for 4 parking spaces. A fifth space would be allowed an additional 200 square feet in
1964 addition to the driveway area.

1966
1967 **19.15.070 Coverage.**
1968 Maximum lot coverage in the R-1 district is thirty percent.
1969 (Ord. 994 § 3.6(F), 1982).

1970
1971 **19.15.080 Building height.**
1972 Maximum building height in the R-1 district is two and one-half stories or thirty-five feet.
1973 (Ord. 994 § 3.6(G), 1982).

1974
1975 **19.15.090 Park fees.**
1976 All residential development shall be subject to a park acquisition fee of two hundred fourteen dollars
1977 per dwelling unit and a park improvement fee of five hundred five dollars per dwelling unit, payable
1978 before a building permit is issued. The amount of these fees may be reduced by any fee amount
1979 previously paid or credited at the time of subdivision. The park acquisition fee may also be reduced if
1980 sufficient land area was provided for park purposes at the time of subdivision, based on the calculations
1981 in section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be adjusted during
1982 the first quarter of each year by a percentage equal to the rate of consumer inflation based on the
1983 percent of yearly change for the previous year for the Milwaukee metropolitan area, as reported by the
1984 U.S. Department of Labor, Bureau of Labor Statistics.
1985 (Ord. 1481 § 1, 2001).

1986
1987
1988 **Chapter 19.16 R-1X DISTRICT**

1989 **Sections:**

1990 [19.16.010 R-1 district provisions--Applicability.](#)
1991 [19.16.020 Lot area.](#)
1992 [19.16.021 Maximum lot coverage.](#)
1993 [19.16.030 Lot width.](#)
1994 [19.16.040 Yards.](#)
1995 [19.16.040 Parking](#)
1996 [19.16.050 Park fees.](#)

1997
1998 **19.16.010 R-1 district provisions--Applicability.**

1999 All of the provisions of the R-1 district not in conflict with the requirements of this chapter shall apply in
2000 the R-1X district.
2001 (Ord. 1174 § 2(part), 1990).

2002
2003 **19.16.020 Lot area.**

2004 Minimum lot area in the R-1X district is twelve thousand square feet.
2005 (Ord. 1174 § 2(part), 1990).

2006

2007 **19.16.021 Maximum lot coverage.**

2008 Maximum lot coverage by buildings in the R-1X district shall be twenty percent.
2009 (Ord. 1364 § 7, 1997).

2010

2011 **19.16.030 Lot width.**

2012 Minimum lot width in the R-1X district is one hundred feet.
2013 (Ord. 1174 § 2(part), 1990).

2014

2015 **19.16.040 Yards.**

2016 Minimum yard requirements in the R-1X district are:

- 2017 A. Front, thirty feet; (not more than 50% of the front yard may be a paved surface)
- 2018 B. Side, fifteen feet; corner lot, thirty feet;
- 2019 C. Rear, thirty feet;
- 2020 D. Shore, seventy-five feet.

2021 (Ord. 1174 § 2(part), 1990).

2022

2023 ~~**19.16.045 Parking**~~

2024 ~~Parking spaces permitted for units with R-1X zoning shall be limited to the total number of occupants~~
2025 ~~within the housing unit, with a maximum of three vehicles parked in any combination of the front and~~
2026 ~~side yards. Driveway areas cannot exceed 24' in width. This maximum width is, inclusive of any outdoor~~
2027 ~~parking areas served by the driveway. Any width in excess of 12' feet will be counted towards allowable~~
2028 ~~parking areas with an allowance of 200 square feet for each parking space. For example, a driveway 20'~~
2029 ~~wide and 100 feet long would be considered to include 800 square feet (100x8) of parking area which~~
2030 ~~would be sufficient for 4 parking spaces. A fifth space would be allowed an additional 200 square feet in~~
2031 ~~addition to the driveway area.~~

2032

2033 **19.16.050 Park fees.**

2034 All residential development shall be subject to a park acquisition fee of two hundred fourteen dollars
2035 per dwelling unit and a park improvement fee of five hundred five dollars per dwelling unit, payable
2036 before a building permit is issued. The amount of these fees may be reduced by any fee amount
2037 previously paid or credited at the time of subdivision. The park acquisition fee may also be reduced if
2038 sufficient land area was provided for park purposes at the time of subdivision, based on the calculations
2039 in section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be adjusted during
2040 the first quarter of each year by a percentage equal to the rate of consumer inflation based on the
2041 percent of yearly change for the previous year for the Milwaukee metropolitan area, as reported by the
2042 U.S. Department of Labor, Bureau of Labor Statistics.

2043 (Ord. 1481 § 2, 2001).

2044

2045

2046 **Chapter 19.18 R-2 ONE- AND TWO-FAMILY RESIDENCE DISTRICT**

2047 Sections:

2048 19.18.010 Purpose.

2049 19.18.020 Permitted uses.

2050 19.18.030 Conditional uses.

- 2051 [19.18.040 Lot area.](#)
- 2052 [19.18.050 Lot width.](#)
- 2053 [19.18.060 Yard requirements.](#)
- 2054 ~~[19.18.065 Parking](#)~~
- 2055 [19.18.070 Lot coverage.](#)
- 2056 [19.18.080 Building height.](#)
- 2057 [19.18.090 Park fees.](#)

2058

2059 **19.18.010 Purpose.**

2060 The R-2 two-family residence district is established to provide medium-density residential areas. A

2061 [non-family household in R-2 shall be limited to three unrelated persons.](#)

2062 (Ord. 994 § 3.7(part), 1982).

2063

2064 **19.18.020 Permitted uses.**

2065 Permitted uses in the R-2 district include:

2066 A. One-family detached dwellings;

2067 [B. Two-family attached dwellings;](#)

2068 [C. Home occupations/professional home offices for non-retail goods and services \(defined in this](#)

2069 [district as businesses that do not require customer access\);](#)

2070 [D.](#) The second or greater wireless telecommunications facility located on an alternative support

2071 structure already supporting a wireless telecommunications facility or on a pre-existing wireless

2072 telecommunications facility, with wireless telecommunications support facilities allowed as permitted

2073 accessory uses, all per the requirements of Chapter 19.55.

2074 (Ord. 1499 § 6, 2001; Ord. 1174 § 3(A), 1990; Ord. 1149 § 2, 1988; Ord. 994 § 3.7(A), 1982).

2075

2076 **19.18.030 Conditional uses.**

2077 Conditional uses in the R-2 district include:

2078 A. Attached townhouse ~~and condominium~~ dwellings, up to four units per building: minimum lot area

2079 requirements for such uses shall be regulated by Chapter 19.21;

2080 B. Two-family attached dwellings (new construction only);

2081 C. Planned residential developments (See Section 19.15.030);

2082 D. Public and semipublic uses;

2083 E. Home occupations/professional home offices [for retail goods and services \(defined in this district as](#)

2084 [businesses requiring customer access\), conditions for hours of operation and parking](#) [LMB3];

2085 F. The first wireless telecommunications facility located on an alternative support structure only, per

2086 the requirements of Chapter 19.55;

2087 G. Real estate sales offices, subject to the following requirements:

2088 1. May only be placed within a major subdivision with twenty or more lots or a multiple-family

2089 residential development with forty or more dwelling units,

2090 2. Shall occupy a maximum of one building within any major subdivision, or one unit within any

2091 multiple-family residential development,

2092 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than

2093 ninety days from the date when ninety percent of the lots or units within the subdivision or

2094 development are initially sold or leased, or five years from the date of initial establishment of the use,

2095 whichever comes first,

2096 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than

2097 two thousand dollars shall be required, with such deposit or guarantee released by the city once the

2098 sales office is removed or converted to a permitted use in the district,

- 2099 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related
2100 uses open to the public,
2101 6. Shall be compatible in character, materials, placement, and design with other existing and planned
2102 buildings within the subdivision or development,
2103 7. Signage shall be in accordance with standards for conditional uses in the district, per Section
2104 19.54.052 of this title;
2105 H. Bed and breakfast establishments;
2106 I. Keeping of horses, subject to the standards in Section 19.57.160 of this title.
2107 (Ord. 1589A § 2, 2005; Ord. 1580A § 3, 2005; Ord. 1499 § 7, 2001; Ord. 1299 § 1, 1994; Ord. 1174 § 3(B),
2108 1990; Ord. 1149 § 6, 1988; Ord. 1082 § 6, 1986; Ord. 994 § 3.7(b), 1982).

2109
2110 **19.18.040 Lot area.**

2111 Minimum lot area in the R-2 district is:

- 2112 A. Eight thousand square feet for single-family;
2113 B. Twelve thousand square feet for two-family.
2114 (Ord. 1174 § 3(C), 1990; Ord. 994 § 3.7(C), 1982).

2115
2116 **19.18.050 Lot width.**

2117 Minimum lot width in the R-2 district is:

- 2118 A. Sixty-six feet for all lots of record at the time of adoption of the ordinance codified in this section;
2119 B. Seventy feet for all new single-family development after the adoption of the ordinance codified in
2120 this section;
2121 C. One hundred feet for all duplexes developed after the adoption of the ordinance codified in this
2122 section.
2123 (Ord. 1174 § 3(D), 1990; Ord. 994 § 3.7(D), 1982).

2124
2125 **19.18.060 Yard requirements.**

2126 Minimum yard requirements in the R-2 district are:

- 2127 A. Front, twenty-five feet; (not more than 50% of the front yard may be a paved surface)
2128 B. Side, ten feet for one family, fifteen feet for two family and multifamily; corner lots, twenty-five feet;
2129 C. Rear, thirty feet;
2130 D. Shore, seventy-five feet;
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
2135 ~~**19.18.065 Parking**~~

2136 ~~Parking spaces permitted for units with R-2 zoning shall be limited to the total number of occupants~~
2137 ~~within the housing unit, with a maximum of six vehicles parked in any combination of the front and side~~
2138 ~~yards. Driveway areas cannot exceed 24' in width. This maximum width is inclusive of any outdoor~~
2139 ~~parking areas served by the driveway as follows: any width in excess of 12' feet will be counted towards~~
2140 ~~allowable parking areas with an allowance of 200 square feet for each parking space. For example, a~~
2141 ~~driveway 20' wide and 100 feet long would be considered to include 800 square feet (100x8) of parking~~
2142 ~~area which would be sufficient for 4 parking spaces. If a fifth space is allowed for the units, an~~
2143 ~~additional 200 square feet of parking area could be developed in addition to the driveway area.~~

2144
2145 **19.18.070 Lot coverage.**

2146 Maximum lot coverage in the R-2 district is thirty percent.
2147 (Ord. 994 § 3.7(F), 1982).

2148
2149 **19.18.080 Building height.**

2150 Maximum building height in the R-2 district is thirty-five feet, or two and one-half stories.
2151 (Ord. 994 § 3.7(G), 1982).

2152
2153 **19.18.090 Park fees.**

2154 All residential development shall be subject to a park acquisition fee of two hundred fourteen dollars
2155 per dwelling unit and a park improvement fee of five hundred five dollars per dwelling unit, payable
2156 before a building permit is issued. The amount of these fees may be reduced by any fee amount
2157 previously paid or credited at the time of subdivision. The park acquisition fee may also be reduced if
2158 sufficient land area was provided for park purposes at the time of subdivision, based on the calculations
2159 in section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be adjusted during
2160 the first quarter of each year by a percentage equal to the rate of consumer inflation based on the
2161 percent of yearly change for the previous year for the Milwaukee metropolitan area, as reported by the
2162 U.S. Department of Labor, Bureau of Labor Statistics.
2163 (Ord. 1481 § 3, 2001; Ord. 1174 § 3F, 1990).

2164
2165
2166 **Chapter 19.19 R-2A Residential Occupancy Overlay District**

2167 **Sections:**

2168 [19.19.010 Purpose and intent.](#)

2169 [19.19.015 Relationship to underlying zoning district classification](#)

2170 [19.19.020 Overlay district application.](#)

2171 [19.19.030 Non-family residential overlay district permissions and conditions.](#)

2172 ~~[19.19.040 Parking.](#)~~

2173 [19.19.050 Exceptions.](#)

2174
2175 **19.19.010 Purpose and intent.**

2176 [The purpose and intent of the residential occupancy overlay district is to allow increased occupancy in a](#)
2177 [focused area near campus where housing structures can accommodate the occupancy based on number](#)
2178 [of original bedrooms.](#)

2179
2180 **19.19.015 Relationship to underlying zoning district classification.**

2181 [Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building](#)
2182 [height, signage, and park fees remain the same as the underlying zoning district to which the overlay](#)
2183 [zoning is applied unless specifically described in this overlay district.](#)

2184
2185 **19.19.020 Overlay zoning district application.**

2186 [Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the](#)
2187 [R-2A designation. ~~Within the R-2A overlay district, three unrelated individuals will be permitted without~~](#)
2188 [~~additional conditions. Additional conditions are required for four to five unrelated individuals. To the~~](#)
2189 [~~extent there is a conflict between the restrictions or requirements associated with the district, the~~](#)
2190 [~~requirements that most restrictively limit the use of the site shall apply. No party other than the owner~~](#)
2191 [~~of the property, City Manager or Common Council, may apply for the R-2A residential occupancy~~](#)
2192 [~~overlay zoning. Permission will require conformance with the requirements established for the duties of~~](#)

2193 the Zoning Administrator ~~or Neighborhood Services Manager~~ (section 19.75.061) Applications may also
2194 require a conditional use permit.

2195
2196
2197

2198 **19.19.030 Residential occupancy overlay district permitted and conditional uses.**

2199 Three unrelated occupants are a permitted use in the R-2A overlay district with no additional
2200 restrictions or conditional use permit required. A conditional use permit is required for four or five
2201 unrelated individuals. The conditional use permit shall take into consideration, among other issues, the
2202 size of the building and the original character of the building when bedrooms are being added as part of
2203 an internal remodeling or external addition. ~~Permission for more than two three unrelated individuals,~~
2204 but no Occupancy by more than ~~more than~~ five unrelated individuals requires both a conditional use
2205 permit and conformance with the requirements established for the duties of the Zoning Administrator~~#~~
2206 or Neighborhood Services Manager (section 19.75.061

2207

2208 **19.19.040 Parking**

2209 Parking spaces permitted for units with the R-2A overlay zoning shall be limited to the total number of
2210 occupants within the housing unit, with a maximum of five vehicles parked in any combination of the
2211 front and side yards. This maximum width is inclusive of any outdoor parking areas served by the
2212 driveway as follows: any width in excess of 12' feet will be counted towards allowable parking areas
2213 with an allowance of 200 square feet for each parking space. For example, a driveway 20' wide and 100
2214 feet long would be considered to include 800 square feet (100x8) of parking area which would be
2215 sufficient for 4 parking spaces. If a fifth space is allowed for the units, an additional 200 square feet of
2216 parking area could be developed in addition to the driveway area.

2217

2218 **19.19.050 Exceptions.**

2219 The limitations in this district overlay for maximum occupancy and parking shall not apply to community
2220 living arrangements allowed by federal and state law (such as foster homes and adult family homes for
2221 the disabled) and those allowed under Wis. Stats. § 62.23.
2222 (Ord. No. 1788A, § 1, 6-1-2010)

2223

2224

2225

2226 ~~ALTERNATIVE Chapter 19.19 R-2A Residential Occupancy Overlay District~~

2227 ~~Sections:~~

2228 ~~19.19.010 Purpose and intent.~~

2229 ~~19.19.015 Relationship to underlying zoning district classification.~~

2230 ~~19.19.020 Overlay zoning district application.~~

2231

2232 ~~19.19.010 Purpose and intent.~~

2233 ~~The purpose and intent of the residential occupancy overlay district is to allow increased occupancy in a~~
2234 ~~focused area near campus where housing structures can accommodate the occupancy based on number~~
2235 ~~of original bedrooms.~~

2236

2237 ~~19.19.015 Relationship to underlying zoning district classification.~~

2238 ~~Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building~~
2239 ~~height, signage, and park fees remain the same as the underlying zoning district to which the overlay~~
2240 ~~zoning is applied unless specifically described in this overlay district.~~

2241
2242 ~~19.19.020 Overlay zoning district application.~~
2243 ~~Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the~~
2244 ~~R-2A designation. No party other than the owner of the property may apply for the R-2A residential~~
2245 ~~occupancy overlay zoning. Permission requires conformance to the City's RENTAL PERMIT PROGRAM~~
2246 ~~requirements as administered by the Zoning Administrator or Neighborhood Services Manager (section~~
2247 ~~19.75.061). These requirements address concerns regarding the number of original occupiable~~
2248 ~~bedrooms, relationship to neighboring properties and uses, and conditions intended to limit nuisances~~
2249 ~~and achieve a more harmonious neighborhood.~~

2250
2251

Chapter 19.21 R-3 MULTIFAMILY RESIDENCE DISTRICT

Sections:

2253 [19.21.010 Purpose.](#)
2254 [19.21.020 Permitted uses.](#)
2255 [19.21.030 Conditional uses.](#)
2256 [19.21.040 Lot area.](#)
2257 [19.21.050 Lot width.](#)
2258 [19.21.060 Yard Requirements.](#)
2259 [19.21.065 Parking](#)
2260 [19.21.070 Lot coverage.](#)
2261 [19.21.080 Building height.](#)
2262 [19.21.090 Park fees.](#)

2263
2264

19.21.010 Purpose.

2266 The R-3 multifamily residence district is established to provide high-density residential areas, and to
2267 allow mixing of certain compatible land uses. [A non-family household in R-3 shall be limited to five](#)
2268 [unrelated persons.](#)
2269 (Ord. 994 § 3.8(part), 1982).

2270

19.21.020 Permitted uses.

2272 Permitted uses in the R-3 district include:

- 2273 A. One-family detached dwellings;
2274 B. Two-family attached dwellings (new construction);
2275 C. [Multi-family dwellings and Attached dwellings](#), up to four units per building. Minimum lot area
2276 requirements for such uses shall be regulated by Chapter 19.21. "Attached dwelling" means a one-family
2277 dwelling attached to two or more one-family dwellings by common vertical walls;
2278 [D. Home occupations/professional home offices for non-retail \(goods and services for businesses that](#)
2279 [do not require customer access\);](#)
2280 ~~ED.~~ The second or greater wireless telecommunications facility located on an alternative support
2281 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
2282 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
2283 accessory uses, all per the requirements of Chapter 19.55.
2284 (Ord. 1499 § 8, 2001; 1174 § 4A, 1990; Ord. 1149 § 3, 1988; Ord. 994 § 3.8(A), 1982).

2285

19.21.030 Conditional uses.

2286

2287 Conditional uses in the R-3 district include:

2288 A. Professional business offices in a building where the principal use is residential;

2289 B. Multifamily dwellings and attached dwellings, over four units, new construction only;

2290 C. Walk-in type retail trade (food stores, bookstores, gift shops, galleries, beauty shops and similar

2291 uses) located in a building where the principal use is residential and fronts on an arterial street;

2292 (Conditional use approval under this provision shall be granted for a specified use. Any subsequent

2293 change in use or expansion shall require additional conditional use approval.)

2294 D. Fraternity or sorority houses and group lodging facilities;

2295 E. Any building over ~~three stories or~~ forty feet;

2296 F. Planned residential developments (see Section 19.15.030);

2297 G. Conversions of existing structures resulting in more than four dwelling units; and conversion of

2298 existing units with less than 5 bedrooms to 5 or more bedrooms.

2299 H. Public and semipublic uses;

2300 I. Home occupations/professional home office for retail goods and services (businesses requiring

2301 customer access), in one and two family dwellings conditions for hours of operation and parking; [LMB4]§

2302 J. Bed and breakfast establishments;

2303 K. The first wireless telecommunications facility located on an alternative support structure only, per

2304 the requirements of Chapter 19.55;

2305 L. Real estate sales offices, subject to the following requirements:

2306 1. May only be placed within a major subdivision with twenty or more lots or a multiple-family

2307 residential development with forty or more dwelling units,

2308 2. Shall occupy a maximum of one building within any major subdivision, or one unit within any

2309 multiple-family residential development,

2310 3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than

2311 ninety days from the date when ninety percent of the lots or units within the subdivision or

2312 development are initially sold or leased, or five years from the date of initial establishment of the use,

2313 whichever comes first,

2314 4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than

2315 two thousand dollars shall be required, with such deposit or guarantee released by the city once the

2316 sales office is removed or converted to a permitted use in the district,

2317 5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related

2318 uses open to the public,

2319 6. Shall be compatible in character, materials, placement, and design with other existing and planned

2320 buildings within the subdivision or development,

2321 7. Signage shall be in accordance with standards for conditional uses in the district, per Section

2322 19.54.052 of this title.

2323 (Ord. 1668A § 2, 2007; Ord. 1580A §§ 4, 5, 2005; Ord. 1499 § 9, 2001; Ord. 1174 § 4B, 1990; Ord. 1149 §

2324 7, 1988; Ord. 994 § 3.8(B), 1982).

2325

2326 **19.21.040 Lot area.**

2327 A. Minimum lot area in the R-3 district is as follows:

2328 TABLE INSET:

2329

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

2330 Provided, however, that minimum parcel sizes for multifamily dwellings and group lodging facilities may
2331 be increased if the following ratios indicate a larger parcel size.

2332 B. Ratios to determine minimum parcel size, (to be used if operation of the table indicates parcel size in
2333 excess of twelve thousand square feet):

2334 TABLE INSET:

2335

<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

2336

2337 C. Minimum lot area for group lodging facilities will be set in conditional use review.
2338 (Ord. 1174 § 4C, 1990; Ord. 994 § 3.8(C), 1982).

2339

2340 **19.21.050 Lot width.**

2341 Minimum lot width in the R-3 district is:

2342 A. One-family and two-family dwellings, sixty-six feet for all improved lots existing at the time of
2343 adoption of the ordinance codified in this section;

2344 B. One family, sixty-six feet for all new single-family dwellings constructed after the adoption of the
2345 ordinance codified in this section;

2346 C. Two-family, eighty-feet for all newly constructed two-family dwellings;

2347 D. Multifamily dwellings, one hundred feet.

2348 (Ord. 1174 § 4D, 1990; Ord. 994 § 3.8(D), 1982).

2349

2350 **19.21.060 Yard Requirements.**

2351 A. Front, thirty feet first floor; (not more than 50% of the front yard may be a paved surface)

2352 B. Side, fifteen feet; corner lots twenty-five feet;

2353 C. Rear, thirty feet;

2354 D. Shore, seventy-five feet;

2355 ~~E. Modifications to Minimum Required Yards. All structures within the R-3 district will be further~~
2356 ~~required to comply with the sky exposure plane setback requirements (see graph attached to the~~
2357 ~~ordinance codified in this section).~~

2358 (Ord. 1174 § 4E, 1990; Ord. 994 § 3.8(E), 1982).

2359

2360 **19.21.065 Parking**

2361 ~~Parking spaces permitted for units with R-3 zoning shall be limited to the total number of occupants~~
2362 ~~within the housing unit, with a maximum of five vehicles parked in combination in the front and side~~
2363 ~~yards. This maximum width is inclusive of any outdoor parking areas served by the driveway as follows:~~
2364 ~~any width in excess of 12' feet will be counted towards allowable parking areas with an allowance of 200~~
2365 ~~square feet for each parking space. For example, a driveway 20' wide and 100 feet long would be~~

2366 ~~considered to include 800 square feet (100x8) of parking area which would be sufficient for 4 parking~~
2367 ~~spaces. If a fifth space is allowed for the units, an additional 200 square feet of parking area could be~~
2368 ~~developed in addition to the driveway area.~~

2369
2370 **19.21.070 Lot coverage.**

2371 A. Three hundred fifty square feet of usable open space shall be required for each dwelling unit for
2372 structures with two or more units.

2373 B. Usable Open Space. Usable open space is that part of the ground level of a zoning lot, other than in a
2374 required front or corner side yard, which is unoccupied by driveways, drive aisles, service drives, off-
2375 street parking spaces and/or loading berths and is unobstructed to the sky. This space of minimum
2376 prescribed dimension shall be available to all occupants of the building and shall be usable for greenery,
2377 drying yards, recreational space, gardening and other leisure activities normally carried on outdoors.
2378 Where and to the extent prescribed in these regulations, balconies and roof areas, designed and
2379 improved for outdoor activities, may also be considered as usable open space. The usable open space
2380 shall be planned as an assemblage or singularly designed area that maximizes the size for open space
2381 usage. The only exception to this standard is where the required open space is designed to be a part of
2382 the individual living units in the form of patios or decks.

2383 (Ord. 1174 § 4F, 1990: Ord. 994 § 3.8(F), 1982).

2384
2385 **19.21.080 Building height.**

2386 Maximum building height in the R-3 district is forty-five feet ~~or four stories.~~

2387 (Ord. 994 § 3.8(G), 1982).

2388
2389 **19.21.090 Park fees.**

2390 All residential development shall be subject to a park acquisition fee of two hundred fourteen dollars
2391 per dwelling unit and a park improvement fee of five hundred five dollars per dwelling unit, payable
2392 before a building permit is issued. The amount of these fees may be reduced by any fee amount
2393 previously paid or credited at the time of subdivision. The park acquisition fee may also be reduced if
2394 sufficient land area was provided for park purposes at the time of subdivision, based on the calculations
2395 in section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be adjusted during
2396 the first quarter of each year by a percentage equal to the rate of consumer inflation based on the
2397 percent of yearly change for the previous year for the Milwaukee metropolitan area, as reported by the
2398 U.S. Department of Labor, Bureau of Labor Statistics.

2399 (Ord. 1481 § 4, 2001: Ord. 1174 § 4G, 1990).

2400

2401

2402 **[Chapter 19.22 R-3A University Residential Density West Overlay District](#)**

2403 Sections:

2404 [19.22.010 Purpose and intent.](#)

2405 [19.22.020 Overlay district application.](#)

2406 [19.22.030 Non-family residential overlay district permissions and conditions.](#)

2407

2408 ~~[19.22.040 Parking.](#)~~

2409 [19.22.040 Lot area](#)

2410 [19.22.050 Exceptions.](#)

2411

2412 **[19.22.010 Purpose and intent.](#)**

2413 The purpose and intent of the university residential density west overlay district is to allow increased
2414 density for new housing in a focused area near campus, and therefore reduce the impact of student
2415 housing on lower density neighborhoods. In addition, long term use of such buildings for non-student
2416 housing is also a significant issue and, consequently, some conditions have been established to facilitate
2417 use of the units for families.

2418
2419 **19.22.015 Relationship to underlying zoning district classification.**

2420 Requirements for permitted uses, conditional uses, lot width, yards, lot coverage, building height,
2421 signage, and park fees remain the same as the underlying zoning district to which the overlay zoning is
2422 applied unless specifically described in this overlay district.

2423
2424
2425 **19.22.020 Overlay district application.**

2426 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2427 R-3A designation. To the extent there is a conflict between the restrictions or requirements associated
2428 with the district, the requirements that most restrictively limit the use of the site shall apply. No party
2429 other than the owner of the property may apply for the R-3A university residential density west overlay
2430 zoning. Permission will require conformance with the requirements established for the duties of the
2431 Zoning Administrator ~~or Neighborhood Services Manager~~ (section 19.75.061) Applications may also
2432 require a conditional use permit.

2433
2434
2435
2436 **19.22.030 University residential density west overlay district permitted and conditional uses.**

2437 Within this district, a multifamily building with up to sixteen units is a permitted use for new
2438 construction. ~~Units shall be limited to no more than four bedrooms and have a minimum of two~~
2439 ~~bathrooms.~~ More than 16 units per building and up to 32 units per building may be requested as a
2440 conditional use. Among other issues, conditional use permits should consider long term impacts of the
2441 proposal on the surrounding area. More than 32 units per building are not allowed in the district but
2442 may be considered as part of a PD district. Architectural quality shall be subject to the architectural
2443 review of the plan and architectural commission and include ~~application~~ consideration of any
2444 ~~architectural standards~~ design and planning criteria as established by the City, for buildings in this zoning
2445 district.

2446
2447 **~~19.22.040 Parking~~**

2448 ~~Parking spaces permitted for units with the R-3A overlay zoning shall be a maximum of four spaces per~~
2449 ~~unit or one space per bedroom, whichever is less. Parking shall be underground or covered in the rear~~
2450 ~~yard except as part of the driveway. Driveway areas cannot exceed 24' in width and may include surface~~
2451 ~~parking within the driveway. This maximum width is inclusive of any outdoor parking areas served by~~
2452 ~~the driveway as follows: any width in excess of 12' feet will be counted towards allowable parking areas~~
2453 ~~with an allowance of 200 square feet for each parking space. For example, a driveway 20' wide and 100~~
2454 ~~feet long would be considered to include 800 square feet (100x8) of parking area which would be~~
2455 ~~sufficient for 4 parking spaces. If a fifth space is allowed for the units, an additional 200 square feet of~~
2456 ~~parking area could be developed in addition to the driveway area.~~

2457
2458 **19.22.040 Lot area.**

2459 The minimum lot area in the R-3A district is the same as R-3. The minimum parcel sizes for multifamily
2460 dwellings and group lodging facilities may be increased if the following ratios indicate a larger parcel
2461 size. The ratios to determine minimum parcel size, (to be used if operation of the table indicates parcel
2462 size in excess of twelve thousand square feet) shall be the same as indicated in R-3 except that the
2463 number of square feet shall be reduced by 50% for each type of unit.

2464
2465 **19.22.050 Exceptions.**

2466 This limitation shall not apply to community living arrangements allowed by federal and state law (such
2467 as foster homes and adult family homes for the disabled) and those allowed under Wis. Stats. § 62.23.
2468 (Ord. No. 1788A, § 1, 6-1-2010)

2469
2470
2471
2472 **Chapter 19.23 R-3B University Residential Density East Overlay District**

2473 Sections:

2474 19.22.010 Purpose and intent.

2475 19.22.020 Overlay district application.

2476 19.22.030 Non-family residential overlay district permissions and conditions.

2477 19.22.040 Lot Area.

2478 19.22.050 Exceptions.

2479
2480 **19.23.010 Purpose and intent.**

2481 The purpose and intent of the university residential density east overlay district is to allow increased
2482 density for new housing in a focused area near campus, and therefore reduce the impact of student
2483 housing on lower density neighborhoods. In addition, long term use of such buildings for non-student
2484 housing is also a significant issue and, consequently, some conditions have been established to facilitate
2485 use of the units for families.

2486
2487 **19.23.015 Relationship to underlying zoning district classification.**

2488 Requirements for permitted uses, conditional uses, lot width, yards, lot coverage, building height,
2489 signage, and park fees remain the same as the underlying zoning district to which the overlay zoning is
2490 applied unless specifically described in this overlay district.

2491
2492 **19.23.020 Overlay district application.**

2493 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2494 R-3B designation. To the extent there is a conflict between the restrictions or requirements associated
2495 with the district, the requirements that most restrictively limit the use of the site shall apply. No party
2496 other than the owner of the property may apply for the R-3A university residential density west overlay
2497 zoning. Permission will require conformance with the requirements established for the duties of the
2498 Zoning Administrator ~~or Neighborhood Services Manager~~ (section 19.75.061) Applications may also
2499 require a conditional use permit.

2500
2501 **19.23.030 University residential density east overlay district permitted and conditional uses.**

2502 Within this district, a multifamily building with up to sixteen units is a permitted use for new
2503 construction. More than 16 units per building and up to 32 units per building may be requested as a
2504 conditional use. Among other issues, conditional use permits should consider long term impacts of the
2505 proposal on the surrounding area. More than 32 units per building are not allowed in the district but
2506 may be considered as part of a PD district. Architectural quality shall be subject to the architectural

2507 review of the plan and architectural commission and include consideration of any design and planning
2508 criteria as established by the City, for buildings in this zoning district.

2509
2510 **19.23.040 Lot area.**

2511 The minimum lot area in the R-3B district is the same as R-3. The minimum parcel sizes for multifamily
2512 dwelling and group lodging facilities shall may be increased if the following ratios indicate a larger
2513 parcel size. The ratios to determine minimum parcel size, (to be used if operation of the table indicates
2514 parcel size in excess of twelve thousand square feet) shall be the same as indicated in R-3 except that
2515 the number of square feet shall be reduced by 50% for each type of unit.

2516
2517 **19.23.050 Exceptions.**

2518 This limitation shall not apply to community living arrangements allowed by federal and state law (such
2519 as foster homes and adult family homes for the disabled) and those allowed under Wis. Stats. § 62.23.
2520 (Ord. No. 1788A, § 1, 6-1-2010)

2521
2522
2523 ~~**ALTERNATIVE Chapter 19.22/23 R-3A and R-3B Residential Occupancy Overlay District**~~

2524 ~~**Sections:—**~~

2525 ~~**19.19.010 Purpose and intent.**~~

2526 ~~**19.19.015 Relationship to underlying zoning district classification.**~~

2527 ~~**19.19.020 Overlay zoning district application.**~~

2528
2529 ~~**19.23.010 Purpose and intent.**~~

2530 ~~The purpose and intent of the university residential density east and west overlay districts is to allow~~
2531 ~~increased density for new housing in a focused area near campus, and therefore reduce the impact of~~
2532 ~~student housing on lower density neighborhoods. In addition, long term use of such buildings for non-~~
2533 ~~student housing is also a significant issue and, consequently, some conditions have been established to~~
2534 ~~facilitate use of the units for families.~~

2535
2536 ~~**19.23.015 Relationship to underlying zoning district classification.**~~

2537 ~~Requirements for permitted uses, conditional uses, lot width, yards, lot coverage, building height,~~
2538 ~~signage, and park fees remain the same as the underlying zoning district to which the overlay zoning is~~
2539 ~~applied unless specifically described in this overlay district.~~

2540
2541 ~~**19.19.020 Overlay zoning district application.**~~

2542 ~~Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the~~
2543 ~~R-3A or R-3B designation. No party other than the owner of the property may apply for the R-3A or R-~~
2544 ~~3B overlay zoning. Permission requires conformance to the City's RENTAL PERMIT PROGRAM~~
2545 ~~requirements as administered by the Zoning Administrator or Neighborhood Services Manager (section~~
2546 ~~19.75.061). These requirements address concerns regarding the number of occupants, unit design,~~
2547 ~~number of bedrooms, relationship to neighboring properties and uses, and conditions intended to limit~~
2548 ~~nuisances and achieve a more harmonious neighborhood.~~

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Chapter 19.24 R-4 MOBILE HOME DISTRICT

Sections:

- [19.24.010 Purpose.](#)
- [19.24.020 Permitted uses.](#)
- [19.24.030 Conditional uses.](#)
- [19.24.040 Lot area.](#)
- [19.24.050 Lot width.](#)
- [19.24.060 Yard requirements.](#)
- [19.24.065 Parking](#)
- [19.24.070 Lot coverage.](#)
- [19.24.080 Wrecked or damaged homes.](#)
- [19.24.090 Park fees.](#)

19.24.010 Purpose.

The R-4 mobile home district is established to provide areas for placing mobile homes and associated service facilities.
(Ord. 994 § 3.9(part), 1982).

19.24.020 Permitted uses.

Permitted uses in the R-4 district include:
A. Single-family mobile home dwellings, and the sanitary, washing, recreational, and office facilities to service mobile home dwellings;
B. The second or greater wireless telecommunications facility located on an alternative support structure already supporting a wireless telecommunications facility or on a pre-existing wireless telecommunications facility, with wireless telecommunications support facilities allowed as permitted accessory uses, all per the requirements of Chapter 19.55.
(Ord. 1499 § 10, 2001; Ord. 1149 § 4, 1988; Ord. 994 § 3.9(A), 1982).

19.24.030 Conditional uses.

Conditional uses in the R-4 district include:
A. Public and semipublic uses;
B. Home occupations;
C. The fire wireless telecommunications facility located on an alternative support structure only, per the requirements of Chapter 19.55;
D. Real estate sales offices, subject to the following requirements:
1. May only be placed within a manufactured or mobile home development with twenty or more home sites,
2. Shall occupy a maximum of one building within any mobile home development,
3. Shall be a temporary use to be removed or converted to a permitted use in the district no later than ninety days from the date when ninety percent of the lots or units within the subdivision or development are initially sold or leased, or five years from the date of initial establishment of the use, whichever comes first,
4. Before a building permit is issued, a deposit or other financial guarantee with a value of not less than two thousand dollars shall be required, with such deposit or guarantee released by the city once the sales office is removed or converted to a permitted use in the district,
5. Shall not exceed seven hundred fifty square feet in floor area devoted to the sales office and related uses open to the public,

2600 6. Shall be compatible in character, materials, placement, and design with other existing and planned
2601 buildings within the development,

2602 7. Signage shall be in accordance with standards in the district, per Section 19.54.052 of this title.
2603 (Ord. 1580A § 6, 2005; Ord. 1499 § 11, 2001; Ord. 1149 § 8, 1988; Ord. § 3.9(B), 1982).

2604
2605 **19.24.040 Lot area.**

2606 Minimum lot area in the R-4 district is:

- 2607 A. Exterior boundaries, four acres;
- 2608 B. Mobile home space, three thousand, six hundred square feet.

2609
2610 **19.24.050 Lot width.**

2611 Minimum lot width in the R-4 district is:

- 2612 A. Exterior boundaries, two hundred feet;
- 2613 B. Mobile home space, thirty-six feet.

2614 (Ord. 994 § 3.9(D), 1982).

2615
2616 **19.24.060 Yard requirements.** Minimum yard requirements in the R-4 district are:

2617 TABLE INSET:

2618

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

2619 (Ord. 994 § 3.9(E), 1982).

2620

2621

2622 ~~19.24.065 Parking~~

2623 ~~Parking spaces permitted for units with R-4 zoning shall be limited to three spaces per unit. Driveway~~
2624 ~~areas cannot exceed 24' in width. This maximum width is inclusive of any outdoor parking areas served~~
2625 ~~by the driveway. This maximum width is inclusive of any outdoor parking areas served by the driveway~~
2626 ~~as follows: any width in excess of 12' feet will be counted towards allowable parking areas with an~~
2627 ~~allowance of 200 square feet for each parking space. For example, a driveway 20' wide and 100 feet~~
2628 ~~long would be considered to include 800 square feet (100x8) of parking area which would be sufficient~~
2629 ~~for 4 parking spaces. If a fifth space is allowed for the units, an additional 200 square feet of parking~~
2630 ~~area could be developed in addition to the driveway area.~~

2631

2632 **19.24.070 Lot coverage.**

2633 Maximum lot coverage in the R-4 district is as follows:

2634 The mobile home dwelling unit shall not occupy more than fifty percent of the mobile home space.

2635 (Ord. 994 § 3.9(F), 1982).

2636

2637 **19.24.080 Wrecked or damaged homes.**

2638 Wrecked, damaged or dilapidated mobile homes shall not be kept or stored on a lot in a mobile home
2639 park. The health officer shall determine if a mobile home is damaged or dilapidated to a point which
2640 makes such mobile home unfit for human occupancy on either a temporary or permanent basis.

2641 Whenever such a determination is made, the mobile home shall be vacated and removed from the
2642 premises by the owner of the lot within thirty days of formal notice by the health officer.

2643 (Ord. 994 § 3.9(G), 1982).

2644

2645 **19.24.090 Park fees.**

2646 All residential development shall be subject to a park acquisition fee of two hundred fourteen dollars
2647 per dwelling unit and a park improvement fee of five hundred five dollars per dwelling unit, payable
2648 before a building permit is issued. The amount of these fees may be reduced by any fee amount
2649 previously paid or credited at the time of subdivision. The park acquisition fee may also be reduced if
2650 sufficient land area was provided for park purposes at the time of subdivision, based on the calculations
2651 in section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be adjusted during
2652 the first quarter of each year by a percentage equal to the rate of consumer inflation based on the
2653 percent of yearly change for the previous year for the Milwaukee metropolitan area, as reported by the
2654 U.S. Department of Labor, Bureau of Labor Statistics.

2655 (Ord. 1481 § 5, 2001).

2656

2657 **Chapter 19.25 R-O NON-FAMILY RESIDENTIAL RESTRICTION OVERLAY DISTRICT**

2658 Sections:

2659 [19.25.010 Purpose and intent.](#)

2660 [19.25.020 Overlay district application.](#)

2661 [19.25.030 Non-family residential overlay district additional restrictions.](#)

2662 [19.25.035 Parking](#)

2663 [19.25.040 Exceptions.](#)

2664 [19.25.050 Non-conforming use and registration.](#)

2665

2666 **19.25.010 Purpose and intent.**

2667 The purpose and intent of the non-family residential overlay district is to stabilize and protect property
2668 values and to provide a mechanism to protect, preserve, and enhance essential characteristics of low-
2669 density single-family residential areas, in particular, areas where due to economic factors and housing
2670 pressure in the immediate area there is the potential for the reduction of family-occupied residences,
2671 and therefore the loss of the single-family character of the neighborhood which will potentially lead to
2672 overcrowding, undue population concentration and lower property values.

2673 (Ord. No. 1788A, § 1, 6-1-2010)

2674

2675 **19.25.020 Overlay district application.**

2676 [There is no separate Overlay Permission Area Map for the R-O overlay. Applications for the R-O](#)
2677 [district may be made in any residential zoning district.](#) The restrictions set forth herein are in
2678 addition to the restrictions and requirements of the basic district applicable to a particular site. To the
2679 extent there is a conflict between the restrictions or requirements associated with the district, the
2680 requirements that most restrictively limit the use of the site shall apply. No party other than the owner
2681 of the property may initiate an action for the imposition of R-O non-family residential zoning on any
2682 particular property if such a petition has been made within the previous twelve months.

2683 (Ord. No. 1788A, § 1, 6-1-2010)

2684

2685 **19.25.030 Non-family residential overlay district additional restrictions.**

2686 In all non-family residential overlay districts, the non-family household limitation set forth in
2687 Whitewater Municipal Ordinance [Section] 19.09.520 is reduced from three to two. Therefore, in any
2688 non-family residential overlay district, a non-family household shall be limited to two unrelated persons.
2689 (Ord. No. 1788A, § 1, 6-1-2010)

2690
2691 **19.25.035 Parking**

2692 Parking spaces permitted for units with R-O zoning shall be limited to the number of parking spaces
2693 allowed for the underlying zoning. ~~Driveway areas cannot exceed 24' in width.~~

2694
2695 **19.25.040 Exceptions.**

2696 This limitation shall not apply to community living arrangements allowed by federal and state law (such
2697 as foster homes and adult family homes for the disabled) and, in particular, those allowed under Wis.
2698 Stats. § 62.23.
2699 (Ord. No. 1788A, § 1, 6-1-2010)

2700
2701 **19.25.050 Non-conforming use and registration.**

2702 In order to assist the enforcement of this zoning classification, the owner of any property claiming non-
2703 conforming use status regarding the unrelated persons limitation imposed by R-O zoning shall register
2704 with the city clerk on a form provided by the clerk within ninety days of the imposition of the zoning on
2705 the property. The information required on the registration form shall include the history of the property
2706 that supports its designation as a non-conforming use which shall include the three letter initials and
2707 dates of residency of current tenants (or most recent tenants if not currently occupied), and the three
2708 letter initials and dates of residency of all tenants who resided at the premises for the last one hundred
2709 twenty days. The party claiming the non-conforming use status shall also have a continuing requirement
2710 to update the registration information to provide the initials of current tenants. Failure to register within
2711 ninety days of the imposition of the R-O zoning classification shall cause the non-conforming use status
2712 to terminate. The city shall mail a notice of this requirement to the address on the property's real estate
2713 tax statement within fifteen days of the imposition of the zoning on the property. The non-conforming
2714 use status of any property under this chapter will be subject to the provisions contained in City of
2715 Whitewater Ordinance [Section] 19.60.010, existing non-conforming uses.
2716 (Ord. No. 1788A, § 1, 6-1-2010)

2717
2718 **Chapter 19.27 B-1 COMMUNITY BUSINESS DISTRICT**

2719 **Sections:**

- 2720 [19.27.010 Purpose.](#)
- 2721 [19.27.020 Permitted uses.](#)
- 2722 [19.27.025 Permitted accessory uses.](#)
- 2723 [19.27.030 Conditional uses.](#)
- 2724 [19.27.040 Lot area.](#)
- 2725 [19.27.050 Lot width.](#)
- 2726 [19.27.060 Yard requirements.](#)
- 2727 [19.27.070 Lot coverage.](#)
- 2728 [19.27.080 Building height.](#)
- 2729 [19.27.090 Plan review.](#)
- 2730 [19.27.100 Park fees.](#)

2731
2732 **19.27.010 Purpose.**

2733 The B-1 community business district is established to accommodate retail shopping and service needs in
2734 a manner compatible with the desired community character. The district should be located in relative

2735 proximity to residential areas and major traffic routes. ~~High quality site layout, building design, and~~
2736 ~~landscaping is required.~~ NEEDS DEFINITION
2737 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(part), 1982).

2738

2739 **19.27.020 Permitted uses.**

2740 Permitted uses in the B-1 district include: ~~MIGHT BE A PLACE FOR SOME 'FORM BASED' RULES LIKE "ANY~~
2741 ~~USES SMALLER THAN 20,000 SF"~~

2742 A. Art, music and school supply stores and galleries;

2743 B. Antique, hobby and craft shops;

2744 C. Automotive and related parts stores, without servicing;

2745 D. Hotels and motels;

2746 E. Small appliance repair stores, computer or software= sales and service;

2747 F. Barbershops and beauty parlors;

2748 G. Banks and other financial institutions without drive-through facilities;

2749 H. Camera and photographic supply stores;

2750 I. Caterers;

2751 J. Clothing and shoe stores and repair shops;

2752 K. Clinics, medical and dental;

2753 L. Department stores;

2754 M. Drugstores;

2755 N. Florist shops;

2756 O. Food and convenience stores without gasoline pumps;

2757 P. Furniture stores;

2758 Q. Hardware stores;

2759 R. Insurance agencies;

2760 S. Jewelry stores;

2761 T. Liquor stores without drive-through facilities;

2762 U. Meat markets;

2763 V. Resale shops;

2764 W. Paint, wallpaper, interior decorating and floor covering stores;

2765 X. Professional offices;

2766 Y. Restaurants without drive-through facilities;

2767 Z. Self-service laundries and drycleaning establishments;

2768 AA. Sporting goods stores;

2769 BB. Stationery stores, retail office supplies;

2770 CC. Variety stores;

2771 DD. Movie theaters;

2772 EE. Charitable or nonprofit institutions and facilities;

2773 FF. Tourist homes;

2774 GG. Existing residences regulated by R-2 dimensional standards;

2775 HH. New residential uses meeting the standards of the R-3 district, when mixed with permitted uses
2776 in a unified project;

2777 ~~IIII.~~ Any other similar uses not specifically listed above that are consistent with the purpose of this
2778 district; ~~COULD USE AN EXAMPLE LIKE COMPUTER SERVICES OR ELECTONIC SALES~~

2779 JJ. The second or greater wireless telecommunications facility located on an alternative support
2780 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
2781 telecommunications facility, per the requirements of Chapter 19.55.

2782 (Ord. 1499 § 12, 2001; 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(A), 1982).

2783 KK. Light assembly uses including electronics, pottery, printing, contractor shops (heating, electrical,
2784 plumbing, general contracting) provided that there are no significant environmental emissions (odor and
2785 waste)

2786
2787 **19.27.025 Permitted accessory uses.**

2788 Permitted accessory uses in the B-1 district include:

- 2789 A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
- 2790 principal use on the lot;
- 2791 B. Off-street parking and loading areas, subject to landscaping and screening requirements where
- 2792 applicable;
- 2793 C. Outside storage and trash Dumpsters where located outside of the required yards in Section
- 2794 19.27.060 of this chapter and enclosed by a decorative opaque fence, wall or landscaping designed to
- 2795 provide a total visual screen;
- 2796 D. Outside display of merchandise, which may be subject to limitations as part of site plan review;
- 2797 E. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
- 2798 the sale, repair or servicing of such motor vehicles. No vehicle in inoperable condition shall be stored for
- 2799 greater than thirty days;
- 2800 F. Up to two vending machines for dispensing of a product, but only if accessory to a commercial
- 2801 business use. Vending machines may be lit only when the principal use on the lot is in operation, unless
- 2802 such machines are screened from the public right-of-way and adjacent properties;
- 2803 G. Outdoor seating for restaurants within designated areas;
- 2804 H. Temporary retail uses, such as seasonal and special event sales, subject to the approval of the zoning
- 2805 administrator, who may set specific time and area limitations;
- 2806 I. Essential services;
- 2807 J. Wireless telecommunications support facilities, per the requirements of Chapter 19.55.
- 2808 (Ord. 1499 § 13, 2001; 1452 § 1(part), § 4(part), 2000).

2809
2810
2811 **19.27.030 Conditional uses.**

2812 Conditional uses in the B-1 district include:

- 2813 A. Entertainment establishments, including dancehalls and clubs;
- 2814 B. All uses with drive-in and drive-through facilities; (for which the conditions shall, among other issues,
- 2815 maintain visual continuity and attractive pedestrian movement along the primary street front)~~MIGHT BE~~
- 2816 ~~RECONSIDERED OR MODIFIED TO MAKE SURE IT DOES NOT HARM STREET EDGE CHARACTER~~
- 2817 C. Automobile and small engine vehicle sales or rental facilities, including incidental repair and service
- 2818 within the principal building;
- 2819 D. Automobile repair and service within the principal building;
- 2820 E. Car washes;
- 2821 F. Private recreation uses;
- 2822 G. Public and semipublic uses;
- 2823 H. Taverns and other places selling alcoholic beverages by the drink, the following conditions shall be
- 2824 considered:
- 2825 1. parking
- 2826 2. type of business
- 2827 3. signage
- 2828 4. outdoor seating
- 2829 5. provisions for avoiding noise and lighting nuisances

2830 6. buffering and fencing:
2831 I. New residential uses meeting the standards of the R-3 district, when mixed with conditional
2832 commercial uses in a unified project;
2833 J. ~~1. Light assembly/retail uses not permitted elsewhere in this district such as:~~
2834 ~~a. Electronics,~~
2835 ~~b. Pottery,~~
2836 ~~c. Printing,~~
2837 ~~d. Contractor shops (heating, electrical, plumbing, general contractor office),~~
2838 ~~e. Other similar uses,~~
2839 ~~2. Subject to the following restrictions:~~
2840 a. No environmental emission (noise, odor, waste),
2841 b. All truck delivery during weekdays,
2842 c. All of the requirements of Chapter 19.51, Traffic, Parking and Access, and Chapter 19.57, General
2843 Performance Standards, to be met;
2844 K. Gasoline service stations, including incidental repair and service within the principal building;
2845 L. Day care centers, adult and child;
2846 M. Funeral homes and crematory services;
2847 N. Veterinary clinics, provided that no service including animal boarding is offered outdoors;
2848 O. More than one principal structure on a lot;
2849 P. Large retail and commercial service developments, as described and regulated in Chapter 19.485.
2850 Q. The first wireless telecommunications facility located on an alternative support structure only, per
2851 the requirements of Chapter 19.55.
2852 (Ord. 1499 § 14, 2001; 1452 § 1(part), § 4(part), 2000: Ord. 1379 § 1, 1997; Ord. 1314 § 1, 1995; Ord.
2853 1296 § 2(part), 1994; Ord. 994 § 13.10(B), 1982).
2854 (Ord. No. 1796A, § 1, 8-3-2010)
2855
2856 **19.27.040 Lot area.**
2857 Minimum lot area in the B-1 district is seven thousand square feet for lots existing at the time of
2858 adoption of the ordinance codified in this chapter, and fifteen thousand square feet for all other lots.
2859 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(C), 1982).
2860
2861 **19.27.050 Lot width.**
2862 Minimum lot width in the B-1 district is ~~sixty-five~~ feet ~~for lots existing at the time of adoption of the~~
2863 ~~ordinance codified in this chapter, and one hundred feet for all other lots. SHOULD PROBABLY BE ALL~~
2864 ~~60'. WHY LIMIT IT? WHY CUT OUT SMALL BUILDINGS?~~
2865 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.19(D), 1982).
2866
2867 **19.27.060 Yard requirements.**
2868 Minimum required yards for principal buildings, outside storage, and Dumpsters in the B-1 district are:
2869 A. Front and street side, ~~thirty-five~~ feet (but may be greater if needed to meet fire safety
2870 requirements);
2871 B. Interior side, ten feet, except that no side yard will be required for buildings designed for common
2872 wall construction;
2873 C. Rear, twenty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
2874 feet under a conditional use;
2875 D. Shore yard, seventy-five feet;

2876 E. Any yard abutting a residential district or residential use, thirty feet or the height of the nearest
2877 principal building or structure on the lot being developed, whichever is greater. Such yards shall be
2878 subject to the landscape buffer yard requirements of Section 19.57.140, except where abutting a
2879 railroad right-of-way with the approval of the plan and architectural review commission;
2880 F. There shall be no parking areas, circulation drives or accessory buildings within the required front
2881 yard setback.
2882 (Ord. 1460 § 2, 2000; Ord. 1452 § 1(part), § 4(part), 2000; Ord. 994 § 3.10(E), 1982).

2883
2884 ~~19.27.060 Yard requirements.~~

2885 ~~Minimum required yards for principal buildings, outside storage, and Dumpsters in the B-1 district are:~~
2886 ~~A. Front and street side, thirty feet;~~
2887 ~~B. Interior side, ten feet, except that no side yard will be required for buildings designed for common~~
2888 ~~wall construction;~~
2889 ~~C. Rear, twenty feet, except the rear yard setback to any railroad right of way shall be at least fifteen~~
2890 ~~feet under a conditional use;~~
2891 ~~D. Shore yard, seventy five feet;~~
2892 ~~E. Any yard abutting a residential district or residential use, thirty feet or the height of the nearest~~
2893 ~~principal building or structure on the lot being developed, whichever is greater. Such yards shall be~~
2894 ~~subject to the landscape buffer yard requirements of Section 19.57.140, except where abutting a~~
2895 ~~railroad right of way with the approval of the plan and architectural review commission;~~
2896 ~~F. There shall be no parking areas, circulation drives or accessory buildings within the required front~~
2897 ~~yard.~~
2898 ~~(Ord. 1460 § 2, 2000; Ord. 1452 § 1(part), § 4(part), 2000; Ord. 994 § 3.10(E), 1982).~~

2899
2900 **19.27.070 Lot coverage.**

2901 ~~Maximum building lot coverage in the B-1 district is fifty percent. MAYBE HAVE NO MAXIMUM IF WE~~
2902 ~~WANT HIGHER DENSITY AND MORE COMPACT USES There is no maximum lot coverage for buildings.~~
2903 ~~Building size and locations must still conform to the other regulations. Minimum landscaped surface~~
2904 ~~area is thirty fifteen percent and plantings shall be placed. ~~The plan and architectural review commission~~~~
2905 ~~may reduce the minimum landscaped surface area by up to ten percent if the project provides plantings~~
2906 ~~in highly visible locations, especially in the fronts of buildings, and includes ten canopy trees, twenty~~
2907 ~~understory and/or evergreen trees, and sixty four shrubs per acre, or fraction thereof.~~
2908 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(F), 1982).

2909
2910 **19.27.080 Building height.**

2911 Maximum building height in the B-1 district is three five stories or forty five one hundred feet, whichever
2912 is less greater, subject to fire safety limitations and may be higher with a conditional use permit. ~~MAYBE~~
2913 ~~GO TO FIVE STORIES~~
2914 (Ord. 1580A § 7, 2005: Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(G), 1982).

2915
2916 **19.27.090 Plan review.**

2917 Plan review in accordance with Chapter 19.63 shall be required for any development in the B-1 district.
2918 Building design shall be consistent with the recommendations of the city's comprehensive (master) plan;
2919 contribute to the uniqueness and character of the neighborhood, district and community; and include
2920 materials, colors, styles and features tailored to the building's site and context. Substantial modifications
2921 to standardized prototype and corporate franchise designs may be required to meet these criteria.
2922 Landscaping shall be consistent with the recommendations of the city's comprehensive (master) plan;

2923 generous in quantity; aesthetically pleasing; appropriate to the site, community and region; and in
2924 accordance with a plan prepared by a registered landscape architect or designer.
2925 (Ord. 1452 § 1(part), § 4(part), 2000: Ord. 994 § 3.10(H), 1982).

2926
2927 **19.27.100 Park fees.**
2928 All residential development shall be subject to a park acquisition fee of two hundred fourteen dollars
2929 per dwelling unit, payable before a building permit is issued. The amount of these fees may be reduced
2930 by any fee amount previously paid or credited at the time of subdivision. The park acquisition fee may
2931 also be reduced if sufficient land area was provided for park purposes at the time of subdivision. The
2932 park acquisition fee may also be reduced if sufficient land area was provided for park purposes at the
2933 time of subdivision, based on the calculations in section 18.04.030(a)(1) of the Whitewater Municipal
2934 Code. The fee amounts shall be adjusted during the first quarter of each year by a percentage equal to
2935 the rate of consumer inflation based on the percent of yearly change from the previous year for the
2936 Milwaukee metropolitan area, as reported by the U.S. Department of Labor, Bureau of Labor Statistics.
2937 (Ord. 1481 § 6, 2001).

2938
2939
2940 **Chapter 19.28 B-1A University Mixed-Use Neighborhood Overlay District**

- 2941 Sections:
2942 19.28.010 Purpose and intent.
2943 19.28.020 Overlay district application.
2944 19.28.030 Non-family residential overlay district permissions and conditions.
2945 19.28.040 Parking.

2946
2947 **19.28.010 Purpose and intent.**
2948 The purpose and intent of the university mixed-use neighborhood overlay district is to provide multi-
2949 family housing options within an active, pedestrian friendly neighborhood. Development and uses
2950 should attract university students on a daily basis and provide year-round activities to encourage
2951 students to remain in the City on weekends and summers. The district provides an opportunity for
2952 mixed housing and commercial uses, serving both students and adjacent residents.

2953
2954 **19.28.015 Relationship to underlying zoning district classification.**
2955 Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building
2956 height, signage, and park fees remain the same as the underlying zoning district to which the overlay
2957 zoning is applied unless specifically described in this overlay district.

2958
2959 **19.28.020 Overlay district application.**
2960 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
2961 B-1A designation. ~~Within the B-1A overlay, density is permitted up to eight multi-family units per~~
2962 ~~building for new construction. Minimum lot area requirements for such uses shall be regulated by~~
2963 ~~Chapter 19.21. ~~[OR STRIKE OUT MINIMUM LOT AREA IN ORDER TO PROMOTE COMPACT~~~~
2964 ~~DEVELOPMENT AND RELY ON THE CONDITIONAL USE TO REGULATE LOT SIZE]~~ To the extent there is a
2965 ~~conflict between the restrictions or requirements associated with the district, the requirements that~~
2966 ~~most restrictively limit the use of the site shall apply. No party other than the owner of the property,~~
2967 City Manager or Common Council may apply for the B-1A university mixed-use neighborhood overlay
2968 zoning. Each property may be reviewed on an annual basis by the City Neighborhood Services staff.
2969 Permission will require conformance with the requirements established for the duties of the Zoning

2970 Administrator or Neighborhood Services Manager (section 19.75.061) Applications may also require a
2971 conditional use permit.

2972
2973 **19.28.030 University mixed-use neighborhood overlay district permitted and conditional**
2974 **uses-**

2975 Within this district, In addition to the permitted and conditional uses for B-1 a multifamily residential
2976 building or a mixed-use building (a) with up to twelve residential units is a permitted use for new
2977 construction and (b) more than twelve residential units per building and up to twenty-four residential
2978 units per building may be requested as a conditional use. More than twenty-four residential units per
2979 building are not allowed in the district. Residential units shall be limited to no more than four bedrooms
2980 and have a minimum of two bathrooms. Architectural quality shall be subject to the architectural
2981 review of the plan and architectural commission and include application of any architectural standards
2982 as established by the City, for buildings in this zoning district. High quality site planning and
2983 architectural standards shall be provided for all sites and buildings. Quality open space features should
2984 be integrated into the district to serve as an amenity.

2985
2986 19.28.040 Parking
2987 Parking spaces permitted for units with the B-1A overlay zoning shall be a maximum of four spaces per
2988 unit. Parking shall be underground or covered in the rear yard or side yard.

2989
2990
2991
2992 **Chapter 19.30 B-2 CENTRAL BUSINESS DISTRICT***

- 2993 Sections:
2994 19.30.010 Purpose.
2995 19.30.020 Permitted uses.
2996 19.30.025 Permitted accessory uses.
2997 19.30.030 Conditional uses.
2998 19.30.040 Development standards.
2999 19.30.050 Park fees.

3000 * Prior ordinance history: Ords. 994, 1296 and 1481.

3001
3002 **19.30.010 Purpose.**

3003 The B-2 district is established in the city's historic downtown area to accommodate retail, service, office,
3004 community, and support residential uses for citywide and regional benefit; and to advance the city's
3005 downtown revitalization objectives as expressed in adopted city plans.
3006 (Ord. 1611A § 1(part), 2006).

3007
3008
3009 **19.30.020 Permitted uses.**

3010 Permitted uses in the B-2 district include: ~~MAYBE MAKE CHANGES SIMILAR TO B-1 LIKE: "USES IN~~
3011 ~~SMALLER BUILDING ARE ALL PERMITTED"~~

- 3012 A. Art and school supply stores;
3013 B. Arts and crafts galleries;
3014 C. Automotive parts sales stores, automobile sales lot and show rooms and lots;
3015 D. Antique or collectible shops;
3016 E. Bakeries or candy stores, with products for sale on premises only;
3017 F. Catalog and e-commerce sales outlets;

- 3018 G. Hotels and motels;
- 3019 H. Appliance repair stores, including computer sales and service;
- 3020 I. Barbershops, day spas, and beauty parlors;
- 3021 J. Banks and other financial institutions;
- 3022 K. Bookstores, stationery stores, retail office supplies, and newsstands;
- 3023 L. Caterers;
- 3024 M. Clothing and shoe sales and repair shops;
- 3025 N. Clinics, medical and dental;
- 3026 O. Coffee shops;
- 3027 P. Cultural arts centers and museums;
- 3028 Q. Department stores;
- 3029 R. Drug stores;
- 3030 S. Florist or garden shops;
- 3031 T. Gift shops;
- 3032 U. Grocery stores;
- 3033 V. Hardware stores;
- 3034 W. Insurance, real estate, or similar agencies;
- 3035 X. Interior decorating shops;
- 3036 Y. Jewelry stores;
- 3037 Z. Paint stores;
- 3038 AA. Offices;
- 3039 BB. Post offices;
- 3040 CC. Public parking lots;
- 3041 DD. Restaurants, ice cream shops, and cafes;
- 3042 EE. Sporting goods shops;
- 3043 FF. Tourist information and hospitality centers;
- 3044 GG. Toy stores;
- 3045 HH. Travel agencies;
- 3046 II. Variety stores;
- 3047 JJ. Dance studios;
- 3048 KK. Movie theaters;
- 3049 LL. Charitable or nonprofit institutions and facilities; MM. Tourist homes and bed and breakfasts;
- 3050 NN. Residential uses above the first floor, limited to non-family household sizes applicable in the R-1 and R-2 districts (see Section 19.09.520);
- 3051 and R-2 districts (see Section 19.09.520);
- 3052 OO. Existing residences regulated by R-2 standards;
- 3053 PP. Any other similar uses not specifically listed above.
- 3054 (Ord. 1611A § 1(part), 2006).

3055

19.30.025 Permitted accessory uses.

3057 Permitted accessory uses in the B-2 district include:

- 3058 A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the principal use on the lot;
- 3059 B. Off-street parking and loading areas, subject to landscaping and screening requirements where applicable;
- 3060 C. Outside storage or trash dumpsters where enclosed by a decorative opaque fence, wall and/or
- 3061 landscaping designed to provide a total visual screen;
- 3062
- 3063

- 3064 D. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
3065 the sale, repair, or servicing of such motor vehicles. No vehicle in an inoperable condition shall be stored
3066 outdoors for greater than thirty days;
3067 E. Outdoor seating for restaurants, coffee shops, cafes, taverns, or similar uses, within areas designated
3068 by site plan review or other city approval processes;
3069 F. Essential services.
3070 (Ord. 1611A § 1(part), 2006).

3071

3072 **19.30.030 Conditional uses.**

3073 Conditional uses in the B-2 district include:

- 3074 A. Drive-in or drive-through type establishments;
3075 B. Entertainment establishments, not including adult entertainment establishments;
3076 C. Taverns and other places selling alcoholic beverages by the drink, including expansion of existing
3077 uses, the following conditions shall be considered:

3078 1. parking

3079 2. type of business

3080 3. signage

3081 4. outdoor seating

3082 5. provisions for avoiding noise and lighting nuisances

3083 6. buffering and fencing;

3084 D. Liquor or tobacco stores;

3085 E. Public and semipublic uses, except for parking;

3086 F. Automotive servicing and repairs;

3087 G. First floor residential uses are allowed as a conditional use; except as provided below:

3088 First floor residential uses are prohibited in any building located in the area within the boundary of
3089 Whitewater Creek on the east (prohibited on west side of creek only), North Street on the north
3090 (prohibited on south side of street only), Fremont Street on the west (prohibited on east side of street
3091 only), Whitewater Street on the south (prohibited on north side of street only), and the portion of West
3092 Main Street from the intersection of Whitewater Street east to the Whitewater Creek (prohibited on
3093 north side of street only).

3094 H. Light industrial/retail uses such as:

3095 1. Electronics,

3096 2. Pottery,

3097 3. Craft/woodwork,

3098 4. Printing,

3099 5. Contractor shops (heating, electrical, plumbing, general contractor office),

3100 6. Lumberyards,

3101 7. Other similar uses,

3102

3103 Subject to the following restrictions:

3104 1. No outside storage, unless screened as to Chapter 19.57,

3105 2. No environmental emission,

3106 3. All truck delivery during weekdays,

3107 4. All dumpster locations outdoors must be screened by a fence and landscaping,

3108 5. All of the requirements of Chapter 19.51, Traffic, Parking and Access, and Chapter 19.57, General
3109 Performance Standards, to be met;

3110 I. Laundromats or dry cleaning;

3111 J. Hospitals;

3112 K. Wholesale trade of durable and nondurable goods.
3113 (Ord. 1611A § 1(part), 2006).
3114 (Ord. No. 1681A, 5-20-2008)

3115
3116 **19.30.040 ~~Development~~ Architectural design standards.**

3117 Within the B-2 district, there shall be no minimum required ordinance design and dimensional standards
3118 or setbacks. This is being done to allow the most flexibility in the reuse and redevelopment of the
3119 downtown. Because of the lack of predefined ~~architectural design ordinance development~~ standards, all
3120 proposed construction and remodeling activities requiring a zoning permit shall require the design
3121 review and approval of the city plan and architectural review commission in compliance with Chapter
3122 19.63, Plan Review. Also within the B-2 district, all uses are exempted from the parking requirements of
3123 Section 19.51.130, except if off-street parking is specifically required for a particular conditional use
3124 under Section 19.30.030.
3125 (Ord. 1611A § 1(part), 2006).

3126
3127 **19.30.050 Park fees.**

3128 All residential development shall be subject to a park acquisition fee of \$214.00 per dwelling unit and a
3129 park improvement fee of \$505.00 per dwelling unit, payable before a building permit is issued. The
3130 amount of these fees may be reduced by any fee amount previously paid or credited at the time of
3131 subdivision, or by fifty percent (50%) if the new housing units are created as a result of the conversion or
3132 remodeling of a preexisting building. The park acquisition fee may also be reduced if sufficient land area
3133 was provided for park purposes at the time of subdivision, based on the calculations in Section
3134 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be set by the City Council.
3135 ~~adjusted during the first quarter of each year by a percentage equal to the rate of consumer inflation~~
3136 ~~based on the percent of yearly change for the previous year for the Milwaukee metropolitan area, as~~
3137 ~~reported by the U.S. Department of Labor, Bureau of Labor Statistics.~~
3138 ~~(Ord. 1611A § 1(part), 2006).~~

3139
3140 **Chapter 19.31 B-2A Downtown Housing Overlay District**

3141 Sections:
3142 19.31.010 Purpose and intent.
3143 19.31.020 Overlay district application.
3144 19.31.030 Non-family residential overlay district permissions and conditions.
3145 19.31.040 Parking.

3146
3147 **19.31.010 Purpose and intent.**

3148 The purpose and intent of downtown housing overlay district is to provide multi-family housing options
3149 adjacent to downtown that can spur additional investment in the area.

3150
3151 **19.31.015 Relationship to underlying zoning district classification.**

3152 Requirements for permitted uses, conditional uses, lot area, lot width, yards, lot coverage, building
3153 height, signage, and park fees remain the same as the underlying zoning district to which the overlay
3154 zoning is applied unless specifically described in this overlay district.

3155
3156 **19.31.020 Overlay district application.**

3157 Applicants must apply for a zoning map district change within the Overlay Map Permission Area for the
3158 B-2A designation. Within the B-2A overlay, density is permitted up to four multi-family units per building

3159 ~~for new construction. Minimum lot area requirements for such uses shall be regulated by Chapter~~
3160 ~~19.21. [OR STRIKE OUT MINIMUM LOT AREA IN ORDER TO PROMOTE COMPACT DEVELOPMENT AND~~
3161 ~~RELY ON THE CONDITIONAL USE TO REGULATE LOT SIZE] To the extent there is a conflict between the~~
3162 ~~restrictions or requirements associated with the district, the requirements that most restrictively limit~~
3163 ~~the use of the site shall apply. No party other than the owner of the property, City Manager or Common~~
3164 ~~Council may apply for the B-2A downtown housing overlay zoning. Permission will require conformance~~
3165 ~~with the requirements established for the duties of the Zoning Administrator or Neighborhood Services~~
3166 ~~Manager (section 19.75.061) Applications may also require a conditional use permit.~~

3167
3168 **19.31.030 Downtown housing overlay district permitted and conditional uses**

3169 Multi-family buildings with up to four units per building are a permitted use for new construction
3170 provided that the units shall be limited to no more than four bedrooms, have a minimum of two
3171 bathrooms, and have individual entries. In addition, the design of such units shall be reviewed by the
3172 Plan and Architectural Review Commission as limited to the following issues: the design can easily
3173 accommodate both student and non-student housing; the design exemplifies high quality site planning
3174 and architectural; Quality open space features, or garden yards are integrated to serve as an amenity
3175 for residents.

3176
3177 ~~**19.31.040 Parking**~~

3178 ~~Parking spaces permitted for units with the B-2A overlay zoning shall be a maximum of two spaces per~~
3179 ~~unit. Parking shall be underground or covered in the rear or side yard.~~

3180
3181
3182
3183 **Chapter 19.33 B-3 HIGHWAY COMMERCIAL AND LIGHT INDUSTRIAL DISTRICT**

3184 **Sections:**

- 3185 19.33.010 Purpose.
- 3186 19.33.020 Permitted uses.
- 3187 19.33.025 Permitted accessory uses.
- 3188 19.33.030 Conditional uses.
- 3189 19.33.040 Lot area.
- 3190 19.33.050 Lot width.
- 3191 19.33.060 Yard requirements.
- 3192 19.33.070 Lot coverage.
- 3193 19.33.080 Building height.
- 3194 19.33.090 Plan review.
- 3195 19.33.100 Park fees.

3196
3197 **19.33.010 Purpose.**

3198 The B-3 highway commercial and light industrial district is established to accommodate nonnuisance
3199 type industrial commercial uses that are highway oriented or have large land area requirements. To
3200 ensure a minimum of disruption to residential neighborhoods, no development within this district shall
3201 take direct access to a local residential street, except by conditional use permit. ~~High quality site layout,~~
3202 ~~building design and landscaping is required. OVERLY GENERAL, NEEDS CLARIFICATION~~
3203 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(part), 1982).

3204
3205 **19.33.020 Permitted uses.**

3206 Permitted uses in the B-3 district include:

- 3207 A. All uses listed as permitted uses in the B-1 district;

- 3208 B. Agricultural services;
- 3209 C. General contracting shops;
- 3210 D. Lumberyards, building supply stores, and greenhouses;
- 3211 E. Private recreation facilities;
- 3212 F. Mini-warehouses;
- 3213 G. Public and semipublic uses;
- 3214 H. Other similar uses not specifically listed in this section that are consistent with the purpose of this
- 3215 district;
- 3216 I. The second or greater wireless telecommunications facility located on an alternative support
- 3217 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
- 3218 telecommunications facility, per the requirements of Chapter 19.55.
- 3219 (Ord. 1499 § 15, 2001; Ord. 1452 § 1(part), § 5(part), 2000; Ord. 1082 § 7, 1986; Ord. 994 § 3.12(A),
- 3220 1982).

3221

3222 **19.33.025 Permitted accessory uses.**

3223 Permitted accessory uses in the B-3 district include:

- 3224 A. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
- 3225 principal use on the lot;
- 3226 B. Off-street parking and loading areas, subject to landscaping and screening requirements if
- 3227 applicable;
- 3228 C. Outside storage and trash Dumpsters, which may be subject to screening as part of site plan review;
- 3229 D. Outside display of merchandise, which may be subject to limitations as part of site plan review;
- 3230 E. Outside display and temporary storage of motor vehicles where the principal use on the lot includes
- 3231 the sale, repair, or servicing of such motor vehicles. No vehicle in inoperable condition shall be stored
- 3232 for greater than thirty days;
- 3233 F. Outdoor seating for restaurants within designated areas;
- 3234 G. Temporary retail uses, such as seasonal and special event sales, subject to the approval of the zoning
- 3235 administrator, who may require specific time and area limitations;
- 3236 H. Vending machines for dispensing of a product, but only if accessory to a commercial business use. If
- 3237 more than two vending machines are accessory to one business use, such vending machines shall be
- 3238 screened from the public right-of-way and adjacent properties. Vending machines may be lit only when
- 3239 the principal use on the lot is in operation, unless such machines are completely screened from the
- 3240 public right-of-way and adjacent properties;
- 3241 I. Essential services;
- 3242 J. Wireless telecommunications support facilities, per the requirements of Chapter 19.55.
- 3243 (Ord. 1499 § 16, 2001; 1452 § 1(part), § 5(part), 2000).

3244

3245 **19.33.030 Conditional uses.**

3246 Conditional uses in the B-3 district include:

- 3247 A. Taverns and other establishments selling alcoholic beverages by the drink, the following conditions
- 3248 shall be considered:
- 3249 1. parking
- 3250 2. type of business
- 3251 3. signage
- 3252 4. outdoor seating
- 3253 5. provisions for avoiding noise and lighting nuisances
- 3254 6. buffering and fencing;

- 3255 B. All uses with drive-through facilities;
- 3256 C. More than one principal structure on a lot;
- 3257 D. New residential uses in conformance with the standards of the R-3 multifamily residence district;
- 3258 E. Automobile repair and service within a principal or accessory building;
- 3259 F. Automobile, boat, trailer and small engine vehicle sales and rental facilities, including incidental
- 3260 repair and service within a principal or accessory building;
- 3261 G. Car washes;
- 3262 H. Entertainment establishments, including dancehalls and clubs;
- 3263 I. Funeral homes and crematory services;
- 3264 J. Gasoline service stations, including incidental repair and service within the principal building;
- 3265 K. Light industry;
- 3266 L. Motor freight transportation;
- 3267 M. Veterinary clinics, provided that no service including animal boarding is offered outdoors;
- 3268 N. Warehousing;
- 3269 O. Wholesale trade of durable and nondurable goods;
- 3270 P. Large retail and commercial service developments, as described and regulated in Chapter 19.485.
- 3271 Q. Light manufacturing and retail uses
- 3272 R. All nonresidential uses with vehicular access onto a local (not a collector or arterial) street that is
- 3273 intended to provide access to mostly residential uses;
- 3274 ~~RS.~~ The first wireless telecommunications facility located on an alternative support structure only, per
- 3275 the requirements of Chapter 19.55.
- 3276 (Ord. 1499 § 17, 2001; 1452 § 1(part), § 5(part), 2000: Ord. 1380 § 1, 1997; Ord. 994 § 3.12(B), 1982).
- 3277 (Ord. No. 1796A, § 2, 8-3-2010)

3278
3279 **19.33.040 Lot area.**

3280 Minimum lot area in the B-3 district is ten thousand square feet, ~~for lots existing at the time of adoption~~
 3281 ~~of the ordinance codified in this chapter, and fifteen thousand square feet for all other lots. WHAT IS~~
 3282 ~~WRONG WITH KEEPING IT AT 10K?~~
 3283 ~~(Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(C), 1982).~~

3284
3285 **19.33.050 Lot width.**

3286 Minimum lot width in the B-3 district is one hundred feet.
 3287 (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(D), 1982).

3288
3289 **19.33.060 Yard requirements.**

- 3290 Minimum required yards for principal buildings, outside storage, and Dumpsters in the B-3 district are:
- 3291 A. Front and street side, ~~thirty ten feet;~~ (but may be greater if needed to meet fire safety
 3292 requirements);
 - 3293 B. Interior side, ~~fifteen ten feet;~~ (but may be greater if needed to meet fire safety requirements);
 - 3294 C. Rear, ~~thirty twenty~~ feet, except the rear yard setback to any railroad right-of-way shall be fifteen feet
 3295 under a conditional use;
 3296 (but may be greater if needed to meet fire safety requirements);
 3297 MAY BE TOO RESTRICTIVE
 - 3298 D. Shore yard, seventy-five feet;
 - 3299 E. Any yard abutting a residential district or use, thirty feet or the height of the nearest principal
 3300 building or structure being developed, whichever is greater. Such yards shall be subject to the landscape

3301 | buffer yard requirements of Section 19.57.140, except where abutting a railroad right-of-way with the
3302 | approval of the plan and architectural review commission.
3303 | (Ord. 1460 § 1, 2000; Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(E), 1982).

3304 |
3305 | **19.33.070 Lot coverage.**

3306 | ~~Maximum building lot coverage in the B-3 district is fifty percent. MAY BE TOO RESTRICTIVE Minimum~~
3307 | ~~landscaped surface area is twenty percent. The plan and architectural review commission may reduce~~
3308 | ~~the minimum landscaped surface area by up to ten percent if the project provides plantings in highly~~
3309 | ~~visible locations and includes eight canopy trees, sixteen understory and/or evergreen trees, and forty~~
3310 | ~~eight shrubs per acre, or fraction thereof.~~

3311 | ~~(Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(F), 1982).~~

3312 | There is no maximum lot coverage for buildings. Building size and locations must still conform to the
3313 | other regulations. Minimum landscaped surface area is fifteen percent and plantings shall be placed in
3314 | highly visible locations, especially in the fronts of buildings, and include canopy trees, understory and/or
3315 | evergreen trees, and shrubs.

3316 |
3317 | **19.33.080 Building height.**

3318 | Maximum building height in the B-3 district is three stories or forty-five feet, whichever is
3319 | ~~less~~ greater. WHY NOT "WHICHEVER IS GREATER"?

3320 | (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(G), 1982).

3321 |
3322 | **19.33.090 Plan review.**

3323 | Plan review in accordance with Chapter 19.63 shall be required for any development in the B-3 district.
3324 | Building design shall be consistent with the recommendations of the city's comprehensive (master) plan
3325 | and include materials, colors, styles, and features tailored to the building's site and context. Landscaping
3326 | shall be consistent with the recommendations of the city's comprehensive (master) plan; appropriate to
3327 | the site, community and region; and in accordance with a plan prepared by a registered landscape
3328 | architect or designer.

3329 | (Ord. 1452 § 1(part), § 5(part), 2000: Ord. 994 § 3.12(H), 1982).

3330 |
3331 | **19.33.100 Park fees.**

3332 | All residential development shall be subject to a park acquisition fee of two hundred fourteen dollars)
3333 | per dwelling unit and a park improvement fee of five hundred five dollars per dwelling unit, payable
3334 | before a building permit is issued. The amount of these fees may be reduced by any fee amount
3335 | previously paid or credited at the time of subdivision. The park acquisition fee may also be reduced if
3336 | sufficient land area was provided for park purposes at the time of subdivision, based on the calculations
3337 | in section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be adjusted during
3338 | the first quarter for each year by a percentage equal to the rate of consumer inflation based on the
3339 | percent of yearly change for the previous year for the Milwaukee metropolitan area, as report by the
3340 | U.S. Department of Labor, Bureau of Labor Statistics.

3341 | (Ord. 1481 § 8, 2001).

3342 |
3343 |
3344 | **Chapter 19.36 M-1 GENERAL MANUFACTURING DISTRICT**

3345 | Sections:

3346 | 19.36.010 Purpose.

3347 | 19.36.020 Permitted uses.

3348 [19.36.030 Conditional uses.](#)

3349 [19.36.040 Lot area.](#)

3350 [19.36.050 Lot width.](#)

3351 [19.36.060 Yard requirements.](#)

3352 [19.36.070 Lot coverage.](#)

3353 [19.36.080 Building height.](#)

3354 [19.36.090 Buffer screening.](#)

3355

3356 **19.36.010 Purpose.**

3357 The M-1 general manufacturing district is established to accommodate a wide range of
3358 industrial uses, and to preserve and protect lands for future industrial use.
3359 (Ord. 994 § 3.13(part), 1982).

3360

3361 **19.36.020 Permitted uses.**

3362 Permitted uses in the M-1 district include:

3363 A. Manufacturing, fabrication, packing, packaging and assembly of products from furs, glass, leather,
3364 metals, paper, plaster, plastics, textiles, clays and woods, and similar materials;

3365 B. Freight terminals, truck servicing and parking, warehousing and inside storage;

3366 C. Research facilities;

3367 D. Offices;

3368 E. Retail sales and services that are incidental-linked to a manufacturing or warehousing use; ~~THIS~~
3369 ~~NEEDS CLARIFICATION FOR EXAMPLE: HOTEL OR RESTAURANT FOR EMPLOYEES MIGHT BE OK, WHAT~~
3370 ~~ABOUT AUTO USES, GAS STATIONS, COMPUTER REPAIR OR ANY BUSINESS SERVICE?~~

3371 F. Public and semipublic uses; DISCUSSION – percentage of retail use to manufacturing

3372 G. Salvage yards;

3373 H. More than one principal structure on a lot when the additional building is a material and direct part
3374 of the primary business

3375 H. Any similar uses not specifically listed that can comply with the performance standards listed in
3376 Chapter 19.57;

3377 I. The second or greater wireless telecommunications facility located on an alternative support
3378 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
3379 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
3380 accessory uses, all per the requirements of Chapter 19.55.

3381 (Ord. 1499 § 18, 2001; Ord. 994 § 3.13(A), 1982).

3382

3383 **19.36.030 Conditional uses.**

3384 Conditional uses in the M-1 district include:

3385 ~~A. More than one principal structure on a lot;~~

3386 B. Wireless telecommunications facilities, per the requirements of Chapter 19.55.

3387 (Ord. 1499 § 19, 2001; Ord. 1315 § 1, 1995; Ord. 994 § 3.13(B), 1982).

3388

3389 **19.36.040 Lot area.**

3390 Minimum lot area in the M-1 district is twenty thousand square feet.

3391 (Ord. 994 § 3.13(C), 1982).

3392

3393 **19.36.050 Lot width.**

3394 Minimum lot width in the M-1 district is one hundred fifty feet.

3395 (Ord. 994 § 3.13(D), 1982).

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19.36.060 Yard requirements.

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

19.36.070 Lot coverage.

~~Maximum lot coverage in the M-1 district is fifty percent. WHY NOT ALLOW MORE PROVIDED AMPLE ROOM FOR STORMWATER?~~ There is no maximum percentage lot coverage. Building size and locations must still conform to the other regulations.
(Ord. 994 § 3.13(F), 1982).

19.36.080 Building height.

Maximum building height in the M-1 district is ~~three stories or forty-five~~ 100 feet. Discussion- Do we want to increase height here?
(Ord. 994 § 3.13(G), 1982).

19.36.090 Buffer screening.

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

19.36.100 Architectural review.

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

Chapter 19.37 M-2 MANUFACTURING AND MISCELLANEOUS USE DISTRICT

- Sections:
[19.37.010 Purpose.](#)
[19.37.020 Permitted uses.](#)
[19.37.030 Conditional uses.](#)
[19.37.040 Lot area.](#)
[19.37.050 Lot width.](#)
[19.37.060 Yard requirements.](#)
[19.37.070 Lot coverage.](#)
[19.37.080 Building height.](#)
[19.37.090 Buffer screening.](#)

19.37.010 Purpose.

3444 The M-2 manufacturing and miscellaneous use district is established to accommodate a wide range of
3445 industrial uses, to preserve and protect lands for future industrial use, and to provide an opportunity for
3446 miscellaneous uses set forth herein which are not specifically allowed in other districts. Adult-oriented
3447 establishments shall only be allowed in the M-2 district.
3448 (Ord. 1613A § 1(part), 2006).

3449

3450 **19.37.020 Permitted uses.**

3451 Permitted uses in M-2 district include:

- 3452 A. All uses listed as permitted uses in the M-1 district;
 - 3453 B. Adult-oriented establishments as defined in Section 19.09.025.
- 3454 (Ord. 1613A § 1(part), 2006).

3455

3456 **19.37.030 Conditional uses.**

3457 Conditional uses in the M-2 district include:

- 3458 A. All uses listed as conditional uses in the M-1 district.
- 3459 (Ord. 1613A § 1(part), 2006).

3460

3461 **19.37.040 Lot area.**

3462 Minimum lot area in the M-2 district is twenty thousand square feet. The Community
3463 Development Authority plan commission can decrease the minimum lot area for adult-oriented
3464 establishments if it finds that a decrease is appropriate.
3465 (Ord. 1613A § 1(part), 2006).

3466

3467 **19.37.050 Lot width.**

3468 Minimum lot width in the M-2 district is one hundred fifty feet. The Community Development
3469 Authority plan commission can decrease the minimum lot width for adult-oriented establishments if it
3470 finds that a decrease is appropriate.
3471 (Ord. 1613A § 1(part), 2006).

3472

3473 **19.37.060 Yard requirements.**

3474 Minimum yard requirements for the M-2 district are:

- 3475 A. Front, ~~thirty fifteen~~ feet;
 - 3476 B. Side, fifteen feet; corner lots, thirty feet;
 - 3477 C. Rear, thirty feet, except the rear yard setback to any railroad right-of-way shall be at least fifteen
3478 feet under a condition use;
 - 3479 D. Shore, seventy-five feet.
- 3480 (Ord. 1613A § 1(part), 2006).

3481

3482 **19.37.070 Lot coverage.**

3483 ~~Maximum lot coverage in the M-2 district is fifty percent. SAME AS OTHER - WHY RESTRICT?~~
3484 ~~(Ord. 1613A § 1(part), 2006).~~ There is no maximum percentage lot coverage. Building size and locations
3485 must still conform to the other regulations.

3486

3487 **19.37.080 Building height.**

3488 Maximum building height in the M-2 district is ~~three stories or forty five~~ 100 feet. DISCUSSION-
3489 Do we want to increase height here?

3490 (Ord. 1613A § 1(part), 2006).

3491

3492 **19.37.090 Buffer screening.**

3493 Where the M-2 district boundaries adjoin any residential district boundary, a screen or buffer
3494 yard as described in Section 19.57.140 shall be required. This provision shall be applied to new
3495 construction and alterations to existing structures or uses that result in an increase in the level of
3496 nuisance. Only the area of the nuisance shall require screening.

3497 (Ord. 1613A § 1(part), 2006).

3498

3499 **19.37.100 Architectural review.**

3500 No building or improvements shall be erected, placed or altered on any building site in an M-1 district
3501 park until the plans and use for such building or improvements, including site plans, landscaping plans,
3502 building plans, and specifications have been approved by the architectural review committee (ARC). The
3503 plan and architectural review commission's functions under Chapter 19.63 shall be delegated to the CDA
3504 or its designee as approved by the City Council.

3505

3506

3507 **Chapter 19.38 WHITEWATER UNIVERSITY TECHNOLOGY PARK DISTRICT (WUTP DISTRICT)**

3508 19.38.010 Purpose.

3509 19.38.020 Creation of architectural review committee.

3510 19.38.030 Permitted uses.

3511 19.38.040 Conditional uses.

3512 19.38.050 Lot area and lot width requirements.

3513 19.38.060 Floor area ratio.

3514 19.38.070 Yard requirements.

3515 19.38.090 Lot coverage.

3516 19.38.100 Building height.

3517 19.38.110 Development standards.

3518

3519 **19.38.010 Purpose.**

3520 The WUTP district is established to provide an aesthetically attractive working environment exclusively
3521 for and conducive to the development and protection of offices; research, testing, and development
3522 institutions; and certain specialized manufacturing establishments compatible with an office and
3523 research setting, all of a non-nuisance-type and public parks. The essential purpose of this district is to
3524 achieve development which is practical, feasible and economical and an asset to the owners, neighbors
3525 and the community and to promote and maintain desirable economic development activities in a park
3526 like setting with well designed sites and buildings.

3527 (Ord. No. 1747A, § 1, 9-15-2009)

3528

3529 **19.38.020 Creation of architectural review committee.**

3530 Upon the mapping of any WUTP district, there shall be established an architectural review committee
3531 for the district. No building or improvements shall be erected, placed or altered on any building site in
3532 the technology park until the plans and use for such building or improvements, including site plans,
3533 landscaping plans, building plans, and specifications have been approved by the WUTP architectural
3534 review committee (ARC). Zoning permit applicants in the WUTP district are subject to all plan review
3535 requirements set forth in Chapter 19.63 of the Whitewater Municipal Code. The plan and architectural
3536 review commission's functions under Chapter 19.63 shall be delegated to the architectural review
3537 commission. The ARC shall consist of one city council member, a member of the plan and architectural
3538 review commission of the City of Whitewater to be appointed annually by the plan commission, the City

3539 Manager of the City of Whitewater, the Chancellor of the University of Wisconsin-Whitewater, two
3540 members appointed by the Chancellor of the University of Wisconsin-Whitewater, two citizens of the
3541 City of Whitewater appointed by the city council of the City of Whitewater, and one member of the
3542 community development authority of the City of Whitewater to be appointed by the CDA. The ARC shall
3543 organize and adopt rules for its own governance. Officers shall be elected from the membership for
3544 terms of one year. Meetings shall be open to the public unless closed for appropriate legal reasons, and
3545 shall be held at the call of the chairman. Minutes shall be kept showing actions taken, and shall be a
3546 public record. Quorum shall be five members, and all actions shall require the concurring vote of at least
3547 five members. In cases where the ARC has not been formed or is unable to act on the matter, all actions
3548 normally assigned to the ARC shall be reassigned to the City of Whitewater Plan and Architectural
3549 Review Commission. The City of Whitewater Plan and Architectural Review Commission shall retain the
3550 exclusive authority to grant and review or deny conditional use permits in the WUTP district, where
3551 required.
3552 (Ord. No. 1747A, § 1, 9-15-2009)

3553

3554 **19.38.030 Permitted uses.**

3555 Permitted uses in the WUTP district include:

- 3556 1. Production, or processing, cleaning, servicing, testing or repair of materials, goods or products,
3557 limited to the following uses, products, components, or circumstances:
- 3558 a. Electronic and electrical products and instruments, such as transistors, semiconductors, small
3559 computers, scanners, monitors and compact communication devices.
 - 3560 b. High technology products related to the fields of physics, oceanography, astrophysics, metallurgy,
3561 chemistry, biology, or other scientific field offered for study at the University of Wisconsin-Whitewater.
 - 3562 c. Laser technology, radiology, X-ray and ultrasound products, manufacturing and assembly.
 - 3563 d. Medical and dental supplies.
 - 3564 e. Optical, fiber optical and photographic products and equipment.
 - 3565 f. Orthopedic and medical appliances, such as artificial limbs, brace supports and stretchers.
 - 3566 g. Products related to process design, process simulation, computer hardware and software
3567 development, and safety engineering.
 - 3568 h. Scientific and precision instruments and components, including robotics.
- 3569 2. Research, development and testing laboratories, including testing facilities and equipment.
- 3570 3. Business and professional offices.
- 3571 4. Pilot plants or other facilities for the testing of manufacturing, processing or fabrication methods, or
3572 for the testing of products or materials.
- 3573 5. Telecommunication centers (not including wireless telecommunication facilities as regulated in
3574 Section 19.55).
- 3575 6. Accessory uses, (which shall be accessory uses to principal use on-site), including the following:
- 3576 a. Educational or training centers or institutions.
 - 3577 b. Nursery schools or day care centers for children of employees on the site.
 - 3578 c. Temporary buildings for construction purposes, for a period not to exceed the duration of such
3579 construction.
 - 3580 d. Reproduction processes related to a primary function including printing, blueprinting, photostating,
3581 lithographing, engraving, stereotyping, publishing and bookbinding.
 - 3582 e. Wholesaling of goods and merchandise manufactured or produced on the premises.
 - 3583 f. The generation of power via a local energy system, with the primary purpose of supplying energy to
3584 the principal use being conducted on the lot.
 - 3585 g. The fabrication of products in conjunction with a research, development, or testing laboratory as the
3586 principal use.

- 3587 h. Garages for storage of vehicles, equipment or materials in conjunction with operation of the
- 3588 principal use on the lot;
- 3589 i. Off-street parking and loading areas, subject to landscaping and screening requirements where
- 3590 applicable;
- 3591 j. Trash dumpsters where located outside of the required yards in Section 19.38.080 of this chapter and
- 3592 enclosed by a decorative opaque fence, wall or landscaping designed to provide a total visual screen;
- 3593 k. Outdoor seating for restaurants within designated areas;
- 3594 l. Outdoor eating and recreation areas;
- 3595 m. Essential services;
- 3596 n. Health clubs, banks and other financial institutions, medical, dental and optical clinics, barbershops,
- 3597 beauty parlors, or similar retail establishments;
- 3598 o. Conference centers.
- 3599 7. Restaurants, without drive-up or drive-through service.
- 3600 8. Colleges and universities (not including housing or residential uses).
- 3601 9. Public parks and public recreation use facilities, including but not limited to Morraine View Park and
- 3602 the planned athletic facilities, trail and possible playground therein.
- 3603 (Ord. No. 1747A, § 1, 9-15-2009)

3604

3605 **19.38.040 Conditional uses.**

3606 Conditional uses in the WUTP district include:

- 3607 1. Parking facilities, open and accessory, for the storage of private passenger automobiles only, when
- 3608 located elsewhere than on the same zoning lot as the principal use served.
- 3609 2. Public utility and public service uses as follows:
- 3610 a. Bus turnarounds (off-street), bus transfer points.
- 3611 b. Electric substations.
- 3612 c. Gas regulator stations, mixing stations and gate stations.
- 3613 d. Radio, television, and telecommunication towers and wireless telecommunication facilities meeting
- 3614 the standards of Section 19.55.
- 3615 e. Railroad passenger stations.
- 3616 f. Railroad rights-of-way.
- 3617 g. Sewerage system lift stations.
- 3618 h. Telephone exchanges, microwave relay towers, telephone transmission equipment buildings and
- 3619 service yards.
- 3620 i. Electric generator which serves a principal use located on the zoning lot and is capable of providing
- 3621 electricity for off-site use provided:
- 3622 i. The electric output is less than three thousand kilowatts and said generator is operated no more than
- 3623 two hundred hours per year;
- 3624 ii. The location of every generator shall be not less than twenty feet from any zoning lot which permits
- 3625 residential uses; and,
- 3626 iii. Said generator shall be located and screened so as to reduce the visual impact of the generator from
- 3627 neighboring property and to be compatible with neighboring structures and the character of the
- 3628 community. This may include screening with materials similar in appearance to those used for the
- 3629 principal structure on the zoning lot, and landscaping or fencing as approved by the architectural review
- 3630 committee.
- 3631 j. Water pumping stations and reservoirs.
- 3632 3. Any production, or processing, cleaning, servicing, testing or repair of materials, goods or products,
- 3633 limited to the following uses, products, components, or circumstances:
- 3634 a. Cameras and other photographic equipment.

- 3635 b. Ceramic products, such as pottery, figurines and small glazed tiles.
3636 c. Cosmetics and toiletries, drugs, perfumes, and perfumed soaps.
3637 d. Drugs and pharmaceutical products.
3638 e. Electrical appliances, such as lighting fixtures, irons, fans and toasters.
3639 f. Electrical equipment assembly, such as home radio and television receivers and home movie
3640 equipment, but not including electrical machinery.
3641 g. Electrical supplies manufacturing and assembly, such as wire and cable assembly, switches, lamps,
3642 insulation and dry cell batteries.
3643 h. Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork,
3644 feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious and semiprecious stones,
3645 rubber, shell, wood (but not including a planning mill) and yarn.
3646 i. Products related to material research and development in such areas as prepared glass, ceramics,
3647 carbon fiber, metals, textiles, polymers, plastics, chemical foams and inorganic chemicals such as liquid
3648 crystals, and synthetic fuels.
3649 j. Small-scale products (finished weight not exceeding fifty pounds) related to energy, environmental,
3650 telecommunications, or satellite applications.
3651 k. Small-scale products (finished weight not exceeding fifty pounds) related to the resource industries
3652 of agriculture and food production, forestry, petrochemicals and mining.
3653 l. Specific products not listed above but similar in intent and character and which may be defined as
3654 being produced or assembled manually or by a light industrial process by virtue of the use of only light
3655 machinery; being conducted entirely within enclosed substantially constructed buildings; in which the
3656 open area around such buildings is not used for storage of raw materials or manufactured products, or
3657 for any industrial purpose other than loading and unloading operations; which are not noxious or
3658 offensive by reason of emission of smoke, dust, fumes, odors, noise, or vibrations beyond the confines
3659 of the building.
3660 5. Outside storage areas, subject to the development standards in Section 19.38.110.
3661 6. Day care centers.
3662 7. Other uses substantially consistent with or linked to the goals of the WUTP including =
3663 retail sales and services and food and beverage sales and services.
3664 WHAT ABOUT OTHER USES CONSISTENT WITH GOALS OF WUTP
3665 (
3666 8-DISCUSSION — Places serving alcoholic beverages by the drink? What about breweries/wineries/etc?
3667 Ord. No. 1747A, § 1, 9-15-2009)

3668
3669 **19.38.050 Lot area and lot width requirements.**

3670 In the WUTP district, there shall be provided a lot area of not less than one acre and a lot width
3671 of not less than one hundred feet.
3672 (Ord. No. 1747A, § 1, 9-15-2009)

3673
3674 **19.38.060 Floor area ratio.**

3675 In the WUTP district, the floor area ratio shall not exceed ~~1-53.0. SEEMS TOO LOW — WHY NOT 2~~
3676 ~~OR 3 — WHY NOT A FOUR STORY BUILDING~~
3677 (Ord. No. 1747A, § 1, 9-15-2009)

3678
3679 **19.38.070 Yard requirements.**

3680 Minimum required yards for principal buildings, outside storage areas, parking lots, and
3681 dumpsters in the WUTP district are:

- 3682 1. Front yard--~~Twenty-five~~fifteen feet, except ~~fifty feet on any roadway with a right of way of eighty~~
3683 ~~feet or greater existing at the time of development or~~ as indicated on the city's official map.
- 3684 2. Side yard--Each side, fifteen feet. On corner lots, ~~fifty~~thirty feet for side yard adjoining an arterial
3685 highway and twenty-five feet for side yard adjoining other streets.
- 3686 3. Rear yard--Thirty feet.
- 3687 4. Environmental corridor or wetland yard. Adjacent to any mapped environmental corridor, as defined
3688 by the Southeastern Wisconsin Regional Planning Commission, or a delineated wetland as approved by
3689 the agency with jurisdiction--Thirty feet.
- 3690 5. Parking lots and associated circulation drive aisles may extend into normal interior side or rear yard
3691 setbacks, but not into front or street side yard setbacks.
- 3692 (Ord. No. 1747A, § 1, 9-15-2009)

3693

3694 **19.38.090 Lot coverage.**

3695 There is no maximum percentage lot coverage. Building size and locations must still conform to
3696 the other regulations. Minimum landscaped surface area is thirty percent.
3697 (Ord. No. 1747A, § 1, 9-15-2009)

3698

3699 **19.38.100 Building height.**

3700 Maximum building height in the WUTP district is ~~four stories or sixty feet, whichever is less~~100
3701 feet, except as may be otherwise approved by the architectural review committee upon the finding that
3702 such increased height will not be detrimental to the character of the park or adjoining buildings and
3703 uses.
3704 (Ord. No. 1747A, § 1, 9-15-2009)

3705

3706 **19.38.110 Development standards.**

3707 In the WUTP district, the following development standards shall apply, in addition to any
3708 standards that may be required by covenant:

3709 1. Building design and materials. The exterior appearance of any building constructed in this district
3710 shall be compatible with that of adjoining structures within the district, especially as it relates to
3711 rooflines and building materials. Permitted materials shall include masonry, concrete, stone, Exterior
3712 Insulation and Finish System (EIFS), Dry-vit, glass, and decorative architectural grade metal as a design
3713 detail, except where other quality materials are also allowed by the architectural review committee.

3714 2. Accessory off-street parking and loading. Accessory off-street parking lots, loading berths, and access
3715 driveways shall be located, designed and improved so as to provide for safe and convenient access from
3716 adjoining streets, safe and convenient circulation within the site, and an aesthetically pleasing site
3717 design. Parking lots and access driveways shall be designed and located so that such facilities do not
3718 provide a direct unlandscaped view from the street to the parking lot or access driveway.

3719 3. Landscaping and site development. To provide a park-like setting, all lots shall be landscaped,
3720 including the provision of canopy-type shade trees. When adjacent, connected, or within 30 feet of an
3721 environmental corridor or environmental corridor buffer. ~~Where possible,~~ all existing mature, healthy
3722 trees shall be retained and protected, ~~where~~ where ~~during possible, during~~ construction as per City of
3723 Whitewater Forestry Guidelines. (WIDTH OF ENVIRONMENTAL CORRIDOR BUFFER NEEDS TO BE
3724 IDENTIFIED FROM OTHER REGULATIONS) All land areas not covered by buildings, structures, storage
3725 areas, parking lots, loading areas and driveways, shall be landscaped and maintained. Landscaping shall
3726 mean decorative plazas, mounds, environmental preserves, enhancements of wetlands, stormwater
3727 features designed as landscape enhancements, features incorporated into the landscape for the

3728 purpose of improving sustainability of the site, pools or the planting of grass, shrubs, trees and other
3729 plant materials or other comparable surface cover.
3730 4. Storage areas. All storage, except for licensed motor vehicles in operable condition, shall be within
3731 completely enclosed buildings or effectively screened from adjoining properties and public rights-of-way
3732 by an opaque screening wall or fence with such wall or fence not less than six feet nor more than eight
3733 feet in height, and no materials stored shall exceed the height of such screening wall or fence. All
3734 outside storage areas shall be located to the rear of buildings and shall be limited to not more than five
3735 percent of the total lot area. Landscaping shall be required on the outside of the opaque screen wall or
3736 fence.
3737 5. Signs. All signs shall meet applicable standards in Chapter 19.54, and the specific requirements set
3738 forth for the M-1 district in the table contained in 19.54.052.
3739 a. No ground sign shall exceed a maximum height of eight feet and a maximum gross area of forty-eight
3740 square feet. All ground signs shall be incorporated in the landscape plan, including the provision of plant
3741 materials at the base of such signs.
3742 6. Prohibited site uses. No use shall be so conducted as to cause the harmful discharge of any waste
3743 materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any
3744 water system or water, or into the atmosphere. All uses shall be conducted in such a manner so as to
3745 preclude any nuisance, hazard, or commonly recognized offensive conditions or characteristics,
3746 including creation or emission of dust, gas, smoke, noise, fumes, odors, vibrations, particulate matter,
3747 chemical compounds, electrical disturbance, humidity, heat, cold, glare, or night illumination. ~~Prior to~~
3748 ~~issuance of a zoning permit or occupancy permit, the zoning administrator may require evidence that~~
3749 ~~adequate controls, measures, or devices have been provided to ensure and protect the public interest,~~
3750 ~~health, comfort, convenience, safety, and general welfare from such nuisance, hazard, or offensive~~
3751 ~~condition.~~
3752 7. Uses required to be enclosed. All business, servicing, or processing shall be conducted within
3753 completely enclosed buildings, except for the following:
3754 a. Off-street parking and off-street loading;
3755 b. Drive-up service windows for banks and other financial institutions.
3756 8. Truck parking. Parking of trucks as an accessory use, when used in the operation of a permitted
3757 business, shall be limited to vehicles of not over one and one-half tons of capacity when located within
3758 one hundred fifty feet of a residential district boundary line.
3759 (Ord. No. 1747A, § 1, 9-15-2009)

3760
3761

Chapter 19.39 ~~PCD~~ PLANNED ~~COMMUNITY~~ DEVELOPMENT DISTRICT*

3762 Sections:

- 3763 [19.39.010 Purpose and intent.](#)
3764 [19.39.020 Permitted uses.](#)
3765 [19.39.030 Lot, building, yard and parking requirements.](#)
3766 [19.39.040 Proposed developments--Criteria for approval.](#)
3767 [19.39.050 Procedures for rezoning, general development plan, and specific implementation plan approval.](#)
3768 ~~[19.39.055 Design standards for traditional neighborhood developments \(PCDDP-TND\).](#)~~
3769 [19.39.060 Modifications and changes.](#)
3770 [19.39.070 Park fees.](#)

3771 * Prior Ordinance History: Ords. 994, 1452, and 1481.
3772

3773

19.39.010 Purpose and intent.

3774 A. The planned ~~community~~ development (PD) district is established to promote improved
3775 environmental design and innovative uses of land in the city. To this intent, this district allows variation
3776

3777 in the relationship of uses, structures and open spaces in developments conceived and implemented as
3778 cohesive, unified projects.

3779 B. The PD District is intended to allow desirable innovative development activities that demonstrate
3780 cohesive site planning higher quality urban design, architectural design, and public places. This district is
3781 also intended to facilitate developments which would add substantially to the net economic value of the
3782 community (as determined by measuring the expected short-term and long-term costs and revenues).

3783 This district is not intended solely to simply circumvent the intent of other zoning districts, or seek
3784 variance from other district regulations or avoid practices consistent with the general health and social
3785 and economic value of the neighborhood or immediate context.

3786 ~~C. The Traditional Neighborhood Development (TND) option of the PCD District is intended to promote~~
3787 ~~the development and redevelopment of land consistent with the design principles of traditional~~
3788 ~~neighborhoods. Lands developed under the traditional neighborhood option of the PCD District shall be~~
3789 ~~labeled as PCD TND on the zoning map. Specifically, a traditional neighborhood development:~~

- 3790 ~~1. Is compact;~~
- 3791 ~~2. Is designed for the human scale (sizes of buildings in proportion to sizes of people);~~
- 3792 ~~3. Provides a mix of uses, including residential, commercial, civic, and open space uses in close~~
3793 ~~proximity to one another;~~
- 3794 ~~4. Provides a mix of housing styles, types, and sizes to accommodate households of all ages, sizes, and~~
3795 ~~incomes;~~
- 3796 ~~5. Incorporates a system of relatively narrow, interconnected streets with sidewalks and paths that~~
3797 ~~offer multiple routes for motorists, pedestrians, and bicyclists within and through the neighborhood;~~
- 3798 ~~6. Retains, to the extent reasonably practical, existing buildings with historical or architectural features~~
3799 ~~that enhance the visual character of the community;~~
- 3800 ~~7. Incorporates significant environmental features into the design; and~~
- 3801 ~~8. Is consistent with the City of Whitewater's comprehensive (master) plan.~~
3802 ~~(Ord. 1511 § 2(part), 2002).~~

3803
3804 **19.39.020 Permitted uses.**

3805 In the PD District, any permitted or conditional use in any of the other districts in this title, or
3806 mix of uses, may be permitted subject to the criteria listed below. ~~Within a PCD TND District, the~~ the mix of
3807 permitted uses shall be further defined by Section 19.39.055(A). Any plans, uses, or requirements
3808 approved by the city as part of a PD general development plan or specific implementation plan shall be
3809 construed to be and enforced as part of this title.
3810 (Ord. 1511 § 2(part), 2002).

3811
3812 Permitted uses, subject to the criteria listed below, also include large retail and commercial service
3813 developments (with 850,000 square feet or more on the ground floor). All large format retail
3814 developments shall include, as part of the PD, specific provisions plans for short-term and long-term
3815 reclamation redevelopment of the PD if and when the initial retail development should diminish in
3816 economic activity and value. Diminishment of economic activity and value shall include: (a) vacancy of
3817 25% or more of the primary buildings, (b) new uses of the primary buildings which result in a significant
3818 reduction of property value, and (c) new uses which result in a material decrease in use of the buildings
3819 by customers and thereby reduce the viability of surrounding economic activities. Such plans should be
3820 achievable with no significant significant no-cost to the City and in a manner that protects the economic
3821 value of adjacent development.

3822
3823 **19.39.030 Lot, building, yard and parking requirements.**

3824 In the PD District, there shall be no specified lot area, lot width, yard, height, parking or open
3825 space requirements. Recommendations to be discussed are ~~Within a PCD-TND District, the lot, building,~~
3826 ~~yard, and parking requirements shall be further~~ defined by Sections 19.39.055(A) through (G). Any lot,
3827 building, yard, or parking requirements approved by the city as part of a PD general development plan
3828 or specific implementation plan shall be construed to be and enforced as part of this title.
3829 (Ord. 1511 § 2(part), 2002).

3830
3831 **19.39.040 Proposed developments--Criteriaissues for approvalconsideration.**

3832 As a basis for determining the acceptability of applications for rezoning to the PD District, and
3833 with regard to the principles of Traditional Neighborhood Development the following criteria shall be
3834 ~~applied~~ considered in the review of the proposed development ~~(these are not requirements, but~~
3835 ~~issues to be considered by all parties involved in the PD review and approval process:~~

3836 A. ~~The proposed development shall be compatible with the physical nature of the site with particular~~
3837 ~~concern for preserving natural features, existing~~ Compatibility with vegetation and topography and
3838 compatible with the visual character of the surrounding buildings in the neighborhood or district context

3839 .
3840 B. ~~The proposed development shall be an~~ The value of the proposed project ~~asset~~ to the community
3841 aesthetically and the way in which the ~~The~~ buildings and uses shall blend, harmonize, improve, and/or
3842 complement in with the surrounding neighborhood.

3843 C. ~~The Impact on~~ proposed development shall not create a traffic or parking demand with regard to the
3844 surrounding area, incompatible with existing or proposed facilities, ~~the~~ The width and location of
3845 streets, the appropriateness of other paving and lighting should relative be appropriate to ~~the proposed~~
3846 ~~uses proposed~~ and the surrounding area, and. In no case shall standards be less than those necessary to
3847 insure public safety as determined by the city.

3848 D. ~~The Impact of the~~ proposed development shall upon not place avoidable stress on the City's water
3849 supply, sanitary sewer and storm water drainage systems.

3850 E. ~~The proposed development shall make adequate~~ Provisions for the ~~permanent~~ long-term
3851 preservation and maintenance of open space.

3852 F. Compactness of the development

3853 G. Integration of different uses, including residential, commercial, civic, and open space; the desirable
3854 proximity of uses to one another; the degree to which the mix of uses accommodates the needs of
3855 different types of people, ages, and social groups

3856 H. Preservation and/or reuse of existing buildings and buildings with historical or architectural features
3857 that enhance the visual character of the community;

3858 I. Incorporation of significant environmental features into the design; and

3859 J. General consistency with the City of Whitewater's comprehensive (master) plan.

3860 (Ord. 1511 § 2(part), 2002).

3861
3862
3863 ~~F. For a PCD-TND development, the minimum zoning district area shall be five acres and the design~~
3864 ~~shall meet the requirements of Section 19.39.055.~~

3865 (Ord. 1511 § 2(part), 2002).

3866
3867 **19.39.050 Procedures for rezoning, general development plan, and specific implementation**
3868 **plan approval.**

3869 A. Step 1: Procedure for Rezoning.

3870 1. The procedure for rezoning to the PD District shall be the same as for any other zoning district
3871 change (see Chapter 19.69), except that in addition, twenty copies of a general development plan shall
3872 be submitted to and approved by the city council following a recommendation by the plan commission.
3873 The general development plan of the proposed project shall include the following.

3874 a. A site inventory and analysis map with topography at two foot contours to identify site assets,
3875 resources, and constraints, including but not limited to floodplains, wetlands, soils with limitations for
3876 building development, utility easements, slopes greater than fifteen percent, and existing trees over
3877 four inches in diameter;

3878 b. A conceptual site plan or neighborhood development plan, at a scale of no less than one inch equals
3879 one hundred feet, which indicates ~~existing and~~ proposed building outlines within the context of the
3880 surrounding streets and blocks, location of streets, options (if any) for cross-easements, driveways,
3881 parking areas (including options, if any, for shared parking), sidewalks and bicycle paths, service access
3882 areas for receiving material and trash removal, and other impervious surfaces;

3883 c. A utility feasibility analysis, including a map showing the general locations of proposed public utility
3884 connections;

3885 d. The location of recreational and open space areas reserved or dedicated to the public;

3886 e. A conceptual landscape plan showing general locations and types of proposed landscaping, including
3887 maintenance of existing vegetation where appropriate;

3888 f. A phasing plan, where applicable;

3889 g. A conceptual stormwater management plan identifying the proposed patterns of major stormwater
3890 run-off, locations of stormwater infiltration areas, and other significant stormwater management
3891 features;

3892 h. Typical proposed ~~building~~ building elevations identifying the architectural style(s) of the
3893 development shown in the context of street elevations that depict several of the buildings on each side
3894 of the proposed building ;

3895 i. A written report that provides general information about the site conditions, development objectives,
3896 covenants, conservation easements, or agreements that will influence the use and maintenance of the
3897 proposed development may be required for larger or more complex projects;

3898 j. Any other data required by the plan commission in order to evaluate the development.

3899 2. Upon city council approval and adoption of the general development plan and associated zoning
3900 change to the PD District ~~or PCD-TND District~~, all plans submitted as well as other commitments,
3901 conditions of approval, restrictions and other factors pertinent to assuring that the project will be
3902 carried out as presented, shall be filed with the zoning administrator and shall be referred to in regard
3903 to enforcement or modification of the general development plan.

3904 3. If applicant does not submit and have approved at least one specific implementation plan for a
3905 planned ~~community~~ development within two years of city approval of a rezoning to the planned
3906 ~~community~~ development district ~~or PCD-TND District~~, the previously approved general development
3907 plan shall be considered null and void. A new petition and approval process shall be required to obtain
3908 approval of the same or a revised general development plan.

3909 B. Step 2: Specific Implementation Plan Approval.

3910 1. Detailed plans, described below under the Specific Implementation Plan (SIP) submittal
3911 requirements, are not required to be submitted at the time the ~~PDDPD~~ ~~or PCD-TND~~ zoning is approved;
3912 however, the GDP and SIP review process may be combined and made faster by doing so. Before any
3913 building permit is issued, the plan commission shall review and approve an SIP. If the approved GDP
3914 specified that development of the site would proceed in phases, the plan commission may approve an
3915 SIP covering only a portion of the previously approved GDP area. The applicant shall file twenty copies of
3916 the SIP with the plan commission. In addition to meeting all application requirements for plan review
3917 under Section 19.63.020, the SIP application shall include the following:

- 3918 a. Where a land division or lot consolidation is proposed, a final plat or CSM of the entire development
- 3919 area included in the SIP, meeting all requirements of Chapter 18, the city's land division and subdivision
- 3920 regulations;
- 3921 b. For multi-lot PD's, a detailed neighborhood development plan showing the arrangement, design, and
- 3922 uses of different lots, buildings, driveways, parking areas, parks and open spaces, and paths.
- 3923 c. Typical elevations or detailed design standards for single- and two-family residential buildings and
- 3924 detailed elevations of all proposed non-residential, mixed use, and multi-family residential buildings.
- 3925 Such detailed elevations shall meet the requirements of Section 19.63.020 and identify all wall signs; the
- 3926 percentage of ground floor commercial facade in windows; and the location, height and materials for
- 3927 screening walls and fences, including those proposed to surround outdoor trash and recyclable storage
- 3928 areas, electrical, mechanical and gas metering equipment, and rooftop equipment; where building
- 3929 construction is not imminent, detailed design standards that will apply to all non-residential buildings
- 3930 may substitute for detailed elevations, if approved by the zoning administrator;
- 3931 d. Signage plans demonstrating a unified or compatible sign design theme for major signage in the
- 3932 PDD-TND;
- 3933 e. A detailed storm water management and erosion control plan;
- 3934 f. Arrangements, bylaws, provisions or covenants which govern the organizational structure, use,
- 3935 architectural standards, maintenance and continued protection of the planned ~~community~~
- 3936 development.
- 3937 2. At a regular meeting, the plan commission shall approve, conditionally approve with changes
- 3938 consistent with the approved general development plan, or reject the SIP. An SIP for a PCDPDD-TND
- 3939 development that is consistent with the GDP and meets other applicable ordinance provisions shall be
- 3940 entitled to approval or conditional approval. A final plat or certified survey map associated with the
- 3941 development may also be subject to city council approval under the provisions of Chapter 18. Upon final
- 3942 approval of the SIP, it shall be filed with the zoning administrator, and shall be referred to in regard to
- 3943 enforcement of modification of the development plans. All covenants, restrictions or contractual
- 3944 agreements with the city shall be recorded with the register of deeds before final issuance of building
- 3945 permits.
- 3946 3. If an applicant does not commence construction within one year after city approval of an SIP for a
- 3947 planned ~~community~~ development ~~or PCD-TND development~~, or complete construction within two years
- 3948 of approval of the SIP, the previously approved SIP shall be considered null and void; except where the
- 3949 plan commission approves an alternative phasing plan with the SIP. A new petition and approval process
- 3950 shall be required to obtain SIP approval.
- 3951 (Ord. 1511 § 2(part), 2002).

3952 ~~**DISCUSSION—interconnectivity?**~~

3953 ~~**19.39.055 Design standards for traditional neighborhood developments (PCD-TND districts)-**~~

3954 ~~PCDPD-TND developments that meet the following design standards and any other applicable ordinance~~

3955 ~~provisions shall be entitled to approval or conditional approval:~~

3956 ~~**A. Allowed Required Mix of Uses.** A traditional neighborhood development shall consist, should consist~~

3957 ~~of a mix of residential uses, a mixed use area, and open space areas as provided below:~~

3958 ~~**1. Allowed Mix of Residential Uses.** A mix of two or more of the following uses are encouraged, shall be~~

3959 ~~proposed within the PCDPD-TND:~~

3960 ~~**a. Single family Detached Dwellings.** Minimum lot size shall should be four thousand five hundred~~

3961 ~~square feet. Minimum lot width shall should be forty five feet with an attached garage and forty feet~~

3962 ~~with a detached garage. Dwellings within condominium developments shall should be subject to similar~~

3963 ~~density standards.~~

3964 ~~**b. Single family attached dwellings, including duplexes, townhouses, and row houses.** Minimum lot size~~

3965 ~~shall equal three thousand five hundred square feet per dwelling unit. Minimum lot width shall should~~

3966 ~~equal thirty feet per dwelling unit. Dwellings within condominium developments shall should be subject~~
3967 ~~to similar density standards.~~

3968 ~~c. Multi-family dwellings, including senior housing. Minimum lot size shall equal one thousand two~~
3969 ~~hundred fifty square feet for each efficiency dwelling unit, with an additional two hundred fifty square~~
3970 ~~feet of lot area required for each additional bedroom in the dwelling unit.~~

3971 ~~d. "Special needs" housing, including community living arrangements and assisted living facilities on~~
3972 ~~lots of suitable size to accommodate the project.~~

3973 ~~2. Allowed Mixed Use Area. A mixed use area is encouraged shall be included within the PCD TND. At~~
3974 ~~least ninety percent of the residences within the PCD TND shall be within 1/4 mile from a mixed use~~
3975 ~~area within or outside of the project. The total gross land area of nonresidential development uses,~~
3976 ~~including off-street parking areas, shall not exceed twenty-five percent of the area of the entire PCD-~~
3977 ~~TND. A mixed use area should within the PCD TND shall include a mix of for two or more of the following~~
3978 ~~uses:~~

3979 ~~a. Commercial uses, such as services, retail, restaurants, and accommodations. Individual businesses~~
3980 ~~should shall not exceed six thousand square feet each in primary floor area.~~

3981 ~~b. Attached residential dwellings, including single-family attached, multi-family, second-story~~
3982 ~~residential units, live/work units, and "special needs" housing.~~

3983 ~~c. Civic or institutional uses, such as municipal offices, libraries, post offices, places of worship, and~~
3984 ~~educational facilities.~~

3985 ~~d. Small open space areas, such as a central square, neighborhood park, or playground.~~

3986 ~~3. Open Space Area. Protected common open space, in public or private ownership, should shall~~
3987 ~~be should be incorporated into the PCD TND. At least fifteen ten percent of the gross land area of the~~
3988 ~~PCDPDD TND must should remain as permanently protected common open space, not including private~~
3989 ~~yards. Large outdoor recreation areas should generally be located at the periphery along streets of the~~
3990 ~~PCDPDD TND rather than a central, less accessible, location. Open spaces may include environmental~~
3991 ~~corridors, other protected natural areas, parks, or stormwater facilities. At least ninety percent of the~~
3992 ~~residences within the PCDPDD TND should shall be within one-fourth mile from a protected common~~
3993 ~~open space area or central neighborhood feature. The PCDPDD TND is shall be subject is subject to all city~~
3994 ~~parkland dedication and fee requirements.~~

3995 ~~B. Stormwater Management. The design and development of the PCDPDD TND shall meet the~~
3996 ~~requirements of the city's stormwater management ordinance and demonstrate the following~~
3997 ~~principles:~~

3998 ~~1. Minimize off-site stormwater runoff;~~

3999 ~~2. Promote on-site filtration;~~

4000 ~~3. Utilize natural stormwater management systems wherever practical;~~

4001 ~~4. Utilize stormwater management Best Management Practices (BMPs);~~

4002 ~~5. Minimize the discharge of pollutants to ground and surface water; and~~

4003 ~~6. Maintain and protect natural topography and existing land cover to the extent reasonably~~
4004 ~~practicable.~~

4005 ~~C. Lot and Block Design Standards.~~

4006 ~~1. Block and Lot Size Diversity. Street layouts should shall provide for perimeter blocks that are a~~
4007 ~~maximum of four hundred feet deep and eight hundred feet long. A variety of lot sizes in accordance~~
4008 ~~with subsection (A)(1) shall be provided to facilitate housing choice and meet the requirements of~~
4009 ~~people with different housing needs.~~

4010 ~~2. Building Setbacks.~~

4011 ~~Table 1: Building Setbacks~~

4012 ~~TABLE INSET:~~

4013

Use Area	Maximum Front Yard Setback	Minimum Building Separation
Mixed Residential Area	25 feet	150 feet²
Mixed Use Area	15 feet⁴	150 feet²

4014 ~~1 Commercial, civic or institutional buildings should generally abut the sidewalks in the mixed use area.~~
4015 ~~2 Minimum building separation standards shall substitute for required side and rear lot setbacks.~~
4016 ~~D. Circulation Standards. The circulation system shall should allow for different modes of~~
4017 ~~transportation, provide functional and visual links among the residential areas, mixed use area, and~~
4018 ~~open space areas within the PCDPDD TND; connect to existing and proposed development outside the~~
4019 ~~PCDPDD TND; provide adequate traffic capacity, provide connected pedestrian and bicycle routes~~
4020 ~~including off-street paths or bicycle lanes on streets; control through traffic; limit direct lot access on~~
4021 ~~streets with higher expected traffic volumes; and promote safe and efficient mobility, throughout the~~
4022 ~~neighborhood. More specific design standards that shall should be met are as follows:~~
4023 ~~1. Pedestrian Circulation. Convenient and continuous pedestrian circulation systems, including~~
4024 ~~walkways and paths, that minimize pedestrian motor vehicle conflicts are encouraged shall be provided~~
4025 ~~throughout the PCDPDD TND through the following design characteristics:~~
4026 ~~a. Where feasible, any existing pedestrian routes through the site shall should be preserved and~~
4027 ~~enhanced.~~
4028 ~~b. All streets, except for alleys, should shall be bordered by sidewalks on both sides in accordance with~~
4029 ~~the specifications listed in Table 2.~~
4030 ~~c. Clear and well lighted walkways should shall connect building entrances to the adjacent public~~
4031 ~~sidewalk and to associated parking areas.~~
4032 ~~d. Sidewalks and walkways should shall comply with the applicable requirements of the Americans with~~
4033 ~~Disabilities Act.~~
4034 ~~e. Intersections of sidewalks with streets should shall be designed with clearly defined edges.~~
4035 ~~Crosswalks should shall be well lit and clearly marked with contrasting paving materials at the edges,~~
4036 ~~raised pavement or with striping. Curb bulb outs, median refuges, and other related techniques should~~
4037 ~~also be incorporated along collector streets and at key intersections to shorten the pedestrian crossing~~
4038 ~~distance.~~
4039 ~~f. Where necessary to maintain the continuity of the pedestrian circulation system, between lot~~
4040 ~~walkways or paths may be required.~~
4041 ~~2. Bicycle Circulation. Facilities for bicycle travel should shall be included in the project, and may include~~
4042 ~~off-street bicycle paths (generally shared with pedestrians and other non-motorized users), separate~~
4043 ~~striped, bicycle lanes on streets per Table 2, signed bicycle routes, or some combination. Any existing~~
4044 ~~bicycle routes through the site shall should be preserved, enhanced, or relocated if necessary. Selected~~
4045 ~~bicycle routes and facilities should shall implement the recommendations in the City of Whitewater~~
4046 ~~comprehensive bikeway plan. The developer may be required to dedicate land or easements and~~
4047 ~~construct bicycle and pedestrian facilities.~~
4048 ~~3. Motor Vehicle Circulation. Motor vehicle circulation should shall be designed to minimize conflicts~~
4049 ~~with pedestrians and bicycles. Traffic calming features such as curb extensions, traffic circles, and~~
4050 ~~medians are encouraged slow traffic speeds on local streets.~~
4051 ~~a. Street Hierarchy. Arterial streets should generally not bisect a PCDPDD TND. Other streets within a~~
4052 ~~PCDPDD TND should shall be classified as follows: Collector streets are intended to be used to carry~~
4053 ~~traffic from minor streets to arterial streets, include the principal entrance street to a residential~~
4054 ~~development, and may be subject to access controls. Minor streets are intended to be used primarily for~~
4055 ~~access to abutting properties, and are usually not subject to access controls. Alleys are special public~~
4056 ~~ways affording secondary access to abutting properties.~~

4057 ~~b. Minimum Street Design Standards. Minimum street design standards for a PCDPDD TND should~~ shall
 4058 ~~be in accordance with Table 2 and the graphic that follows.~~

4059 ~~Table 2: Minimum Street Design Requirements in a Traditional Neighborhood Development~~

4060 ~~TABLE INSET:~~

4061

Type of Street	Street Width, curb face to curb face feet	Curb & Gutter	Street Terrace	Sidewalks	Bicycle Lanes
Collector Street	36 (2-sided parking)	Both sides, 2 feet wide	Both sides, min. 8 feet wide	Both sides, min. 5 feet wide*	Where required, add 4 foot wide lanes
=	320 (1-sided parking)	=	=	=	=
=	24 (no parking)	=	=	=	=
Minor Street	3628 (2-sided parking)	Both sides, 2 feet wide	Both sides, min. 6 feet wide	Both sides, min. 5 feet wide*	None
=	2226 (1-sided parking)	=	=	=	=
=	240 (no parking)	=	=	=	=
Alley	2014 (no parking)	None	None	None	None

4062 *The city also requires one foot between the edge of the sidewalk and the property line.

4063 ~~GRAPHIC LINK: Click here~~

4064 ~~c. Street Layout. The PCDPDD TND should maintain the existing street grid, where present, and restore any disrupted street grid where feasible. The orientation of streets shall~~ should enhance the visual
 4065 ~~impact of common open spaces and prominent buildings, create lots that facilitate passive solar design,~~
 4066 ~~minimize street gradients, and minimize the use of double frontage lots. All streets shall~~ should extend
 4067 ~~through the development or terminate at other streets, except minor streets may temporarily "dead~~
 4068 ~~end" when such streets act as connections to future phases or other sites outside the PCDPDD TND and~~
 4069 ~~may permanently terminate in a cul-de-sac only where there will be a through connection via a~~
 4070 ~~pedestrian way or bicycle path at the terminus.~~

4072 ~~d. Parking Requirements. All PCDPDD TNDs shall meet the parking requirements of Section 19.51.130;~~
 4073 ~~the city may allow adjacent on-street parking to apply toward the minimum parking requirements. Off-~~
 4074 ~~street parking lots for shared or community use are encouraged. For multi-family buildings and in the~~
 4075 ~~required mixed-use area, off-street parking lots may not be adjacent to or opposite from a street~~
 4076 ~~intersection and shall be located to the rear or sides of buildings. If located to the side of a building,~~
 4077 ~~screening from the public street shall~~ should be provided as specified in Section 19.57.150. All

4078 ~~businesses, civic uses, and multi-family residences shall~~should provide adequate bicycle parking areas
4079 and facilities to serve their expected customer or resident base.

4080 ~~e. Service Access. All PCDPDD TNDs shall~~should meet the loading requirements of Section 19.51.020. In
4081 addition, site and neighborhood development plans shall~~should~~ provide a direct route to service or
4082 loading dock areas, while minimizing the movement of loading vehicles through parking areas.

4083 ~~f. Paving. All PCDPDD TNDs shall~~should meet the parking lot surfacing requirements of Section
4084 19.51.110. In addition, reduction of impervious surfaces through the use of interlocking pavers is
4085 strongly encouraged for areas such as remote parking lots and parking areas for periodic uses.

4086 ~~g. Parking area landscaping and screening. All parking and loading areas fronting and within fifteen feet~~
4087 ~~of public street rights-of-way, residential districts, or residential uses shall~~should meet the screening
4088 requirements of Section 19.57.140. The corners of parking lots, "islands," and all other areas not used
4089 for parking or vehicular circulation shall~~should~~ be landscaped and curbed. Such spaces may also include
4090 architectural features such as benches, kiosks or bicycle parking. Parking lots containing more than 30
4091 spaces shall~~should~~ be broken up into smaller pods including not more than 30 spaces each, with the
4092 pods separated from another by landscaped areas or buildings.

4093 ~~E. Architectural Standards. A variety of architectural features and building materials is encouraged to~~
4094 ~~give each building or group of buildings a distinct character, while maintaining a compatible design~~
4095 ~~theme throughout the PCDPDD TND. More specific design standards that shall~~should be met are as
4096 follows:

4097 ~~1. Existing Structures. Existing structures, if determined to be historic, architecturally, or culturally~~
4098 ~~significant, shall~~should be protected from demolition or encroachment by incompatible structures or
4099 land development, to the extent reasonably practical. The U.S. Secretary of the Interior's Standards for
4100 Rehabilitation of Historic Properties shall~~should~~ be used as the criteria for renovating historic or
4101 architecturally significant structures.

4102 ~~2. New Structures.~~

4103 ~~a. Height. New structures within a PCDPDD TND shall~~should be no more than three stories for single-
4104 family detached dwellings and attached dwellings, and six stories for commercial, multi-family dwellings,
4105 or mixed use buildings. Buildings within the mixed use area shall~~should~~ additionally meet the standards
4106 depicted in Figure 3.

4107 **~~GRAPHIC LINK: Click here~~**

4108 ~~b. Entries and Facades. Similar architectural features, materials, and the articulation of a building~~
4109 ~~facade shall~~should be continued on all sides visible from a public street. The front facade of the principal
4110 building shall face onto the street yard of a public street, not directly toward a parking lot. As buildings
4111 are moved closer to the street and to each other, special attention should be paid to design details,
4112 house details, and landscaping. Compatible building designs or guidelines shall~~should~~ be followed for
4113 new structures on opposite sides of the same street. Porches, pent roofs, roof overhangs, hooded front
4114 doors or other similar architectural elements shall define the front entrance to all residences. For
4115 nonresidential buildings, a minimum of fifty percent of the public street facade(s) on the ground floor
4116 shall be transparent, consisting of window or door openings.

4117 ~~3. Garages. Residential garages shall either be set back a minimum of four feet to the rear of the main~~
4118 ~~front facade of the dwelling structure (not including porches or other projections) or utilize side entry~~
4119 ~~layout to ensure that the garage does not dominate the view from the street, per the standards~~
4120 ~~illustrated in Figure 4. Varied garage setbacks along alleys are encouraged to create a more interesting~~
4121 ~~streetscape and avoid cramped, monotonous, and claustrophobic alleys.~~

4122 **~~GRAPHIC LINK: Click here~~**

4123 ~~4. Signage. Business signs, entrance monuments, and other major signs within a PCDPDD TND should~~
4124 ~~share a common or compatible style, which may be demonstrated by similarities in sizes, shapes,~~
4125 ~~and/or materials. In addition, all signage for mixed residential areas shall~~should meet the technical

4126 requirements of Chapter 19.54 applicable to the R-3 District and all signage for other areas in the
 4127 PCDPDD TND shall ~~meet~~ should meet the technical requirements applicable to the B-2 District, except that the
 4128 maximum height of a freestanding sign shall ~~be~~ should be six feet and the maximum area of a freestanding
 4129 sign shall ~~be~~ should be thirty two feet.

4130 5. Exterior Lighting and Utilities. The styles of proposed street and private lot lighting shall ~~be~~ should be
 4131 compatible with one another. All exterior lighting within the PCDPDD TND shall ~~meet~~ should meet the
 4132 technical lighting requirements of Section 19.57.150. Street lighting shall ~~be~~ should be provided on both
 4133 sides of all streets at intervals of no greater than seventy five feet. More, smaller street lights as
 4134 opposed to fewer, high intensity lights, ~~are encouraged~~ should be used. All new public and private utility
 4135 installations shall ~~be~~ should be underground.

4136 F. Landscaping and Screening Standards. Overall composition and location of landscaping shall ~~meet~~ should
 4137 complement the scale of the development and its surroundings. In general, larger, well placed
 4138 contiguous planting areas ~~are~~ are preferred to smaller, disconnected areas. More
 4139 specific landscape standards that shall be met are as follows:

4140 1. Street Trees. An average, minimum of one deciduous tree per thirty five feet of public street
 4141 frontage shall be required. Street tree placements may be clustered or adjusted to achieve a particular
 4142 design objective or account for curb openings, street lighting, and other obstructions. Trees should
 4143 preferably be located between the sidewalk and the curb, within the landscaped area of a boulevard, or
 4144 in tree wells installed in pavement or concrete. If placement of street trees within the right of way will
 4145 interfere with pre-existing utility lines, trees may be planted within the private street yard adjacent to
 4146 the sidewalk.

4147 2. Landscape Materials. All plant materials shall ~~meet~~ should meet the minimum standards set forth by the
 4148 American National Standards Institute in ANSI Z60.1 American Standard for Nursery Stock. Landscape
 4149 species shall ~~be~~ should be indigenous or proven adaptable to the climate, but shall ~~not~~ should not be invasive.

4150 3. Minimum Planting Size. Minimum size at time of planting shall ~~be~~ should be as specified in Table 3.

4151 Table 3: Minimum Size Standards for Landscaping

4152 TABLE INSET:

4153

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

4154 Note: ~~1~~ For the purpose of caliper size, the diameter of the tree shall ~~be~~ should be measured 6 inches above
 4155 ground level.

4156 4. Landscape Screening. Where screening is required by this ordinance, it shall ~~meet~~ should meet the
 4157 requirements of Section 19.57.140.

4158 (Ord. 1511 § 2(part), 2002).

4159

4160 **19.39.060 Modifications and changes.**

4161 Any subsequent change of use of any parcel of land or addition or modification of any approved
 4162 development plans shall ~~be~~ should be submitted to the plan commission for approval. Minor changes can
 4163 be granted by the plan commission. Major changes that involve changes to the general intent of the
 4164 project as expressed in the approved GDP shall be made by the city council as specified in Chapter
 4165 19.69. A conditional use permit will be required if the total building coverage of a new or remodeled

4166 single-family detached dwelling, including the garage, exceeds sixty percent of the lot area within a
4167 ~~PCDPDD TND~~ District.
4168 (Ord. 1511 § 2(part), 2002).

4169
4170 **19.39.070 Park fees.**
4171 All residential development shall be subject to a park acquisition fee of two hundred fourteen
4172 dollars per dwelling unit in 2001 and a park improvement fee of five hundred five dollars per dwelling
4173 unit in 2001, payable before a building permit is issued. The amount of these fees may be reduced by
4174 any fee amount previously paid or credited at the time of subdivision. The park acquisition fee may also
4175 be reduced if sufficient land area was provided for park purposes at the time of subdivision, based on
4176 the calculations in section 18.04.030(a)(1) of the Whitewater Municipal Code. The fee amounts shall be
4177 adjusted during the first quarter of each year by a percentage equal to the rate of consumer inflation
4178 based on the percent of yearly change for the previous year for the Milwaukee metropolitan area, as
4179 reported by the U.S. Department of Labor, Bureau of Labor Statistics.
4180 (Ord. 1511 § 2(part), 2002).

4181
4182

4183 **Chapter 19.42 AT AGRICULTURAL TRANSITION DISTRICT**

4184 Sections:

4185 [19.42.010 Purpose.](#)

4186 [19.42.020 Permitted uses.](#)

4187 [19.42.030 Conditional uses.](#)

4188 [19.42.040 Lot area.](#)

4189 [19.42.050 Yard requirements.](#)

4190 [19.42.060 Building height.](#)

4191 [19.42.070 Existing residences.](#)

4192
4193 **19.42.010 Purpose.**
4194 The purposes of the AT agricultural transition district are to provide for the orderly transition of
4195 agricultural land to other uses in areas planned for eventual city expansion. This district is generally
4196 intended to apply to lands located in the city where such lands are predominantly in agricultural or open
4197 space use but where conversion to nonagricultural use is expected to occur in the ~~forseeable~~ [foreseeable](#)
4198 future.

4199 (Ord. 994 § 3.15(part), 1982).

4200

4201 **19.42.020 Permitted uses.**

4202 Permitted uses in the AT district include:

4203 A. Dairying, floriculture, orchards, plant nurseries, truck farming, sod farming, horticulture, grazing,
4204 greenhouses, forest and game management, livestock and poultry raising (except for commercial
4205 operations), road-side stands not exceeding one per farm, and similar agricultural uses;

4206 B. Two single-family dwelling units for resident owner/operators and their children, [siblings](#), and
4207 parents or laborers principally engaged in conducting a permitted or approved conditional use;

4208 C. The second or greater wireless telecommunications facility located on an alternative support
4209 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
4210 telecommunications facility, per the requirements of Chapter 19.55.

4211 (Ord. 1499 § 20, 2001; 994 § 3.15(A), 1982).

4212

4213 **19.42.030 Conditional uses.**

4214 Conditional uses in the AT district include:
4215 A. Fish and fur farms, beekeeping, commercial livestock and poultry operations, livestock sales
4216 facilities, veterinary services for farm animals, and similar agricultural uses;
4217 B. Housing for seasonal farm laborers;
4218 C. Airports;
4219 D. Mineral extraction;
4220 E. More than two single-family dwelling units for residential owner/operators and their children and
4221 parents or laborers principally engaged in conducting a permitted approved conditional use;
4222 F. The first wireless telecommunications facility located on an alternative support structure only, per
4223 the requirements of Chapter 19.55.
4224 (Ord. 1499 § 21, 2001; 994 § 3.15(B), 1982).

4225
4226 **19.42.040 Lot area.**

4227 Minimum lot area in the AT district is as follows:
4228 A. Farm units, minimum thirty-five acres;
4229 B. Additional farm-related housing, minimum twenty thousand square feet.
4230 (Ord. 994 § 3.15(C), 1982).

4231
4232 **19.42.050 Yard requirements.**

4233 Minimum yard requirements for the AT district are as follows:
4234 A. Additional farm-related housing shall comply with the provisions of the R-1 residential district;
4235 B. Farm buildings:
4236 1. Side yard, minimum fifty feet;
4237 2. Rear yard, minimum fifty feet.
4238 (Ord. 994 § 3.15(D), 1982).

4239
4240 **19.42.060 Building height.**

4241 Maximum building height for the AT district is two times their distance from adjacent lot lines.
4242 (Ord. 994 § 3.15(E), 1982).

4243
4244 **19.42.070 Existing residences.**

4245 Pre-existing residences in the agricultural transition district that do not conform to district
4246 standards may be continued in residential use and are not subject to the limitations of Chapter 19.60,
4247 Nonconforming Uses.
4248 (Ord. 994 § 3.15(F), 1982).

4249
4250 **Chapter 19.45 C-1 SHORELAND WETLAND DISTRICT**

4251 Sections:
4252 [19.45.010 Purpose.](#)
4253 [19.45.020 Permitted uses.](#)
4254 [19.45.030 Conditional uses.](#)
4255 [19.45.040 Prohibited uses.](#)

4256
4257 **19.45.010 Purpose.**

4258 The 6-1 shoreland wetland district is intended to preserve, protect, and enhance the ponds,
4259 streams, and wetland areas within the shoreland jurisdiction of the city. The preservation, protection,
4260 and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and

4261 improve water quality, both ground and surface; prevent flood damage; control storm water runoff;
4262 protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife
4263 habitat; protect native plant communities; avoid the location of structures on soils which are generally
4264 not suitable for use; and protect the water-based recreation resources of the city.

4265 The C-1 shoreland wetland district, as shown on the zoning map, includes all wetlands within the
4266 shorelands, as defined in this title, in the city. The boundaries were determined from the Wisconsin
4267 Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and stamped "FINAL."
4268 (Ord. 1196 § 1(part), 1990).

4269

4270 **19.45.020 Permitted uses.**

4271 Permitted uses in the C-1 district are limited to the following:

- 4272 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;
- 4273 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
4274 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
4275 filling, flooding, draining, dredging, ditching, tiling, or excavating;
- 4276 C. Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling,
4277 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
4278 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
4279 impact on silvicultural activities if not corrected;
- 4280 D. Construction and maintenance of fences;
- 4281 E. Agricultural crops and grazing provided that they do not involve extension of cultivated areas,
4282 extension of or creation of new drainage systems, and further provided that they do not substantially
4283 disturb or impair the natural fauna, flora, topography, or water regimen;
- 4284 F. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
4285 only to the extent necessary to maintain the level of drainage required to continue the existing use;
- 4286 G. The construction and maintenance of piers, docks, and walkways, including those built on pilings;
- 4287 H. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
4288 (Ord. 1196 § 1(part), 1990).

4289

4290 **19.45.030 Conditional uses.**

4291 The following uses are conditional uses in the C-1 shoreland wetland district and may be
4292 permitted as specified. The city plan commission shall transmit a copy of each application for a
4293 conditional use in the C-1 shoreland wetland district to the Wisconsin Department of Natural Resources
4294 (DNR) at least ten days prior to the public hearing. Final action on the application shall not be taken for
4295 thirty days or until the ~~DNR~~DNR has made its recommendation, whichever comes first. A copy of all C-1
4296 shoreland wetland district conditional use permits shall be transmitted to the ~~DNR~~DNR within ten days
4297 following the decision:

- 4298 A. The construction of streets which are necessary for the continuity of the city street system,
4299 necessary for the provision of essential utility and public safety services, or necessary to provide access
4300 to permitted open space uses in the C-1 district; provided that:
 - 4301 1. The street cannot as a practical matter be located outside the conservancy district;
 - 4302 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
4303 wetland as listed in Section 11.1308(B) of the Wisconsin Statutes;
 - 4304 3. The street is designed and constructed with the minimum cross-section practical to serve the
4305 intended use;
 - 4306 4. The street construction activities are carried out in the immediate area of the roadbed only; and

- 4307 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
4308 for the construction or maintenance of the street.
- 4309 B. The construction and maintenance of nonresidential buildings used solely in conjunction with raising
4310 of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose
4311 which is compatible with wetland preservation, provided that:
- 4312 1. The building cannot as a practical matter be located outside the conservancy district;
4313 2. The building is not designed for human habitation and does not exceed five hundred square feet in
4314 area; and
4315 3. Only limited filling or excavating necessary to provide structural support is conducted.
- 4316 C. The establishment and development of public and private parks and recreation areas, recreation
4317 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
4318 refuges, game preserves, and private habitat areas; provided, that:
- 4319 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;
4320 2. No filling is to be done; and
4321 3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
4322 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
4323 otherwise enhance the value of a wetland or other natural resource.
- 4324 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
4325 distribution lines, and related facilities; provided, that:
- 4326 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
4327 outside the conservancy district; and
4328 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
4329 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
4330 and other adverse impacts upon the natural functions of the conservancy area.
- 4331 E. The construction and maintenance of railroad lines; provided, that:
- 4332 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
4333 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
4334 construction or maintenance of the railroad, and must be done in a manner designed to minimize
4335 flooding and other adverse impacts upon the natural functions of the conservancy area.
4336 (Ord. 1196 § 1(part), 1990).

4337

4338 **19.45.040 Prohibited uses.**

4339 Any use not listed as a permitted use or a conditional use is prohibited unless the C-1 district
4340 lands concerned are first rezoned into another district. Furthermore, the use of a boathouse for human
4341 habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary
4342 highwater mark of any navigable water are prohibited.
4343 (Ord. 1196 § 1(part), 1990).

4344

4345 **Chapter 19.451 C-2 NONSHORELAND WETLAND DISTRICT**

4346 Sections:

4347 [19.451.010 Purpose.](#)

4348 [19.451.020 Permitted uses.](#)

4349 [19.451.030 Conditional uses.](#)

4350 [19.451.040 Prohibited uses.](#)

4351

4352 **19.451.010 Purpose.**

4353 The C-2 nonshoreland wetland district is intended to preserve, protect, and enhance the ponds,
4354 streams, and wetland areas of the city located beyond the statutorily defined limits of shorelands. The

4355 preservation, protection, and enhancement of these areas will serve to maintain safe and healthful
4356 conditions; maintain and improve water quality, both ground and surface; prevent flood damage;
4357 control storm water runoff; protect stream banks from erosion; protect groundwater recharge and
4358 discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of
4359 structures on soils which are generally not suitable for use; and protect the water-based recreation
4360 resources of the city.

4361 The C-2 nonshoreland wetland district, as shown on the zoning map, includes those wetlands
4362 not located within the shoreland jurisdiction in the city. The boundaries were initially determined from
4363 the Wisconsin Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and stamped
4364 "FINAL." THIS SECTION NEEDS TO BE CHECKED RELATIVE TO STATE REGULATIONS. ONE OPTIONS IS TO
4365 ADD TEXT AS FOLLOWS: The C-2 district shall conform to Wisconsin Statutes that are applicable within
4366 the City.
4367 (Ord. 1196 § 1(part), 1990).

4368

4369 **19.451.020 Permitted uses.**

4370 Permitted uses in the C-2 district are limited to the following:

- 4371 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;
- 4372 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
4373 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
4374 filling, flooding, draining, dredging, ditching, tiling, or excavating;
- 4375 C. Silviculture, including the planting, thinning, and harvesting of timber; provided, that no filling,
4376 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
4377 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
4378 impact on silvicultural activities if not corrected;
- 4379 D. Construction and maintenance of fences;
- 4380 E. Agricultural crops and grazing; provided, that they do not involve extension of cultivated areas,
4381 extension of or creation of new drainage systems; and further provided, that they do not substantially
4382 disturb or impair the natural fauna, flora, topography, or water regimen;
- 4383 F. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
4384 only to the extent necessary to maintain the level of drainage required to continue the existing use;
- 4385 G. The construction and maintenance of piers, docks, and walkways, including those built on pilings;
- 4386 H. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
4387 (Ord. 1196 § 1(part), 1990).

4388

4389 **19.451.030 Conditional uses.**

4390 The following uses are conditional uses in the C-2 nonshoreland wetland district and may be
4391 permitted as specified:

- 4392 A. The construction of streets which are necessary for the continuity of the city street system,
4393 necessary for the provision of essential utility and public safety services, or necessary to provide access
4394 to permitted open space uses in the C-2 district; provided, that:
 - 4395 1. The street cannot as a practical matter be located outside the conservancy district;
 - 4396 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
4397 wetland as listed in Section 11.1308(B) of the Wisconsin Statutes;
 - 4398 3. The street is designed and constructed with the minimum cross-section practical to serve the
4399 intended use;
 - 4400 4. The street construction activities are carried out in the immediate area of the roadbed only; and

- 4401 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
4402 for the construction or maintenance of the street.
- 4403 B. The construction and maintenance of nonresidential buildings used solely in conjunction with raising
4404 of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose
4405 which is compatible with wetland preservation; provided, that:
- 4406 1. The building cannot as a practical matter be located outside the conservancy district;
4407 2. The building is not designed for human habitation and does not exceed five hundred square feet in
4408 area; and
- 4409 3. Only limited filling or excavating necessary to provide structural support is conducted.
- 4410 C. The establishment and development of public and private parks and recreation areas, recreation
4411 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
4412 ~~refugees~~refuges, game preserves, and private habitat areas; provided, that:
- 4413 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;
4414 2. No filling is to be done; and
- 4415 3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
4416 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
4417 otherwise enhance the value of a wetland or other natural resource.
- 4418 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
4419 distribution lines, and related facilities; provided, that:
- 4420 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
4421 outside the conservancy district; and
- 4422 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
4423 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
4424 and other adverse impacts upon the natural functions of the conservancy area.
- 4425 E. The construction and maintenance of railroad lines; provided, that:
- 4426 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
4427 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
4428 construction or maintenance of the railroad, and must be done in a manner designed to minimize
4429 flooding and other adverse impacts upon the natural functions of the conservancy area.
4430 (Ord. 1196 § 1(part), 1990).

4431
4432 **19.451.040 Prohibited uses.**

4433 Any use not listed as a permitted use or a conditional use is prohibited unless the C-2 district
4434 lands concerned are first rezoned into another district. Furthermore, the use of a boathouse for human
4435 habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary
4436 high water mark of any navigable water are prohibited.
4437 (Ord. 1196 § 1(part), 1990).

4438
4439 **Chapter 19.46 FLOODPLAIN REGULATIONS***

4440
4441
4442 ***Editor's note:** Ord. No. 1724A, § 1, adopted April 8, 2009, repealed the former Ch. 19.46, and
4443 enacted a new Ch. 19.46. Prior to inclusion of said ordinance, Ch. 19.46, pertained to similar subject
4444 matter. See also the Code Comparative Table and Disposition List.

4445
4446
4447 Sections:
4448 [19.46.010 Statutory authorization, finding of fact, statement of purpose, title and general provisions.](#)

- 4449 [19.46.020 General standards applicable to all floodplain districts.](#)
- 4450 [19.46.030 Floodway district \(FW\).](#)
- 4451 [19.46.040 Floodfringe district \(FF\).](#)
- 4452 [19.46.050 Other floodplain districts.](#)
- 4453 [19.46.060 Nonconforming uses.](#)
- 4454 [19.46.070 Administration.](#)
- 4455 [19.46.080 Amendments.](#)
- 4456 [19.46.090 Enforcement and penalties.](#)
- 4457 [19.46.100 Definitions.](#)

4458

4459 **19.46.010 Statutory authorization, finding of fact, statement of purpose, title and general**

4460 **provisions.**

- 4461 A. Statutory authorization. This chapter is adopted pursuant to the authorization in ss. 61.35 and 62.23,
- 4462 for villages and cities; 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, Stats.
- 4463 B. Finding of fact. Uncontrolled development and use of the floodplains and rivers of this municipality
- 4464 would impair the public health, safety, convenience, general welfare and tax base.
- 4465 C. Statement of purpose. This chapter is intended to regulate floodplain development to:
- 4466 1. Protect life, health and property;
- 4467 2. Minimize expenditures of public funds for flood control projects;
- 4468 3. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- 4469 4. Minimize business interruptions and other economic disruptions;
- 4470 5. Minimize damage to public facilities in the floodplain;
- 4471 6. Minimize the occurrence of future flood blight areas in the floodplain;
- 4472 7. Discourage the victimization of unwary land and homebuyers;
- 4473 8. Prevent increases in flood heights that could increase flood damage and result in conflicts between
- 4474 property owners; and
- 4475 9. Discourage development in a floodplain if there is any practicable alternative to locate the activity,
- 4476 use or structure outside of the floodplain.
- 4477 D. Title. This chapter shall be known as the Floodplain Zoning Ordinance for the City of Whitewater,
- 4478 Wisconsin.
- 4479 E. General provisions.
- 4480 1. Areas to be regulated. This chapter regulates all areas that would be covered by the regional flood or
- 4481 base flood.

4482 Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study.

4483 Regional flood elevations may be derived from other studies. Areas covered by the base flood are

4484 identified as A-Zones on the Flood Insurance Rate Map.

- 4485 2. Official maps and revisions. The boundaries of all floodplain districts are designated as floodplains or
- 4486 A-Zones on the maps listed below and the revisions in the City of Whitewater Floodplain Appendix. Any
- 4487 change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance
- 4488 Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No
- 4489 changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the
- 4490 DNR. These maps and revisions are on file in the office of the Public Works Department, City of
- 4491 Whitewater. If more than one map or revision is referenced, the most restrictive information shall apply.

4492 Official maps: Based on the FIS.

- 4493 a. For Jefferson County Flood Insurance Rate Maps (FIRM), panel numbers 55055C0432E, 55055C0451E
- 4494 and 55055C0455E, dated June 2, 2009, with corresponding profiles based on the Flood Insurance Study
- 4495 (FIS) dated June 2, 2009 volume number 55055CV000A;

4496 b. For Walworth County Flood Insurance Rate Maps (FIRM), panel numbers 55127C0009D,
4497 55127C0017D, 55127C0028D, and 55127C0029D, dated October 2, 2009, with corresponding profiles
4498 based on the Flood Insurance Study (FIS) dated October 2, 2009, volume number 55127CV000A.

4499 3. Establishment of districts. The regional floodplain areas are divided into three districts as follows:
4500 a. The floodway district (FW) is the channel of a river or stream and those portions of the floodplain
4501 adjoining the channel required to carry the regional floodwaters.
4502 b. The floodfringe district (FF) is that portion of the floodplain between the regional flood limits and the
4503 floodway.
4504 c. The general floodplain district (GFP) is those areas that have been or may be covered by floodwater
4505 during the regional flood.
4506 d. The flood storage district (FSD) is that area of the floodplain where storage of floodwaters is
4507 calculated to reduce the regional flood discharge.

4508 4. Locating floodplain boundaries. Discrepancies between boundaries on the official floodplain zoning
4509 map and actual field conditions shall be resolved using the criteria in subsections a. or b. below. If a
4510 significant difference exists, the map shall be amended according to section 19.46.080. The zoning
4511 administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit,
4512 whether or not a map amendment is required. The zoning administrator shall be responsible for
4513 documenting actual pre-development field conditions and the basis upon which the district boundary
4514 was determined and for initiating any map amendments required under this section. Disputes between
4515 the zoning administrator and an applicant over the district boundary line shall be settled according to
4516 subsection 19.46.070C.3. and the criteria in a. and b. below.
4517 a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary.
4518 The regional or base flood elevations shall govern if there are any discrepancies.
4519 b. Where flood profiles do not exist, the location of the boundary shall be determined by the map
4520 scale, visual on-site inspection and any information provided by the department.

4521 Note: Where the flood profiles are based on established base flood elevations from a FIRM,
4522 FEMA must also approve any map amendment pursuant to subsection 19.46.080A.6.

4523 5. Removal of lands from floodplain. Compliance with the provisions of this chapter shall not be
4524 grounds for removing land from the floodplain unless it is filled at least two feet above the regional or
4525 base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended
4526 pursuant to section 19.46.080.

4527 Note: This procedure does not remove the requirements for the mandatory purchase of flood
4528 insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

4529 6. Compliance. Any development or use within the areas regulated by this chapter shall be in
4530 compliance with the terms of this chapter, and other applicable local, state, and federal regulations.

4531 7. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages,
4532 towns, and counties are required to comply with this chapter and obtain all necessary permits. State
4533 agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction,
4534 maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation
4535 is exempt when s. 30.2022, Stats., applies.

4536 8. Abrogation and greater restrictions.
4537 a. This chapter supersedes all the provisions of any municipal zoning ordinance enacted under ss.
4538 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
4539 relate to floodplains. If another ordinance is more restrictive than this chapter, that ordinance shall
4540 continue in full force and effect to the extent of the greater restrictions, but not otherwise.
4541 b. This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants
4542 or easements. If this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

4543 9. Interpretation. In their interpretation and application, the provisions of this chapter are the
4544 minimum requirements liberally construed in favor of the governing body and are not a limitation on or
4545 repeal of any other powers granted by the Wisconsin Statutes. If a provision of this chapter, required by
4546 ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in
4547 effect on the date of the adoption of this chapter or in effect on the date of the most recent text
4548 amendment to this chapter.

4549 10. Warning and disclaimer of liability. The flood protection standards in this chapter are based on
4550 engineering experience and scientific research. Larger floods may occur or the flood height may be
4551 increased by man-made or natural causes. This chapter does not imply or guarantee that nonfloodplain
4552 areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this chapter
4553 create liability on the part of, or a cause of action against, the municipality or any officer or employee
4554 thereof for any flood damage that may result from reliance on this chapter.

4555 11. Severability. Should any portion of this chapter be declared unconstitutional or invalid by a court of
4556 competent jurisdiction, the remainder of this chapter shall not be affected.

4557 12. Annexed areas for cities and villages. The Walworth and Jefferson County floodplain zoning
4558 provisions in effect on the date of annexation shall remain in effect and shall be enforced by the
4559 municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets
4560 the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP).
4561 These annexed lands are described on the municipality's official zoning map. County floodplain zoning
4562 provisions are incorporated by reference for the purpose of administering this section and are on file in
4563 the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional
4564 flood elevation and the location of the floodway.

4565 13. General development standards. The community shall review all permit applications to determine
4566 whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a
4567 floodprone area, all new construction and substantial improvements shall be designed or modified and
4568 adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from
4569 hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be
4570 constructed by methods and practices that minimize flood damages; and be constructed with electrical,
4571 heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed
4572 and/or located so as to prevent water from entering or accumulating within the components during
4573 conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All
4574 subdivision proposals (including manufactured home parks) shall include regional flood elevation and
4575 floodway data for any development that meets the subdivision definition of this chapter.

4576 Ord. No. 1724A, § 1(1.0), 4-8-2009; Ord. No. 1741A, § 1, 8-4-2009)

4577

4578 **19.46.020 General standards applicable to all floodplain districts.**

4579 A. Hydraulic and hydrologic analyses.

4580 1. Except as allowed in subsection 3. below, no floodplain development shall:

4581 a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with
4582 other development, increasing regional flood height; or

4583 b. Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

4584 2. The zoning administrator shall deny permits if it is determined the proposed development will
4585 obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM
4586 or other adopted map, unless the provisions of subsection 3. are met.

4587 3. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments
4588 are made to this chapter, the official floodplain zoning maps, floodway lines and water surface profiles,
4589 in accordance with section 19.46.080.

4590 Note: This section refers to obstructions or increases in base flood elevations as shown on the
4591 officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by
4592 FEMA and the DNR.

4593 B. Watercourse alterations. No land use permit to alter or relocate a watercourse in a mapped
4594 floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the
4595 department and FEMA regional offices and required the applicant to secure all necessary state and
4596 federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

4597 As soon as is practicable, but not later than six months after the date of the watercourse
4598 alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting
4599 appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise
4600 the FIRM, risk premium rates and floodplain management regulations as required.

4601 C. Chapter 30. 31, Wis. Stats., development. Development which requires a permit from the
4602 department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and
4603 navigational aids, may be allowed if the necessary permits are obtained and amendments to the
4604 floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially
4605 adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according
4606 to section 19.24.080.

4607 D. Public or private campgrounds. Public or private campgrounds shall have a low flood damage
4608 potential and shall meet the following provisions:

- 4609 1. The campground is approved by the Department of Health and Family Services.
- 4610 2. A land use permit for the campground is issued by the zoning administrator.
- 4611 3. The character of the river system and the elevation of the campground is such that a seventy-two-
4612 hour warning of an impending flood can be given to all campground occupants.
- 4613 4. There is an adequate flood warning procedure for the campground that offers the minimum notice
4614 required under this section to all persons in the campground. This procedure shall include a written
4615 agreement between the campground owner, the municipal emergency government coordinator and the
4616 chief law enforcement official which specifies the flood elevation at which evacuation shall occur,
4617 personnel responsible for monitoring flood elevations, types of warning systems to be used and the
4618 procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the
4619 evacuation.
- 4620 5. This agreement shall be for no more than one calendar year, at which time the agreement shall be
4621 reviewed and updated - by the officials identified in subsection 4. - to remain in compliance with all
4622 applicable regulations, including those of the state department of health and family services and all
4623 other applicable regulations.
- 4624 6. Only camping units are allowed.
- 4625 7. The camping units may not occupy any site in the campground for more than one hundred eighty
4626 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum
4627 of twenty-four hours.
- 4628 8. All camping units that remain on site for more than thirty days shall be issued a limited authorization
4629 by the campground operator, a written copy of which is kept on file at the campground. Such
4630 authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty
4631 days and shall ensure compliance with all the provisions of this section.
- 4632 9. The municipality shall monitor the limited authorizations issued by the campground operator to
4633 assure compliance with the terms of this section.
- 4634 10. All camping units that remain in place for more than one hundred eighty consecutive days must
4635 meet the applicable requirements in either section 19.46.030 or section 19.46.040 for the floodplain
4636 district in which the structure is located.

4637 11. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the
4638 procedures for evacuation when a flood warning is issued.

4639 12. All service facilities, including but not limited to refuse collection, electrical service, natural gas
4640 lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or
4641 floodproofed to the flood protection elevation.

4642 (Ord. No. 1724A, § 1(2.0), 4-8-2009)

4643

4644 **19.46.030 Floodway district (FW).**

4645 A. Applicability. This section applies to all floodway areas on the floodplain zoning maps and those
4646 identified pursuant to subsection 19.46.050A.4.

4647 B. Permitted uses. The following open space uses are allowed in the floodway district and the floodway
4648 areas of the general floodplain district, if

4649 - They are not prohibited by any other ordinance;

4650 - They meet the standards in subsection 19.46.030C. and 19.46.030D.; and

4651 - All permits or certificates have been issued according to subsection 19.46.070A.:

4652 1. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop
4653 harvesting.

4654 2. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport
4655 landing strips.

4656 3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds,
4657 boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries,
4658 shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails,
4659 subject to the fill limitations of subsection 19.46.030C.4.

4660 4. Uses or structures accessory to open space uses, or classified as historic structures that comply with
4661 subsections 19.46.030C. and 19.46.030C.4.

4662 5. Extraction of sand, gravel or other materials that comply with subsection 19.46.030C.4.

4663 6. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts,
4664 navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31,
4665 Stats.

4666 7. Public utilities, streets and bridges that comply with subsection 19.46.030C.3.

4667 C. Standards for developments in floodway areas.

4668 1. General.

4669 a. Any development in floodway areas shall comply with section 19.46.020 and have a low flood
4670 damage potential.

4671 b. Applicants shall provide the following data to determine the effects of the proposal according to
4672 subsection 19.46.020A.:

4673 i. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the
4674 proposed development will obstruct flow; or

4675 ii. An analysis calculating the effects of this proposal on regional flood height.

4676 c. The zoning administrator shall deny the permit application if the project will increase flood
4677 elevations upstream or downstream 0.01 foot or more, based on the data submitted for subsection b.
4678 above.

4679 2. Structures. Structures accessory to permanent open space uses or functionally dependent on a
4680 waterfront location may be allowed by permit if the structures comply with the following criteria:

4681 a. The structure is not designed for human habitation and does not have a high flood damage potential;

4682 b. it must be anchored to resist flotation, collapse and lateral movement;

4683 c. mechanical and utility equipment must be elevated or floodproofed to or above the flood protection
4684 elevation; and

- 4685 d. it must not obstruct the flow of flood waters or cause any increase in flood levels during the
4686 occurrence of the regional flood.
- 4687 3. Public utilities, streets and bridges. Public utilities, streets and bridges may be allowed by permit, if:
4688 a. Adequate floodproofing measures are provided to the flood protection elevation; and
4689 b. Construction meets the development standards of subsection 19.46.020A.
- 4690 4. Fills or deposition of materials. Fills or deposition of materials may be allowed by permit, if:
4691 a. The requirements of subsection 19.46.020A. are met;
4692 b. No material is deposited in the navigable channel unless a permit is issued by the Department
4693 pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act,
4694 Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this
4695 section are met;
4696 c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or
4697 bulkheading; and
4698 d. The fill is not classified as a solid or hazardous material.
- 4699 D. Prohibited uses. All uses not listed as permitted uses in subsection 19.46.020B. are prohibited,
4700 including the following uses:
- 4701 1. Habitable structures, structures with high flood damage potential, or those not associated with
4702 permanent open-space uses;
4703 2. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or
4704 human, animal, plant, fish or other aquatic life;
4705 3. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
4706 4. Any private or public sewage systems, except portable latrines that are removed prior to flooding
4707 and systems associated with recreational areas and Department-approved campgrounds that meet the
4708 applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;
4709 5. Any public or private wells which are used to obtain potable water, except those for recreational
4710 areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
4711 6. Any solid or hazardous waste disposal sites;
4712 7. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis.
4713 Adm. Code;
4714 8. Any sanitary sewer or water supply lines, except those to service existing or proposed development
4715 located outside the floodway which complies with the regulations for the floodplain area occupied.
4716 (Ord. No. 1724A, § 1(3.0), 4-8-2009)

4717

4718 **19.46.040 Floodfringe district (FF).**

- 4719 A. Applicability. This section applies to all floodfringe areas shown on the floodplain zoning maps and
4720 those identified pursuant to subsection 19.46.050A.4.
- 4721 B. Permitted uses. Any structure, land use, or development is allowed in the floodfringe district if the
4722 standards in subsection 19.46.040C. are met, the use is not prohibited by this or any other ordinance or
4723 regulation and all permits or certificates specified in subsection 19.46.070A. have been issued.
- 4724 C. Standards for development in floodfringe areas. Subsection 19.46.020A. shall apply in addition to the
4725 following requirements according to the use requested.
- 4726 1. Residential uses. Any habitable structure, including a manufactured home, which is to be erected,
4727 constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the
4728 following standards;
- 4729 a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood
4730 protection elevation on fill. The fill shall be one foot or more above the regional flood elevation
4731 extending at least fifteen feet beyond the limits of the structure. The department may authorize other
4732 floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical;

4733 b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to
4734 the flood protection elevation. No basement or crawlway floor is allowed below the regional flood
4735 elevation;

4736 c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain,
4737 except as provided in subsection d.

4738 d. In developments where existing street or sewer line elevations make compliance with subsection c.
4739 impractical, the municipality may permit new development and substantial improvements where access
4740 roads are at or below the regional flood elevation, if:

4741 i. The municipality has written assurance from police, fire and emergency services that rescue and
4742 relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

4743 ii. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the
4744 Department.

4745 2. Accessory structures or uses.

4746 a. Except as provided in subsection b., an accessory structure which is not connected to a principal
4747 structure may be constructed with its lowest floor at or above the regional flood elevation.

4748 b. An accessory structure which is not connected to the principal structure and which is less than six
4749 hundred square feet in size and valued at less than \$10,000.00 may be constructed with its lowest floor
4750 no more than two feet below the regional flood elevation if it is subject to flood velocities of no more
4751 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
4752 (5) below.

4753 3. Commercial uses. Any commercial structure which is erected, altered or moved into the floodfringe
4754 area shall meet the requirements of subsection 19.46.040C.1. Subject to the requirements of section
4755 19.46.040C.5., storage yards, surface parking lots and other such uses may be placed at lower elevations
4756 if an adequate warning system exists to protect life and property.

4757 4. Manufacturing and industrial uses. Any manufacturing or industrial structure which is erected,
4758 altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill,
4759 levees, floodwalls, or other floodproofing measures in subsection 19.46.070E. Subject to the
4760 requirements of subsection 19.46.040C.E., storage yards, surface parking lots and other such uses may
4761 be placed at lower elevations if an adequate warning system exists to protect life and property.

4762 5. Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property,
4763 water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection
4764 elevation or floodproofed in compliance with subsection 19.46.070E. Adequate measures shall be taken
4765 to ensure that such materials will not enter the water body during flooding.

4766 6. Public utilities, streets and bridges. All utilities, streets and bridges shall be designed to be
4767 compatible with comprehensive floodplain development plans; and

4768 a. When failure of public utilities, streets and bridges would endanger public health or safety, or where
4769 such facilities are deemed essential, construction of and substantial improvements to such facilities may
4770 only be permitted if they are floodproofed in compliance with subsection 19.46.070E. to the flood
4771 protection elevation;

4772 b. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to
4773 withstand flood forces to the regional flood elevation.

4774 7. Sewage systems. All on-site sewage disposal systems shall be floodproofed, pursuant to subsection
4775 19.46.070E., to the flood protection elevation and shall meet the provisions of all local ordinances and
4776 ch. COMM 83, Wis. Adm. Code.

4777 8. Wells. All wells shall be floodproofed, pursuant to subsection 19.46.070E., to the flood protection
4778 elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

4779 9. Solid waste disposal sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.

4780 10. Deposition of materials. Any deposited material must meet all the provisions of this chapter.

- 4781 11. Manufactured homes.
4782 a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate
4783 surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan,
4784 indicating vehicular access and escape routes, with local emergency management authorities.
4785 b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and
4786 substantially improved homes shall:
4787 i. Have the lowest floor elevated to the flood protection elevation; and
4788 ii. Be anchored so they do not float, collapse or move laterally during a flood.
4789 c. Outside of existing manufactured home parks, including new manufactured home parks and all single
4790 units outside of existing parks, all new, replacement and substantially improved manufactured homes
4791 shall meet the residential development standards for the floodfringe in subsection 19.46.040C.1.
4792 12. Mobile recreational vehicles. All mobile recreational vehicles that are on site for one hundred
4793 eighty consecutive days or more or are not fully licensed and ready for highway use shall meet the
4794 elevation and anchoring requirements in subsections 19.46.040C.11.b. and c. A mobile recreational
4795 vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by
4796 quick-disconnect utilities and security devices and has no permanently attached additions.
4797 (Ord. No. 1724A, § 1(4.0), 4-8-2009)

4798

4799 **19.46.050 Other floodplain districts.**

4800 Other floodplain districts may be established under the ordinance and reflected on the
4801 floodplain zoning map. These districts may include general floodplain districts and flood storage
4802 districts.

4803 A. General floodplain district (GFP).

4804 1. Applicability. The provisions for this district shall apply to all floodplains for which flood profiles are
4805 not available or where flood profiles are available but floodways have not been delineated. Floodway
4806 and floodfringe districts shall be delineated when adequate data is available.

4807 2. Permitted uses. Pursuant to subsection 19.46.050A.4., it shall be determined whether the proposed
4808 use is located within a floodway or floodfringe area. Those uses permitted in floodway (subsection
4809 19.46.030B.) and floodfringe areas (subsection 19.46.040B) are allowed within the general floodplain
4810 district, according to the standards of subsection 19.46.050C., provided that all permits or certificates
4811 required under subsection 19.46.070A. have been issued.

4812 3. Standards for development in the general floodplain district. Section 19.46.030 applies to floodway
4813 areas, section 19.46.040 applies to floodfringe areas. The rest of this chapter applies to either district.

4814 4. Determining floodway and floodfringe limits. Upon receiving an application for development within
4815 the general floodplain district, the zoning administrator shall:

4816 a. Require the applicant to submit two copies of an aerial photograph or a plan which shows the
4817 proposed development with respect to the general floodplain district limits, stream channel, and
4818 existing floodplain developments, along with a legal description of the property, fill limits and
4819 elevations, building floor elevations and floodproofing measures;

4820 b. Require the applicant to furnish any of the following information deemed necessary by the
4821 department to evaluate the effects of the proposal upon flood height and flood flows, regional flood
4822 elevation and to determine floodway boundaries:

4823 i. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the
4824 channel, the cross-sectional area to be occupied by the proposed development, and all historic high
4825 water information;

4826 ii. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage
4827 elevations; size, location and layout of all proposed and existing structures on the site; location and
4828 elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;

4829 iii. Profile showing the slope of the bottom of the channel or flow line of the stream;
4830 iv. Specifications for building construction and materials, floodproofing, filling, dredging, channel
4831 improvement, storage, water supply and sanitary facilities.
4832 c. Transmit one copy of the information described in subsections 1. and 2. to the department regional
4833 office along with a written request for technical assistance to establish regional flood elevations and,
4834 where applicable, floodway data. Where the provisions of subsection 19.46.070A.2.c. apply, the
4835 applicant shall provide all required information and computations to delineate floodway boundaries and
4836 the effects of the project on flood elevations.
4837 B. Flood storage district. The flood storage district delineates that portion of the floodplain where
4838 storage of floodwaters has been taken into account and is relied upon to reduce the regional flood
4839 discharge. The district protects the flood storage areas and assures that any development in the storage
4840 areas will not decrease the effective flood storage capacity which would cause higher flood elevations.
4841 1. Applicability. The provisions of this section apply to all areas within the flood storage district (FSD),
4842 as shown on the official floodplain zoning maps.
4843 2. Permitted uses. Any use or development which occurs in a flood storage district must meet the
4844 applicable requirements in subsection 19.46.040C.
4845 3. Standards for development in flood storage districts.
4846 a. Development in a flood storage district shall not cause an increase equal or greater than 0.01 of a
4847 foot in the height of the regional flood.
4848 b. No development shall be allowed which removes flood storage volume unless an equal volume of
4849 storage as defined by the pre-development ground surface and the regional flood elevation shall be
4850 provided in the immediate area of the proposed development to compensate for the volume of storage
4851 which is lost, (compensatory storage). Excavation below the groundwater table is not considered to
4852 provide an equal volume of storage.
4853 c. If compensatory storage cannot be provided, the area may not be developed unless the entire area
4854 zoned as flood storage district - on this waterway - is rezoned to the floodfringe district. This must
4855 include a revision to the floodplain study and map done for the waterway to revert to the higher
4856 regional flood discharge calculated without flood plain storage, as per section 19.46.080A. of this
4857 chapter.
4858 d. No area may be removed from the flood storage district unless it can be shown that the area has
4859 been filled to the flood protection elevation and is contiguous to other lands lying outside of the
4860 floodplain.
4861 (Ord. No. 1724A, § 1(5.0), 4-8-2009)

4862

19.46.060 Nonconforming uses.

4863 A. General.

4864 1. Applicability. If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h),
4865 Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use
4866 or structure and to the use of any structure or premises which was lawful before the passage of this
4867 chapter or any amendment thereto.

4868 2. The existing lawful use of a structure or its accessory use which is not in conformity with the
4869 provisions of this chapter may continue subject to the following conditions:

4870 a. No modifications or additions to a nonconforming use or structure shall be permitted unless they
4871 comply with this chapter. The words "modification" and "addition" include, but are not limited to, any
4872 alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use,
4873 structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension,
4874 modification or addition; these include painting, decorating, paneling and the replacement of doors,
4875 windows and other nonstructural components and the maintenance, repair or replacement of existing
4876

4877 private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs
4878 do not include any costs associated with the repair of a damaged structure.

4879 The construction of a deck that does not exceed two hundred square feet and that is adjacent to
4880 the exterior wall of a principal structure is not an extension, modification or addition. The roof of the
4881 structure may extend over a portion of the deck in order to provide safe ingress and egress to the
4882 principal structure.

4883 b. If a nonconforming use or the use of a nonconforming structure is discontinued for twelve
4884 consecutive months, it is no longer permitted and any future use of the property, and any structure or
4885 building thereon, shall conform to the applicable requirements of this chapter;

4886 c. The municipality shall keep a record which lists all nonconforming uses and nonconforming
4887 structures, their present equalized assessed value, the cost of all modifications or additions which have
4888 been permitted, and the percentage of the structure's total current value those modifications represent;

4889 d. No modification or addition to any nonconforming structure or any structure with a nonconforming
4890 use, which over the life of the structure would equal or exceed fifty percent of its present equalized
4891 assessed value, shall be allowed unless the entire structure is permanently changed to a conforming
4892 structure with a conforming use in compliance with the applicable requirements of this chapter.
4893 Contiguous dry land access must be provided for residential and commercial uses in compliance with
4894 subsection 19.46.040C.1. The costs of elevating a nonconforming building or a building with a
4895 nonconforming use to the flood protection elevation are excluded from the fifty percent provisions of
4896 this subsection;

4897 e. i. Except as provided in subsection ii., if any nonconforming structure or any structure with a
4898 nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or
4899 rebuilt unless the use and the structure meet the current ordinance requirements. A structure is
4900 considered substantially damaged if the total cost to restore the structure to its pre-damaged condition
4901 equals or exceeds fifty percent of the structure's present equalized assessed value.

4902 ii. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or
4903 reconstruction of any such nonconforming building may be permitted in order to restore it after the
4904 nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements
4905 under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

4906 f. A nonconforming historic structure may be altered if the alteration will not preclude the structures
4907 continued designation as a historic structure, the alteration will comply with subsection 19.46.030C.1.,
4908 flood resistant materials are used, and construction practices and floodproofing methods that comply
4909 with subsection 19.46.070E. are used.

4910 B. Floodway areas.

4911 1. No modification or addition shall be allowed to any nonconforming structure or any structure with a
4912 nonconforming use in a floodway area, unless such modification or addition:

4913 a. Has been granted a permit or variance which meets all ordinance requirements;

4914 b. Meets the requirements of 19.46.060A.;

4915 c. Will not increase the obstruction to flood flows or regional flood height;

4916 d. Any addition to the existing structure shall be floodproofed, pursuant to subsection 19.46.070E., by
4917 means other than the use of fill, to the flood protection elevation;

4918 e. If any part of the foundation below the flood protection elevation is enclosed, the following
4919 standards shall apply:

4920 i. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient
4921 entry and exit of flood waters without human intervention. A minimum of two openings must be
4922 provided with a minimum net area of at least one square inch for every one square foot of the enclosed
4923 area. The lowest part of the opening can be no more than twelve inches above the adjacent grade;

4924 ii. The parts of the foundation located below the flood protection elevation must be constructed of
4925 flood-resistant materials;
4926 iii. Mechanical and utility equipment must be elevated or floodproofed to or above the flood
4927 protection elevation; and
4928 iv. The use must be limited to parking or limited storage.
4929 2. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system,
4930 except where an addition has been ordered by a government agency to correct a hazard to public
4931 health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-
4932 site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal
4933 ordinances and ch. COMM 83, Wis. Adm. Code.
4934 3. No new well or modification to an existing well used to obtain potable water shall be allowed in a
4935 floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet
4936 the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
4937 C. Floodfringe areas.
4938 1. No modification or addition shall be allowed to any nonconforming structure or any structure with a
4939 nonconforming use unless such modification or addition has been granted a permit or variance by the
4940 municipality, and the modification or addition shall be placed on fill or floodproofed to the flood
4941 protection elevation in compliance with the standards for that particular use in subsections 19.46.040C
4942 and 19.46.070E., except where subsection 19.46.060C.2. is applicable.
4943 2. Where compliance with the provisions of subsection 1. would result in unnecessary hardship and
4944 only where the structure will not be used for human habitation or be associated with a high flood
4945 damage potential, the board of adjustment/appeals, using the procedures established in subsection
4946 19.46.070C., may grant a variance from those provisions of subsection 1. for modifications or additions,
4947 using the criteria listed below. Modifications or additions which are protected to elevations lower than
4948 the flood protection elevation may be permitted if:
4949 a. No floor is allowed below the regional flood elevation for residential or commercial structures;
4950 b. Human lives are not endangered;
4951 c. Public facilities, such as water or sewer, will not be installed;
4952 d. Flood depths will not exceed two feet;
4953 e. Flood velocities will not exceed two feet per second; and
4954 f. The structure will not be used for storage of materials as described in subsection 19.46.040.6.
4955 3. If neither the provisions of subsection 1. or 2. above can be met, one addition to an existing room in
4956 a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if
4957 the addition:
4958 a. Meets all other regulations and will be granted by permit or variance;
4959 b. Does not exceed sixty square feet in area; and
4960 c. In combination with other previous modifications or additions to the building, does not equal or
4961 exceed fifty percent of the present equalized assessed value of the building.
4962 4. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a
4963 private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch.
4964 COMM 83, Wis. Adm. Code.
4965 5. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable
4966 provisions of this chapter and ch. NR 811 and NR 812, Wis. Adm. Code.
4967 D. Flood storage areas. No modifications or additions shall be allowed to any nonconforming structure
4968 in a flood storage area unless the standards outlined in 5.2(3) are met.
4969 (Ord. No. 1724A, § 1(6.0), 4-8-2009)

4970
4971 **19.46.070 Administration.**

4972 Where a zoning administrator, planning agency or a board of adjustment/appeals has already
4973 been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats.,
4974 these officials shall also administer this chapter.

4975 A. Zoning administrator.

4976 1. The zoning administrator is authorized to administer this chapter and shall have the following duties
4977 and powers:

4978 a. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals,
4979 and assure that the regional flood elevation for the proposed development is shown on all permit
4980 applications.

4981 b. Issue permits and inspect properties for compliance with provisions of this chapter, and issue
4982 certificates of compliance where appropriate.

4983 c. Inspect all damaged floodplain structures and perform a substantial damage assessment to
4984 determine if substantial damage to the structures has occurred.

4985 d. Keep records of all official actions such as:

4986 i. All permits issued, inspections made, and work approved;

4987 ii. Documentation of certified lowest floor and regional flood elevations for floodplain development;

4988 iii. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and
4989 structures including changes, appeals, variances and amendments.

4990 iv. All substantial damage assessment reports for floodplain structures.

4991 e. Submit copies of the following items to the department regional office:

4992 i. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text
4993 interpretations, and map or text amendments;

4994 ii. Copies of any case-by-case analyses, and any other information required by the department
4995 including an annual summary of the number and types of floodplain zoning actions taken.

4996 iii. Copies of substantial damage assessments performed and all related correspondence concerning
4997 the assessments.

4998 iv. Investigate, prepare reports, and report violations of this chapter to the municipal zoning agency
4999 and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.

5000 g. Submit copies of text and map amendments and biennial reports to the FEMA regional office.

5001 2. Land use permit. A land use permit shall be obtained before any new development or any repair or
5002 change in the use of a building or structure, including sewer and water facilities, may be initiated.

5003 Application to the zoning administrator shall include:

5004 a. General information.

5005 i. Name and address of the applicant, property owner and contractor;

5006 ii. Legal description, proposed use, and whether it is new construction or a modification;

5007 b. Site development plan. A site plan drawn to scale shall be submitted with the permit application
5008 form and shall contain:

5009 i. Location, dimensions, area and elevation of the lot;

5010 ii. Location of the ordinary highwater mark of any abutting navigable waterways;

5011 iii. Location of any structures with distances measured from the lot lines and street center lines;

5012 iv. Location of any existing or proposed on-site sewage systems or private water supply systems;

5013 v. Location and elevation of existing or future access roads;

5014 vi. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

5015 vii. The elevation of the lowest floor of proposed buildings and any fill using vertical datum from the
5016 adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum
5017 (NAVD);

5018 viii. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the
5019 development and to determine whether or not the requirements of sections 19.46.030 or 19.46.040 are
5020 met; and

5021 ix. Data to determine if the proposed development will cause an obstruction to flow or an increase in
5022 regional flood height or discharge according to subsection 19.46.020A. This may include any of the
5023 information noted in subsection 19.46.030C.1.

5024 c. Data requirements to analyze developments.

5025 i. The applicant shall provide all survey data and computations required to show the effects of the
5026 project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision"
5027 is defined in s. 236, Stats., and other proposed developments exceeding five acres in area or where the
5028 estimated cost exceeds \$125,000.00. The applicant shall provide:

5029 (A) An analysis of the effect of the development on the regional flood profile, velocity of flow and
5030 floodplain storage capacity;

5031 (B) A map showing location and details of vehicular access to lands outside the floodplain; and

5032 (C) A surface drainage plan showing how flood damage will be minimized.

5033 The estimated cost of the proposal shall include all structural development, landscaping, access
5034 and road development, utilities, and other pertinent items, but need not include land costs.

5035 d. Expiration. All permits issued under the authority of this chapter shall expire three hundred sixty-five
5036 days after issuance.

5037 3. Certificate of compliance. No land shall be occupied or used, and no building which is hereafter
5038 constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a
5039 certificate of compliance is issued by the zoning administrator, except where no permit is required,
5040 subject to the following provisions:

5041 a. The certificate of compliance shall show that the building or premises or part thereof, and the
5042 proposed use, conform to the provisions of this chapter;

5043 b. Application for such certificate shall be concurrent with the application for a permit;

5044 c. If all ordinance provisions are met, the certificate of compliance shall be issued within ten days after
5045 written notification that the permitted work is completed;

5046 d. The applicant shall submit a certification signed by a registered professional engineer or registered
5047 land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit
5048 issued. Floodproofing measures also require certification by a registered professional engineer or
5049 registered architect that floodproofing measures meet the requirements of subsection 19.46.070E.

5050 4. Other permits. The applicant must secure all necessary permits from federal, state, and local
5051 agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal
5052 Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

5053 B. Zoning agency.

5054 1. The City of Whitewater Plan and Architectural review commission shall:

5055 a. Oversee the functions of the office of the zoning administrator; and

5056 b. Review and advise the governing body on all proposed amendments to this chapter, maps and text.

5057 2. This zoning agency shall not:

5058 a. Grant variances to the terms of the ordinance in place of action by the board of adjustment/appeals;
5059 or

5060 b. Amend the text or zoning maps in place of official action by the governing body.

5061 C. Board of adjustment/appeals. The board of adjustment/appeals, created under s. 59.694, Stats., for
5062 counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act
5063 for the purposes of this chapter. The board shall exercise the powers conferred by Wisconsin Statutes
5064 and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the
5065 board.

5066 1. Powers and duties. The board of adjustment/appeals shall:
5067 a. Appeals -- Hear and decide appeals where it is alleged there is an error in any order, requirement,
5068 decision or determination made by an administrative official in the enforcement or administration of
5069 this chapter.
5070 b. Boundary disputes -- Hear and decide disputes concerning the district boundaries shown on the
5071 official floodplain zoning map.
5072 c. Variances -- Hear and decide, upon appeal, variances from the ordinance standards.
5073 2. Appeals to the board.
5074 a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the
5075 municipality affected by any decision of the zoning administrator or other administrative officer. Such
5076 appeal shall be taken within thirty days unless otherwise provided by the rules of the board, by filing
5077 with the official whose decision is in question, and with the board, a notice of appeal specifying the
5078 reasons for the appeal. The official whose decision is in question shall transmit to the board all records
5079 regarding the matter appealed.
5080 b. Notice and hearing for appeals including variances.
5081 i. Notice -- The board shall:
5082 (A) Fix a reasonable time for the hearing;
5083 (B) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and
5084 subject of the hearing;
5085 (C) Assure that notice shall be mailed to the parties in interest and the department regional office at
5086 least ten days in advance of the hearing.
5087 ii. Hearing -- Any party may appear in person or by agent. The board shall:
5088 (A) Resolve boundary disputes according to subsection 19.46.070C.3.
5089 (B) Decide variance applications according to subsection 19.46.070C.4.
5090 (C) Decide appeals of permit denials according to subsection 19.46.070D.
5091 c. Decision: The final decision regarding the appeal or variance application shall:
5092 i. Be made within a reasonable time;
5093 ii. Be sent to the department regional office within ten days of the decision;
5094 iii. Be a written determination signed by the chairman or secretary of the board;
5095 iv. State the specific facts which are the basis for the board's decision;
5096 v. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in
5097 whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
5098 vi. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in
5099 the case of a variance, clearly stated in the recorded minutes of the board proceedings.
5100 3. Boundary disputes. The following procedure shall be used by the board in hearing disputes
5101 concerning floodplain district boundaries:
5102 a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the
5103 flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be
5104 examined.
5105 b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to
5106 present arguments and technical evidence to the board.
5107 c. If the boundary is incorrectly mapped, the board should inform the zoning committee or the person
5108 contesting the boundary location to petition the governing body for a map amendment according to
5109 section 19.46.080.
5110 4. Variance.
5111 a. The board may, upon appeal, grant a variance from the standards of this chapter if an applicant
5112 convincingly demonstrates that:
5113 i. Literal enforcement of the ordinance provisions will cause unnecessary hardship;

5114 ii. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not
5115 common to adjacent lots or premises. In such case the ordinance or map must be amended;
5116 ii. The variance is not contrary to the public interest; and
5117 iv. The variance is consistent with the purpose of this chapter in subsection 19.46.010C.
5118 b. In addition to the criteria in subsection a., to qualify for a variance under FEMA regulations, the
5119 following criteria must be met:
5120 i. The variance may not cause any increase in the regional flood elevation;
5121 ii. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing
5122 structures constructed below the RFE;
5123 iii. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum
5124 relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for
5125 rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
5126 c. A variance shall not:
5127 i. Grant, extend or increase any use prohibited in the zoning district.
5128 ii. Be granted for a hardship based solely on an economic gain or loss.
5129 iii. Be granted for a hardship which is self-created.
5130 iv. Damage the rights or property values of other persons in the area.
5131 v. Allow actions without the amendments to this chapter or map(s) required in subsection 19.46.090A.
5132 vi. Allow any alteration of an historic structure, including its use, which would preclude its continued
5133 designation as an historic structure.
5134 d. When a floodplain variance is granted the board shall notify the applicant in writing that it may
5135 increase flood insurance premiums and risks to life and property. A copy shall be maintained with the
5136 variance record.
5137 (D) To review appeals of permit denials.
5138 1. The zoning agency (s. 7.2) or board shall review all data related to the appeal. This may include:
5139 a. Permit application data listed in subsection 19.46.070A.2.
5140 b. Floodway/floodfringe determination data in subsection 19.46.050A.4.
5141 c. Data listed in subsection 19.46.030C.1.b. where the applicant has not submitted this information to
5142 the zoning administrator.
5143 d. Other data submitted with the application, or submitted to the board with the appeal.
5144 2. For appeals of all denied permits the board shall:
5145 a. Follow the procedures of subsection 19.46.010C.;
5146 b. Consider zoning agency recommendations; and
5147 c. Either uphold the denial or grant the appeal.
5148 3. For appeals concerning increases in regional flood elevation the board shall:
5149 a. Uphold the denial where the board agrees with the data showing an increase in flood elevation.
5150 Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and
5151 map and all appropriate legal arrangements are made with all adversely affected property owners.
5152 b. Grant the appeal where the board agrees that the data properly demonstrates that the project does
5153 not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
5154 E. Floodproofing.
5155 1. No permit or variance shall be issued until the applicant submits a plan certified by a registered
5156 professional engineer or architect that the floodproofing measures will protect the structure or
5157 development to the flood protection elevation.
5158 2. Floodproofing measures shall be designed to:
5159 a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood
5160 factors;
5161 b. Protect structures to the flood protection elevation;

- 5162 c. Anchor structures to foundations to resist flotation and lateral movement; and
5163 d. Insure that structural walls and floors are watertight to the flood protection elevation, and the
5164 interior remains completely dry during flooding without human intervention.
5165 3. Floodproofing measures could include:
5166 a. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
5167 b. Adding mass or weight to prevent flotation.
5168 c. Placing essential utilities above the flood protection elevation.
5169 d. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor
5170 pressures.
5171 e. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
5172 f. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.
5173 F. Public information.
5174 1. Place marks on structures to show the depth of inundation during the regional flood.
5175 2. All maps, engineering data and regulations shall be available and widely distributed.
5176 3. All real estate transfers should show what floodplain zoning district any real property is in.
5177 (Ord. No. 1724A, § 1(7.0), 4-8-2009)

5178

5179 **19.46.080 Amendments.**

- 5180 A. General. The governing body may change or supplement the floodplain zoning district boundaries
5181 and this chapter in the manner provided by law. Actions which require an amendment include, but are
5182 not limited to, the following:
5183 1. Any change to the official floodplain zoning map, including the floodway line or boundary of any
5184 floodplain area.
5185 2. Correction of discrepancies between the water surface profiles and floodplain zoning maps.
5186 3. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood
5187 protection elevation and is contiguous to land lying outside the floodplain.
5188 4. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or
5189 more.
5190 5. Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or
5191 otherwise required by law, or for changes by the municipality.
5192 6. All channel relocations and changes to the maps to alter floodway lines or to remove an area from
5193 the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior
5194 approval by FEMA.

5195 Note: Consult the FEMA web site -- www.fema.gov -- for the map change fee schedule.

- 5196 B. Procedures. Ordinance amendments may be made upon petition of any interested party according
5197 to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions
5198 shall include all necessary data required by subsections 19.46.050A.4. and 19.46.070A.2.
5199 1. The proposed amendment shall be referred to the zoning agency for a public hearing and
5200 recommendation to the governing body. The amendment and notice of public hearing shall be
5201 submitted to the department regional office for review prior to the hearing. The amendment procedure
5202 shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
5203 2. No amendments shall become effective until reviewed and approved by the department.
5204 3. All persons petitioning for a map amendment that obstructs flow, increasing regional flood height
5205 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all
5206 adversely affected property owners and notify local units of government before the amendment can be
5207 approved by the governing body.

5208 4. For amendments in areas with no water surface profiles, the zoning agency or board shall consider
5209 data submitted by the department, the zoning administrator's visual on-site inspections and other
5210 available information. (See subsection 19.46.010E.4.)
5211 (Ord. No. 1724A, § 1(8.0), 4-8-2009)

5212

5213 **19.46.090 Enforcement and penalties.**

5214 Any violation of the provisions of this chapter by any person shall be unlawful and shall be
5215 referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall,
5216 upon conviction, forfeit to the municipality a penalty of not less than \$200.00 and not more than
5217 \$300.00, together with a taxable cost of such action. Each day of continued violation shall constitute a
5218 separate offense. Every violation of this chapter is a public nuisance and the creation may be enjoined
5219 and the maintenance may be abated by action at suit of the municipality, the state, or any citizen
5220 thereof pursuant to s. 87.30, Stats. (I BELIEVE WE DECIDED TO LEAVE THIS AS IS)
5221 (Ord. No. 1724A, § 1(9.0), 4-8-2009)

5222

5223 **19.46.100 Definitions.**

5224 Unless specifically defined, words and phrases in this chapter shall have their common law
5225 meaning and shall be applied in accordance with their common usage. Words used in the present tense
5226 include the future, the singular number includes the plural and the plural number includes the singular.
5227 The word "may" is permissive, "shall" is mandatory and is not discretionary.

5228 1) "A Zones" means those areas shown on the official floodplain zoning map which would be inundated
5229 by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may
5230 not be reflective of flood profiles, depending on the availability of data for a given area.

5231 2) "Accessory structure or use" means a facility, structure, building or use which is accessory or
5232 incidental to the principal use of a property, structure or building.

5233 3) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any
5234 given year, as published by FEMA as part of a FIS and depicted on a FIRM.

5235 4) "Basement" means any enclosed area of a building having its floor sub-grade, i.e., below ground
5236 level, on all sides.

5237 5) "Building." See Structure.

5238 6) "Bulkhead line" means a geographic line along a reach of navigable water that has been adopted by
5239 a municipal ordinance and approved by the department pursuant to s. 30.11, Stats., and which allows
5240 limited filling between this bulkhead line and the original ordinary highwater mark, except where such
5241 filling is prohibited by the floodway provisions of this chapter.

5242 7) "Campground" means any parcel of land which is designed, maintained, intended or used for the
5243 purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is
5244 advertised or represented as a camping area.

5245 8) "Camping unit" means any portable device, no more than four hundred square feet in area, used as
5246 a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck,
5247 tent or other mobile recreational vehicle.

5248 9) "Certificate of compliance" means a certification that the construction and the use of land or a
5249 building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions
5250 of this chapter.

5251 10) "Channel" means a natural or artificial watercourse with definite bed and banks to confine and
5252 conduct normal flow of water.

5253 11) "Crawlways" or "crawl space" means an enclosed area below the first usable floor of a building,
5254 generally less than five feet in height, used for access to plumbing and electrical utilities.

- 5255 12) "Deck" means an unenclosed exterior structure that has no roof or sides, but has a permeable floor
5256 which allows the infiltration of precipitation.
- 5257 13) "Department" means the Wisconsin Department of Natural Resources.
- 5258 14) "Development" means any artificial change to improved or unimproved real estate, including, but
5259 not limited to, the construction of buildings, structures or accessory structures; the construction of
5260 additions or alterations to buildings, structures or accessory structures; the repair of any damaged
5261 structure or the improvement or renovation of any structure, regardless of percentage of damage or
5262 improvement; the placement of buildings or structures; subdivision layout and site preparation; mining,
5263 dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction
5264 of materials or equipment; and the installation, repair or removal of public or private sewage disposal
5265 systems or water supply facilities.
- 5266 15) "Dryland access" means a vehicular access route which is above the regional flood elevation and
5267 which connects land located in the floodplain to land outside the floodplain, such as a road with its
5268 surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- 5269 16) "Encroachment" means any fill, structure, equipment, building, use or development in the
5270 floodway.
- 5271 17) "Existing manufactured home park or subdivision" means a parcel of land, divided into two or more
5272 manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is
5273 completed before the effective date of this chapter. At a minimum, this would include the installation of
5274 utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- 5275 18) "Expansion to existing mobile/manufactured home park" means the preparation of additional sites
5276 by the construction of facilities for servicing the lots on which the manufactured homes are to be
5277 affixed. This includes installation of utilities, construction of streets and either final site grading, or the
5278 pouring of concrete pads.
- 5279 19) "Federal Emergency Management Agency (FEMA)" means the federal agency that administers the
5280 National Flood Insurance Program.
- 5281 20) "Flood insurance rate map" (FIRM) means a map of a community on which the Federal Insurance
5282 Administration has delineated both special flood hazard areas (the floodplain) and the risk premium
5283 zones applicable to the community. This map can only be amended by the Federal Emergency
5284 Management Agency.
- 5285 21) "Flood" or "flooding" means A general and temporary condition of partial or complete inundation
5286 of normally dry land areas caused by one of the following conditions:
5287 The overflow or rise of inland waters,
5288 The rapid accumulation or runoff of surface waters from any source,
5289 The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the
5290 shore of Lake Michigan or Lake Superior, or
5291 The sudden increase caused by an unusually high water level in a natural body of water, accompanied by
5292 a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual
5293 event.
- 5294 22) "Flood frequency" means the probability of a flood occurrence which is determined from statistical
5295 analyses. The frequency of a particular flood event is usually expressed as occurring, on the average,
5296 once in a specified number of years or as a percent (%) chance of occurring in any given year.
- 5297 23) "Floodfringe" means that portion of the floodplain outside of the floodway which is covered by
5298 flood waters during the regional flood and associated with standing water rather than flowing water.
- 5299 24) "Flood hazard boundary map" means a map designating approximate flood hazard areas. Flood
5300 hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional
5301 flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National

5302 Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate
5303 Map.

5304 25) "Flood insurance study" means a technical engineering examination, evaluation, and determination
5305 of the local flood hazard areas. It provides maps designating those areas affected by the regional flood
5306 and provides both flood insurance rate zones and base flood elevations and may provide floodway lines.
5307 The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate
5308 Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the
5309 insurance aspects of the National Flood Insurance Program.

5310 26) "Floodplain" means land which has been or may be covered by flood water during the regional
5311 flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas
5312 for regulatory purposes.

5313 27) "Floodplain island" means a natural geologic land formation within the floodplain that is
5314 surrounded, but not covered, by floodwater during the regional flood.

5315 28) "Floodplain management" means policy and procedures to insure wise use of floodplains, including
5316 mapping and engineering, mitigation, education, and administration and enforcement of floodplain
5317 regulations.

5318 29) "Flood profile" means a graph or a longitudinal profile line showing the relationship of the water
5319 surface elevation of a flood event to locations of land surface elevations along a stream or river.

5320 30) "Floodproofing" means any combination of structural provisions, changes or adjustments to
5321 properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for
5322 the purpose of reducing or eliminating flood damage.

5323 31) "Flood protection elevation" means an elevation of two feet of freeboard above the water surface
5324 profile elevation designated for the regional flood. (Also see: Freeboard.)

5325 32) "Flood storage" means those floodplain areas where storage of floodwaters has been taken into
5326 account during analysis in reducing the regional flood discharge.

5327 33) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining
5328 the channel required to carry the regional flood discharge.

5329 34) "Freeboard" means a safety factor expressed in terms of a specified number of feet above a
5330 calculated flood level. Freeboard compensates for any factors that cause flood heights greater than
5331 those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings
5332 and floodways, the effects of watershed urbanization, loss of flood storage areas due to development
5333 and aggregation of the river or stream bed.

5334 35) "Habitable structure" means any structure or portion thereof used or designed for human
5335 habitation.

5336 36) "Hearing notice" means publication or posting meeting the requirements of Ch. 985, Stats. For
5337 appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required.
5338 For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week
5339 consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may
5340 require additional notice, exceeding these minimums.

5341 37) "High flood damage potential" means damage that could result from flooding that includes any
5342 danger to life or health or any significant economic loss to a structure or building and its contents.

5343 38) "Historic structure" means any structure that is either:
5344 Listed individually in the National Register of Historic Places or preliminarily determined by the
5345 Secretary of the Interior as meeting the requirements for individual listing on the National Register,
5346 Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical
5347 significance of a registered historic district or a district preliminarily determined by the Secretary to
5348 qualify as a registered historic district,

5349 Individually listed on a state inventory of historic places in states with historic preservation programs
5350 which have been approved by the Secretary of the Interior, or
5351 Individually listed on a local inventory of historic places in communities with historic preservation
5352 programs that have been certified either by an approved state program, as determined by the Secretary
5353 of the Interior; or by the Secretary of the Interior in states without approved programs.
5354 39) "Increase in regional flood height" means a calculated upward rise in the regional flood elevation,
5355 equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed
5356 conditions which is directly attributable to development in the floodplain but not attributable to
5357 manipulation of mathematical variables such as roughness factors, expansion and contraction
5358 coefficients and discharge.
5359 40) "Land use" means any nonstructural use made of unimproved or improved real estate. (Also see
5360 development.)
5361 41) "Manufactured home" means a structure transportable in one or more sections, which is built on a
5362 permanent chassis and is designed to be used with or without a permanent foundation when connected
5363 to required utilities. The term "manufactured home" includes a mobile home but does not include a
5364 "mobile recreational vehicle."
5365 42) "Mobile recreational vehicle" means a vehicle which is built on a single chassis, four hundred
5366 square feet or less when measured at the largest horizontal projection, designed to be self-propelled,
5367 carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if
5368 registration is required and is designed primarily not for use as a permanent dwelling, but as temporary
5369 living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or
5370 carried onto a parcel of land, but do not remain capable of being towed or carried, including park model
5371 homes, do not fall within the definition of "mobile recreational vehicles."
5372 43) "Municipality" or "municipal" means the county, city or village governmental units enacting,
5373 administering and enforcing this zoning ordinance.
5374 44) "NAVD" or "North American Vertical Datum" means Elevations referenced to mean sea level
5375 datum, 1988 adjustment.
5376 45) "NGVD" or "National Geodetic Vertical Datum" means Elevations referenced to mean sea level
5377 datum, 1929 adjustment.
5378 46) "New construction" means for floodplain management purposes, "new construction" means
5379 structures for which the start of construction commenced on or after the effective date of floodplain
5380 zoning regulations adopted by this community and includes any subsequent improvements to such
5381 structures. For the purpose of determining flood insurance rates, it includes any structures for which the
5382 "start of construction" commenced on or after the effective date of an initial FIRM or after December
5383 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
5384 47) "Nonconforming structure" means an existing lawful structure or building which is not in
5385 conformity with the dimensional or structural requirements of this chapter for the area of the floodplain
5386 which it occupies. (For example, an existing residential structure in the floodfringe district is a
5387 conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure
5388 is nonconforming.)
5389 48) "Nonconforming use" means an existing lawful use or accessory use of a structure or building which
5390 is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies.
5391 (Such as a residence in the floodway.)
5392 49) "Obstruction to flow" means any development which blocks the conveyance of floodwaters such
5393 that this development alone or together with any future development will cause an increase in regional
5394 flood height.
5395 50) "Official floodplain zoning map" means that map, adopted and made part of this chapter, as
5396 described in subsection 19.46.010E.2., which has been approved by the department and FEMA.

- 5397 51) "Open space use" means those uses having a relatively low flood damage potential and not
5398 involving structures.
- 5399 52) "Ordinary highwater mark" means the point on the bank or shore up to which the presence and
5400 action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or
5401 prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized
5402 characteristic.
- 5403 53) "Person" means an individual, or group of individuals, corporation, partnership, association,
5404 municipality or state agency.
- 5405 54) "Private sewage system" means a sewage treatment and disposal system serving one structure
5406 with a septic tank and soil absorption field located on the same parcel as the structure. It also means an
5407 alternative sewage system approved by the Department of Commerce, including a substitute for the
5408 septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system
5409 located on a different parcel than the structure.
- 5410 55) "Public utilities" means those utilities using underground or overhead transmission lines such as
5411 electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer
5412 and storm sewer.
- 5413 56) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage
5414 structures to be removed from the special flood hazard area and that any subsurface waters related to
5415 the base flood will not damage existing or proposed buildings.
- 5416 57) "Regional flood" means a flood determined to be representative of large floods known to have
5417 occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or
5418 exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- 5419 58) "Start of construction" means the date the building permit was issued, provided the actual start of
5420 construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was
5421 within one hundred eighty days of the permit date. The actual start means either the first placement of
5422 permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the
5423 construction of columns, or any work beyond initial excavation, or the placement of a manufactured
5424 home on a foundation. Permanent construction does not include land preparation, such as clearing,
5425 grading and filling, nor does it include the installation of streets and/or walkways, nor does it include
5426 excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does
5427 it include the installation on the property of accessory buildings, such as garages or sheds not occupied
5428 as dwelling units or not part of the main structure. For an alteration, the actual start of construction
5429 means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not
5430 that alteration affects the external dimensions of the building.
- 5431 59) "Structure" means any manmade object with form, shape and utility, either permanently or
5432 temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not
5433 limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- 5434 60) "Subdivision" means has the meaning given in s. 236.02(12), Wis. Stats.
- 5435 61) "Substantial damage" means damage of any origin sustained by a structure, whereby the cost of
5436 restoring the structure to its pre-damaged condition would equal or exceed fifty percent of the
5437 equalized assessed value of the structure before the damage occurred.
- 5438 62) "Unnecessary hardship" means where special conditions affecting a particular property, which
5439 were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage,
5440 height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 5441 63) "Variance" means an authorization by the board of adjustment or appeals for the construction or
5442 maintenance of a building or structure in a manner which is inconsistent with dimensional standards
5443 (not uses) contained in the floodplain zoning ordinance.

5444 64) "Violation" means the failure of a structure or other development to be fully compliant with the
5445 floodplain zoning ordinance. A structure or other development without required permits, lowest floor
5446 elevation documentation, floodproofing certificates or required floodway encroachment calculations is
5447 presumed to be in violation until such time as that documentation is provided.

5448 65) "Watershed" means the entire region contributing runoff or surface water to a watercourse or
5449 body of water.

5450 66) "Water surface profile" means a graphical representation showing the elevation of the water
5451 surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A
5452 water surface profile of the regional flood is used in regulating floodplain areas.

5453 67) "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or
5454 other methods, to obtain groundwater regardless.

5455 (Ord. No. 1724A, § 1(10.0), 4-8-2009)

5456

5457 **Chapter 19.461 FWW FLOODWAY/WETLAND DISTRICT**

5458 Sections:

5459 [19.461.010 Purpose.](#)

5460 [19.461.020 Permitted uses.](#)

5461 [19.461.030 Conditional uses.](#)

5462 [19.461.040 Maintenance of drainageways.](#)

5463 [19.461.050 Dumping and filling prohibited.](#)

5464 [19.461.060 Dangerous materials storage prohibited.](#)

5465 [19.461.070 Incompatible use prohibited.](#)

5466 [19.461.080 Mobile homes prohibited.](#)

5467

5468 **19.461.010 Purpose.**

5469 The FWW floodway/wetland district is intended to preserve, protect, and enhance the ponds,
5470 streams, and wetland areas within the floodplains of the city. The preservation, protection, and
5471 enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve
5472 water quality, both ground and surface; prevent flood damage; control stormwater runoff; protect
5473 stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat;
5474 protect native plant communities; avoid the location of structures on soils which are generally not
5475 suitable for use; and protect the water-based recreation resources of the city. In delineating the FWW
5476 district, the effects of development within the associated floodfringe shall be computed, as regulated
5477 under Chapter 19.46 of this title. No floodway/wetland district changes shall be permitted that are not
5478 consistent with the wetland preservation shoreland protection objectives of Section 144.26 of the
5479 Wisconsin Statutes as set forth in Section 19.69.066(B) of this code.

5480 The FWW floodway/wetland district, as shown on the zoning map, includes those wetlands that
5481 are shown on the Wisconsin Wetland Inventory Map for the City of Whitewater, dated July 2, 1987, and
5482 stamped "FINAL;" which are also shown within the one hundred-year recurrence interval floodplain as
5483 shown on the official Floodplain Zoning Map.

5484 (Ord. 1600 § 4, 2006; Ord. 1196 § 1(part), 1990).

5485

5486 **19.461.020 Permitted uses.**

5487 Permitted uses in the FWW district are limited to the following:

5488 A. Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and ordinances;

5489 B. Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds,
5490 in a manner that is not injurious to the natural reproduction of such crops, and that does not involve
5491 filling, flooding, draining, dredging, ditching, tiling, or excavating;

- 5492 C. Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling,
5493 flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level
5494 stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse
5495 impact on silvicultural activities if not corrected;
- 5496 D. Agricultural crops and grazing provided that they do not involve extension of cultivated areas,
5497 extension of or creation of new drainage systems, and further provided that they do not substantially
5498 disturb or impair the natural fauna, flora, topography, or water regimen;
- 5499 E. Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system
5500 only to the extent necessary to maintain the level of drainage required to continue the existing use;
- 5501 F. The construction and maintenance of piers, docks, and walkways, including those built on pilings;
- 5502 G. The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.
5503 (Ord. 1196 § 1(part), 1990).

5504

5505 **19.461.030 Conditional uses.**

5506 The following uses are conditional uses in the FWW floodway/wetland district and may be
5507 permitted as specified. The city plan commission shall transmit a copy of each application for a
5508 conditional use in the FWW floodway/wetland district to the Wisconsin Department of Natural
5509 Resources (DNR) at least ten days prior to the public hearing. Final action on the application shall not be
5510 taken for thirty days or until the ~~DNR~~DNR has made its recommendation, whichever comes first. A copy
5511 of all FWW Floodway/wetland district conditional use permits shall be transmitted to the ~~DNR~~DNR
5512 within ten days following the decision:

5513 A. The construction of streets which are necessary for the continuity of the city street system,
5514 necessary for the provision of essential utility and public safety services, or necessary to provide access
5515 to permitted open space uses in the FWW district; provided, that:

- 5516 1. The street cannot as a practical matter be located outside the conservancy district;
- 5517 2. The street is designed and constructed to minimize adverse impact upon the natural functions of the
5518 wetland as listed in Section 19.69.066(B) of this code;
- 5519 3. The street is designed and constructed with the minimum cross-section practical to serve the
5520 intended use;
- 5521 4. The street construction activities are carried out in the immediate area of the roadbed only; and
- 5522 5. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary
5523 for the construction or maintenance of the street. Filling in the FWW district shall not be permitted if
5524 the effect will be to increase flood stage by 0.01 foot or more, except as otherwise provided in this
5525 chapter.

5526 B. The establishment and development of public and private parks and recreation areas, recreation
5527 trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife
5528 ~~refuges~~refuges, game preserves, and private habitat areas; provided, that:

- 5529 1. Any private recreation or wildlife habitat area must be exclusively for that purpose;
- 5530 2. No structures shall be erected;
- 5531 3. No filling is to be done; and
- 5532 4. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game
5533 preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to
5534 otherwise enhance the value of a wetland or other natural resource.

5535 C. The construction and maintenance of fences; provided, that:

- 5536 1. All fences shall have at least fifty percent of their surface area open for free passage of light, air, and
5537 floodwaters; and
- 5538 2. All fences shall be firmly anchored to prevent them from floating away and restricting bridge
5539 openings.

- 5540 D. The construction and maintenance of electric, gas, telephone, water and sewer transmission and
5541 distribution lines, and related facilities; provided, that:
5542 1. The transmission and distribution lines and related facilities cannot as a practical matter be located
5543 outside the floodway/wetland district;
5544 2. All utilities shall be firmly anchored to prevent flotation;
5545 3. All utilities shall be floodproofed to an elevation at least two feet above the 100-year recurrence
5546 interval flood, and shall be designed to eliminate or minimize infiltration of floodwater into the utility;
5547 and
5548 4. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
5549 construction or maintenance of the utility, and must be done in a manner designed to minimize flooding
5550 and other adverse impacts upon the natural functions of the conservancy area. Filling in the FWW
5551 district shall not be permitted if the effect will be to increase flood stage by 0.01 foot or more, except as
5552 otherwise provided in this chapter.
5553 E. The construction and maintenance of railroad lines; provided, that:
5554 1. The railroad lines cannot as a practical matter be located outside the conservancy district; and
5555 2. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the
5556 construction or maintenance of the railroad, and must be done in a manner designed to minimize
5557 flooding and other adverse impacts upon the natural functions of the conservancy area.
5558 (Ord. 1196 § 1(part), 1990).

5559
5560 **19.461.040 Maintenance of drainageways.**

5561 No development in the FWW floodway/wetland district shall adversely affect the channels,
5562 floodways, or shorelands of Whitewater Creek, Spring Brook, any tributaries thereto, drainage ditches,
5563 or other lands lying outside the floodlands.
5564 (Ord. 1196 § 1(part), 1990).

5565
5566 **19.461.050 Dumping and filling prohibited.**

5567 Lands lying within the FWW floodway/wetland district shall not be used for dumping or be filled.
5568 (Ord. 1196 § 1(part), 1990).

5569
5570 **19.461.060 Dangerous materials storage prohibited.**

5571 Lands lying within the FWW floodway/wetland district shall not be used for the storage of
5572 materials that are buoyant, flammable, explosive, or injurious to human, animal, or plant life.
5573 (Ord. 1196 § 1(part), 1990).

5574
5575 **19.461.070 Incompatible use prohibited.**

5576 A. Lands lying within the FWW floodway/wetland district shall not be used for any solid waste disposal
5577 site or onsite soil absorption sanitary sewerage system site, or the construction of any well which is used
5578 to obtain water for ultimate human consumption. Sewage treatment plants and treatment ponds shall
5579 not be constructed in the FWW floodway/wetland district.

5580 B. Any use not listed as a permitted use or a conditional use in the FWW floodway/wetland district is
5581 prohibited unless the FWW district lands concerned are first rezoned into another district. Furthermore,
5582 the use of a boathouse for human habitation and the construction or placement of a boathouse or fixed
5583 houseboat below the ordinary highwater mark of any navigable water are prohibited.
5584 (Ord. 1196 § 1(part), 1990).

5585
5586 **19.461.080 Mobile homes prohibited.**

5587 No mobile home, manufactured home, mobile home park, or trailer camp shall be placed or
5588 moved onto lands lying in the FWW floodway/wetland district.
5589 (Ord. 1196 § 1(part), 1990).

5590

5591 **Chapter 19.48 I INSTITUTIONAL DISTRICT**

5592 Sections:

5593 [19.48.010 Purpose.](#)

5594 [19.48.020 Permitted uses.](#)

5595 [19.48.030 Conditional uses.](#)

5596 [19.48.040 Lot area.](#)

5597 [19.48.050 Lot width.](#)

5598 [19.48.060 Building height.](#)

5599 [19.48.070 Yard requirements.](#)

5600 [19.48.080 Number of structures on one lot.](#)

5601

5602 **19.48.010 Purpose.**

5603 The I institutional district is established to provide a community review and approval process for
5604 certain institutional uses that have a potential impact on surrounding land uses and/or the city as a
5605 whole.

5606 (Ord. 1364 § 8, 1997; Ord. 994 § 3.17(part), 1982).

5607

5608 **19.48.020 Permitted uses.**

5609 Permitted uses in the I district include:

5610 A. Colleges;

5611 B. Universities and their associated residential, educational and service facilities. Except that new
5612 structures and/or exterior remodeling of existing structures which are within one hundred fifty feet of
5613 any other zoning district boundary (includes surface parking areas for more than twenty vehicles) shall
5614 be a conditional use as indicated below. The uses stated in Section 19.48.030 shall be conditional uses;

5615 C. The second or greater wireless telecommunication facility located on an alternative support
5616 structure already supporting a wireless telecommunications facility or on a pre-existing wireless
5617 telecommunications facility, with wireless telecommunications support facilities allowed as permitted
5618 accessory uses, all per the requirements of Chapter 19.55.

5619 (Ord. 1499 § 22, 2001; 1364 § 9, 1997; Ord. 994 § 3.17(A), 1982).

5620

5621 **19.48.030 Conditional uses.**

5622 Conditional uses in the I district include:

5623 A. New structures and/or exterior remodeling or existing structures within one hundred fifty feet of
5624 any other zoning district boundary (includes surface parking areas for more than twenty vehicles);

5625 B. Gymnasiums, sport stadiums, auditoriums, and similar places of general public assembly;

5626 C. Parking structures and surface parking areas for more than one hundred vehicles;

5627 D. The first wireless telecommunications facility located on an alternative support structure only, per
5628 the requirements of Chapter 19.55;

5629 E. Fraternity or sorority houses.

5630 (Ord. 1668A § 3, 2007; Ord. 1499 § 23, 2001; Ord. 994 § 3.17(B), 1982).

5631

5632 **19.48.040 Lot area.**

5633 Minimum total lot area in the I district is one acre.

5634 (Ord. 994 § 3.17(C), 1982).

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19.48.050 Lot width.

Minimum lot width in the I district is one hundred twenty feet.
(Ord. 994 § 3.17(D), 1982).

19.48.060 Building height.

Maximum building height in the institutional district shall be sixty feet. Mechanical penthouses shall be excluded from the building height restrictions listed herein if they comply with the following limitations:

- A. Penthouses shall be no taller than the highest floor to floor height in the building.
 - B. Penthouses shall be set back from the public street building facade of the building equal to the height of the penthouse.
 - C. The penthouse floor area, including vertical circulation spaces leading to the penthouse, shall be no greater than ten percent of the ground floor building footprint.
- (Ord. 1673A § 1, 2008; Ord. 994 § 3.17(E), 1982).

19.48.070 Yard requirements.

Minimum yard requirements in the I district are:

- A. Any street yard facing any zoning district other than the institutional district shall be no less than twenty-five feet, measured from the right-of-way, or one-half of the total height of the building, whichever is greater. Any street yard within an institutional district facing yards in an institutional district shall not be less than twenty-five feet, measured from the right-of-way. The building setback shall not in any event encroach on the intersection visibility requirements set forth in Whitewater Municipal Code, Section 19.51.010;
 - B. Street yard for off-street parking--fifteen feet;
 - C. Side yard shall be thirty feet or equal to the height of the structure, whichever is greater;
 - D. Rear yard--thirty-five feet or equal to the height of the structure, whichever is greater.
- (Ord. 1673A § 2, 2008; Ord. 1364 § 10, 1997; Ord. 994 § 3.17(F), 1982).

19.48.080 Number of structures on one lot.

Within the I district, more than one principal structure may be located on a lot (see Section 19.06.150).
(Ord. 994 § 3.17(G), 1982).

Chapter 19.485 LARGE RETAIL AND COMMERCIAL SERVICE DEVELOPMENT STANDARDS ~~This whole district seems overly detailed and bureaucratic. Many of the regulations are overly restrictive. It is also not likely that all of the possible problems with larger format retail can be imagined. It might be better to cut this section and replace it with a separate PD section just for business and commercial activity (over 40,000 sf?) along with a set of goals or performance issues (such as what happens to the site if the buildings go dark, etc.)~~

Sections:

- [19.485.010 Title.](#)
- [19.485.020 Description.](#)
- [19.485.030 Conditional use permit or P&D approval required.](#)
- [19.485.040 Regulations.](#)

19.485.010 Title.

5682 This section shall be known, cited, and referred to as the large retail and commercial service
5683 development chapter.
5684 (Ord. No. 1796A, § 3, 8-3-2010)

5685
5686 **19.485.020 Description.**

5687 A large retail and commercial service development is a development comprised of one or more
5688 contiguous parcels or building sites for a single retail or commercial service enterprise or for multiple
5689 such enterprises within which the total combined floor and surface area of all indoor retail and/or
5690 commercial activities, associated enclosed or outdoor storage, and associated outdoor display exceeds
5691 ~~twenty-fifty~~ thousand square feet. ~~SEEMS VERY LOW — WILL NOT ALLOW FOR CLEAR SEPARATION OF~~
5692 ~~SMALL AND LARGE FORMAT RETAIL LIKE A WALGREENS VS A WAL-MART~~ The requirements of Chapter
5693 19.485 are applicable to any new, altered or expanded establishment or group of establishments that
5694 meet or exceed the above floor and surface area threshold, where a complete application for
5695 conditional use permit or PCD zoning is filed after the effective date of this chapter. The vacant building
5696 provisions set forth in Subsection 19.485.040F.18. shall also apply to large retail and commercial service
5697 developments that were constructed prior to the effective date of this chapter.
5698 (Ord. No. 1796A, § 3, 8-3-2010)

5699
5700 **19.485.030 Conditional use permit or PCD approval ~~required. SEEMS HIGHLY RESTRICTIVE~~**
5701 ~~None. (NOTE: LARGE FORMAT RETAIL USES HAVE BEEN DESCRIBED IN THE PD SECTION)~~
5702 ~~AND COMPLICATED REGARDING FUTURE USES — IS THE GOAL TO SIMPLY SAY THAT A NEW USE~~
5703 ~~MUST FIT THE RULES FOR PERMITTED OR CONDITIONAL USES IN THE DISTRICT — THAT IS, THE~~
5704 ~~FORM DOES NOT GRANDFATHER THE USE. RECOMMENDED OPTION — REMOVE HIGHLY~~
5705 ~~RESTRICTIVE LANGUAGE AND REPLACE WITH A “PUD” SECTION THAT LISTS THE TYPES OF ISSUES~~
5706 ~~TO BE USED IN THE REVIEW PROCESS. POSSIBLY ADD A “BIG BOX RECLAMATION PLAN”~~
5707 ~~COMPONENT.~~

5708 ~~A. Aside from where allowed under an approved PCD district, large retail and commercial service~~
5709 ~~developments shall require a conditional use permit/PUD within any district in which they are allowed~~
5710 ~~per other chapters in this title.~~

5711 ~~All additions to structures, parking, or storage areas that are part of an approved large retail and~~
5712 ~~commercial service development shall require an amendment to the conditional use permit or the~~
5713 ~~previously approved PCD plans, per the associated requirements for such amendments in this title.~~

5714 ~~B. Subsequent changes to individual land uses listed as permitted uses within the applicable zoning~~
5715 ~~district (for example, a new tenant in a pre-existing retail space) are permitted without amendment to~~
5716 ~~the associated large retail and commercial development conditional use permit or PCD specific~~
5717 ~~implementation plan, unless said conditional use permit or PCD plan placed restrictions on such change~~
5718 ~~of use.~~

5719 ~~C. Subsequent individual land uses following initial approval of the development allowed only by~~
5720 ~~conditional use permit in the zoning district or approved PCD specific implementation plan may be~~
5721 ~~allowed only under a subsequent conditional use permit for the specific use, regardless of whether said~~
5722 ~~use entails modifications to the building and/or site layout.~~

5723 ~~(Ord. No. 1796A, § 3, 8-3-2010)~~

5724
5725 **~~19.485.040 Regulations:~~**

5726 ~~In addition to applicable zoning district standards and other applicable standards of this title, each large~~
5727 ~~retail and commercial service development shall meet the following additional standards, as may be~~
5728 ~~applicable given the size of each such development:~~

~~A. Large Retail and Commercial Service Development Questionnaire. A large retail and commercial service development questionnaire shall be fully completed when a development reaches or exceeds the defined threshold for such a questionnaire established in Figure 19.485(2). The completed large retail and commercial service development questionnaire shall specifically address compatibility with the city's comprehensive plan and detailed neighborhood, recreation, and other applicable plans, and follow the format included as Figure 19.485(3), subject to amendments by the zoning administrator as appropriate, and with attachments included as the administrator determines necessary.~~

~~B. Traffic Impact Analysis. A traffic impact analysis is required when a development reaches or exceeds the defined threshold for such an analysis outlined in Figure 19.485(2), and may be required by the city director of public works for projects below that threshold if there is initial evidence to suggest that existing roads in the area may not be adequate to accommodate additional traffic demands. The traffic impact analysis shall be completed in accordance with standards approved by the city director of public works, or where he/she does not approve a particular standard, with the most current revision of the Traffic Impact Analysis Guidelines published by the State of Wisconsin Department of Transportation. Where the traffic impact analysis indicates that the proposed development may cause off-site public roads, intersections, or interchanges to function below level of service (LOS) D, then the city may deny the application, may require a size reduction in the proposed development, and/or may require the developer to construct and/or pay for required off-site improvements to achieve LOS D for a planning horizon of a minimum of ten years following full build out of the development. All such developments shall have direct access to an arterial or collector street. Vehicle access shall be designed to accommodate peak on-site traffic volumes without disrupting traffic on public streets or impairing pedestrian safety. This shall be accomplished through adequate parking lot design and capacity; access drive entry throat length, width, design, location, and number; traffic control devices; and/or sidewalks. The site design shall provide direct transportation connections to adjacent land uses and sites if required by the city.~~

~~C. Economic and Fiscal Impact Analysis. An economic and fiscal impact analysis is required when a development reaches or exceeds the defined threshold for such an analysis outlined in Figure 19.485(2). The economic and fiscal impact analysis shall include all of the items identified in Figure 19.485(4) and meet the following requirements:~~

- ~~1. The analysis shall identify and assess the economic and fiscal impacts on the city.~~
- ~~2. The analysis shall propose measures to mitigate adverse impacts and/or maximize positive impacts, including provision of infrastructure or public service improvements sufficient to support the development. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.~~
- ~~3. If required by the zoning administrator, the applicant shall provide the necessary funding to the city to hire a consultant of the city's choice, with appropriate experience to complete and present an objective economic and fiscal impact analysis to the city.~~

~~D. Detailed Neighborhood Plan. A detailed neighborhood plan is required when a development reaches or exceeds the defined threshold for such a plan outlined in Figure 19.485(2). Such neighborhood plan shall cover any undeveloped areas within a one thousand five hundred foot radius from the boundaries of the development site (except where a lesser radius is approved by the zoning administrator) and be prepared to a recognized scale. The detailed neighborhood plan must be completed by the city or applicant prior to the application for conditional use permit or rezoning, and submitted or referenced with such application. The detailed neighborhood plan shall include a map of sufficient detail to establish the potential future mix and development of land uses based on the city's comprehensive plan and the relationship of surrounding lands to the large retail and commercial service development with regard to provision of streets, driveways, bicycle/pedestrian routes, utilities, stormwater management,~~

5776 ~~landscape transitions, setbacks, and community design and character, and general layout, all in a~~
5777 ~~manner that is consistent with the city's comprehensive plan.~~

5778 ~~E. Facilities and Associated Features. The following requirements are applicable when a large retail and~~
5779 ~~commercial service development reaches or exceeds the defined threshold for such facilities and~~
5780 ~~associated features outlined in Figure 19.485(2):~~

5781 ~~1. Building Location. Wherever practical, as determined by the plan and architectural review~~
5782 ~~commission based on the particular setting, the primary building within the development shall be~~
5783 ~~located close to the public street, including parking to the side or rear of that building. Where such~~
5784 ~~primary building is proposed to be distant from the public street, the commission may require that the~~
5785 ~~overall development design include smaller buildings on pads or outlots closer to the street. All buildings~~
5786 ~~on outlots shall have an orientation and architectural quality that relates to the primary building.~~
5787 ~~Placement and orientation of all buildings must facilitate appropriate land use transitions and~~
5788 ~~appropriate traffic flow to adjoining roads and to neighboring commercial areas, commercial sites, and~~
5789 ~~neighborhoods, and must forward community character objectives described in the city's~~
5790 ~~comprehensive plan. Also see Subsection 19.485.040E.7. below for requirements associated with the~~
5791 ~~location of parking lots.~~

5792 ~~2. Building Materials. Exterior building materials shall be of comparable aesthetic quality on all sides.~~
5793 ~~Building materials such as glass, brick, stone, tinted and decorative concrete block are preferred, with~~
5794 ~~wood, stucco, and exterior insulation and finish systems (EIFS) also permitted, as determined~~
5795 ~~appropriate by the plan and architectural review commission. Decorative architectural metal with~~
5796 ~~concealed fasteners or decorative tilt-up concrete panels may be approved only if integral to the overall~~
5797 ~~design of the building. Windows shall be prominently incorporated into the building design for both~~
5798 ~~aesthetic and daylighting effect.~~

5799 ~~3. Building Design. The building exterior shall complement other buildings in the vicinity (except those~~
5800 ~~buildings identified for redevelopment), and shall meet the following:~~

5801 ~~a. The building shall employ varying facade setbacks, heights, roof treatments, doorways, window~~
5802 ~~openings, and other structural or decorative elements to reduce apparent size and scale of the building~~
5803 ~~and to add architectural interest.~~

5804 ~~b. A minimum of twenty percent of the building's facades that are visible from a public street shall~~
5805 ~~employ actual facade protrusions or recesses with a depth of at least six feet. No uninterrupted facade~~
5806 ~~without protrusions or recesses shall extend more than one hundred feet in length.~~

5807 ~~c. A minimum of twenty percent of all of the combined linear roof eave or parapet lines of the~~
5808 ~~structure shall employ differences in height, with such differences being six feet or more as measured~~
5809 ~~eave to eave or parapet to parapet.~~

5810 ~~d. Roofs with particular slopes may be required to complement existing buildings in the vicinity or~~
5811 ~~otherwise establish a particular aesthetic objective.~~

5812 ~~e. Ground floor facades that face public streets shall have some combination of arcades (a series of~~
5813 ~~outdoor spaces located under a roof or overhang and supported by columns or arches), display~~
5814 ~~windows, entry areas, awnings, or other such features along no less than fifty percent of the horizontal~~
5815 ~~length of such facades.~~

5816 ~~f. The integration of windows into building design is required. Windows shall be transparent glass~~
5817 ~~wherever the plan and architectural review commission determines it practical. The use of blinds,~~
5818 ~~spandrel (reflecting) glass, or display windows shall be acceptable where there is a determination that~~
5819 ~~opacity is required. Backlighting of such windows may be required in such instances.~~

5820 ~~g. Building facades that are visible to the public shall include a repeating pattern that includes no less~~
5821 ~~than three of the following elements: (i) color change, (ii) texture change, (iii) material modular change,~~
5822 ~~(iv) expression of architectural or structural bay through a change in plane no less than twenty-four~~

5823 inches in width, such as an offset, reveal or projecting rib. At least one of these elements shall repeat
5824 horizontally.

5825 ~~4. Building Entrances. Public building entrances shall be clearly defined and highly visible on the~~
5826 ~~building's exterior design, and shall be emphasized by, and be the focal point for, on-site traffic flow~~
5827 ~~patterns. Two or more of the following design features shall be incorporated into all public building~~
5828 ~~entrances: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, or outdoor~~
5829 ~~patios.~~

5830 ~~5. Building Colors. Building facade colors shall be non reflective, subtle, neutral, or earth tone. The use~~
5831 ~~of high intensity colors, metallic colors, fluorescent colors or black on facades shall be prohibited.~~
5832 ~~Building trim and architectural accent elements may feature bright colors or black, but such colors shall~~
5833 ~~be muted, not metallic, not fluorescent, and not specific to particular uses or tenants. Standard~~
5834 ~~corporate and trademark colors shall be permitted only on signage, unless such corporate colors meet~~
5835 ~~the preceding building facade color standards.~~

5836 ~~6. Screening.~~

5837 ~~a. All ground mounted and wall mounted mechanical equipment, refuse containers and any permitted~~
5838 ~~outdoor storage shall be fully concealed from on site and off site ground level views, with materials~~
5839 ~~identical to those used on the building exterior facades.~~

5840 ~~b. All rooftop mechanical equipment shall be screened by parapets, upper stories, and/or strategic~~
5841 ~~placement relative to exterior walls or roofs, so as to not be visible from public streets adjacent or~~
5842 ~~within one thousand feet of the subject property.~~

5843 ~~c. Loading docks shall be completely screened from surrounding public streets and properties. Said~~
5844 ~~screening may be accomplished through loading areas internal to buildings, screen walls which match~~
5845 ~~the building exterior in materials and design, fully opaque landscaping at time of planting, or~~
5846 ~~combinations.~~

5847 ~~d. Gates and fencing may be used for security and access, but not for screening, and they shall be of~~
5848 ~~high aesthetic quality. Decorative metal picket fencing and screening is acceptable. Chain link, wire~~
5849 ~~mesh, or wood fencing is unacceptable, except that decorative, heavy duty wood gates may be used.~~

5850 ~~7. Parking.~~

5851 ~~a. All parking lots shall be designed in accordance with Chapter 19.51 of this title.~~

5852 ~~b. Parking lots in which the number of spaces significantly exceeds the minimum number of parking~~
5853 ~~spaces required for the specific use or uses in Section 19.51.130 shall be allowed only with specific and~~
5854 ~~reasonable justification provided by the applicant within the application.~~

5855 ~~c. Parking lots shall be designed to create distinct parking areas of not more than one hundred twenty~~
5856 ~~parking stalls each through use of landscaped and curbed medians and islands, a minimum of ten feet in~~
5857 ~~width from back of curb to back of curb. Each landscaped island shall be a minimum of three hundred~~
5858 ~~sixty square feet in landscaped area, and landscaped islands shall be spaced at intervals no greater than~~
5859 ~~one island per every twenty spaces in that aisle. Each landscaped island shall be planted with a~~
5860 ~~minimum of one deciduous tree.~~

5861 ~~d. Wherever site conditions allow, the plan and architectural review commission may require some or~~
5862 ~~all parking to be oriented to the side and/or rear of the primary building within the development,~~
5863 ~~allowing the building to be located closer to the public street. Applicants proposing to locate the~~
5864 ~~majority of parking between the primary building and the public street shall submit information along~~
5865 ~~with their application identifying the reasons why more or all parking may not be located to the side or~~
5866 ~~rear of the principal building, either through a change in parking location, change in building location, or~~
5867 ~~both.~~

5868 ~~8. Bicycle and Pedestrian Facilities.~~

5869 ~~a. The entire development shall provide for safe pedestrian and bicycle access to all uses within the~~
5870 ~~development, connections to existing and planned public sidewalks and other pedestrian and bicycle~~
5871 ~~facilities, and connections to adjacent properties.~~
5872 ~~b. Pedestrian walkways shall be provided from all building entrances to existing or planned public~~
5873 ~~sidewalks or other pedestrian and bicycle facilities. The minimum width for sidewalks adjacent to~~
5874 ~~buildings shall be eight feet; and the minimum width for sidewalks elsewhere in the development shall~~
5875 ~~be five feet.~~
5876 ~~c. Sidewalks internal to the development shall have adjoining landscaping along at least fifty percent of~~
5877 ~~their length, and may be required to be provided with pedestrian scale lighting.~~
5878 ~~d. Crosswalks within parking and driveway areas shall be distinguished from driving surfaces to~~
5879 ~~enhance pedestrian safety by using different pavement materials, color, and/or texture in combination~~
5880 ~~with signage.~~
5881 ~~e. The development shall provide secure, attractive, integrated bicycle parking. For developments with~~
5882 ~~fewer than one hundred motor vehicle parking stalls, the minimum number of bicycle parking spaces~~
5883 ~~shall not be less than ten percent of the number vehicle parking stalls. For developments with one~~
5884 ~~hundred or more motor vehicle parking stalls, the minimum number of bicycle parking spaces shall not~~
5885 ~~be less than five percent of the number of motor vehicle parking stalls. The inverted U type bike rack is~~
5886 ~~the preferred design, except where the city or applicant is attempting to advance a particular design~~
5887 ~~theme for the area. Each inverted U may count as two bicycle parking spaces.~~
5888 ~~f. All bicycle parking racks shall be located within fifty feet of the main building entrance (except where~~
5889 ~~secondary bicycle parking areas are located close to a separate employee entrance) and placed in a~~
5890 ~~visible, well-lit, hard surfaced, and accessible location at least thirty inches from the nearest building~~
5891 ~~wall. At least one half of all bicycle parking spaces shall be covered by a building canopy, arcade, or~~
5892 ~~other shelter.~~
5893 ~~g. The development shall provide exterior pedestrian furniture in appropriate locations at a minimum~~
5894 ~~rate of one seat for every twenty thousand square feet of floor area (per the measurement method in~~
5895 ~~Section 19.485.020). In addition, a minimum of four seats shall be located within the store, with a clear~~
5896 ~~view through exit doors to a passenger pick up or drop off area.~~
5897 ~~9. Central Areas and Features. Each development exceeding eighty thousand square feet in floor area~~
5898 ~~(per the measurement method in Section 19.485.020) shall provide central area(s) or feature(s) such as~~
5899 ~~a patio/seating area, pedestrian plaza with benches, outdoor playground area, water feature, and/or~~
5900 ~~another such deliberately designated outdoor area or focal point that adequately enhance the~~
5901 ~~development or community. Such area shall be openly accessible to the public, connected to the public~~
5902 ~~and private sidewalk system, designed with materials compatible with the primary building and~~
5903 ~~remainder of the site, and maintained over the life of the development.~~
5904 ~~10. Cart Returns. A minimum of one two hundred square foot cart return area (corral) shall be~~
5905 ~~provided for every one hundred parking spaces. Cart corrals shall be of durable, non rusting, all season~~
5906 ~~construction, and shall be designed and colored to be compatible with the building and parking lot light~~
5907 ~~standards. There shall be no exterior cart return or cart storage areas located within twenty five feet of~~
5908 ~~any building.~~
5909 ~~11. Outdoor Display Areas. Exterior sales and display areas whether permanent or seasonal shall be~~
5910 ~~permitted only where clearly depicted on the approved site plan associated with the development. All~~
5911 ~~exterior display areas shall be separated from motor vehicle routes by a physical barrier visible to drivers~~
5912 ~~and pedestrians, and by a minimum of ten feet. Display areas on sidewalks directly in front of buildings~~
5913 ~~building must maintain a minimum walkway width of eight feet between the display items and any~~
5914 ~~vehicle drives.~~
5915 ~~12. Outdoor Storage Uses and Areas. Exterior storage structures or uses, including the parking or~~
5916 ~~storage of service vehicles, trailers, equipment, containers, crates, pallets, merchandise, materials, fork~~

5917 lifts, trash, recyclables, and all other items shall be permitted only where clearly depicted and labeled on
5918 the approved site plan. Such outdoor storage uses and areas shall be appropriately screened as required
5919 by Title 19.

5920 ~~13. Landscaping. On site landscaping shall be provided at time of building occupancy (except as~~
5921 ~~allowed under Section 19.66.060), shall meet all applicable landscaping guidelines approved by the city~~
5922 ~~council or plan and architectural review commission, and shall be maintained per the requirements of~~
5923 ~~such guidelines and Title 19 over the life of the development.~~

5924 ~~14. Lighting. On site exterior lighting shall meet all the standards of Title 19. In addition, the color and~~
5925 ~~design of pole lighting standards shall be compatible with the primary building in the development and~~
5926 ~~the public lighting in the area, and shall be uniform throughout the entire development site.~~

5927 ~~15. Signage. In addition to meeting the applicable requirements of Title 19, a signage plan for all~~
5928 ~~exterior signage shall provide for coordinated and complementary exterior sign locations,~~
5929 ~~configurations, and colors throughout the development. Combined signs for multiple users may be~~
5930 ~~required instead of multiple individual signs. The city may require the use of muted corporate colors on~~
5931 ~~signage if proposed colors are not compatible with the city's design objectives for the area.~~

5932 ~~16. Environmental Sustainability, Natural Resources Protection, and Stormwater Management. Natural~~
5933 ~~resources shall be protected in accordance with Title 19. In general, existing natural features shall be~~
5934 ~~integrated into the site design as a site and community amenity. Each project shall meet the erosion~~
5935 ~~control and stormwater management standards found in Title 16 of the Municipal Code and other~~
5936 ~~applicable city ordinances.~~

5937 ~~Each development shall intentionally incorporate into site and building design elements that contribute~~
5938 ~~to the long term environmental sustainability of the development and the city, as such terms are~~
5939 ~~described in the city's comprehensive plan. Each development shall provide at least one half of the~~
5940 ~~following sustainability features:~~

5941 ~~a. Reuse an existing, previously developed building and/or site.~~

5942 ~~b. Utilize one or more rain gardens or bioswales, as described in the City of Whitewater Landscaping~~
5943 ~~Guidelines, to capture and manage stormwater.~~

5944 ~~c. Install a green roof or roof top garden.~~

5945 ~~d. Incorporate stormwater management facilities that are designed to both serve their primary~~
5946 ~~function and appear as natural features that can serve as attractive focal points for the development.~~

5947 ~~e. Install native/naturalized landscaping that minimizes requirements for irrigation/watering and~~
5948 ~~provides natural habitat.~~

5949 ~~f. Install systems that allow for the capture and later use of rainwater to water landscaping and for~~
5950 ~~other permitted functions.~~

5951 ~~g. Deliberately design/retrofit the primary building with energy efficient systems, such as lighting,~~
5952 ~~refrigeration, and HVAC systems.~~

5953 ~~h. Integrate solar, geothermal, wind, or other on-site energy generation into the site and/or building~~
5954 ~~design.~~

5955 ~~i. Utilize paving and/or roof materials with a solar reflectance index of at least twenty nine for a~~
5956 ~~minimum of fifty percent of the combined pavement and roof area on the site.~~

5957 ~~j. Purchase a minimum of fifty percent of the development's energy from renewable sources, such as~~
5958 ~~wind or solar.~~

5959 ~~k. Recycle of a minimum of seventy five percent of the waste generated during building/site~~
5960 ~~construction.~~

5961 ~~l. Utilize a minimum of twenty five percent recycled materials for building construction.~~

5962 ~~m. Utilize a minimum of fifty percent regional materials for building construction (extracted, harvested,~~
5963 ~~or recovered, and manufacturing from within five hundred miles of the development site).~~

5964 ~~n. No more than two additional sustainability features not listed above but approved by the plan and~~
 5965 ~~architectural review commission to meet the city's sustainability objectives, not including any feature~~
 5966 ~~already required by another section of this chapter.~~

5967 ~~17. Vacation of Existing Buildings in Large Retail and Commercial Service Developments.~~

5968 ~~a. Where any large retail or commercial service development that has fifty thousand or more square~~
 5969 ~~feet of floor area is vacated because the commercial use (sale of goods or merchandise at the building)~~
 5970 ~~conducted thereon is being relocated to a different building, the party shall be subject to the following~~
 5971 ~~provisions:~~

5972 ~~i. The party that vacated the site shall not impose limits on the type of reuse of the vacated site~~
 5973 ~~through conditions of sale or lease.~~

5974 ~~ii. The development agreement for the new development at the new site shall include provisions~~
 5975 ~~therein whereby the developer of the new site commits to the requirements contained herein.~~

5976 ~~b. In addition to the above, any building within large retail or commercial service development that has~~
 5977 ~~twenty thousand or more square feet of floor area and is vacated for any reason shall be subject to the~~
 5978 ~~following provisions:~~

5979 ~~i. The owner must file with the city a written statement as to the names, phone numbers, and~~
 5980 ~~addresses for all persons who are in control of the property and building.~~

5981 ~~ii. The owner shall be required to meet the requirements defined in Figure 19.485(1), based on the~~
 5982 ~~amount of time the building remains vacant:~~

5983 ~~Figure 19.485(1): Steps for Addressing Building Vacancy~~

5984 ~~TABLE INSET:~~

5985

Period of Time Building is Vacant	Requirement
Within 1 Year of Vacancy	Install a fire department Knox Box for annual fire inspection.
Within 3 Years of Vacancy	City may require owner to paint the building a neutral color.
Within 5 Years of Vacancy	City may require the removal of all hard surfaces, with the exception of the main driveway and fire lane around the building, restore the former hard-surfaced areas with black dirt and grass, or any combination of the above.

5986 ~~iii. Within the first quarter of each year of vacancy, the owner shall provide the zoning administrator~~
 5987 ~~with a statement as to the condition of the building and prospects for removal or re-occupancy of the~~
 5988 ~~building(s).~~

5989 ~~iv. At any time following vacancy, the city may utilize other enforcement options available to it to~~
 5990 ~~ensure property maintenance and upkeep of the building and site.~~

5991 ~~v. Temporary occupancy of the building(s) and/or the exterior grounds for period of three hundred~~
 5992 ~~sixty five consecutive days or less shall not be considered to remove the vacancy status of the building~~
 5993 ~~under this section.~~

5994 ~~18. Development Agreement. The developer shall enter into a development agreement with the city~~
 5995 ~~which shall include the payment of all utilities, including, but not limited to, stormwater, sanitary sewer,~~

5996 ~~and street infrastructure. Off-site improvements may also be required as part of the development~~
 5997 ~~agreement.~~

5998 ~~19. Exceptions. In the event the applicant desires a deviation or exception from the requirements of~~
 5999 ~~this section, the applicant shall present justification for such deviation or exception, including, but not~~
 6000 ~~limited to, preexisting conditions on a redevelopment site, which may be approved or denied by the~~
 6001 ~~plan and architectural review commission.~~

6002 ~~Figure 19.485(2): Thresholds for Large Retail and Commercial Service Development Requirements~~
 6003 ~~TABLE INSET:~~

6004

Requirement	Large Scale Retail and Commercial Development Threshold (per measurement method in Section 19.485.020)
Complete compatibility report (fits city's comprehensive plan and/or other adopted plans?)	>20,000 sq. ft.
Complete questionnaire	>20,000 sq. ft.
Provide required facilities and associated features (materials, landscape, etc.)	>20,000 sq. ft.
3rd party traffic impact analysis required	>50,000 sq. ft.
3rd party economic and fiscal impact analysis required	>80,000 sq. ft.
Detailed neighborhood plan required	>80,000 sq. ft.

6005 ~~Figure 19.485(3): Large Retail and Commercial Service Development Questionnaire~~
 6006 ~~TABLE INSET:~~

6007

Person filling out this form	=
Address	=
Phone number	=
Date	=
I. Project Contacts	
Property owner	=
Property owner representative	=
Developer	=
Developer representative	=
Prime contractor representative	=
Civil engineering representative	=
Architectural representative	=
Land planner representative	=

6008
6009

Landscape architect representative	=
Exterior lighting representative	=

~~TABLE INSET:~~

II. Existing Site Conditions		
A. Total Site Area (inclusive of all areas within parcel boundary):	_____ acres =	_____ s.f. =
B. Environmental Corridor Components:	_____ acres =	_____ s.f. =
Surface Water	_____ acres =	_____ s.f. =
Wetlands	_____ acres =	_____ s.f. =
100 Year Floodplain	_____ acres =	_____ s.f. =
Steep Slopes (equal to or greater than 12%)	_____ acres =	_____ s.f. =

6010
6011

~~TABLE INSET:~~

III. Relationship to Adopted Plans and Policies. Describe how the proposed development is compatible with the following:	
A. City of Whitewater Comprehensive Plan:	
Future Land Use Map	=
Future Transportation Plan Map	=
Future Community Facilities Plan Map	=
Applicable Goals, Policies and Objectives	=
Agricultural, Natural, and Cultural Resources Chapter	=
Economic Development Chapter	=
Sustainability Provisions	=
Other Applicable Provisions of Comprehensive Plan	=
B. City Park and Open Space Plan	=
C. Detailed Neighborhood Plan Covering Area	=
D. Intergovernmental Agreements	=
E. Wisconsin DOT Plans and Policies	=
F. Wisconsin DNR Plans and Policies	=
G. Other Pertinent Plans and Policies as Indicated by City	=

6012

~~TABLE INSET:~~

6013

IV. Proposed Development Characteristics			
A. General Description of Proposed Development and Land Use Mix:			
B. Proposed Modifications to Existing Site Conditions:			
Total Site	Acres to be Converted	Acres Not to be Converted	Total
Surface Water Areas	=	=	=
Wetland Areas	=	=	=
Floodplain Areas	=	=	=
Steep Slopes (12%+)	=	=	=
Woodland Areas	=	=	=
Total Environmental Corridor	=	=	=
Crop and Livestock Operation Areas	=	=	=
Other Open Areas	=	=	=
Total Existing Development Area	=	=	=
Existing Building Coverage Area	=	=	=
Existing Paved Area	=	=	=
Existing Lawn and Landscaped Area	=	=	=

6014

6015

~~TABLE INSET:~~

C. Proposed Development Areas:		
Total Site Area	sq. ft.	acres
Area of Building Footprint	sq. ft.	acres
Area of Total Paving	sq. ft.	acres
Area of Pervious Paving	sq. ft.	acres
Area of Lawn & Landscaping (not storm)	sq. ft.	acres
Area of Stormwater Management	sq. ft.	acres
Area of Impervious Surface	sq. ft.	acres
Area of Semi Pervious Surface	sq. ft.	acres
Area of Pervious Surface	sq. ft.	acres
Total Building Floor Area	sq. ft.	=
First Floor Building Area	sq. ft.	=
Upper Floor Building Area	sq. ft.	=
Useable Basement Area	sq. ft.	=

6016 Figure 19.485(4): Economic and Fiscal Impact Analysis Requirements
6017 TABLE INSET:
6018

1. For the project, estimate the following:==
a. Types of jobs created.==
b. Number of full time (40 hrs/wk) and part time (less than 40 hrs/wk) jobs created.==
c. The impact of the project on the overall local job market at year one and year five.==
2. Estimate the amount of City and Walworth/Jefferson County labor to be used in the construction of the project and in permanent employment.==
3. Include an analysis indicating the market proposed for the project and the area from which patrons will be attracted.==
4. Evaluate the impact of the proposed project on commercial and/or retail vacancy rates in the proposed market area.==
5. Estimate to what extent, if any, the proposed project would increase or reduce the proposed market area's economic base by eliminating existing businesses, creating new ones, or allowing existing ones to expand.==
6. Compare and evaluate the projected costs and benefits to the community resulting from the project including:==
a. Projected costs arising from increased demand for and required improvements to public services and infrastructure.==
b. Value of improvements to public services and infrastructure to be provided by the project.==
c. Projected property tax revenues to be generated by the project in the first year, after five years, and at build out.==
d. Projected impact of the project in the first five years on land values (both residential and commercial) and potential direct and indirect increase or loss in property tax revenues.==
7. Projected lifespan of building(s) and reuse opportunities should the proposed use(s) vacate the building(s) in the future.==

6019 (~~Ord. No. 1796A, § 3, 8-3-2010~~)

6020
6021 **Chapter 19.49 WELLHEAD PROTECTION**

- 6022 Sections:
6023 [19.49.010 Title.](#)
6024 [19.49.020 Purpose and authority.](#)
6025 [19.49.030 Applicability.](#)
6026 [19.49.040 Definitions.](#)
6027 [19.49.050 Wellhead protection area.](#)
6028 [19.49.060 Enforcement.](#)

6029
6030 **19.49.010 Title.**

6031 This section shall be known, cited and referred to as the "wellhead protection ordinance"
6032 (hereinafter "WHP ordinance").

6033 (Ord. 1383 § 1(part), 1997).

6034

6035 **19.49.020 Purpose and authority.**

6036 A. The residents of the City of Whitewater (hereinafter "the city") depend exclusively on groundwater
6037 for a safe drinking water supply. Certain land use practices and activities can seriously threaten or
6038 degrade groundwater quality. The purpose of the WHP ordinance codified in this chapter is to protect
6039 the city's municipal water supply and areas from which city wells draw water, and to promote the public
6040 health, safety and general welfare of the residents of the city.

6041 B. These regulations are established pursuant to the authority granted by the Wisconsin Legislature in
6042 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection to
6043 the statutory authorization for municipal planning and zoning in order to protect the public health,
6044 safety and welfare. Areas appropriate for protection in the WHP are established in the wellhead
6045 protection plan ("the plan") for City of Whitewater, Wisconsin, dated September 1996 and prepared by
6046 Strand Associates, Inc. The Plan document is incorporated herein by this reference, and a copy is on file
6047 in the office of the city clerk.

6048 (Ord. 1383 § 1(part), 1997).

6049

6050 **19.49.030 Applicability.**

6051 The regulations specified in the WHP ordinance codified in this chapter shall apply only to lands
6052 within those portions of the five-year time of travel zones (hereinafter sometimes "TOT") of Well No. 9
6053 shown on the wellhead protection map (see Exhibit A in Appendix D of WHP) (hereinafter "the map"),
6054 which areas also lie within the city corporate limits.

6055 (Ord. 1383 § 1(part), 1997).

6056

6057 **19.49.040 Definitions.**

6058 As used in this chapter:

6059 "Aquifer" means a saturated, permeable geologic formation that contains and will yield
6060 significant quantities of water.

6061 "Cone of depression" means the area around a well, in which the water level has been lowered
6062 at least one-tenth of a foot by pumping of the well.

6063 "Existing facilities which may cause or threaten to cause environmental pollution" means
6064 existing facilities which may cause or threaten to cause environmental pollution within the corporate
6065 limits of the city's well No. 9 recharge area which include but are not limited to the Wisconsin
6066 Department of Natural Resources' draft list of "Inventory of Sites or Facilities Which may Cause or
6067 Threaten to Cause Environmental Pollution," and Department of Industry, Labor and Human Relations
6068 list of "Leaking Underground Storage Tanks" (hereinafter "LUST's") and the Registry of Waste Disposal
6069 Sites in Wisconsin, all of which are incorporated herein by reference, together with future amendments
6070 thereto, as if fully set forth.

6071 "Five Year Time of Travel (TOT)." The five year TOT is a portion of the recharge area, the outer
6072 boundary of which it is determined or estimated that groundwater and potential contaminants will take
6073 five years to reach a pumping well. The five year TOT for Whitewater's municipal well No. 9 is
6074 established based on the uniform flow equation. The TOT area is shown on the map. The TOT area
6075 shown on the map is hereinafter referred to as "the TOT."

6076 "Groundwater divide" means ridge in the water table, or potentiometric surface, from which
6077 groundwater moves away at right angles in both directions. Line of highest hydraulic head in the water
6078 table or potentiometric surface.

6079 "Groundwater protection overlay district" shall be defined as that area within the TOT shown on
6080 the map attached as Exhibit A and incorporated herein by reference as if fully set forth.

6081 "Recharge area" means area in which water reaches the zone of saturation by surface
6082 infiltration and encompasses all areas or features that supply groundwater recharge to a well.

6083 "Wellhead protection area" means those proportions of the TOT which lie within the City of
6084 Whitewater corporate limits.
6085 (Ord. 1383 § 1(part), 1997).

6086

6087 **19.49.050 Wellhead protection area.**

6088 A. Intent. The area to be protected is the Whitewater wellhead protection area (hereinafter "WPA") (as
6089 determined by the plan) contained within the city boundary limits. These areas are designated on the
6090 map. These lands are subject to land use and development restrictions because of their close proximity
6091 to the TOT and the corresponding high threat of contamination.

6092 B. Permitted Uses. The following are the only permitted uses within the WPA:

6093 1. Any existing use, even though listed on prohibited uses, below, located within such areas to the
6094 extent that use currently exists, subject to the requirements for existing prohibited uses, subsection E of
6095 this section below;

6096 2. Those uses permitted under Whitewater zoning code consistent with the zoning map, as amended
6097 by action of the Whitewater city council and which are not prohibited under subsection C of this section
6098 below.

6099 C. Prohibited Uses. The following uses, if created after the adoption of the WHP ordinance codified in
6100 this chapter, are prohibited uses within the wellhead protection area designated on the map. These uses
6101 are prohibited based on the high probability that activities routinely associated with these uses (storage,
6102 use and handling of potential pollutants) will cause groundwater contamination. Uses not listed are not
6103 considered permitted uses.

6104 1. Underground storage tanks of any size;

6105 2. Septage and/or sludge spreading;

6106 3. Animal waste land spreading;

6107 4. Animal waste facilities;

6108 5. Animal confinement facilities;

6109 6. Gas stations;

6110 7. Vehicle repair establishments, including auto body repair;

6111 8. Printing and duplicating businesses;

6112 9. Bus or truck terminals;

6113 10. Repair shops;

6114 11. Landfills or waste disposal facilities;

6115 12. Wastewater treatment facilities;

6116 13. Spray wastewater facilities;

6117 14. Junk yards or auto salvage yards;

6118 15. Bulk fertilizer and/or pesticide facilities;

6119 16. Asphalt products manufacturing;

6120 17. Dry-cleaning businesses;

6121 18. Salt storage;

6122 19. Electroplating facilities;

6123 20. Exterminating businesses;

6124 21. Paint and coating manufacturing;

6125 22. Hazardous and/or toxic materials storage;

6126 23. Hazardous and/or toxic waste facilities;

- 6127 24. Radioactive waste facilities;
6128 25. Recycling facilities;
6129 26. Cemeteries.
- 6130 D. Where any of the uses listed in subsection C of this section above exist within the WPA on the
6131 effective date of the ordinance codified in this chapter, owners of these facilities will be allowed to
6132 upgrade such uses to facilitate or enhance groundwater protection. Plans for the proposed upgrade
6133 must be approved by the plan commission, and the appropriate permit issued by the city building
6134 inspector/zoning administrator's office prior to any work being initiated. Expansion of the prohibited use
6135 may be allowed with approval of the planning commission.
- 6136 E. Requirements for Existing Prohibited Uses, Section 19.49.050C Above.
- 6137 1. Such uses shall provide copies of all federal, state and local facility operation approvals or certificate
6138 to the city zoning administrator and ongoing environmental monitoring results to the city director of
6139 public works.
- 6140 2. Such uses shall provide additional environmental or safety structures/monitoring as deemed
6141 necessary by the city, which may include but are not limited to stormwater runoff management and
6142 monitoring.
- 6143 3. Such uses shall replace equipment or expand in a manner that improves the existing environmental
6144 and safety technologies already in existence.
- 6145 4. Such uses shall have the responsibility of devising and filing with the city a contingency plan
6146 satisfactory to the city zoning administrator for the immediate notification of city officials in the event of
6147 an emergency.
6148 (Ord. 1383 § 1(part), 1997).

6149
6150 **19.49.060 Enforcement.**

- 6151 A. In the event the individual and/or facility engaging in permitted use(s) under this chapter causes the
6152 release of any contaminants which endangers the WPA, the activity causing said release shall
6153 immediately cease and a cleanup satisfactory to the city shall occur.
- 6154 B. The individual/facility causing the release of contaminants shall be responsible for all costs of
6155 cleanup. The costs of cleanup shall include, but not be limited to, city consultant fees, at the invoice
6156 amount plus administrative costs for oversight, review and documentation.
- 6157 1. The cost of city employees' time associated in any way with the cleanup based on the hourly rate
6158 paid to the employee multiplied by a factor determined by the city representing the city's cost for
6159 expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits;
- 6160 2. The cost of city equipment employed;
- 6161 3. The cost of mileage reimbursed to city employees attributed to the cleanup.
- 6162 C. Following any such discharge the city may require additional test monitoring and/or bonds/sureties
6163 as it deems necessary and reasonable.
- 6164 D. Penalties for noncompliance shall be provided pursuant to Section 19.75.080 of this code.
6165 (Ord. 1383 § 1(part), 1997).

6166
6167 **Chapter 19.51 TRAFFIC, PARKING AND ACCESS**

- 6168 Sections:
- 6169 [19.51.010 Intersection visibility requirements.](#)
6170 [19.51.020 Loading requirements.](#)
6171 [19.51.030 Parking requirements--Generally.](#)
6172 [19.51.040 Adequate access--Driveways.](#)
6173 [19.51.050 Size, ~~and~~ location, and surface material of parking spaces.](#)
6174 [19.51.060 Lighting of parking areas.](#)
6175 [19.51.070 Buffer screening of on-grade parking areas.](#)

- 6176 [19.51.080 Front and side yard parking limitation.](#)
- 6177 [19.51.090 Designated parking areas.](#)
- 6178 [19.51.100 Landscaped islands for parking bays.](#)
- 6179 [19.51.110 Surfacing of parking areas.](#)
- 6180 [19.51.120 Curbs and barriers.](#)
- 6181 [19.51.130 Number of parking stalls--General requirements.](#)
- 6182 [19.51.140 Number of parking stalls--Combination uses.](#)
- 6183 [19.51.150 Number of parking stalls--Uses not listed.](#)
- 6184 [19.51.160 Parking exemption in B-2 central business district.](#)
- 6185 [19.51.170 Computation of required parking area.](#)
- 6186 [19.51.180 Truck, trailer, ~~mobile home~~ mobile home and equipment parking restrictions.](#)

6187 [NOTE; BOAT STORAGE EXEMPTION NEEDS TO BE ADDED](#)

- 6188 [19.51.190 Highway access limitations.](#)

6189 **19.51.010 Intersection visibility requirements.**

6190 A. At all intersections of streets or alleys, no fence, hedge, wall, sign or other structure shall be erected,
6191 placed, planted or allowed to grow in such a manner as to collectively impede more than fifteen percent
6192 of the vision area between a height of two and one-half feet and ten feet above the established curb
6193 level of the intersection of streets or alleys in the area bounded by the right-of-way lines and a line
6194 joining points along the right-of-way fifteen feet from the point of intersection. (Refer to diagram
6195 below.)

6196 B. In the case of major streets and highways intersecting with other arterial streets or railways, the
6197 corner cutoff distances establishing the triangular vision clearance space shall be increased to forty feet.

6198 **GRAPHIC LINK:** [Click here](#)
6199 (Ord. 994 § 4.1, 1982).

6200
6201 **19.51.020 Loading requirements.**

6202 In all districts except the B-2 central business district, adequate loading areas shall be provided
6203 so that all vehicles loading, maneuvering to do so, or unloading, are completely off the public ways,
6204 except alleys.

6205 (Ord. 994 § 4.2, 1982).

6206
6207 **19.51.030 Parking requirements--Generally.**

6208 In all districts, and in connection with every use, there shall be provided at the time any building
6209 is erected, enlarged, extended, increased, or use is changed, off-street parking stalls for all vehicles in
6210 accordance with Sections 19.51.040 through 19.51.180.

6211 (Ord. 994 § 4.3(part), 1982).

6212
6213 **19.51.040 Adequate access--Driveways.**

6214 Adequate access to a public street shall be provided for each parking space, and driveways shall
6215 be at least ten feet wide for parking areas for less than ten vehicles, and at least two ten-foot lanes for
6216 parking lots for ten or more vehicles, except as otherwise provided in Section 19.51.050(A)(2).
6217 Driveways shall not exceed twenty-four feet in width at the street right-of-way line, except as otherwise
6218 determined by the plan and architectural review commission during site plan review. No driveway may
6219 be closer than three feet to an abutting property line, except where two adjacent lots have a common
6220 driveway then the three-foot minimum distance shall not apply. Common, shared, and cross-access
6221 driveways between adjacent lots are permitted, provided that such driveways are established by
6222 recorded easement that may not be removed except by approval of the city. [All areas intended to be](#)

6223 utilized as a driveway shall be surfaced with bituminous or concrete to control dust and drainage, except
6224 in the case of farm dwellings and operations. Plans for surfacing and drainage of driveways shall be
6225 submitted to the ~~Neighborhood Services~~Services Department for ~~City Engineer for his~~ review and
6226 approval.

6227 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(A), 1982).

6228

6229 **19.51.050 Size, ~~and~~ location, ~~and~~ surface material of parking spaces.**

6230 A. The size of each parking space shall be nine feet wide and not less than one hundred eighty square
6231 feet exclusive of the space required for ingress and egress, except as follows:

6232 1. End parking spaces may be seven and one-half feet wide and not less than one hundred fifty square
6233 feet.

6234 2. Interior parking spaces may be eight and one-half feet wide and not less than one hundred fifty
6235 square feet, provided that internal driveways providing two-way access to parking spaces are not less
6236 than twenty-four feet in width.

6237 3. All areas intended to be utilized for parking shall be surfaced with bituminous or concrete to control
6238 dust and drainage, except in the case of farm dwellings and operations. Plans for surfacing and drainage
6239 of parking stalls for five or more vehicles shall be submitted to the City Engineer for his review. Curb cut
6240 openings shall be a minimum of five feet from the side yard property line in all districts.

6241 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(B), 1982).

6242

6243 **19.51.060 Lighting of parking areas.**

6244 Lights provided in any parking area shall be regulated by the standards in Section 19.57.150.

6245 (Ord. 1452 § 6(part), 2000: Ord. 994 § 4.3(C), 1982).

6246

6247 **19.51.070 Buffer screening of on-grade parking areas.**

6248 When a required off-street parking area for five or more vehicles is located within fifteen feet of
6249 any lot line or public right-of-way line in any district, a buffer yard or screen shall be required in
6250 accordance with Section 19.57.140 of this title, except where the adjoining property also contains a
6251 parking lot within fifteen feet of the shared lot line.

6252 (Ord. 1452 § 6(part), 2000: Ord. 1364 § 11, 1997: Ord. 994 § 4.3(D), 1982).

6253

6254 **19.51.080 Front, ~~and~~ side, ~~and~~ rear yard parking limitation.**

6255 A. In all residential districts, except as provided in subsections B, C and D below, or as otherwise
6256 allowed by a previously granted zoning permit, not more than three vehicles shall be parked in any
6257 combination of the front or side yard area. In no case shall vehicles be parked closer than three feet to
6258 any abutting property line (except for shared parking areas for which a zoning permit has been granted)
6259 or any lawn or landscaped area. All parking must take place in legally established and maintained
6260 parking areas or driveways outside of any required vehicular circulation areas.

6261 B. A legally established two-family dwelling may have up to six vehicles parked in any combination of
6262 the front and side yard area.

6263 C. In the R-3 Multifamily Residence District, except for legally established two-family dwellings or
6264 otherwise allowed by a zoning permit, not more than five vehicles may be parked in any combination of
6265 the front or side yard area. Newly constructed or reconstructed properties as of the date of this chapter
6266 may have no more than three vehicles in front and side yards.

6267 D. The number of vehicles allowed within front and side yard areas of lots occupied by single family
6268 residences may be increased to one per licensed driver legally occupying the property, not to exceed
6269 five vehicles.

6270 (Ord. 1082 § 8, 1986).
6271 (Ord. No. 1688A, 6-17-2008; Ord. No. 1715A, 2-3-2009)

6272
6273 **19.51.090 Designated parking areas.**

6274 Vehicle parking shall only be permitted in designated parking areas approved in the issuance of
6275 a zoning permit. Expansion of existing parking areas requires issuance of an approved zoning permit.
6276 (Ord. 994 § 4.3(F), 1982).

6277
6278 **19.51.100 Landscaped islands for parking bays.**

6279 Landscaped islands shall be required at the ends of parking bays to clearly define lane and
6280 turning patterns, except in the M-1 district.
6281 (Ord. 994 § 4.3(G), 1982).

6282
6283 **19.51.110 Surfacing of parking areas.**

6284 All off-street parking areas shall be graded and surfaced with bituminous or concrete to control
6285 ~~so as to be dust free~~ and properly drained drainage per city requirements for stormwater management.
6286 Hard surfaces shall be required for all multifamily residential and nonresidential uses, except that areas
6287 primarily used for parking of construction vehicles and related equipment may be surfaced with gravel if
6288 approved by conditional use permit. Any parking area for more than five vehicles shall have the aisles
6289 and spaces clearly marked. (Ord 1482 § 1-, 2001: Ord. 1364 § 12, 1997: Ord. 994 § 4.3(H), 1982).

6290
6291 **19.51.120 Curbs and barriers.**

6292 Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any
6293 lot lines or required sidewalks.
6294 (Ord. 994 § 4.3(I), 1982).

6295
6296 **19.51.130 Number of parking stalls--General requirements.**

6297 The minimum number of parking stalls required is as follows:
6298 TABLE INSET:

6299

Uses within the B-2 central business district are exempted from this requirement, except if specifically required for a particular conditional use in that district under Section 19.30.030	
Single-family dwellings	2 stalls
Mobile homes	2 stalls for each dwelling unit
Duplex and multifamily dwellings	
Efficiency/one bedroom	2 1 stalls for each dwelling unit
Two <u>to three</u> bedrooms	3 2 stalls for each dwelling unit

Three <u>Four</u> or more bedrooms	4 <u>3</u> stalls for each dwelling unit
Hotels, motels	1 stall for each guest room plus 1 stall for each 2 employees working per shift
Sororities, 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

6300 The number of required parking spaces shall never exceed the number of occupants allowed
6301 under Section 19.09.520. A party may apply to the plan and architectural review commission for a
6302 permit allowing less than the number of stalls required herein, but not less than one stall per residential
6303 unit or one stall per five hundred square feet of primary floor area for retail and commercial service
6304 uses. The commission may grant such a permit if it is not against the best interest of the public. Even if a
6305 permit is granted, the applicant shall be required to have sufficient land and a plan to install the
6306 maximum required stalls under this section should it become necessary, except within the PCD-TND
6307 zoning district. The permit may be revoked at any time by the commission upon notice and hearing if
6308 good cause is shown for the revocation of the permit. Within a PCD-TND District only, adjacent on-street
6309 parking may apply toward the minimum parking requirements, if approved by the plan commission.
6310 (Ord. 1611A § 2, 2006; Ord. 1511 § 3, 2002; Ord. 1187 § 1, 1990; Ord. 1082 § 9, 1986; Ord. 944 § 4.3(J),
6311 1982).

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19.51.140 Number of parking stalls--Combination uses.

Combinations of any of the uses listed in Section 19.51.130 shall provide the total of the number of stalls required for each individual use.
(Ord. 994 § 4.3(K), 1982).

19.51.150 Number of parking stalls--Uses not listed.

In the case of structures or uses not mentioned in Section 19.51.130, the provision for a use which is similar shall apply.
(Ord. 994 § 4.3(L), 1982).

19.51.160 Parking exemption in B-2 central business district and the B-1A University mixed-use overlay district.

In order to encourage and stimulate the revitalization in the downtown area of Whitewater, uses within the B-2 central business district are exempted from the minimum number of parking stalls required in this chapter, except if specifically required for a particular conditional use in that district under Section 19.30.030. Where parking is voluntarily provided or required for a particular use listed in Section 19.30.030, it shall meet the development standards of this section.
(Ord. 1611A § 3, 2006: Ord. 994 § 4.3(M), 1982).

19.51.170 Computation of required parking area.

In determining required parking area ratios, the floor measurement shall be taken to include only service, sales and office space, and shall not include warehouse, utility and other accessory space which do not generate parking demand.
(Ord. 994 § 4.3 (N), 1982).

19.51.180 Truck, trailer, ~~mobile home~~ mobile home and equipment parking restrictions.

No truck, commercial trailer, house or camper trailer, motor home, boat trailer, snowmobile trailer, or other vehicular equipment or implements of a commercial, agricultural or industrial nature, shall be parked regularly in any zoning district other than B-1, B-3, M-1 and AT districts, except as hereinafter specifically provided for as follows:
A. One panel or pickup truck, exceeding three-quarter ton but not exceeding one and one-half tons, shall be permitted;
B. The unenclosed parking of either one unoccupied house trailer, motor home, or one unoccupied camp trailer in the side and rear yard, provided that the motor home, house trailer or camp trailer is parked at least five feet from the lot lines; motor homes shall also abide by all restrictions relating to motor vehicle parking;
C. Camper trailers and boats shall be permitted to park in front yards for the purposes of loading, unloading and servicing for a period of three days;
D. Boat trailers, snowmobile trailers and all other private residential type trailers shall be permitted to park in the side and rear yard only.
(Ord. 1381 § 1, 1997: Ord. 994 § 4.3(O), 1982).

19.51.190 Highway access limitations.

A. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled-access arterial street without permission of the highway agency that has access-control jurisdiction.

6359 B. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the
6360 following:
6361 1. Freeways, interstate highways and their interchanges or turning lanes, nor to intersecting or
6362 interchanging streets within one thousand five hundred feet of the most remote end of the taper of the
6363 turning lanes;
6364 2. Arterial streets intersecting another arterial street within one hundred feet of the intersection of the
6365 right-of-way lines;
6366 3. Within fifty feet of street right of way lines intersecting other street right of way lines. Access
6367 barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers, shall be erected to
6368 prevent unauthorized vehicular ingress or egress to the above specified streets or highways (see Section
6369 19.51.010, traffic visibility);
6370 4. Temporary access to the above rights-of-way may be granted by the city plan commission after
6371 review.
6372 (Ord. 1446 § 2, 2000; Ord. 994 § 4.4, 1982).

6373

6374 **Chapter 19.54 SIGNAGE REGULATIONS**

6375 Sections:

6376 [19.54.010 Sign permits.](#)

6377 [19.54.020 Definitions and regulations specific to certain signs.](#)

6378 [19.54.030 General signage regulations.](#)

6379 [19.54.040 Sign regulations applicable to residential districts.](#)

6380 [19.54.050 Sign regulations applicable to nonresidential districts.](#)

6381 [19.54.052 Maximum sign sizes and types.](#)

6382 [19.54.060 Temporary signs.](#)

6383 [19.54.070 Construction and maintenance of signage.](#)

6384 [19.54.080 Nonconforming signs.](#)

6385

6386 **19.54.010 Sign permits.**

6387 A. The following sign uses and purposes are permitted in all zoning districts without the need for a sign
6388 permit. Such signs shall not count as part of the maximum permitted sign area as regulated by Section
6389 19.54.052:

- 6390 1. Address numerals and identification signs not exceeding one square foot in area;
- 6391 2. Legal notices;
- 6392 3. Signs established by, or by order of, any governmental agency;
- 6393 4. Memorial signs and tablets displayed in cemeteries.

6394 B. Community information signs shall be permitted only as a conditional use within all zoning districts
6395 and upon any property within the jurisdiction of the city. As such, the review of a request for the
6396 erection of a community information sign shall comply with the requirements of Section 19.54.020C.4.
6397 The proposed size, configuration, and design of the sign shall be described as part of the conditional use
6398 requirements. As a conditional use, the city may revoke the designation of an approved community
6399 information sign if such sign fails to comply with the requirements of this chapter. Such action shall
6400 proceed per the requirements of Chapter 19.75. Upon revocation, the owner of the sign shall have thirty
6401 days to remove the sign at the owner's expense.

6402 C. No person shall erect, alter, or relocate within the city any sign without first obtaining a sign permit,
6403 except for the exceptions in subsections A. and B. of this section, and as may be provided for elsewhere
6404 in this chapter.

6405 (Ord. 1263 § 1(part), 1993).

6406 (Ord. No. 1746A, § 3, 9-15-2009)

6407

6408 **19.54.020 Definitions and regulations specific to certain signs.**

6409 A. The following definitions shall be used by this chapter to assist in the establishment of clear cut
6410 signage regulations. In general, "sign purposes" refers to where or how a sign is used; "sign
6411 configurations" refers to the style of the sign; and "sign measurement" explains how the dimensions of a
6412 sign are determined.

6413 B. "Sign" means any object, device, display, structure, or part thereof, situated outdoors, which is used
6414 to advertise, identify, display, direct or attract attention to an object, person, institution, organization,
6415 business, product, service, event, or location by any means, including figures, letters, figures, designs,
6416 symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of
6417 any nation, organization of nations, state, city, religious, fraternal or civic organization; also merchandise
6418 and pictures or models of products or services incorporated in a window display, works of art which in
6419 no way identify a product, or scoreboards located on athletic fields. Definitions of particular functional,
6420 locational and structural types of signs are listed in this section. (Traffic control and other public agency
6421 signs located within a right-of-way are not included within this definition and are not regulated by the
6422 provisions of this chapter.)

6423 C. Sign Purposes.

6424 1. "Advertising sign" means a sign which directs attention to a business, commodity, service, or
6425 entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is
6426 displayed. Advertising signs include billboards. (Refer to Section 19.54.030.)

6427 2. "Auxiliary sign" means a sign which provides special information such as price, hours of operation, or
6428 warning and which does not include brand names, or information regarding product lines or services. It
6429 may contain a business logo if the logo is under one square foot in area. Examples of such signs include
6430 directories of tenants in buildings, "no trespassing" signs, menu boards, and signs which list prices of
6431 gasoline. (Refer to Section 19.54.050(E).)

6432 3. "Business sign" means a sign which directs attention to a business, commodity, service, or
6433 entertainment conducted, sold, offered, or manufactured upon the premises where the sign is located.
6434 (Refer to Sections 19.54.050 and 19.54.052.)

6435 4. "Community information sign" means an officially-designated sign which is limited to either the
6436 display of information of interest to the general community regarding scheduled public events and
6437 information of general interest to the residents of Whitewater, or signage located on scoreboards,
6438 fences or similar structures within the confines of publicly-owned (city, school district, university)
6439 athletic fields, courts, rinks or other active recreation facilities as approved by the park and recreation
6440 board. (Refer to Section 19.54.010B.)

6441 a. Such sign shall only display information regarding events and information of general interest to the
6442 residents of Whitewater. Copy which may be considered as advertising a product, private or restricted
6443 participation event, or activity for private profit shall be prohibited. This provision may be waived by
6444 conditional use for community information signs on lands owned by the public for recreational
6445 purposes, provided that the installation of the sign provides a benefit to a public or community
6446 organization.

6447 b. Such sign may be located on private or public property.

6448 c. Such sign shall conform to the visibility requirements of Chapter 19.51 and Illustration 2.

6449 d. Maximum sign area shall be thirty-two square feet, unless a larger sign is approved by the plan
6450 commission based on conditions unique to the placement of the sign or the required length of the
6451 message. Such sign shall not be counted as adding to the area of signage on the subject property for the
6452 purposes of regulating sign area per Section 19.54.050(F).

6453 5. Directional Sign, Off-Premises. "Off-premises directional sign" means a sign which indicates only the
6454 name, direction, and/or distance of a business or activity. It may contain a business logo if the logo is
6455 under one square foot in area and approval only by conditional use. (Refer to Section 19.54.030.)

6456 6. Directional Sign, On-Premises. "On-premises directional sign" means an information sign which has a
6457 purpose secondary to the use of the lot upon which it is located, including signs that indicate parking
6458 availability, entrances, particular buildings within a multi-building development, hours of operation,
6459 available merchandise in a drive-through lane, and wall-mounted posters indicating particular movies in
6460 a theater. No sign with a commercial message legible from a public right-of-way or another property
6461 shall be considered an on-premises directional sign. No on-premises directional sign shall be greater
6462 than nine square feet in area.

6463 7. "Sandwich board/pedestal sign" means a movable sign placed by hand outside the building while the
6464 business is open; removed at the time the business closes each day; self-supporting and stable even on
6465 windy days because of its design; used for the purpose of promoting special business offers and not as
6466 primary business signage; and meeting all applicable size, placement, and other requirements of this
6467 chapter (see Section 19.54.050K. in particular).

6468 8. "Group sign" means a sign displaying the collective name of a group of uses such as the title of a
6469 shopping center, office park, industrial park and/or their tenants or occupants. No sales or price
6470 information shall be permitted. Portions of the sign containing names of individual tenants shall be
6471 considered as part of the area of a group sign. Group signs shall only be permitted within developments
6472 serving two or more nonresidential tenants in spaces with separate outside customer doors, and shall
6473 limit information to the name of the development and/or its occupants. Group signs serving two or
6474 more occupants not located on the same lot, but within the same multi-building development, shall be
6475 located on one of the lots being served by the sign. Such signs shall not be considered an advertising
6476 sign as defined in this section. (Refer to Section 19.54.052 for size and locational information.)

6477 9. "Identification sign" means a sign indicating the name and/or address of the tenant of the residential
6478 unit or manager of the property located upon the residential premises where the sign is displayed. Such
6479 sign shall not exceed the allowed area:

6480 a. For one to four units, three square feet;

6481 b. For up to eleven units, six square feet;

6482 c. Twelve units or more, thirty-two square feet. (Refer to Section 19.54.052.)

6483 10. "Temporary sign" means a sign or advertising display intended to be displayed for a period not
6484 exceeding a total of thirty cumulative days within any twelve-month period (except as permitted by
6485 Section 19.54.060). Included in the definition of temporary signs are retailers' signs temporarily
6486 displayed for the purpose of informing the public of a sale or special offer (six square feet maximum) or
6487 for the designation of a new building, promotion of a new development or announcement of a special
6488 event (thirty-two square feet maximum). If a sign display area is permanent but the message displayed
6489 is subject to periodic changes, that sign shall not be considered as temporary. A business shall be limited
6490 to no more than a total of thirty cumulative days for displaying all temporary signs during any twelve-
6491 month period.

6492 11. "Residential business sign" means a sign that is located in a residential district for a joint
6493 commercial/residential use which requires approval by the zoning administrator and to meet the
6494 requirements of Chapter 19.66. All signs must be monument style signs or arm/post type. (Refer to
6495 Illustrations 2 and 3, and Section 19.54.052.)

6496 12. "Commercial message" means any sign wording, logo or other representation that names,
6497 advertises or calls attention to a business, product, or service.

6498 D. Sign Configurations.

6499 1. "Freestanding sign" means a self-supporting sign resting on or supported by means of poles,
6500 standards, or any other type of base on the ground. This type of sign includes monument signs, pylon

6501 signs, arm/post(s) signs, and signs mounted on canopies over gasoline dispensing pumps. The base or
6502 support(s) of any and all freestanding signs shall be securely anchored to a concrete base or footing. The
6503 footing and related supporting structure of a freestanding sign, including bolts, flanges, brackets, etc.,
6504 shall be concealed by the sign exterior, masonry covering, earth and permanent groundcover, or
6505 evergreen shrubs. (Refer to subsection E. of this section and Sections 19.54.050 and 19.54.052.)

6506 2. "Mobile/portable sign or banner" means a sign or banner mounted on a frame or chassis designed to
6507 be easily relocated, including vehicles and/or trailers which have a principal commercial use for signage,
6508 but not including any sandwich board/pedestal sign as defined in Section 19.54.020C.7. Mobile/portable
6509 signs or banners are prohibited unless approved by the zoning administrator for the purpose of
6510 recognizing a business opening, annual business anniversary, or community celebration. Where
6511 approved, such a sign shall not be in place for a period to exceed thirty days within any twelve-month
6512 period, shall not be erected more than thirty days before the event, shall be removed not more than five
6513 days after the completion of the event, and shall not exceed thirty-two square feet in area. A mobile or
6514 portable sign shall not be considered a temporary sign as defined in Section 19.54.020C.9. or used for
6515 such a purpose, except as may be allowed by the zoning administrator.

6516 3. "Monument sign" means a freestanding sign whose bottom edge is located within one foot of
6517 ground level or a ground-mounted pedestal. The base or support(s) of any and all monument signs shall
6518 be securely anchored to a concrete base or footing. The height of a monument sign shall not exceed that
6519 specified in Section 19.52.052, nor shall it be otherwise erected so that it impedes visibility for safe
6520 pedestrian and/or vehicular circulation. The footing and related supporting structure, including bolts,
6521 flanges, brackets, etc., shall be concealed by the sign exterior, masonry covering, earth and permanent
6522 groundcover, or evergreen shrubs. (Refer to Sections 19.54.040 and 19.54.052, and Illustrations 2 and
6523 3.)

6524 4. "Projecting sign" means a sign, other than a wall sign, which is directly attached to and projects more
6525 than one foot from a building face, and is generally mounted perpendicular from the building face. The
6526 bottom edge of such sign shall be located a minimum of eight and one-half feet from the ground level
6527 directly under the sign. In no instance shall such sign be located closer than three feet to the edge of a
6528 street curb, drive, or parking area. For maximum area and placement standards, see Section 19.54.052.

6529 5. "Electronic message center sign" means a sign in a nonresidential zoning district which displays
6530 words, lines, graphic images, video recordings, or symbols that can electronically change to provide
6531 different information and/or animation, including a computer sign, electronic reader board sign, video
6532 display sign, or time and/or temperature sign, but not including a flashing sign, which is prohibited
6533 under Section 19.54.030A.3. For electronic message center sign standards, see Section 19.54.050L.

6534 6. "Pylon sign" means a freestanding sign, other than arm post type, erected upon one or more pylon
6535 or post. The base or support(s) of any and all pylon signs shall be securely anchored to a concrete base
6536 or footing. The height of a pylon sign shall be measured from the centerline elevation of the nearest
6537 road to the top of the sign. The height of a pylon sign shall not exceed twenty feet. Pylon signs shall be
6538 erected so that the vertical distance between the bottom edge of the sign and the elevation of the
6539 centerline of the nearest road to said sign exceeds eight feet. The footing and related supporting
6540 structure of a freestanding sign including bolts, flanges, brackets, etc., shall be concealed by the sign
6541 exterior, masonry covering, earth and permanent groundcover, or through the use of evergreen shrubs.
6542 (Refer to Section 19.54.052 and Illustrations 2 and 3.)

6543 7. "Wall sign" means a sign mounted parallel to a building facade or other vertical building surface.
6544 Wall signs shall not extend beyond the edge of any wall or other surface to which they are mounted, nor
6545 shall they project more than twelve inches from its surface. The height of a wall sign shall be measured
6546 from the base of the building below the sign to the top of the sign face. The top of the sign shall be no
6547 higher than the nearest portion of the building to which it is mounted.

6548 8. "Awning/canopy sign" means a sign mounted to an awning or canopy, with said awning or canopy
6549 mounted to the side of the building. An awning/canopy sign shall be counted as a wall sign for purposes
6550 of this chapter. Script/logo height shall be limited to eight inches, except that a greater script/logo
6551 height may be approved by conditional use.

6552 9. "Arm/post(s) sign" means a freestanding sign mounted on a post with a bracket extending outward
6553 to support a sign by either hanging from the bracket or mounted on the bracket. The maximum size,
6554 height, and location of arm/post(s) signs shall be the same as for monument signs. (See Illustration 3
6555 and Section 19.54.052.)

6556 10. "Window sign" means a sign mounted on or within one foot inside of a first-floor exterior window,
6557 with a primary intent to advertise a business or product within the premises.

6558 E. Sign Measurement.

6559 1. "Ground level" means the average elevation of the ground upon which the sign supports are placed,
6560 except when the sign supports rest upon a berm or other area elevated above the surrounding ground.
6561 In such cases, the average elevation of the base of such berm or other area shall be considered as the
6562 ground level.

6563 2. Sign area shall be measured in the following manner:

6564 a. In the case of a sign placed within a frame, or other structure, sign area consists of the entire surface
6565 area of the sign on which copy could be placed. The supporting structure or bracing of a sign shall not be
6566 counted as a part of the sign face area unless such structure or bracing is made a part of the sign's
6567 message. Where a sign has two or more display faces, the combined total area of all faces shall be
6568 considered the sign face area.

6569 b. In the case of a sign whose message is fabricated together with the background which borders or
6570 frames that message, sign face area shall be the total area of the entire background.

6571 c. In the case of a sign whose message is applied to a background which provides no border or frame,
6572 sign face area shall be the area of the smallest rectangle which can encompass all words, letters, figures,
6573 emblems, and other elements of the sign message.

6574 d. Signs less than one square foot in area are not regulated by this chapter.

6575 e. The following illustrations demonstrate how sign face area shall be determined.

6576 [Illustration 1](#)

6577 **GRAPHIC LINK:** [Click here](#)

6578 (Ord. 1577A §§ 1--5, 2005; Ord. 1452 §§ 9, 10, 2000; Ord. 1263 § 1(part), 1993).

6579 (Ord. No. 1746A, §§ 4--9, 9-15-2009)

6580

6581 **19.54.030 General signage regulations.**

6582 The regulations contained in this section apply to signs in all districts.

6583 A. Sign Prohibitions and Limitations.

6584 1. No sign shall use any word, phrase, symbol, shape, form or character in such manner as to interfere
6585 with moving traffic, including signs which incorporate typical street-type and/or traffic control-type
6586 signage designs and colors.

6587 2. No fluttering, undulating, swinging, rotating or otherwise moving signs, pennants or other
6588 decoration shall be permitted except for electronic message center signs and time and/or temperature
6589 signs in nonresidential zoning districts.

6590 3. No illuminated flashing signs shall be permitted. Electronic message center signs meeting the
6591 definition and requirements of this chapter shall not be considered illuminated flashing signs.

6592 4. No illuminated sign shall be permitted unless the illumination is so designed that the lighting level
6593 does not affect adjacent property, pursuant to the standards in Section 19.57.150. All illuminated signs
6594 shall comply with the state electrical code and Section 19.54.070B., and illumination shall be limited to

6595 one hour before the daily opening of the associated business and one hour after the daily closing of the
6596 associated business.

6597 5. No mobile/portable signs or banners shall be permitted unless approved by the zoning
6598 administrator. Sign use and other regulations shall be as specified in Section 19.54.020D.2.

6599 6. No off-premises directional signs shall be permitted for nongovernmental or noninstitutional uses or
6600 for any use outside of a public right-of-way; however, such signs, as well as city entrance signs, may be
6601 permitted within a public right-of-way, per subsection B.5. of this section, for government facilities,
6602 nonprofit, nonreligious community gathering spots, major economic centers such as the downtown and
6603 business park, and schools.

6604 7. No advertising signs shall be permitted, except for certain community information signs as described
6605 in Sections 19.54.010B. and 19.54.020C.4.

6606 Rationale. The adoption of subsection A.7. of this section reflects a formal finding of fact on the
6607 part of the city plan commission and city council that the prohibition of advertising signage furthers two
6608 compelling government interests: 1) the general public interest of reducing visual clutter caused by
6609 advertising signage which the city has determined is a significant cause of unsafe traffic conditions; and
6610 2) the public interest served by furthering the implementation of the purposes of this chapter and the
6611 city comprehensive master plan in terms of limiting the further spread of strip commercial
6612 development, of which advertising signs are a primary contributor. Furthermore, the city advocates that
6613 this regulation leaves ample and adequate alternative channels of commercial speech communication
6614 for the messages portrayable on such advertising signs; namely, distributed print media, broadcast
6615 media, and point-of-purchase display, and is narrowly defined so as to limit the prohibition to
6616 commercial speech on exterior signage.

6617 B. Sign Location Requirements.

6618 1. No sign shall be erected or maintained at any location where by reason of its position, wording,
6619 illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be
6620 confused with, any authorized traffic control sign, signal or device.

6621 2. No sign shall be located within a required bufferyard or within a permanently protected green space
6622 area (see Chapter 19.57), unless approved by the city.

6623 3. No sign shall be mounted on a roof.

6624 4. No sign, temporary or otherwise, shall be affixed to a tree or utility pole.

6625 5. Private signs shall be allowed within road right-of-way lines only per the regulations of the city public
6626 works department, and per Section 19.54.030C. below.

6627 6. Pylon signs other than arm/post are not permitted in any residential district.

6628 C. Private signs extending into the public right-of-way.

6629 1. Any person desiring to place any sign such that it will extend over or onto the public right-of-way
6630 shall first obtain a sign permit. In the granting of such a permit, the city may require the applicant to
6631 provide and maintain public liability insurance on the installation in an amount not less than fifty
6632 thousand dollars protecting the city as its interests may appear as the result of any accident or injury for
6633 which it might become in any manner liable. In the event that such insurance should be terminated for
6634 any reason, or that the holder of any permit should fail to keep such insurance in force at any time, then
6635 the permit for the maintenance of such sign shall be forthwith removed, or if not removed by the holder
6636 of the permit, then such sign shall be removed or caused to be removed by the zoning administrator and
6637 the expense thereof shall be recovered from the holder of the permit.

6638 2. There is hereby established along each side of every public street, public alley, or public highway a
6639 fictional line five feet distant and outward from the lot line and parallel with such street, alley, or public
6640 highway. No sign which, exclusive of supports, exceeds two hundred fifty pounds in weight or has an
6641 area greater than forty square feet shall be permitted to extend into the highway or over the highway or
6642 sidewalk area beyond such fictional line, except only where such sign is to be placed over a substantial

6643 canopy or portico of such nature that the same will afford ample protection to the public from any
6644 possible injury from such sign.

6645 3. In no event shall any sign regardless of size or weight extend into the public street, highway, or
6646 sidewalk area further than to within three feet from the face of the curb or curb line as determined by
6647 the zoning administrator or be placed less than eight and one-half feet above the sidewalk or sidewalk
6648 grade.

6649 4. Except for sandwich board/pedestal signs, all private signs extending on or over public rights-of-way
6650 shall be adequately supported from buildings, posts, or other permanent supports located on private
6651 property. In no case shall sign posts or other permanent supports be permitted within the limits of a
6652 public street, alley or highway.

6653 5. The zoning administrator shall have the right, and it shall be his duty, to supervise the installation of
6654 any such sign and also to inspect the same from time to time to ascertain whether or not the same is
6655 securely fastened and free from danger to the public. The building inspector shall have the right to
6656 require from time to time any repairs, extra supports or any other precautions necessary to protect the
6657 public safety, and in the event the owner fails to comply with any such requirements the permit for such
6658 sign shall be revoked and the sign shall be removed.

6659 6. This subsection C. shall not apply to signs erected by or for churches, service clubs, public or quasi-
6660 public organizations when such installations have been approved by the common council.

6661 (Ord. 1577A § 6, 2005; Ord. 1452 § 11, 2000; Ord. 1263 § 1(part), 1993).

6662 (Ord. No. 1746A, §§ 10--12, 9-15-2009)

6663

6664 **19.54.040 Sign regulations applicable to residential districts.**

6665 In all residential zoning districts, signage shall be permitted per the requirements of Sections
6666 19.54.010 through 19.54.040 and 19.54.052 through 19.54.080 and per the following:

6667 A. Wall, monument, arm/post(s), and projecting signs (for certified historic properties) are permitted in
6668 residential zoning districts. Other forms of signage are prohibited.

6669 B. For each single-family lot, or two-family or multifamily lot containing four or fewer dwelling units,
6670 one identification sign, not to exceed three square feet in area, is permitted for each dwelling unit. Said
6671 identification sign may include one or more of the following: name, address, and/or home occupation
6672 title.

6673 C. For each multifamily or institutional residential lot containing five to eleven dwelling units, one
6674 identification sign, not to exceed six feet in area, shall be permitted. For each multifamily or institutional
6675 residential lot containing twelve units or more, one identification sign not to exceed thirty-two square
6676 feet is permitted. The sign shall indicate nothing more than the name and address of the premises and
6677 the name of the management company.

6678 D. Permanent subdivision identification signs are authorized if approved as part of a final plat submittal
6679 for a subdivision (per Title 18). Detailed plans of proposed signs must be submitted at the time of final
6680 plat review. Such sign shall comply with the visibility standards in Section 19.51.010 and as shown in
6681 Illustration 2, shall not exceed thirty-two square feet in area or eight feet in height, and shall not be a
6682 pylon sign.

6683 E. For all commercial uses permitted in residential districts, not including home occupations, one
6684 monument, wall, or arm/post(s) type sign per building, not to exceed thirty-two square feet in area, is
6685 permitted. The sign shall indicate nothing more than the name and address of the premises and the
6686 schedule of service or other information relevant to the operation of the premises.

6687 F. For all institutional uses permitted in residential districts, sign sizes and types shall be the same as
6688 those applicable in the I Institutional zoning district per Section 19.54.052, except that pylon signs shall
6689 not be permitted.

6690 G. Temporary signs, after approval of the zoning administrator, are permitted per the requirements of
6691 Section 19.54.060.

6692 H. For more information, see Sections 19.54.020D. and 19.54.052.
6693 (Ord. 1577A § 7, 2005; Ord. 1452 § 12, 2000; Ord. 1263 § 1(part), 1993).
6694

6695 **19.54.050 Sign regulations applicable to nonresidential districts.**

6696 In all nonresidential zoning districts, signage shall be permitted per the requirements of Sections
6697 19.54.010 through 19.54.030 and 19.54.050 through 19.54.080 and per the following:

6698 A. The owners of multitenant properties shall allocate sign size to each business, in writing to the
6699 zoning administrator, up to a specified maximum for the entire property. All multitenant signs must be
6700 compatible in dimensions, in location, in design, in color and the same material, and shall be compatible
6701 with the appearance of the building and the surrounding area in the opinion of the property owner and
6702 the city.

6703 B. The total surface area of all business and identification signs on a lot shall not exceed the maximum
6704 permitted by Section 19.54.052.

6705 C. The number of business and group signs for a business use shall not exceed the numbers listed in
6706 Section 19.54.052. Signs allowed under Section 19.54.052 may be placed on any facade facing a public
6707 street, except where otherwise specified in Section 19.54.052.

6708 D. Only one freestanding sign shall be permitted to be erected within the required street yard for each
6709 lot. Such sign may be either a business sign or a group sign. No lot shall be permitted more than one
6710 freestanding sign, except directional/auxiliary signs allowed by this chapter. All signs shall be located so
6711 that no part of the sign shall exceed the lot line set back from all lot lines as stated in Chapter 19.51 and
6712 Section 19.54.052, Illustration 2, or impede visibility (refer to Chapter 19.51).

6713 E. Auxiliary signs may only be permitted when specifically approved as part of the site plan review
6714 process. Said signage shall be calculated independently of the requirements of subsection A of this
6715 section, and shall not exceed fifty percent of the maximum permitted area.

6716 F. Maximum sign sizes for nonresidential districts shall be permitted per the requirements of the table
6717 of maximum sign sizes (see Section 19.54.052).

6718 G. Temporary signs are permitted per the requirements of Section 19.54.060.

6719 H. Signs carrying secondary advertising messages. Signs carrying secondary advertising media or
6720 messages, such as brand names or logos of products, are allowed as a conditional use, or as a permitted
6721 type of window sign subject to the percentage of window coverage and other applicable regulations of
6722 this chapter, but only where such signs are integral to the business being conducted on the property.

6723 I. Projecting signs are only permitted in the B-2 zoning district or if specifically authorized within a
6724 Specific Implementation Plan for a PCD Planned Community Development district. (See Section
6725 19.52.052.)

6726 J. Signs may be mounted on canopies over gasoline dispensing pumps, provided that the sign message
6727 is limited only to the business name, logo, and price information. The maximum permitted sign area for
6728 any other freestanding sign on the lot shall be reduced by the total sign area on the canopy.

6729 K. Sandwich board/pedestal signs (see definition in Section 19.54.020C.7).

6730 1. There shall be a maximum of one sandwich board/pedestal sign per business.

6731 2. Height shall not exceed five feet (as measured when such sign is properly placed directly on the
6732 ground or sidewalk surface), width shall not exceed three feet, and sign area shall not exceed six square
6733 feet per side.

6734 4. All sandwich board/pedestal signs shall be designed to be self-supporting and in such a manner to
6735 withstand the elements, including the ability to remain upright on windy days.

6736 5. No sandwich board/pedestal sign shall be illuminated in any manner (except via cordless power for
6737 not more than thirty days in any calendar year), have more than two sides, be placed off-premises

6738 (except where allowed on a sidewalk immediately adjacent to the business lot to which it relates), or be
6739 designed to resemble a public regulatory sign (such as a stop sign).

6740 7. All sandwich board/pedestal signs shall be placed directly on a ground surface or walkway surface.

6741 8. No sandwich board/pedestal sign shall be placed on a public sidewalk or shall otherwise extend onto
6742 or into a public right-of-way, except that within the B-2 district or as may be specifically authorized in a
6743 specific implementation plan under PCD zoning, a sandwich board/ pedestal sign may be placed within
6744 the public sidewalk or otherwise between the front of the building and the curb, provided that:

6745 a. There is not adequate space available on the premises to place the sign on private property in a
6746 manner that is visible to the public.

6747 b. The sign is placed directly in front of the business to which it is related.

6748 c. No part of the sign is any closer than three feet from the face of the curb.

6749 d. A minimum of four feet in width of unobstructed travelway remains available in all directions on the
6750 sidewalk at all times.

6751 9. Placement of all sandwich board/pedestal signs shall meet all intersection visibility requirements in
6752 Section 19.51.010, and shall otherwise not impede traffic visibility in the determination of the zoning
6753 administrator. This may require relocation and/or adjustments to height or design.

6754 10. All sandwich board/pedestal signs must be kept in good condition, as determined by the zoning
6755 administrator and per the maintenance requirements of Section 19.54.070.

6756 11. Sandwich board/pedestal signs shall not count against the maximum area or number of signs
6757 allowed on a lot or for a business as specified in Section 19.54.070.

6758 12. Except where placed within the public right-of-way, sandwich board/pedestal signs that meet the
6759 requirements of this chapter may be used without the need for a sign permit.

6760 L. Electronic message center signs (see definition in Section 19.54.020D.5.).

6761 1. The total length of the information cycle shall not be shorter than three seconds nor longer than ten
6762 seconds. Items of information may not be repeated at intervals that are short enough to cause an
6763 electronic message center sign to have the effect of a flashing sign. Traveling messages may travel no
6764 slower than 16 light columns per second and no faster than thirty-two light columns per second.

6765 2. Except for signs that are less than ten square feet in sign area, all electronic message center signs
6766 shall be equipped with photosensitive equipment that automatically adjusts the brightness and contrast
6767 of the sign in direct relation to the ambient outdoor illumination.

6768 3. The message display area shall be included when calculating permitted sign area for the type of sign
6769 (e.g., wall, monument) in the zoning district in which the sign is located.

6770 4. All electronic message center signs shall be maintained so as to be able to display messages in a
6771 complete and legible manner.

6772 5. No electronic message center sign shall be allowed within any agricultural, conservancy, residential,
6773 or industrial zoning district; for any residential use regardless of zoning district; or positioned to be
6774 visible and within three hundred feet from any residential zoning district except by conditional use
6775 permit. Within the B-2 zoning district, electronic message center signs shall be allowed only by
6776 conditional use permit.

6777 (Ord. 1619A § 4, 2006; Ord. 1577A § 8, 2005; Ord. 1452 §§ 13, 14, 2000; Ord. 1269 § 1, 1993; Ord. 1263
6778 § 1(part), 1993).

6779 (Ord. No. 1618B, § 4, 12-19-2006); Ord. No. 1746A, §§ 13--16, 9-15-2009)

6780

6781 **19.54.052 Maximum sign sizes and types.**

6782 A. ~~A.~~ Signage regulations for most zoning districts. Table 19.54.052(1) summarizes the sign
6783 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,
6784 AT, and I. The more detailed requirements contained elsewhere in Chapter 19.54 shall also
6785 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 _e	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 _e	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 PAD
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, <u>????</u> <u>B-2</u> <u>B-2A???</u> 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.	In street	20' max for	Pylon sign	1 per lot

		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	yard, setback equal to height from any side yard lot line and 5' from street right-of-way line	pylon sign	allowed by conditional use only	
				10' max for monument or arm/post(s) sign	Use may forego freestanding sign for one additional wall sign	See also Section 19.54.050
	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)		

6802 NOTES:

6803 (A) Building wall area is determined by using the square footage of the exterior wall of the first floor
6804 area to be signed (including window and door openings).

6805 (B) Permitted wall signage shall be divided among each tenant space. Maximum total size equals ten
6806 percent of the first floor area of the building wall upon which the signs will be placed.

6807 (C) Window sign area cannot exceed one-third of each individual window glass area on or in which the
6808 window signs are located.

6809 (D) Signage for projects with a PCD planned community development district shall be as specified by the
6810 approved specific implementation plan for each particular project. Sign requirements for PCD districts
6811 shall generally be based on the signage requirements in the most comparable standard zoning district.

6812 B. B-2 central business district sign regulations.

6813 1. Each business in the B-2 district shall be permitted a maximum of two permanent business signs,
6814 which may be any combination of the following sign configuration types: wall sign (includes
6815 awning/canopy sign), window sign, projecting sign, and freestanding sign, subject to the following
6816 qualifications:

6817 a. For freestanding signs, see also the limitations in Section 19.54.050D.

6818 b. Any number of window signs used shall count as only one sign in total against this maximum. If the
6819 only window signs used are those allowed under Section 19.54.050H., then such signs shall not count
6820 against this maximum.

6821 c. Any sign for a business included within a group sign, as defined in Section 19.54.020C., shall count as
6822 one sign against the total number of permanent business signs permitted, except that for cases where a
6823 business has or shares more than one public building entrance, an additional group sign shall be
6824 permitted which indicates that and other businesses.

6825 d. Sandwich board/pedestal signs, directional signs, auxiliary signs, and "ghost" signs not related to the
6826 current business operation shall not count against the total number of permanent business signs
6827 permitted.

6828 2. For corner lots, permitted signage may be placed on either or both facades facing a public street.

6829 3. Pylon signs, internally illuminated signs, electronic message center signs, and restoration of "ghost"
6830 signs shall be allowed in the B-2 district by conditional use, except for sign face/component changes on
6831 pre-existing signs of these types, which instead may be accomplished through the site plan review
6832 process under Chapter 19.63. Upon receipt of a completed conditional use permit application for any
6833 such new sign in the B-2 district, the zoning administrator shall forward such application to the
6834 Downtown Whitewater Design Team. If the design team chooses to provide a recommendation, such
6835 recommendation must be provided in a timeframe that allows plan and architectural review commission
6836 action on the conditional use permit request under the requirements of Chapter 19.66.

6837 4. Electronic message center signs shall meet the technical requirements of Section 19.54.050L., and
6838 shall not exceed twelve square feet in area in the B-2 district.

6839 5. Internally illuminated signs in the B-2 district shall be designed and constructed with an opaque
6840 background and translucent letters or symbols, or with a colored background and lighter letters or
6841 symbols.

6842 6. Exposed neon tube signage, and other signage that uses another technology that is designed to
6843 replicate neon tube signs, is permitted within the B-2 district.

6844 7. In addition to meeting the requirements of Section 19.57.150, all exterior lighting of signage in the B-
6845 2 zoning district, regardless of wattage, shall use shielded lighting fixtures as that term is defined in
6846 Section 19.09.623. All wall-mounted exterior lights shall be mounted above the sign they are intending
6847 to illuminate and the illumination shall be directed exclusively towards the sign.

6848 8. No wall sign shall be painted directly on a masonry building surface.

6849 9. Within the B-2 district, the regulations listed in Table 19.54.052(2) shall apply:

6850 Table 19.54.052(2): B-2 Sign Regulations for Permanent Signs

6851 TABLE INSET:

6852

Type of Sign	Maximum Size	Location	Maximum Height
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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

6853 NOTES:

6854 (A) The combined total area of all wall signs for all tenants shall not exceed ten percent of the first floor
6855 area of the façade upon which the signs are placed. First floor façade area is determined by calculating
6856 the square footage of the entire exterior wall of the first floor area of the façade to be signed (including
6857 window and door openings).

6858 (Ord. 1577A § 9, 2005; Ord. 1452 § 15, 2000; Ord. 1364 § 13, 1997; Ord. 1269 § 2, 1993; Ord. 1263 §
6859 1(part), 1993).

6860 (Ord. No. 1746A, § 17, 9-15-2009)

6861 [Illustration 2](#)

6862 **GRAPHIC LINK:**[Click here](#)

6863 [Illustration 3](#)

6864 **GRAPHIC LINK:**[Click here](#)

6865

6866 **19.54.060 Temporary signs.**

6867 Except as provided for in this section, only one temporary sign may be displayed on a property
6868 at any one time. Except as provided by subsections A through E of this section, any one lot is permitted
6869 to display a temporary sign for a maximum of thirty days within any twelve-month period. Furthermore,
6870 any one lot is limited to a maximum of two temporary signs in any twelve-month period (temporary
6871 signs in subsections A, B, D and E are exempt from this restriction). Time limits are subject to review by
6872 the city. The following temporary signs are allowed:

6873 A. For each lot or leasable space: one "For Sale" and "For Rent" sign, not more than twelve feet square
6874 in area, and no more than two signs in total at any one time (time limit subject to time of sale or lease
6875 and shall be removed within sixty days of sale or lease).

6876 B. For construction on or development of a lot, one sign not more than thirty-two square feet in area,
6877 indicating the name of the contractors, engineers, architect, or products being used in the construction
6878 of a building, but only during the time that construction or development is actively underway (time limit
6879 subject to time of construction and shall be removed sixty days after completion).

6880 C. For a temporary event of public interest such as a neighborhood garage sale or church fair,
6881 temporary signs, combined totaling not over thirty-two square feet in area, located upon the site of the
6882 event are allowed. Also permitted are directional signs, each not more than four square feet in area,
6883 showing only a directional arrow and the name of the event. Such signs shall not be erected more than
6884 thirty days before the event and shall be removed not more than five days after the completion of the
6885 event.

6886 D. For each real estate subdivision that has been approved in accordance with the city subdivision
6887 regulations, one temporary development project identification sign is permitted to be located on some
6888 portion of the subject subdivision. Each such sign shall be not more than thirty-two square feet in area.
6889 One additional similar sign shall be permitted for each access point onto a collector or arterial street, or
6890 for each one hundred lots in the subdivision in excess of the original one hundred lots. These signs shall
6891 comply with the visibility standards of Chapter 19.51. These signs shall be permitted to remain within
6892 the subject subdivision until a time at which building permits have been issued for eighty percent or
6893 more of the lots in the subdivision.

6894 E. Political signs.

6895 1. Provisions in the Whitewater Municipal Code regulating the number of signs and the length of time a
6896 sign may be in place shall not apply to signs which carry solely a political message. There shall be no
6897 restriction regulating the number of signs carrying solely a political message or the length of time such
6898 signs are allowed.

6899 2. Provisions in the Whitewater Municipal Code regulating the size and shape of signs shall not apply to
6900 signs thirty-two square feet and under in area, if the sign carries a solely political message and is located
6901 on a residential property during an election campaign period. The zoning administrator may require
6902 modification or removal of the sign, if necessary, for traffic or pedestrian safety. Also, size and shape
6903 regulations shall not apply during an election campaign period to political signs which are affixed to a
6904 permanent building and do not extend beyond the perimeter of the building, as long as said sign does
6905 not obstruct a window, door, fire escape, ventilation shaft, or other area which is required by an
6906 applicable building code to remain unobstructed.

6907 Definitions. In this subsection, the following definitions shall apply:

6908 a. "Election campaign period" means, in the case of an election for office, the period beginning on the
6909 first day for circulation of nomination papers by candidates, or the first day on which candidates would
6910 circulate nomination papers were papers to be required, and ending on the day of the election.

6911 b. "Political message" means a message intended for a political purpose or a message which pertains to
6912 an issue of public policy of possible concern to the electorate, but does not include a message intended
6913 solely for a commercial purpose.

6914 c. "Residential property" means property occupied or zoned to be occupied for residential purposes
6915 and other property abutting that property for which the owner or renter is responsible for the
6916 maintenance or care. If property is utilized for both residential and nonresidential purposes, "residential
6917 property" means only the portion of the property occupied or suitable to be occupied for residential
6918 purposes.

6919 (Ord. 1577A § 10, 2005; Ord. 1452 §§ 16, 17, 2000; Ord. 1263 § 1(part), 1993).

6920

6921 **19.54.070 Construction and maintenance of signage.**

6922 A. All signage within the jurisdiction of this chapter shall remain in a state of proper maintenance. (See
6923 subsection B of this section).

6924 B. Proper maintenance shall be the absence of sign material or loose materials (including peeling paint,
6925 sign message, paper or other material), the lack of excessive rust, the lack of excessive vibration or
6926 shaking, the proper illumination of all lighting originally approved and constructed for the sign, and the
6927 presence of the original structural integrity of the sign, its frame and other supports, its mounting, and
6928 all components thereof.

6929 C. The repainting, changing of parts, and preventive maintenance of signs which completely conform to
6930 the requirements of this chapter, and result in absolutely no change in the appearance of the sign from
6931 that originally approved, shall not be deemed alterations requiring a sign permit.

6932 D. Any signs which may be, or may hereafter become rotted, unsafe, or in a state which is not properly
6933 maintained shall be repaired or removed by the licensee or owner of the sign, or owner of the property
6934 upon which the sign stands upon notice of the zoning administrator.

6935 E. All permanent signs shall be constructed and mounted so as to withstand a wind pressure of thirty
6936 pounds per square foot.

6937 F. Signage found to be in violation of the provisions of this chapter shall be subject to the provisions of
6938 Chapter 19.75.

6939 (Ord. 1577A § 11, 2005; Ord. 1263 § 1(part), 1993).

6940

6941 **19.54.080 Nonconforming signs.**

6942 A. Nonconforming Signs.

6943 1. Signs existing as of the effective date of the ordinance codified in this chapter (see Chapter 19.60)
6944 which do not conform to the provisions of this chapter, shall be nonconforming signs and shall be
6945 subject to the provisions of subsection B of this section. Nonconforming signs may be maintained. No
6946 nonconforming sign shall be altered or moved to a new location without being brought into compliance
6947 with the requirements of this chapter (see subsection (B)(1) of this section).

6948 2. Business signs on the premises of a nonconforming use or building may be continued per Section
6949 19.54.040(B), but such signs shall not be allowed, nor shall expand in number, area, height or
6950 illumination. New signs, not to exceed the maximum allowable aggregate sign area may be erected only
6951 upon the complete removal of all other signs existing at the time of adoption of the ordinance codified
6952 in this chapter.

6953 3. Nonconforming signs shall be removed when the principal structure located on the premises
6954 undergoes a change of use, or shall be removed per subsection B of this section. Closing businesses
6955 must remove their signs within sixty days of closing.

6956 4. Signage not in compliance with the provisions of this section shall be subject to the provisions of
6957 subsection B of this section.

6958 B. Removal of Nonconforming Signs.

6959 1. Alteration of Signs.

6960 a. For the purpose of this chapter, alteration of a sign is considered to be any change to the exterior
6961 appearance of any part of the sign, its frame, its supporting structure, or its lighting including changing
6962 the message (except for menu type/letter board signs), symbols, color, material, height, location or any
6963 other alterations as determined by the zoning administrator.

6964 b. Altering a sign does not include maintaining the existing appearance of the sign or replacing the sign
6965 face or the supporting structure with identical materials, colors, and messages nor changing the
6966 message of a menu type/letter board sign.

- 6967 2. All signs found not to be in compliance with the provisions of this chapter shall be removed within
6968 thirty days of receiving written notice of noncompliance and removal from the zoning administrator.
6969 3. The penalties of Chapter 19.75 shall be applicable to violations of the provisions of this chapter.
6970 C. Modification Sign Location/Height Requirement.
6971 1. Location is required under Sections 19.54.030(B) and 19.54.052.
6972 a. The above may be waived by the zoning administrator and/or the plan and architectural review
6973 commission, in instances where a hardship is created by this chapter for any freestanding sign existing at
6974 the time the ordinance codified in this chapter is adopted.
6975 2. The petitioner must demonstrate that compliance with location requirements for the freestanding
6976 sign will create a public safety hazard (such as visibility hazard) or result in a sign which is not possible
6977 because of building setbacks and/or other obstructions located near the public right-of-way, or is not
6978 clearly visible from pedestrian and/or vehicular traffic on nearby public rights-of-way.
6979 3. This modification shall not be applicable to limitations on types of signage, area of signage, color of
6980 signage, or other standards except location and height of signage.
6981 (Ord. 1263 § 1(part), 1993).
6982

6983 **Chapter 19.55 WIRELESS TELECOMMUNICATIONS FACILITIES**

6984 Sections:

6985 [19.55.010 Purpose.](#)

6986 [19.55.020 Applicability.](#)

6987 [19.55.030 Areas where wireless telecommunication facilities allowed.](#)

6988 [19.55.040 Type of approval required.](#)

6989 [19.55.050 Required application submittal information.](#)

6990 [19.55.060 Co-location and use of alternative support structures.](#)

6991 [19.55.070 Structural, design and aesthetic standards.](#)

6992 [19.55.080 Abandonment and removal.](#)

6993 [19.55.090 Compliance.](#)
6994

6995 **19.55.010 Purpose.**

6996 The purpose of this chapter is to provide a thorough and consistent set of standards for the
6997 siting and installation of wireless communications facilities in the various zoning districts in which they
6998 may be allowed, and more generally to protect the public health, safety, welfare, aesthetics and natural
6999 environment of the city in such a manner that does not unduly interfere with the placement and
7000 construction of said facilities. More specifically, the intent of this chapter is to:

- 7001 A. Mitigate the potential for adverse visual impacts caused by wireless telecommunications facilities
7002 through design and siting, standards.
7003 B. Ensure that a business environment characterized by high service quality, competition and non-
7004 discrimination prevails with regard to wireless telecommunication services in a manner consistent with
7005 the Federal Telecommunications Act of 1996.
7006 C. Establish a clear process for obtaining necessary permits for wireless telecommunications facilities
7007 that adequately protect the interests of the citizens of the city while minimizing the burden of
7008 compliance to service providers.
7009 D. Protect environmentally and aesthetically sensitive areas of the city by restricting the design, height,
7010 location and operation of wireless telecommunications facilities in these areas, and by promoting their
7011 disguise, camouflage, screening or other design treatments intended to minimize their obtrusiveness.
7012 E. Encourage use of multiple-antenna alternative support structures such as buildings and water towers
7013 as an alternative to stand-alone, single-use, single-provider structures, and require good-faith attempts
7014 for co-location of facilities.
7015 (Ord. 1499 § 24(part), 2001).

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19.55.020 Applicability.

The requirements of this chapter shall apply to all new wireless telecommunications facilities that had not received a building permit prior to adoption of this chapter. Wireless telecommunications facilities, which pre-exist this chapter, or have been legally permitted prior to its adoption, shall not be required to meet the requirements contained herein. This chapter is not intended to regulate residential satellite dishes that are thirty-six inches or less in diameter, residential television antennas, or amateur radio facilities, which instead are regulated under Section 19.06.110. This chapter shall not be construed as to override additional or more stringent Federal or State of Wisconsin requirements, including but not limited to any regulations or restrictions imposed by the State Bureau of Aeronautics, the Federal Communications Commission (FCC), or the Federal Aviation Administration (FAA). (Ord. 1499 § 24(part), 2001).

19.55.030 Areas where wireless telecommunication facilities allowed.

Chapter 19.15 to Chapter 19.48 identify the zoning districts in which wireless telecommunications facilities may be allowed, and what types of facilities are allowed as permitted or conditional uses. In no case shall a wireless telecommunications facility be located in or on districts or sites listed on the State or National Register of Historic Places, or within environmental corridors, wetlands, floodplains, or critical species habitats mapped by the Southeastern Wisconsin Regional Planning Commission, Wisconsin Department of Natural Resources, or through more detailed field surveys. (Ord. 1499 § 24(part), 2001).

19.55.040 Type of approval required.

In zoning districts where they are allowed, the first wireless telecommunications facility to be located on an alternative support structure and all new freestanding wireless communication facilities shall require a conditional use permit, and shall meet the standards in this chapter and Chapter 19.66 to obtain approval. In zoning districts where they are allowed, the second or greater wireless telecommunications facility to be located on an alternative support structure already supporting a wireless telecommunications facility or on a pre-existing wireless telecommunications facility shall be allowed as a permitted use, except that any addition or extension to an existing wireless telecommunications facility that adds more than ten feet to the overall height of the existing facility or alternative support structure shall require a conditional use permit. In zoning districts where wireless telecommunication facilities are allowed, wireless telecommunication support facilities shall be allowed as permitted accessory uses upon the establishment of the principal facility. All wireless telecommunication facilities and wireless telecommunication support facilities shall be subject to plan review in accordance with Chapter 19.63. (Ord. 1499 § 24(part), 2001).

19.55.050 Required application submittal information.

With the application for plan review or conditional use permit for a wireless telecommunications facility, the petitioner, shall submit all information required under Section 19.63.020, along with the following additional information:
A. The identity, legal status, signature and contact information of the carrier, service provider, petitioner, and landowner.
B. FCC license and registration numbers if applicable.

- 7062 C. A report prepared by a Wisconsin licensed engineer certifying the structural design of the
7063 telecommunications facility of a new freestanding wireless telecommunications facility as proposed and
7064 its physical ability to accommodate, either initially or at some time in the future, a total of at least three
7065 antenna arrays for separate providers.
- 7066 D. In the case of a leased site, a lease agreement, option or binding lease instrument which does not
7067 preclude the lessee from entering into sub-leases on the site at market rates with another co-locating
7068 provider(s) and includes the legal description and amount of property lease.
- 7069 E. For a proposed wireless telecommunications facility within a one-mile radius of an airport, copies of
7070 an Affidavit of Notification indicating that the airport operator and airport property owner have been
7071 notified via certified mail, along with copies of the determination of no hazard from the FAA or any
7072 other finds of the Wisconsin State Bureau of Aeronautics, such as they may apply.
- 7073 F. Proof of a satisfactory level of liability insurance coverage, with the City of Whitewater listed as an
7074 additional named insured party.
- 7075 G. Certified statement and map prepared by a licensed radio frequency engineer showing the coverage
7076 area of the proposed facility.
- 7077 H. For a wireless telecommunications facility that requires a conditional use permit, a feasibility
7078 analysis that identifies at least three alternative sites, pre-existing freestanding wireless
7079 telecommunications facilities, and/or alternative support structures that could technically support a
7080 comparable level of service. The intent of this analysis is to present options to minimize the number,
7081 size, and adverse environmental impacts of wireless telecommunications facilities. The analysis shall
7082 specifically address the potential for co-location on pre-existing freestanding wireless
7083 telecommunications facilities and the use of alternative support structures. It shall also explain the
7084 rationale for selection of the proposed site in view of the relative merits of the alternative. Approval of
7085 the project is subject to the plan and architectural review commission's determination that the chosen
7086 site is more advantageous than any other alternative site that is both technically feasible and available
7087 for use. The plan and architectural review commission may choose to independently verify the findings
7088 of the analysis at the applicant's expense.
- 7089 I. For a wireless telecommunications facility that requires a conditional use permit, a performance
7090 bond in the amount of twenty thousand dollars naming the city as obligee, as security for the potential
7091 future removal of abandoned or inactivated facilities.
- 7092 J. For a wireless telecommunications facility that would be set back from any property line or, principal
7093 building a distance less than the height of the facility, including the height of any alternative support
7094 structure, an analysis prepared by a licensed structural engineer demonstrating that the facility would
7095 not pose a threat to the public, existing principal buildings or adjacent properties in the event of failure.
- 7096 K. The amount and location of any fuel proposed to be stored on site.
- 7097 L. Any other information that the zoning administrator may deem necessary.
7098 (Ord. 1499 § 24(part), 2001).

7099
7100 **19.55.060 Co-location and use of alternative support structures.**

- 7101 A. In its review of alternative sites considered by the petitioner, the plan and architectural review
7102 commission shall prioritize reasonable alternatives that involve co-locating the new facility on an
7103 existing freestanding wireless telecommunications facility or locating the new facility on an alternative
7104 support structure, such as a tall building, water tower, smokestack, or electrical transmission tower. Co-
7105 location or use of an alternative support structure shall not be required on any facility or structure not
7106 structurally designed to accommodate a new wireless telecommunications facility.
- 7107 B. All freestanding wireless telecommunication facilities issued a conditional use permit after the
7108 effective date of this chapter, known hereinafter as "host facilities," shall make available space for the
7109 co-location of telecommunications antennas or antenna arrays for at least two additional competing

7110 wireless telecommunications providers, including space for wireless telecommunication support
7111 facilities. This requirement does not apply if the owner or operator of the host facility can demonstrate,
7112 to the satisfaction of the plan and architectural review commission, that the placement of the additional
7113 antennas or equipment would impair or disrupt, for a significant period of time, the service provided by
7114 the host facility.

7115 C. Where a wireless telecommunication facility provider proposes to utilize an alternative support
7116 structure, the provider shall make available space for the co-location of telecommunications antennas
7117 or antenna arrays for at least two additional competing wireless telecommunications providers to the
7118 extent practical, and shall thereafter be considered a host facility. If the plan and architectural review
7119 commission determines based on evidence supplied by the applicant that the proposed facility or
7120 alternative support structure is not structurally sound or not otherwise appropriate for additional
7121 antennas or arrays, the commission may waive this requirement.

7122 D. All new wireless telecommunication facilities and sites shall be designed to promote sharing of both
7123 tower space and ancillary facilities such as access roads, parking areas, buildings, and utilities.

7124 E. The owner or operator of the host facility shall make co-location space reasonably available to other
7125 competing providers at prevailing market lease rates for the industry. Failure to comply with this
7126 provision shall be grounds for revocation of the conditional use permit.

7127 F. Alternative support structures must be at least fifty feet in height to be considered for the addition
7128 of a wireless telecommunication facility, not including the height of any architectural projections. The
7129 plan, and architectural review commission may deny the placement of numerous wireless
7130 telecommunication facilities on a single alternative support structure if it determines that such
7131 placement would have a negative aesthetic, architectural, public safety, or operational impact.

7132 G. Wireless telecommunications facilities located on alternative support structures shall be considered
7133 accessory uses.

7134 (Ord. 1499 § 24(part), 2001).

7135

7136 **19.55.070 Structural, design and aesthetic standards.**

7137 All wireless telecommunications facilities shall be designed and sited in such a manner to
7138 minimize or avoid adverse safety, aesthetic or environmental effects per the following requirements:

7139 A. Compliance with all applicable restrictions. All wireless telecommunications facilities shall comply
7140 with all city, state and federal regulations, restrictions, codes, standards and power density limits,
7141 including other city zoning ordinance standards.

7142 B. Materials. Wireless telecommunications facilities shall be constructed of metal or other non-
7143 flammable material, and freestanding facilities shall be self supporting monopoles or lattice towers,
7144 unless otherwise permitted by the plan and architectural review commission. Material color shall blend
7145 with surroundings.

7146 C. Placement. All wireless telecommunications facilities and support facilities shall be located and
7147 installed in such a manner to minimize disturbance to, take advantage of, or locate behind existing
7148 topography and vegetation to minimize visual impact on surrounding properties and public rights-of-
7149 way. No wireless telecommunication facility shall be placed in a location that would physically obstruct
7150 or otherwise interfere with the full use of other wireless telecommunication facilities, residential
7151 satellite dishes, residential television or radio antennas, or amateur radio facilities.

7152 D. Setback. The minimum setback of a new wireless telecommunications facility from all property lines
7153 and principal buildings on the site shall equal the height of the wireless telecommunications facility,
7154 including the height of any alternative support structure. A reduced setback below this minimum may be
7155 considered by the plan and architectural review commission based on submittal of a structural
7156 engineering analysis demonstrating that the facility would not pose a threat to the public, existing
7157 principal buildings, or adjacent properties in the event of failure. All wireless telecommunications

7158 support facilities shall be set back from property lines the same distance as required for principal
7159 buildings in the zoning district.

7160 E. Height. The maximum height above existing grade for any freestanding wireless telecommunications
7161 facility, including all antennas, shall be two hundred and fifty feet. Any wireless telecommunications
7162 facility mounted on an alternative support structure may extend no greater than fifty feet above the
7163 height of an alternative support structure that is less than two hundred feet in height, or no greater than
7164 ten feet above the height of an alternative support structure that is two hundred feet in height or
7165 greater. The plan and architectural review commission may approve waivers to such height limitations if
7166 necessary to facilitate co-location of facilities.

7167 F. Wireless telecommunications support facilities. All wireless telecommunications support facilities
7168 shall be located within enclosed buildings or fully screened rooftop locations. Such accessory buildings
7169 shall not exceed fifteen feet in height and twelve hundred square feet in area, unless otherwise
7170 permitted by the plan and architectural review commission to facilitate co-location. The design and
7171 exterior surfacing of all such buildings or rooftop screening structures shall be in harmony with the
7172 existing or desired architecture for the area. The exterior walls of all such buildings shall be masonry,
7173 stone, stucco, pre-cast, concrete or other similar surface.

7174 G. Signage. No commercial message or signage shall be allowed at or on any wireless
7175 telecommunications facility, wireless telecommunications support facility, or site used for a wireless
7176 telecommunications facility.

7177 H. Driveways. Access driveways shall be surfaced in accordance with the requirements of Section
7178 19.51.110.

7179 I. Landscaping and Fencing. The site including the wireless telecommunications facility shall be
7180 attractively landscaped, with particular emphasis on landscaping near buildings, tower foundations, and
7181 driveways. New vegetation for screening purposes shall be a minimum of five feet in height upon
7182 planting and shall be located on the outside of any required fencing. The base of all freestanding
7183 wireless telecommunications facilities shall be enclosed with security fencing, unless the applicant
7184 provides other acceptable improvements designed to secure the base of the facility (tower) from public
7185 access.

7186 (Ord. 1499 § 24(part), 2001).

7187

7188 **19.55.080 Abandonment and removal.**

7189 Any wireless telecommunications facility not continuously operating for a period of twelve
7190 months shall be considered abandoned and shall be removed (along with its wireless
7191 telecommunication support facilities) within ninety days of receiving an order to remove from the
7192 zoning administrator. The cost of removal and site restoration shall be borne entirely by the permit
7193 holder. In the event that the permit holder fails to remove the facility, the city may cash the required
7194 performance bond and remove the facility and all support facilities itself.

7195 (Ord. 1499 § 24(part), 2001).

7196

7197 **19.55.090 Compliance.**

7198 A. All wireless telecommunications facilities granted site plan or conditional use permit approval after
7199 the effective date of this chapter shall remain in compliance with approved plans, conditions of
7200 approval, the provisions of this chapter as they existed at the time of permit approval, and applicable
7201 standards of Sections 19.63.100 and 19.66.050. The permit holder shall be responsible for the continued
7202 maintenance and/or replacement of all buildings, fencing, landscaping and other site improvements.

7203 B. The permit holder for all wireless telecommunications facilities granted conditional use permit
7204 approval after the effective date of this chapter shall file an annual report with the zoning administrator

7205 demonstrating continued compliance with approved plans, conditions of approval, the provisions of this
7206 chapter as they existed at the time of permit approval, and the standards of Sections 19.63.100 and
7207 19.66.050. The petitioner shall also demonstrate that the term of any performance bond or liability
7208 insurance policy required under Section 19.55.050 shall remain in effect for at least two years from the
7209 date the annual report is submitted. Such report shall be filed within thirty days of the original month of
7210 conditional use permit approval.

7211 C. Failure to comply with subsections A and B above may be grounds for revocation of the permit,
7212 penalties pursuant to Section 19.75.080, or both.
7213 (Ord. 1499 § 24(part), 2001).

7214

7215 **Chapter 19.57 GENERAL PERFORMANCE STANDARDS**

7216 **Sections:**

7217 [19.57.010 Compliance with standards required.](#)

7218 [19.57.020 Air pollution prohibited.](#)

7219 [19.57.030 Fire and explosive hazards--Location--Safety precautions.](#)

7220 [19.57.040 Glare and heat restrictions.](#)

7221 [19.57.050 Liquid or solid wastes--Storage and discharge restrictions.](#)

7222 [19.57.060 Noise restrictions.](#)

7223 [19.57.070 Vibration.](#)

7224 [19.57.080 Odors.](#)

7225 [19.57.090 Radioactivity and electrical disturbances.](#)

7226 [19.57.100 Uses and land suitability.](#)

7227 [19.57.110 Topography preservation conditions.](#)

7228 [19.57.130 Minimum usable floor area.](#)

7229 [19.57.140 Required screens and buffers.](#)

7230 [19.57.150 Outdoor lighting standards.](#)

7231 [19.57.160 Keeping of horses as a residential accessory use.](#)

7232

7233 **19.57.010 Compliance with standards required.**

7234 All land uses and activities, unless otherwise specified, in the City of Whitewater established
7235 after June 24, 1982, the effective date of the ordinance codified in this title, shall comply with the
7236 standards set out in this chapter.

7237 (Ord. 994 § 6.1, 1982).

7238

7239 **19.57.020 Air pollution prohibited.**

7240 No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to
7241 cause soiling, or danger to the health of persons, animals, vegetation or other forms of property.

7242 (Ord. 994 § 6.2, 1982).

7243

7244 **19.57.030 Fire and explosive hazards--Location--Safety precautions.**

7245 All activities involving the manufacturing, utilization, processing or storage of flammable and
7246 explosive materials shall be provided with adequate safety devices against the hazard of fire and
7247 explosion, and with adequate firefighting and fire-suppression equipment and devices that are standard
7248 in the industry. Such activities shall be located and managed in a manner so as not to endanger any
7249 adjoining properties or the public in general.

7250 (Ord. 994 § 6.3, 1982).

7251

7252 **19.57.040 Glare and heat restrictions.**

7253 No activity shall emit glare or heat that is visible or measurable outside its premises, except
7254 activities in the industrial district which may emit direct or sky-reflected glare which shall not be visible

7255 outside the district. All operations producing intense glare or heat shall be conducted within a
 7256 completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside
 7257 their premises.
 7258 (Ord. 994 § 6.4, 1982).

7259
 7260 **19.57.050 Liquid or solid wastes--Storage and discharge restrictions.**

7261 No activity shall discharge at any point onto any land or into any water or public sewer any
 7262 materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute
 7263 or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive
 7264 elements, can overload the existing municipal utilities, or can injure or damage persons or property. No
 7265 such wastes shall be stored in the city for a period longer than three months.
 7266 (Ord. 994 § 6.5, 1982).

7267
 7268 **19.57.060 Noise restrictions.**

7269 A. No activity shall produce a sound-level extending outside its premises that exceeds the following:
 7270 TABLE INSET:

7271

<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

7272 B. All noise shall be so muffled or otherwise controlled as not to become objectionable due to
 7273 intermittance, duration, beat frequency, impulse character, periodic character or shrillness. Sirens,
 7274 whistles, horns, power speakers and bells which are maintained and utilized solely to serve a public
 7275 emergency purpose are exempt from the sound-level standards of this title.
 7276 (Ord. 994 § 6.6, 1982).

7277
 7278 **19.57.070 Vibration.**

7279 No activity shall emit vibrations which are discernible without instruments outside its premises.
 7280 (Ord. 994 § 6.7, 1982).

7281
 7282 **19.57.080 Odors.**

7283 No activity shall emit any odorous matter of such nature or quantity to be offensive, obnoxious
 7284 or unhealthful outside their premises.
 7285 (Ord. 994 § 6.8, 1982).

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19.57.090 Radioactivity and electrical disturbances.

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.
(Ord. 994 § 6.9, 1982).

19.57.100 Uses and land suitability.

No land shall be used or structure erected where the land is held unsuitable for such use or structure by the city zoning administrator or plan commission by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. In applying this provision, the city may deny or condition the granting of a zoning permit. The city shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have the opportunity to present evidence contesting such unsuitability to the board of zoning appeals in compliance with the requirements of Chapter 19.72.
(Ord. 994 § 6.10, 1982).

19.57.110 Topography preservation conditions.

In order to preserve the natural topography as much as possible and in order to protect against danger and damage caused by manmade changes in the existing topography, no lots nor portions of lots nor any parcels of land shall be excavated or filled unless the following conditions are met:

- A. If a difference in grade between two adjacent lots along a lot line is to be not greater at any point than two feet, this difference in levels may be sloped toward or away from the lot line at a gradient of one foot vertical to two feet horizontal, and as soon as practicable must be covered adequately with topsoil and sodded or seeded to prevent erosion so as to assure acceptable restoration; or, a satisfactory retaining wall of stone, concrete or other suitable masonry material shall be constructed to retain the higher ground. Within a single lot, any excavation or fill not exceeding two feet vertical shall also be treated in this same manner.
- B. If a difference in grade between two adjacent lots along a lot line, or wholly within a single lot, is to be greater than two feet at any point, the following procedure shall govern:
 - 1. No slope to be covered with sod, grass seed or other natural plant material may exceed a gradient of one foot vertical to two feet horizontal;
 - 2. A slope covered with a stone riprap construction may not exceed a gradient of one foot vertical to one foot horizontal;
 - 3. A difference in adjacent grades may be held by an approved type of retaining wall which is also protected for safety.
- C. Alterations to existing drainage ways or water flows that would cause material detriment to adjoining property shall not be permitted.

(Ord. 994 § 6.11, 1982).

19.57.130 Minimum usable floor area.

A. Within the city, no dwelling unit shall be constructed or remodeled to have less living area than the following minimum standards:
TABLE INSET:

<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;

7332 B. For the purpose of this section, "floor area" shall be the sum of the several floors of a building used
7333 for human occupancy or use, as measured from the interior faces of the walls, but not including
7334 basement, garages, porches, breezeways of common hallways and unfinished attics.
7335 (Ord. 994 § 6.13, 1982).

7336
7337 **19.57.140 Required screens and buffers.**

7338 Where screens or buffers are required by this title or by the plan and architectural review
7339 commission to reduce the impact of proposed uses on adjacent properties, the following standards shall
7340 be followed. Buffer yards and screens may be required jointly or separately.

7341 A. Landscaped Buffer Yards.

7342 1. Buffer yards are horizontal separations along lot lines that are intended to increase the physical
7343 separation between uses. The width of the required buffer yard shall be determined by the plan and
7344 architectural review commission or zoning administrator. The minimum width shall be the greater of ten
7345 feet or the width of the required yard abutting a less intensive zoning district, if a specific buffer yard
7346 requirement is established in a particular zoning district.

7347 2. All buffer yards shall be attractively landscaped with a minimum of two canopy/shade trees, five
7348 understory evergreen trees and twelve shrubs planted for every one hundred feet of buffer yard length.
7349 A substitute treatment incorporating plantings and/or a decorative fence or wall is acceptable if
7350 approved by the plan and architectural review commission. All buffer yards shall be kept free of debris;
7351 and noxious weeds. No structure, activity, storage of materials, parking of vehicles or loading shall be

7352 permitted in a buffer yard, except emergency, cross, and pedestrian access. Maintenance of buffer yards
7353 shall be the continuing obligation of the owner of the property.

7354 B. Screens.

7355 1. Screens and barriers located in a limited space, ten feet or less, intended to perform a buffering
7356 effect, particularly for noise reduction or visual screening. Screens may consist of existing or planted
7357 vegetation, fences, walls, earth berms, or similar techniques. Plant screens shall be sufficient to provide
7358 a year-round screen within two years of installation. Walls or earth berms shall be required where noise
7359 reduction is necessary.

7360 2. Screen plantings shall be permanently maintained by the owner of the property, and any plant
7361 materials which do not live shall be replaced within six months.

7362 3. The height of walls and fences shall be regulated by the provisions of Section 19.06.120.

7363 (Ord. 1452 § 7, 2000; Ord. 994 § 6.14, 1982).

7364

7365 **19.57.150 Outdoor lighting standards.**

7366 A. Purpose. The purpose of this section is to provide for adequate and safe lighting of private property,
7367 while limiting light spillover and glare onto adjacent properties and public streets. Such limitations are
7368 intended to prevent the creation of nuisances, promote traffic safety, conserve energy, preserve the
7369 area's dark sky and support astronomy.

7370 B. Applicability. This section shall be applied to the installation of all new and replacement private
7371 outdoor lighting fixtures. Outdoor lighting fixtures legally installed prior to the effective date of the
7372 ordinance codified in this chapter shall not be required to comply with these outdoor lighting standards;
7373 however, any replacement of the lighting fixtures shall comply with all outdoor lighting standards as set
7374 forth in this section.

7375 C. Required Lighting Plan. Where a development requires site plan review under Chapter 19.63, all
7376 outdoor lighting fixtures shall be depicted and described on the required site plan or on a separate
7377 lighting plan. The zoning administrator may also require the following information:

7378 1. A catalog page, cut sheet or photograph of the outdoor lighting fixture(s) including the mounting
7379 method and light cutoff angles;

7380 2. A photometric plot plan, drawn to the same scale as the site plan, and indicating the location of all
7381 lighting fixtures proposed, mounting and/or installation height in feet, the average illumination level (in
7382 footcandles) within the parking lot, and illumination levels at regular intervals around the site and at
7383 property lines.

7384 D. Maximum Luminaire Height. The maximum permitted luminaire height shall be thirty-five feet in all
7385 commercial, industrial and institutional districts, and twenty-five feet in all residential districts. The
7386 height of both the pole and base shall be considered in the measurement of luminaire height.

7387 E. Maximum Illumination Levels. Average illumination levels within parking lots shall not exceed 1.0
7388 footcandle within residential districts, and 2.5 footcandles within all other districts. The illumination
7389 level at any property line shall not exceed 0.5 footcandles above the ambient lighting conditions on a
7390 cloudless night where the property adjoins land in a residential district, and 2.0 footcandles above the
7391 ambient lighting conditions on a cloudless night where the property adjoins land in any other zoning
7392 district. The plan and architectural review commission may agree to allow greater lighting levels based
7393 on specific and reasonable written justification provided by the applicant. In no instance shall a
7394 commercial outdoor lighting fixture be mounted or oriented such that the lighting element is visible
7395 from a property in a residential district.

7396 F. Use of Shielded Light Fixtures. All outdoor lighting fixtures shall be shielded as defined in Section
7397 19.09.623, except incandescent fixtures of one hundred fifty watts or less, other sources of seventy
7398 watts or less, lighting within public street rights-of-way and lighting required for a specialized security or
7399 safety purpose. No searchlights shall be permitted.

7400 G. Types of Light Source. All outdoor lighting fixtures shall have high pressure sodium (HPS), low
7401 pressure sodium (LPS), incandescent or fluorescent light sources, except that in cases where true color
7402 rendition is required (including display lots and certain outdoor recreational uses), white lights such as
7403 metal halide shall be permitted. No new mercury vapor lighting fixtures shall be installed, and no
7404 replacement equipment or bulbs for preexisting mercury vapor lighting fixtures shall be installed after
7405 January 1, 2001. No flickering or flashing lights shall be permitted, except low wattage seasonal lighting
7406 between November 1st and January 31st and lighting required for a specialized security or safety
7407 purpose.
7408 H. Location. No exterior light fixture shall be located within any required landscape bufferyard or within
7409 three feet of any property line.
7410 I. Hours of Illumination. Within one hour after closing of the store, completion of the final work shift, or
7411 completion of specific activities associated with an institutional use, only building mounted security
7412 lighting and up to twenty-five percent of all other outdoor lighting fixtures may remain illuminated.
7413 J. Exterior Lighting for Outdoor Recreational Uses. Ball diamonds, playing fields, golf driving ranges,
7414 tennis courts, parks and similar outdoor recreational uses may be exempted from one or more of the
7415 outdoor lighting standards of this section if approved by the plan and architectural review commission
7416 through site plan review.
7417 K. Street Lighting. Street lighting shall conform to the standards set forth by the state for state and
7418 federal highways, appropriate county for county highways and the city for city streets and highways.
7419 (Ord. 1452 § 8, 2000).

7420
7421 **19.57.160 Keeping of horses as a residential accessory use.**

7422 Horses may be kept as an accessory use only in certain residential zoning districts, upon the
7423 granting of a conditional use permit, and subject to the following standards:

- 7424 A. The lot on which the horses will be kept and exercised shall be not less than two acres in total area.
7425 B. For each horse kept on the lot, there shall be a minimum of one acre of open land usable for horse
7426 exercise and manure management. Such open land may not include lands in wetlands or woodlands,
7427 with over a twelve-percent slope, or within seventy-five feet of navigable waters or wetlands.
7428 C. Outdoor horse containment areas, including, but not limited to barns and exercise areas, shall be
7429 completely enclosed, shall be a minimum of twenty feet from any other lot, and shall meet the
7430 standards of Wisconsin Statutes Chapter 90. D. The keeping of horses shall not be for commercial
7431 purposes, such as the commercial stabling of horses.
7432 E. The use shall meet and maintain any other specific conditions of conditional use permit approval
7433 that relate to the protection of human, animal, or environmental health, or the character of the
7434 surrounding neighborhood or publicly owned lands.
7435 (Ord. 1589A § 3, 2005).

7436
7437 **Chapter 19.58 NOISE RESTRICTIONS**

- 7438 Sections:
7439 [19.58.010 Policy, purpose, title, and scope.](#)
7440 [19.58.020 Definitions.](#)
7441 [19.58.030 Exemptions to this chapter.](#)
7442 [19.58.040 Residential noise.](#)
7443 [19.58.050 General noise disturbance prohibited.](#)
7444 [19.58.060 Maximum permissible sound levels by land use category.](#)
7445 [19.58.070 Emergency signaling devices.](#)
7446 [19.58.080 Specific activities prohibited.](#)
7447 [19.58.090 Sound equipment and sound-amplifying equipment.](#)
7448 [19.58.100 Motorized vehicles.](#)

- 7449 [19.58.110 Construction.](#)
- 7450 [19.58.120 Nonemergency signaling devices.](#)
- 7451 [19.58.130 Animals and birds.](#)
- 7452 [19.58.140 Enforcement.](#)
- 7453 [19.58.150 Noise variances.](#)
- 7454 [19.58.160 Penalty.](#)

7455

7456 **19.58.010 Policy, purpose, title, and scope.**

7457 A. Statement of Public Policy. The city council finds and declares that:

- 7458 1. Excessive noise is a serious hazard to the public health and welfare and the quality of life in a close
- 7459 urban society.
- 7460 2. A substantial body of science and technology exists by which excessive noise can be substantially
- 7461 abated without serious inconvenience to the public.
- 7462 3. Certain of the noise-producing equipment in this community is essential to the quality of life herein
- 7463 and should be allowed to continue at reasonable levels with moderate regulation.
- 7464 4. Each person has a right to an environment reasonably free from noise which jeopardizes health or
- 7465 welfare or unnecessarily degrades the quality of life.
- 7466 5. It is the declared policy of this city to promote an environment free from excessive noise, otherwise
- 7467 properly called "noise pollution," which unnecessarily jeopardizes the health and welfare and degrades
- 7468 the quality of the lives of the residents of this community, without unduly prohibiting, limiting or
- 7469 otherwise regulating the function of certain noise-producing equipment which is not amenable to such
- 7470 controls and yet is essential to the economy and quality of life of the community.

7471 B. Purpose, Title and Scope.

- 7472 1. The purpose of this chapter is to establish standards for the control of noise pollution in the city by
- 7473 setting maximum permissible sound levels for various activities, to protect the public health, safety and
- 7474 general welfare.
- 7475 2. This chapter may be cited as the "Noise Control Ordinance of the City of Whitewater."
- 7476 3. This chapter shall apply to the control of all noise originating within the limits of the city, except
- 7477 where either (a) a state or federal agency has adopted a standard or rule and has so preempted the
- 7478 regulation of noise from a particular source as to render this chapter inapplicable thereto; or (b) the city
- 7479 council has determined that, by reason of public acceptance of the activity producing a particular noise
- 7480 or noises, such noise is deemed acceptable to the residents of this city.
- 7481 (Ord. 1310 § 2(part), 1995).

7482

7483 **19.58.020 Definitions.**

7484 Unless otherwise expressly stated or the context clearly indicates a different intention, the

7485 following terms shall have the meanings shown. Definitions of technical terms used in this chapter

7486 which are not herein defined shall be in conformance with the standard ANSI § 1.1-1994, Acoustical

7487 Terminology.

7488 "Ambient noise level" means the composite of noise from all sources near and far. In this

7489 context, the ambient noise level constitutes the normal or existing level of environmental noise at a

7490 given location and time.

7491 "A-weighted sound level" means the sound level in decibels as measured on a sound-level meter

7492 using the A-weighting network. The level so read is designated dB(A) or dBA.

7493 "Construction" means any site preparation, assembly, substantial repair, alteration, similar

7494 action, for or of public or private rights-of-way, structures, utilities or similar property or similar activity

7495 upon public or private structures or land.

7496 "Continuous sound" means sound which is of a steady and uninterrupted nature of a specified
7497 time period. For the purpose of this title, the minimum time period shall be one hour.

7498 "Daytime" means the hours between seven a.m. and ten p.m. on any given day.

7499 "Decibel" means a unit for measuring the amplitude of sound, equal to twenty times the
7500 logarithm to the base ten of the ratio of the pressure of the sound measured to the referenced pressure,
7501 which is twenty micropascals.

7502 "Emergency work" means any work performed for the purpose of preventing or alleviating the
7503 physical trauma or property damage threatened or caused by an emergency.

7504 "Enforcement office(r)" means the city employee and/or police officer having lead responsibility
7505 for enforcing this chapter; and, the city employee/police officer having responsibility for making noise
7506 surveys, noise analyses, noise investigations and for the administration of this chapter.

7507 "Equivalent sound level (Leq)" means the average sound level measured over a stated period of
7508 time. For the purpose of this chapter, the averaging time shall be one minute.

7509 "Fixed noise source" means a stationary device which creates sounds while fixed or motionless,
7510 including but not limited to residential, agricultural, industrial and commercial machinery and
7511 equipment, pumps, fans, compressors, air conditioners and refrigeration equipment.

7512 "Impulse sound" means sound of short duration, usually less than one second, with an abrupt
7513 onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts,
7514 and the discharge of firearms.

7515 "Intermittent sound" means sound which is not continuous or which is of a cyclic or repetitive
7516 nature.

7517 "Intrusive noise" means that noise which intrudes over and above the existing ambient noise at
7518 a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency
7519 and time of occurrence, and tonal or informational content as well as the prevailing ambient noise level.

7520 "Leq" means see equivalent sound level.

7521 "Lmax" means the maximum instantaneous sound level reading.

7522 "Mobile noise source" means any noise source other than a fixed noise source.

7523 "Nighttime" means the hours between ten p.m. and seven a.m. on any given day.

7524 "Noise disturbance" means any noise exceeding the noise-level limits for a designated land-use
7525 category specified in Table 1 or 2.

7526 "Noise sensitive area" means any area designated by the planning commission for the purpose
7527 of ensuring exceptional quiet.

7528 "Public right-of-way" means any street, avenue, boulevard, highway, bikeway, sidewalk or alley
7529 or similar place which is owned or controlled by a government entity.

7530 "Public space" means any real property or structures thereon which are owned or controlled by
7531 a governmental entity.

7532 "Pure tone" means any sound which can be judged as audible as a single pitch or a set of single
7533 pitches by the enforcement officer or police officer.

7534 "Real property boundary" means an imaginary line along the ground surface, and its vertical
7535 extension, which separates the real property owned by one person from that owned by another person,
7536 but not including intra-building real property divisions.

7537 "Sound-amplifying equipment" means any machine or device for the amplification of the human
7538 voice, music, or any other sound. Sound-amplifying equipment, as used in this title, shall not be
7539 construed as including standard automobile radios when used and heard only by occupant(s) of the
7540 vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other
7541 warning devices on other vehicles used only for traffic safety purposes. This definition shall include
7542 remotely located loudspeakers attached to and/or operated from a vehicle.

7543 "Sound-level meter" means an instrument, including a microphone, an amplifier, and an output
7544 meter for the measurement of sound levels, which meets or exceeds the requirements for Type 2
7545 meters in American National Standards Institute specifications for sound-level meters, S1.4-1971.

7546 "Vibration perception threshold" means the minimum ground-borne or structure-borne
7547 vibrational motion necessary to cause a normal person to be aware of the vibration by such direct
7548 means as, but not limited to, sensation by touch or visual observation of moving objects. The perception
7549 threshold shall be presumed to be a motion velocity of .001 inches per second over the range of one to
7550 one hundred Hz.

7551 "Weekday" means any day, Monday through Friday, which is not a legal holiday.
7552 (Ord. 1310 § 2(part), 1995).

7553

7554 **19.58.030 Exemptions to this chapter.**

7555 The provisions of this chapter shall not apply to:

- 7556 A. The emission of sound for the purpose of alerting persons to the existence of an emergency;
- 7557 B. The emission of sound in the performance of emergency work;
- 7558 C. Noncommercial public speaking and public assembly activities conducted on any private property,
7559 public space, or public right-of-way, except those activities controlled by Sections 19.58.040, 19.58.090
7560 and 19.58.100;
- 7561 D. Agricultural activities, exclusive of those involving the ownership or possession of animals or birds;
- 7562 E. Rail and air transportation and public mass transportation vehicles;
- 7563 F. The emission of sound in connection with activities conducted at Warhawk Stadium during events
7564 permitted by the city;
- 7565 G. The emission of sound in the discharge of weapons or in fireworks displays licensed by the city
7566 council;
- 7567 H. The emission of sound in the operation of snow removal equipment;
- 7568 I. Parades or processions for which a parade permit has been issued by the city;
- 7569 J. Residential garbage collection activities as contracted for by the city;
- 7570 K. The emission of sound in the operation of yard maintenance equipment.
7571 (Ord. 1310 § 2(part), 1995).

7572

7573 **19.58.040 Residential noise.**

- 7574 A. Residential noise disturbances (even if the residence is located in a commercial district) shall be
7575 governed by this section and shall not be subject to the sound levels established in Section 19.58.060.
- 7576 B. No person shall make, allow or assist in making any noise from a residence or residential yard which
7577 is likely to unreasonably disturb the peace and quiet of any person outside of the residence.
- 7578 C. For the purpose of this section:
 - 7579 1. It is not necessary to prove that any particular person was disturbed by the noise.
 - 7580 2. A resident of a premises is in violation of allowing a noise disturbance at the premises under this
7581 section if noise in violation of this section is emitted from a residence and the authorities are unable to
7582 gain entry to the premises or sufficient information to identify the actual parties at the premises at the
7583 time of the disturbance.
 - 7584 3. All residents of a residential unit who are at the premises at the time of a noise disturbance are
7585 deemed to have allowed the disturbance.
7586 (Ord. 1310 § 2(part), 1995).

7587

7588 **19.58.050 General noise disturbance prohibited.**

7589 No person shall make, continue, or cause to be made or continued, except as permitted, any
 7590 noise disturbance as defined in this chapter, or any noise in excess of the limits for such noise
 7591 established in this chapter.
 7592 (Ord. 1310 § 2(part), 1995).

7593
 7594 **19.58.060 Maximum permissible sound levels by land use category.**

7595 A. Maximum Permissible Sound Levels. With the exception of sound levels elsewhere specifically
 7596 authorized or allowed in this chapter, the following are the maximum permissible sound levels allowed
 7597 at the real property boundary of the source of offending noise. No person shall produce or allow the
 7598 production of noise in excess of that specified in Table 1 or 2.

7599 TABLE 1 SOUND LEVEL LIMITS FOR DAYTIME
 7600 (7 p.m. - 10 p.m.) in dBA

7601 TABLE INSET:

<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 PCD (except residential PCD 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 PCD (when adjacent to residential districts)	75	60
All other nonresidential categories	75	60

7603 TABLE 2 SOUND LEVEL LIMITS FOR NIGHTTIME HOURS in dBA

7604 TABLE INSET:

<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)	75	60
B-3 and PCD (except residential PCD 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 PCD (when adjacent to residential districts)	75	60

All other nonresidential categories	75	60
-------------------------------------	----	----

7606 For the purpose of this chapter, sound levels in excess of the dBA listed in Table 1 or 2 above
7607 shall be deemed a violation.
7608 (Ord. 1310 § 2(part), 1995).

7609
7610 **19.58.070 Emergency signaling devices.**

7611 A. No person shall operate or permit the intentional sounding outdoors of any fire, burglar or civil
7612 defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency
7613 purposes or for testing, as provided in subsection B of this section.

7614 B. Testing of a stationary emergency signaling device shall occur at the same time of day each time the
7615 test is performed, but not before nine a.m. or after four p.m. Any such testing shall use only the
7616 minimum cycle test time.
7617 (Ord. 1310 § 2(part), 1995).

7618
7619 **19.58.080 Specific activities prohibited.**

7620 A. Loading and Unloading. No person shall so load, unload, open, close or handle boxes, crates,
7621 containers, building materials, garbage cans or similar objects between the hours of seven p.m. and
7622 seven a.m. the following morning as to create a noise disturbance across a residential real property
7623 boundary or within a noise sensitive area. This section shall not apply to activities covered by Section
7624 19.58.110.

7625 B. Vehicle or Motorboat Repairs and Testing. No person shall repair, rebuild, modify or test any motor
7626 vehicle in a public or private place out of doors or within a noise sensitive area between the hours of ten
7627 p.m. and seven a.m. the following day.
7628 (Ord. 1310 § 2(part), 1995).

7629
7630 **19.58.090 Sound equipment and sound-amplifying equipment.**

7631 A. No person shall so operate, play or permit the operation or playing of any sound equipment so as:
7632 1. To create a noise disturbance across a residential real property boundary or outdoors within a noise
7633 sensitive area;
7634 2. To create a noise disturbance fifty feet from the device, when operated in or on a motor vehicle on a
7635 public right-of-way or public space, or in a boat on public waters.

7636 B. Sound Equipment.
7637 1. No person shall use, operate or cause to be used or operated any sound equipment, upon the public
7638 streets or in any building or upon any premises, public or private, if the sound therefrom is plainly
7639 audible from any public street or public place within the city.

7640 2. Sound equipment shall not include:
7641 a. Equipment used for public health and safety purposes;
7642 b. Church or clock carillons, bells or chimes;
7643 c. Automobile radios, tape decks or players, or other standard automobile equipment used and
7644 intended for the use and enjoyment of the occupants, provided the sound emitting therefrom is not
7645 audible for more than fifty feet from the vehicle;
7646 d. Recorded music used in a nonresidential district in conjunction with a civil or religious celebration;
7647 e. Live music provided, sponsored or funded, in whole or in part, by a governmental entity.

7648 (Ord. 1310 § 2(part), 1995).
7649 (Ord. No. 1682A, § 1, 5-20-2008)

7650
7651 **19.58.100 Motorized vehicles.**

7652 A. No person shall operate the engine providing motive power or an auxiliary engine, of a motor
 7653 vehicle with a manufacturer's gross vehicle weight rating of ten thousand pounds or more for a
 7654 consecutive period longer than twenty minutes while such vehicle is standing and located within one
 7655 hundred fifty feet of property zoned and used for residential purposes except where such vehicle is
 7656 standing within a completely enclosed structure and does not create a noise disturbance across a real
 7657 property boundary as defined in Section 19.58.060 of this chapter unless approved by a conditional use
 7658 permit. This section shall not apply to delivery or pickup vehicles that require the operation of the
 7659 engine to unload or load their vending loads.

7660 B. No person shall operate within the speed limits specified in this section either a motor vehicle, or a
 7661 combination of vehicles of a type subject to registration, at any time or under any condition of grade,
 7662 load, acceleration or deceleration in such manner as to exceed the noise limit listed hereinbelow for the
 7663 category of motor vehicle, based on the legal speed limit, posted or not, of the road or way on which
 7664 operated, such noise to be measured at a distance of no more than fifty feet from the center line of
 7665 travel under test procedures established by subsection C of this section. In the event the distance of the
 7666 measuring instrument from center line of travel is less than fifty feet, such listed noise limits shall be
 7667 corrected to reflect the equivalent noise limits for the actual distance.

7668 TABLE INSET:
 7669

	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)

7670 This section applies to the total noise from a vehicle or combination of vehicles and shall not be
 7671 construed as limiting or precluding the enforcement of any other provisions of this code relating to
 7672 motor vehicle mufflers or noise control.

7673 C. The measurement of sound or noise shall be made with a Type 1 or 2 sound level meter meeting the
 7674 standards prescribed by the American National Standards Institute or its successor body. The instrument
 7675 shall be calibrated and maintained in good working order. Measurements recorded shall be taken so as
 7676 to provide a proper representation of the noise source. The microphone during measurement shall be
 7677 positioned so as not to create any unnatural enhancement or attenuation of the measured noise. A
 7678 windscreen for the microphone shall be used when required.

7679 D. No person shall modify the exhaust system of a motor vehicle or motorcycle by installation of a
 7680 muffler cut-out or bypass, and no person shall operate a motor vehicle or motorcycle which has been so

7681 modified. A motor vehicle so operated shall be deemed equipped with a muffler which emits excessive
7682 and unusual noise and which is not in good working order.

7683 E. 1. No person shall operate a recreational vehicle or permit the operation of one or more recreation
7684 vehicles, individually or in a group or in an organized racing event, on public or private property in such a
7685 manner that the sound level resulting from such operation exceeds:

7686 Seventy-three dBA for any total of three minutes in any continuous one-hour period, or exceeds
7687 ninety dBA for any period of time during such operation. Sound levels which exceed the limits herein
7688 described at the real property boundary of the source property shall be deemed a noise disturbance.

7689 2. Notwithstanding Section 19.58.030 of this chapter, no person shall permit the conducting of any part
7690 of an organized racing event which involves contest between or among recreational vehicles on public
7691 or private property between the hours of ten thirty p.m. and ten a.m. the following morning.
7692 (Ord. 1310 § 2(part), 1995).

7693

7694 **19.58.110 Construction.**

7695 A. This chapter shall not prohibit the operation of any tools or equipment in public or private
7696 construction, drilling, demolition work, or in maintenance work between the hours of seven a.m. and
7697 nine p.m. Additional hours of construction may be granted by the zoning administrator or his designee.

7698 B. The terms of this section shall not apply to emergency work or repair work performed by or for
7699 governmental entities or public service utilities.
7700 (Ord. 1310 § 2(part), 1995).

7701

7702 **19.58.120 Nonemergency signaling devices.**

7703 A. No person shall operate or permit the sounding of any stationary bell, chime, siren, whistle or similar
7704 device, intended primarily for nonemergency purposes, from any place, for more than one minute in
7705 any hourly period.

7706 B. Devices used in conjunction with the places of religious worship shall be exempt from compliance
7707 with this section.

7708 C. Exemptions for sound sources covered by this section, but not exempted under subsection B of this
7709 section, may be granted under the procedure set forth in Section 19.58.150.
7710 (Ord. 1310 § 2(part), 1995).

7711

7712 **19.58.130 Animals and birds.**

7713 No person shall own, possess or harbor any animal or bird which frequently or for continued
7714 duration emits sounds native to the species which are a noise disturbance across a residential real
7715 property boundary, or within a noise sensitive area.

7716 (Ord. 1310 § 2(part), 1995).

7717

7718 **19.58.140 Enforcement.**

7719 A. The noise control program established by this chapter shall be implemented, administered and
7720 enforced by the zoning department and police department.

7721 B. The provisions of this chapter which prohibit the making, continuing, or causing the making or
7722 continuing across a real property boundary or within a noise sensitive area, shall be enforced upon
7723 receipt of complaint made or filed with the city officials by a person disturbed by such noise disturbance
7724 or by direction of the chief of police or his or her designee. Certification by an official charged with
7725 enforcement of provisions of this chapter that such complaint was made shall be sufficient to establish
7726 the fact of such complaint.

7727 C. Noise and vibration measurements shall be made in compliance with generally accepted practices
7728 and procedures. The zoning administrator shall prepare, and make available upon request, a "Code of
7729 Recommended Practices" for the measurement of noise and vibration.

7730 D. To implement and enforce this chapter the zoning department and police department shall have the
7731 additional power to:

7732 1. Conduct research, monitoring, and other studies related to sound;

7733 2. Conduct programs of public education regarding the causes, effects and general methods of
7734 abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for
7735 reporting violations;

7736 3. Coordinate the noise control activities of all municipal departments;

7737 4. Review public and private projects, including those subject to mandatory review or approval by
7738 other departments, for compliance with this chapter, if these projects are likely to cause sound in
7739 violation of this chapter;

7740 5. Upon presentation of proper credentials, enter and inspect any private property or place, any time
7741 when granted permission by the owner resident or by some other person with apparent authority to act
7742 for the owner;

7743 6. Issue noise variances pursuant to the provisions of Section 19.58.150;

7744 7. Prepare recommendations for consideration by the city council, after publication of notice and
7745 public hearing, for establishing the boundaries of noise sensitive areas.

7746 E. All departments and agencies of the city shall carry out their programs in furtherance of the policy of
7747 this chapter.

7748 (Ord. 1310 § 2(part), 1995).

7749

7750 **19.58.150 Noise variances.**

7751 A. Any person who cannot comply with provisions of this noise ordinance due to technological
7752 limitations or in cases of significant hardship, may apply for a conditional use permit in accordance with
7753 Chapter 19.66 of this code. Through this process, the governing body may grant a conditional use permit
7754 to exceed the provisions of this chapter for a specific period of time.

7755 B. During this period of time, the operators of the nonconforming noise source must make every
7756 reasonable attempt to come into compliance with this chapter. Should total compliance not become
7757 feasible at the time the conditional use permit expires, the operator of the source must demonstrate to
7758 the satisfaction of the governing body that a good faith effort has been made to come into compliance.
7759 If a good faith effort is demonstrated to the satisfaction of the governing body, the governing body may,
7760 at its discretion, extend the conditional use permit for an additional period of time.

7761 (Ord. 1310 § 2(part), 1995).

7762

7763 **19.58.160 Penalty.**

7764 Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be
7765 subject to a penalty of not less than one hundred fifty dollars or more than three hundred dollars for the
7766 first offense; and for the second offense within one year shall be subject to a penalty of not less than
7767 two hundred dollars or more than four hundred dollars; and for the third and subsequent offenses
7768 within one year, not less than three hundred dollars or more than five hundred dollars, together with
7769 the costs of prosecution.

7770 (Ord. 1430 § 2, 1999; Ord. 1364 § 14, 1997).

7771

7772 **Chapter 19.60 NONCONFORMING USES, STRUCTURES AND LOTS**

7773 Sections:

- 7774 [19.60.010 Existing nonconforming uses.](#)
- 7775 [19.60.020 Existing nonconforming structures.](#)
- 7776 [19.60.030 Discontinuance or replacement of nonconforming use or structure.](#)
- 7777 [19.60.040 Changes and substitutions.](#)
- 7778 [19.60.045 Floodland nonconforming uses and structures.](#)
- 7779 [19.60.046 Wetland nonconforming uses and structures.](#)
- 7780 [19.60.050 Nonconforming lots.](#)

7781

7782 **19.60.010 Existing nonconforming uses.**

7783 The lawful nonconforming use of a structure, land or water existing prior to June 24, 1982, the
7784 effective date of this title, may be continued although the use does not conform with the provisions of
7785 this title; however:

- 7786 A. Only that portion of the land or water in actual use may be so continued, and any associated
7787 structures may not be extended, enlarged, reconstructed, substituted, moved or structurally altered
7788 except as otherwise permitted by the provisions of this title;
- 7789 B. Substitution of new uses or equipment may be permitted by the board of zoning appeals if such use
7790 or equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
7791 (Ord. 994 § 7.1, 1982).

7792

7793 **19.60.020 Existing nonconforming structures.**

7794 Any lawful nonconforming structure existing prior to June 24, 1982, the effective date of this
7795 title, may be continued although its size or location does not conform with the lot width, lot area, yard,
7796 height, parking and loading and access provisions of this title; however, it shall not be extended,
7797 enlarged, moved or structurally altered except when required to do so by law or order, or so as to
7798 comply with the provisions of this title. Normal maintenance is permitted. This provision shall not be
7799 interpreted to disallow the extension or enlargement of a structure in respect to those dimensions that
7800 are or may still be in conformance with this title so long as such extensions or enlargements do not
7801 thereby create additional nonconforming dimensions or increase the nonconformance with respect to
7802 parking and loading and access. Any extension or enlargement of a nonconforming structure is subject
7803 to review and approval of the plan and architectural review commission in accordance with Chapter
7804 19.63 of this title.
7805 (Ord. 994 § 7.2, 1982).

7806

7807 **19.60.030 Discontinuance or replacement of nonconforming use or structure.**

- 7808 A. If such nonconforming use or structure is discontinued or terminated for a period of twelve months,
7809 any future use of the structures, land or water shall conform to the provisions of this title.
- 7810 B. When a nonconforming use or structure is damaged or destroyed, it may be restored if completed
7811 within one year from damage occurring.
- 7812 C. Time extensions may be granted by the plan and architectural review commission in accordance with
7813 Chapter 19.63.
7814 (Ord. 994 § 7.3, 1982).

7815

7816 **19.60.040 Changes and substitutions.**

7817 Once a nonconforming use or structure has been changed to conform, it shall not revert back to
7818 a nonconforming use or structure. Once the board of zoning appeals has permitted the substitution of a
7819 more-restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose
7820 the original status as a legal nonconforming use and become subject to all the conditions required by
7821 the board of zoning appeals.

7822 (Ord. 994 § 7.4, 1982).

7823

7824 **19.60.045 Floodland nonconforming uses and structures.**

7825 Floodland nonconforming uses and structures shall be regulated under the provisions of Section
7826 19.46.060 of this title.

7827 (Ord. 1600 § 5, 2006; Ord. 1060 § 17, 1935).

7828

7829 **19.60.046 Wetland nonconforming uses and structures.**

7830 Notwithstanding Section 62.23(7)(h) of the Wisconsin Statutes, the repair, reconstruction,
7831 renovating, remodeling or expansion of a legal nonconforming structure, or any environmental control
7832 facility related to a legal nonconforming structure, located in the C-1 shoreland wetland district and in
7833 existence at the time of adoption or subsequent amendment of the ordinance codified in this title is
7834 permitted pursuant to Section 62.231(5) of the Wisconsin Statutes.

7835 (Ord. 1196 § 1(part), 1990).

7836

7837 **19.60.050 Nonconforming lots.**

7838 A lot which does not contain sufficient area to conform to the dimensional requirements of this
7839 title but which is at least thirty feet wide and four thousand square feet in area may be used as a
7840 building site provided that the use is permitted in the zoning district, providing the lot is of record in the
7841 county register of deeds' office prior to the effective date or amendment of the ordinance codified in
7842 this title, and providing that all other requirements for the district in which it is located can be met.
7843 Establishment of a use or structure on a nonconforming lot shall be reviewed and approved by the city
7844 plan and architectural review commission in accordance with Chapter 19.63.

7845 (Ord. 994 § 7.5, 1982).

7846

7847 **Chapter 19.63 PLAN REVIEW**

7848 Sections:

7849 [19.63.010 Zoning permit--Purpose--Required when.](#)

7850 [19.63.012 Certificate of compliance--Purpose--Required when.](#)

7851 [19.63.014 Other permits.](#)

7852 [19.63.020 Plan review--Application requirements.](#)

7853 [19.63.030 Zoning permit application--Review by zoning administrator.](#)

7854 [19.63.040 Zoning permit application--Review by plan and architectural review commission, when.](#)

7855 [19.63.050 Developments automatically requiring approval by plan and architectural review commission.](#)

7856 [19.63.060 Review procedures.](#)

7857 [19.63.070 Notification of public hearing.](#)

7858 [19.63.080 Conditions attached to approvals when.](#)

7859 [19.63.090 Professional services--Consultation--Preparation of plans.](#)

7860 [19.63.100 Plan review guidelines.](#)

7861 [19.63.110 Zoning permit--Issuance conditions--Modification restrictions.](#)

7862 [19.63.120 Appeals procedure.](#)

7863

7864 **19.63.010 Zoning permit--Purpose--Required when.**

7865 For the purposes of assuring compliance with the standards and intent of this title and of
7866 promoting compatible development and preservation of the unique character of the city, no structure
7867 shall be erected, constructed, altered, demolished or moved and no land or building shall be changed in
7868 use without the issuance of an approved zoning permit. Zoning permits shall not be required for minor
7869 structures, incidental repairs, interior structural alterations and/or changes not resulting in an increase
7870 in intensity.

7871 Notwithstanding the aforesaid exemption, no floodland structure or improvement shall be
7872 exempt from obtaining a zoning permit.
7873 (Ord. 1060 § 18, 1985).

7874
7875 **19.63.012 Certificate of compliance--Purpose--Required when.**

7876 For the purpose of assuring compliance with the standards and intent of this title and of
7877 assuring sound floodplain development, no undeveloped land within the floodland districts shall be
7878 developed, occupied or used, and no structure hereafter erected, altered, moved or substantially
7879 improved shall be occupied until the applicant submits to the zoning administrator a certification by a
7880 registered professional engineer or land surveyor that the floodplain regulations set forth in this title
7881 have been fully complied with. Such certification shall include the first-floor elevation of any structure
7882 erected on the site.
7883 (Ord. 1060 § 19, 1985).

7884
7885 **19.63.014 Other permits.**

7886 It is the responsibility of a permit applicant to secure all other necessary permits required by any
7887 state, federal or local agency. This includes, but is not limited to, a water use permit pursuant to
7888 Chapters 30 and 31 of the Wisconsin Statutes or a wetland fill permit pursuant to Section 404 of the
7889 Federal Water Pollution Control Act.
7890 (Ord. 1060 § 20, 1985).

7891
7892 **19.63.020 Plan review--Application requirements.**

7893 Applications for plan review shall be made to zoning administrator at least ten days prior to the
7894 plan and architectural review committee meeting at which the plan is to be considered, and shall
7895 include the following information to be considered complete. The zoning administrator or plan and
7896 architectural review commission may reduce the information requirements where deemed appropriate.
7897 Twenty complete sets of all required plan materials shall be required unless the applicant receives prior
7898 written approval from city staff that fewer copies, and/or an electronic/digital submission of materials
7899 will be considered adequate for the purposes of meeting the submission deadlines-

- 7900 A. Names, phone numbers, and addresses of the applicant, owner of the site, architect, professional
7901 engineer, contractor and all other individuals responsible for preparation of plan materials;
7902 B. Identification of the subject site by lot, block and recorded subdivision, or by metes and bounds;
7903 C. Description of the existing and proposed use or operation of the structure or site, number of
7904 employees, building lot coverage, landscaped surface ratio, residential density and existing zoning;
7905 D. Building elevations and exterior architectural drawings, including enough detail to show the
7906 proposed building style, exterior materials, colors, mechanicals and lighting;
7907 E. Site plans drawn to a scale not less than fifty feet to the inch, showing:
7908 1. The natural features of the site, including water bodies, wetlands, floodplains, environmental
7909 corridors, trees with trunks greater than four inches in diameter, existing drainage patterns, and
7910 topography at two foot intervals,
7911 2. The location and dimensions of proposed and existing structures in relation to street and property
7912 lines, including buildings, Dumpsters, signs, mechanicals, walls and fences,
7913 3. The location, dimensions and arrangement of all open spaces, yards, and landscape plantings and
7914 buffer yards, including the species and size at time of planting for all landscaping,
7915 4. The location, arrangement and capacity of all areas used for vehicle and pedestrian access, off-street
7916 parking, off-street loading and unloading, including methods for screening,
7917 5. The capacity and arrangement of all buildings used or intended to be used for dwelling purposes,

- 7918 6. The proposed location and other characteristics of all outdoor lighting fixtures, pursuant to Section
7919 19.57.150(C),
7920 7. The location and size of all existing and proposed utilities and all related easements,
7921 8. The location of any proposed stormwater management facilities, including proposed drainage
7922 patterns and detention/retention facilities where required;
7923 F. Other information deemed necessary by the zoning administrator or the plan and architectural
7924 review commission to fully assess the impacts of a proposed project.
7925 (Ord. 1452 § 18, 2000: Ord. 994 § 8.2, 1982).

7926

7927 **19.63.030 Zoning permit application--Review by zoning administrator.**

7928 The zoning administrator shall review zoning permit applications for the proposed structure,
7929 addition, alteration or use to assure that the plan meets the minimum standards of this title for the
7930 district in which it is located. The zoning administrator shall grant, deny or refer to the plan and
7931 architectural review commission within ~~fifteen-ten~~ calendar days of receiving the completed zoning
7932 permit application.
7933 (Ord. 994 § 8.3, 1982).

7934

7935 **19.63.040 Zoning permit application--Review by plan and architectural review commission,**
7936 **when.**

7937 If the zoning administrator, at his or her discretion, finds that an application for a zoning permit
7938 has characteristics that should have broader public review or special conditions attached in order to
7939 preserve the intent of this title, the zoning administrator may require that such an application require
7940 review and approval of the plan and architectural review commission.
7941 (Ord. 994 § 8.4(A), 1982).

7942

7943 **19.63.050 Developments automatically requiring approval by plan and architectural review**
7944 **commission.**

7945 The following developments automatically require approval by the plan and architectural review
7946 commission:

- 7947 A. All applications for zoning permits proposing exterior modifications of structures in the B-2 central
7948 business district, except minor remodeling or use changes;
7949 B. All applications for zoning permits for major remodeling or conversion of existing buildings that will
7950 increase the number of dwelling units;
7951 C. All applications for zoning permits proposing any exterior modifications to structures that are listed
7952 on the National Register of Historic Places. This review requirement shall also extend to properties
7953 immediately adjoining national register landmarks;
7954 D. Establishment of a use or structure on a nonconforming lot (see Section 19.60.050);
7955 E. Developments proposing driveway access within one hundred feet of the centerline of intersecting
7956 streets in the B-1 and B-3 districts. This is to be applied only to arterial streets and local streets
7957 intersecting arterial streets.
7958 (Ord. 994 § 8.4(B), 1982).

7959

7960 **19.63.060 Review procedures.**

7961 A. The zoning administrator shall transmit all applications requiring commission review and approval to
7962 the plan and architectural review commission. The plan and architectural review commission shall
7963 review the applications at their next scheduled meeting. The application shall be reviewed for
7964 compliance with the plan review guidelines, and a permit shall be granted, denied, or conditionally

7965 granted within thirty days of the date of application. A simple majority approval of the plan and
 7966 architectural review commission constitutes final action.
 7967 B. The applicant may request a conceptual review by the plan and architectural review commission
 7968 prior to filing a formal application for plan review.
 7969 (Ord. 994 § 8.4(C), 1982).

7970
 7971 **19.63.070 Notification of public hearing.**

7972 The city plan architectural review commission shall notify the applicant of the scheduled hearing
 7973 by mail at least five mailing days prior to the hearing date. The commission may require that Class 1
 7974 notice be given if deemed appropriate.
 7975 (Ord. 994 § 8.4(D), 1982).

7976
 7977 **19.63.080 Conditions attached to approvals when.**

7978 A. Conditions on approval may include landscaping, modification to architectural design, type of
 7979 construction, operational controls, sureties, or deed restrictions upon the plan and architectural review
 7980 of commission's findings that these are necessary to fulfill the purpose and intent of this title. Also, as a
 7981 condition of the issuance of a temporary occupancy permit, the plan commission may require that the
 7982 developer post a deposit for the completion of the site improvements which have been approved by the
 7983 commission. The amount of the deposit shall be in accordance with the following schedule:

7984 TABLE INSET:

7985

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	

7986 B. The required deposit shall be released at the time all required site improvements have been
 7987 completed and approved by the building inspector/zoning administrator. Fifty dollars shall be retained
 7988 by the city as an additional fee for the issuance of the temporary occupancy permit prior to completion
 7989 of the site improvements. If the site improvements are not completed by the time of the expiration of
 7990 the temporary occupancy permit, and the occupancy permit has not been renewed or extended, the
 7991 entire deposit shall be forfeited to the city. These provisions are in addition to all of the other
 7992 enforcement provisions and remedies in the Whitewater Municipal Code.
 7993 (Ord. 1129 § 1, 1988).

7994
 7995 **19.63.090 Professional services--Consultation--Preparation of plans.**

7996 The plan and architectural review commission may consult professional services when it is
 7997 deemed necessary. The commission may also require that plans submitted for review be certified by an
 7998 architect, historic preservationist, site planner, engineer, or other appropriate professional meeting the
 7999 approval of the plan and architectural review commission.
 8000 (Ord. 994 § 8.4(F), 1982).

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19.63.100 Plan review guidelines.

As the basis for determining the acceptability of an application for a zoning permit, the plan and architectural review commission shall apply the following criteria:

- A. The proposed structure, addition, alteration or use will meet the minimum standards of this title for the district in which it is located;
 - B. The proposed development will be consistent with the adopted city master plan;
 - C. The proposed development will be compatible with and preserve the important natural features of the site;
 - D. The proposed use will not create a nuisance for neighboring uses, or unduly reduce the values of an adjoining property;
 - E. The proposed development will not create traffic circulation or parking problems;
 - F. The mass, volume, architectural features, materials and/or setback of proposed structures, additions or alternations will appear to be compatible with existing buildings in the immediate area;
 - G. Landmark structures on the National Register of Historic Places will be recognized as products of their own time. Alterations which have no historical basis will not be permitted;
 - H. The proposed structure, addition or alteration will not substantially reduce the availability of sunlight or solar access on adjoining properties.
- (Ord. 994 § 8.4(G), 1982).

19.63.110 Zoning permit--Issuance conditions--Modification restrictions.

- A. Issuance of Zoning Permit. A zoning permit shall be issued to applicant, stating the official action of the zoning administrator or the plan and architectural review commission, and shall be filed in the office of the zoning administrator and referred to for enforcement of this title. Approved zoning permits shall expire in six months unless substantial work has commenced and is continuing in a progressive, workmanlike manner. Extensions may be granted by the approving authority.
 - 1. If the project is conditionally approved, the zoning permit shall be issued subject to the conditions.
 - 2. If the project is disapproved, the applicant may modify the proposal and resubmit.
 - B. Modification of Plans Approved by the Plan and Architectural Review Commission. Minor modifications to plans approved for issuance of a zoning permit may be approved by the zoning administrator. Any major modification in approved plans or alteration of conditions must be approved by the plan and architectural review commission in compliance with procedures listed above.
- (Ord. 994 § 8.5, 1982).

19.63.120 Appeals procedure.

Appeals from decisions of the city plan and architectural review commission in its plan-review function may be appealed to the board of zoning appeals if filed with the city clerk within thirty days of the date of decision. The appeal shall be governed by the procedures in Chapter 19.72 of this title.

(Ord. 1364 § 15, 1997; Ord. 1082 § 10, 1986; Ord. 994 § 8.6, 1982).

Steps for Review of Zoning Permit

GRAPHIC LINK:[Click here](#)

Chapter 19.66 CONDITIONAL USES

Sections:

- [19.66.010 Issuance of conditional use permits authorized when.](#)
- [19.66.020 Application for permit.](#)
- [19.66.030 Hearings.](#)
- [19.66.040 Notification to property owners.](#)

- 8049 [19.66.050 Standards for review and approval.](#)
- 8050 [19.66.060 Additional conditions authorized when.](#)
- 8051 [19.66.070 Time limits and periodic review.](#)
- 8052 [19.66.080 No exemption from all other requirements.](#)
- 8053 [19.66.090 Determination of approval or disapproval.](#)
- 8054 [19.66.100 Recordkeeping requirements.](#)
- 8055 [19.66.110 Appeals procedure.](#)

8056

8057 **DISCUSSION POINT: TIMELINE ISSUES**

8058

8059 **19.66.010 Issuance of conditional use permits authorized when.**

8060 The city plan and architectural review commission may authorize the zoning administrator to
8061 issue a zoning permit for conditional uses after review and a public hearing, provided that such
8062 conditional uses and structures are in accordance with the purpose and intent of this title, are consistent
8063 with sound planning and zoning principles, and are found to be not hazardous, harmful, offensive or
8064 otherwise adverse to the environment or the value of the neighborhood or the community.
8065 (Ord. 1364 § 16, 1997: Ord. 994 § 9.1, 1982).

8066

8067 **19.66.020 Application for permit.**

8068 Applications for zoning permits for conditional uses shall be made to the zoning administrator
8069 on forms furnished by the zoning administrator, and shall include the information required by Section
8070 19.63.020.
8071 (Ord. 994 § 9.2, 1982).

8072

8073 **19.66.030 Hearings.**

8074 The city plan and architectural review commission shall hold a public hearing upon each
8075 conditional use application, giving Class 1 notice.
8076 (Ord. 994 § 9.3, 1982).

8077

8078 **19.66.040 Notification to property owners.**

8079 Notice of the hearing shall be given to owners of record of properties abutting and within three
8080 hundred feet of the property that is involved in the application, and to other persons who are
8081 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish
8082 these notifications shall not invalidate the procedures.
8083 (Ord. 994 § 9.4, 1982).

8084

8085 **19.66.050 Standards for review and approval.**

8086 The plan commission shall use the following standards when reviewing applications for
8087 conditional use:

- 8088 A. That the establishment, maintenance, or operation of the conditional use will not create a nuisance
8089 for neighboring uses or substantially reduce the values of other property.
- 8090 B. That adequate utilities, access roads, parking drainage, landscaping and other necessary site
8091 improvements are being provided.
- 8092 C. That the conditional use conforms to all applicable regulations of the district in which it is located,
8093 unless otherwise specifically exempted in this ordinance. Where a variance is required, the plan
8094 commission may condition their approval on the subsequent approval of the variance.
- 8095 D. That the conditional use conforms to the purpose and intent of the city master plan.
- 8096 E. The conditional use and structures are consistent with sound planning and zoning principles.

8097 (Ord. 1364 § 17, 1997; Ord. 994 § 9.5(part), 1982).

8098

8099 **19.66.060 Additional conditions authorized when.**

8100 A. Conditions, such as landscaping, architectural design, type of construction, construction
8101 commencement and completion dates, sureties, lighting, fencing, planting screens, operational control,
8102 hours of operation, improved traffic circulation, added restrictions, highway access restrictions,
8103 increased yards, or parking requirements, may be permitted by the plan and architectural review
8104 commission upon its finding that these are necessary to fulfill the purpose and intent of this title. Also,
8105 as a condition of the issuance of a temporary occupancy permit, the plan commission may require that
8106 the developer post a deposit for a completion of the site improvements which have been approved by
8107 the commission. The amount of the deposit shall be in accordance with the following schedule:

8108 TABLE INSET:

8109

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	

8110 B. The required deposit shall be released at the time all required site improvements have been
8111 completed and approved by the building inspector/zoning administrator. Fifty dollars shall be retained
8112 by the city as an additional fee for the issuance of the temporary occupancy permit prior to completion
8113 of the site improvements. If the site improvements are not completed by the time of the expiration of
8114 the temporary occupancy permit, and the occupancy permit has not been renewed or extended, the
8115 entire deposit shall be forfeited to the city. These provisions are in addition to all of the other
8116 enforcement provisions and remedies in the Whitewater Municipal Code.
8117 (Ord. 1130 § 1, 1988).

8118

8119 **19.66.070 Time limits and periodic review.**

8120 If an applicant does not commence construction within one year after city approval of a
8121 conditional use permit, or complete construction according to all specified plans and conditions within
8122 two years after city approval, the previously approved conditional use permit shall be considered null
8123 and void. Conditional uses may be subject to time limits or requirements for periodic reviews where
8124 such requirements relate to review standards.

8125 (Ord. 1452 § 21, 2000; Ord. 994 § 9.5(part), 1982).

8126

8127 **19.66.080 No exemption from all other requirements.**

8128 Compliance with all other provisions of this title, such as lot width and area, yards, height,
8129 parking, loading, traffic and highway access, shall be required, unless otherwise specifically exempted in
8130 this title, of all conditional uses. Variances shall only be granted as provided in Chapter 19.69.

8131 (Ord. 994 § 9.5(part), 1982).

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19.66.090 Determination of approval or disapproval.

Following the public hearing and review of the conditional use application, the plan and architectural review commission shall approve, disapprove or further conditionally approve the application. A simple majority approval by the plan commission constitutes final approval of the conditional use.
(Ord. 994 § 9.5(part), 1982).

19.66.100 Recordkeeping requirements.

Records of all plan and architectural review commission actions approving conditional uses shall be maintained by the zoning administrator, and shall be referred to in regard to enforcement and modification of conditional use approvals.
(Ord. 994 § 9.5(part), 1982).

19.66.110 Appeals procedure.

Decisions of the city plan and architectural review commission in its conditional use review function may be appealed to the board of zoning appeals if filed with the city clerk within thirty days of the date of decision. The appeal shall be governed by the procedures in Chapter 19.72 of this title.
(Ord. 1364 § 18, 1997; Ord. 1082 § 11, 1986).

Steps for Review of Conditional Uses

GRAPHIC LINK:[Click here](#)

Chapter 19.69 CHANGES AND AMENDMENTS

Sections:

- [19.69.010 City council authority.](#)
- [19.69.020 Who may initiate.](#)
- [19.69.030 Petitions--Contents and filing.](#)
- [19.69.040 Review and recommendation--Plan commission authority.](#)
- [19.69.050 Hearing--Notice to property owners.](#)
- [19.69.060 City council vote on proposed change or amendment.](#)
- [19.69.065 Floodland district boundary changes limited.](#)
- [19.69.066 Amendments to the C-1 and FWW districts.](#)
- [19.69.070 Protests against change or amendment.](#)

19.69.010 City council authority.

Whenever the public necessity, convenience, general welfare or good zoning practice require, the city council may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this title or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the city plan commission.
(Ord. 994 § 10.1, 1982).

19.69.020 Who may initiate.

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.
(Ord. 1159 § 1, 1989; Ord. 994 § 10.2, 1982).
(Ord. No. 1690A, § 1, 6-17-2008)

8179

8180 **19.69.030 Petitions--Contents and filing.**

8181 Petitions for any change to the district boundaries or amendments to the regulations shall be
8182 filed with the city clerk, describe the premises to be rezoned or the regulations to be amended, list the
8183 reasons justifying the petition, specify the proposed use, and have attached the following:

8184 A. Plot plan, drawn to a scale of one inch equals one hundred feet, showing the area proposed to be
8185 rezoned, its locations, its dimensions, the location and classification of adjacent zoning districts, and the
8186 location and existing use of all properties within three hundred feet of the area proposed to be rezoned;

8187 B. Owners' names and addresses of all properties lying within three hundred feet of the area proposed
8188 to be rezoned;

8189 C. Additional information required by the city plan commission or city council.

8190 (Ord. 994 § 10.3, 1982).

8191

8192 **19.69.040 Review and recommendation--Plan commission authority.**

8193 The city plan commission shall review all proposed changes and amendments within the
8194 corporate limits, conduct a public hearing (with Class 2 notice), and shall recommend that the petition
8195 be granted as requested, modified, or denied.

8196 (Ord. 994 § 10.4, 1982).

8197

8198 **19.69.050 Hearing--Notice to property owners.**

8199 Notice of the hearing shall be given to all owners of record of properties abutting and within
8200 three hundred feet of the property that is involved in the application, and to other persons who are
8201 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish
8202 these notifications shall not invalidate the procedures.

8203 (Ord. 994 § 10.5, 1982).

8204

8205 **19.69.060 City council vote on proposed change or amendment.**

8206 Following such hearing and after consideration of the city plan commission's recommendations,
8207 the city council shall vote on the passage of the proposed change or amendment. City council action on
8208 the zoning change must take place within thirty days of the plan commission's recommendations.

8209 (Ord. 1159 § 2, 1989; Ord. 994 § 10.6, 1982).

8210

8211 **19.69.065 Floodland district boundary changes limited.**

8212 The common council shall not permit changes to the floodland district boundaries that are
8213 inconsistent with the purpose and intent of this chapter, in conflict with the applicable rules and
8214 regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency
8215 Management Agency (FEMA), or inconsistent with the provisions of Chapter 19.46.

8216 (Ord. 1600 § 7, 2006; Ord. 1196 § 1(part), 1990).

8217

8218 **19.69.066 Amendments to the C-1 and FWW districts.**

8219 Amendments to wetland zoning districts shall be reviewed by the Wisconsin Department of
8220 Natural Resources in accordance with the following procedures:

8221 A. The city shall transmit a notice of any change (text or map) in the C-1 or FWW districts to the
8222 Wisconsin Department of Natural Resources (DNR). Notice requirements shall be as follows:

8223 1. A copy of every petition for a text or map change mailed within five days of filing with the city
8224 manager;

8225 2. At least ten days prior notice of any public hearing on a C-1 or FWW zoning amendment;

8226 3. Notice of a city plan commission recommendation no later than ten days following the
8227 recommendation;
8228 4. Notice of a common council decision no later than ten days following the decision.
8229 B. No wetland in a C-1 or FWW district shall be rezoned if the rezoning may result in a significant
8230 adverse impact on storm or floodwater storage capacity; maintenance of dry season streamflow, the
8231 discharge of groundwater from the wetland to another area, or the flow of groundwater through a
8232 wetland; filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would
8233 otherwise drain into navigable waters; shoreline protection against soil erosion; fish spawning; breeding,
8234 nursery or feeding grounds; wildlife; habitat; or areas of special recreational, scenic or scientific interest,
8235 including scarce wetland types.
8236 C. If the DNR has notified the city plan commission that an amendment to the C-1 or FWW district may
8237 have a significant adverse impact upon any of the criteria listed in subsection B above, that amendment,
8238 if approved by the common council, shall contain the following provision:
8239 "This amendment shall not take effect until more than 30 days have elapsed since written notice of the
8240 Common Council's approval of this amendment was mailed to the Department of Natural Resources.
8241 During that 30-day period, the Department of Natural Resources may notify the Common Council that it
8242 will adopt a superseding shore land ordinance for the City pursuant to Section 62.231 of the Wisconsin
8243 Statutes. If the Department does so notify the Common Council, the effect of this amendment shall be
8244 stayed until the Section 61.231 adoption procedure is completed or otherwise terminated."
8245 (Ord. 1196 § 1(part), 1990).

8246

8247 **19.69.070 Protests against change or amendment.**

8248 A. In the event of a protest against such district change or amendment to the regulations of this title,
8249 duly signed and acknowledged by the owners of twenty percent or more either of the areas of land
8250 included in such proposed change, or by the owners of twenty percent or more of the land immediately
8251 adjacent extending one hundred feet therefrom, or by the owners of twenty percent or more of the land
8252 directly opposite thereto extending one hundred feet from the street frontage of such opposite land,
8253 such changes or amendments shall not become effective except by the favorable vote of three-fourths
8254 of the members of the council voting on the proposed change. (See Section 66.23(7)(d)(2), Wisconsin
8255 Statutes.)

8256 B. Protests against changes or amendments may also be filed by a petition duly signed by at least two
8257 hundred resident landowners in the city. In case of such a protest, such changes or amendments shall
8258 not become effective except by the favorable vote of three-fourths of the members of the council voting
8259 on the proposed change.
8260 (Ord. 994 § 10.7, 1982).

8261 Steps for Zoning Amendment

8262 **GRAPHIC LINK:** [Click here](#)

8263

8264 **Chapter 19.72 BOARD OF ZONING APPEALS**

8265 Sections:

8266 [19.72.010 Established--Purpose.](#)

8267 [19.72.020 Membership, appointment and officers.](#)

8268 [19.72.030 Organization--Meetings--Voting.](#)

8269 [19.72.040 Powers and duties.](#)

8270 [19.72.050 Application for appeal--Contents and filing time.](#)

8271 [19.72.060 Hearing--Time and conduct.](#)

8272 [19.72.070 Hearing--Notice to property owners.](#)

8273 [19.72.075 Hearings--Notice to DNR.](#)

8274 [19.72.080 Findings prerequisite to grant of variance.](#)

- 8275 [19.72.085 Wetland and floodland mapping disputes.](#)
- 8276 [19.72.090 Board decisions guided by title provisions.](#)
- 8277 [19.72.100 Decisions--Time limit--Additional conditions--Expiration and extensions.](#)
- 8278 [19.72.110 Notice to floodland variance applicants.](#)

8279

8280 **19.72.010 Established--Purpose.**

8281 There is established a board of zoning appeals for the city for the purpose of hearing appeals
8282 and applications, and granting variances and exceptions to the provisions of this title in harmony with
8283 the purpose and intent of this title.

8284 (Ord. 994 § 11.1, 1982).

8285

8286 **19.72.020 Membership, appointment and officers.**

8287 Membership and appointment procedures for the zoning board of appeals shall be provided in
8288 Section 62.23(7)(e)2, Wisconsin Statutes, except that the city manager shall perform the duties
8289 designated as those of the mayor; the term of designations of chairman shall be one year, and the city
8290 clerk or designee shall serve as recording secretary. [Members of the Common Council and/or the Plan](#)

8291 [Commission may not serve as members of the zoning board of appeals.](#)

8292 (Ord. 994 § 11.2, 1982).

8293

8294 **19.72.030 Organization--Meetings--Voting.**

8295 A. The board of zoning appeals shall organize and adopt rules of procedures for its own government in
8296 accordance with the provisions of this title.

8297 B. Meetings shall be called by the secretary on behalf of the chairman, and shall be open to the public,
8298 except as otherwise allowed under Section 19.85, Wisconsin Statutes.

8299 C. Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the
8300 vote of each member upon each question, the reasons for the board's determination and its finding of
8301 facts. These records shall be immediately filed in the office of the board and shall be a public record.

8302 D. The concurring vote of four members of the board shall be necessary to correct an error, grant a
8303 variance, make an interpretation, and permit a utility, temporary, unclassified or substituted use.

8304 E. A quorum shall be four members of the board.

8305 (Ord. 994 § 11.3, 1982).

8306

8307 **19.72.040 Powers and duties.**

8308 The board of zoning appeals shall have the following powers:

8309 A. Appeals. To hear or decide appeals where it is alleged there is error in any order, requirement,
8310 decision, or determination made by the zoning administrator, or by the city plan and architectural
8311 review commission in its plan review or conditional use review function;

8312 B. Variances. To hear and grant applications for variances as will not be contrary to the public interest,
8313 where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary
8314 hardship, so that the spirit and purposes of this title shall be observed and the public health, safety,
8315 welfare, and justice are secured. Use variances shall not be granted;

8316 C. Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses
8317 for existing nonconforming uses, provided no structural alterations are to be made. Whenever the board
8318 permits such a substitution, the use may not thereafter be changed without application;

8319 D. Unclassified Uses. To hear and grant applications for unclassified and unspecified uses, where a clear
8320 determination cannot be made by the zoning administrator, provided that such uses are similar in
8321 character to the principal uses permitted in the districts;

8322 E. Interpretations. To hear and decide applications for interpretations of the zoning regulations and the
8323 location of the boundaries of the zoning districts after review and recommendation by the city plan
8324 commission. Pursuant to the procedure set forth in Section 19.72.085 of this chapter, the board of
8325 appeals may determine the location of disrupted floodland boundaries;
8326 F. Assistance. The board of zoning appeals may request assistance from other municipal officers,
8327 departments, boards and commissions, or may seek outside professional opinion and pay for same,
8328 provided funds for such consultation services are made available by the city council;
8329 G. Oaths. The chairman may administer oaths and compel the attendance of witnesses.
8330 H. Floodplain Regulations. The board of zoning appeals has responsibilities related to the city's
8331 floodplain regulations as specified in Section 19.46.070(C) of this title.
8332 (Ord. 1600 § 8(part), 2006: Ord. 1060 § 23, 1985).

8333

8334 **19.72.050 Application for appeal--Contents and filing time.**

8335 A. Appeals from the decision of the zoning administrator concerning the literal enforcement of this title
8336 may be made by any person aggrieved, or by an officer, department, commission, or bureau of the city.
8337 Such appeals shall be filed with the secretary within fifteen days after the date of written notice of
8338 decision or order of the zoning administrator. Such appeals and applications shall include the following:
8339 1. Name and address of the appellant or applicant and all abutting and opposite property owners on
8340 record, and owners within three hundred feet of the property in question;
8341 2. Site plan as required under Chapter 19.63 of this title;
8342 3. Additional information required by the board of zoning appeals or by other chapters in this title, such
8343 as Chapter 19.46 of this title.
8344 B. The right to an appeals hearing shall be contingent upon applicant's prepayment or costs of
8345 publication and mailing of notices required by the ordinance codified in this title, as computed and billed
8346 by the secretary, prior to the time set for hearing.
8347 (Ord. 1600 § 8(part), 2006: Ord. 994 § 11.5, 1982).

8348

8349 **19.72.060 Hearing--Time and conduct.**

8350 The board of zoning appeals shall fix a reasonable time and place for the hearing, give public
8351 notice thereof at least ten days prior to the hearing by publication as a Class 2 notice, and shall give due
8352 notice to the zoning administrator and the city plan commission, and the parties specified in Section
8353 19.72.070. At the hearing, the appellant or applicant may appear in person, by agent, or attorney.
8354 (Ord. 994 § 11.6, 1982).

8355

8356 **19.72.070 Hearing--Notice to property owners.**

8357 Notice of the hearing shall be given to all owners of record of properties abutting and within
8358 three hundred feet of the property that is involved in the application, and to other persons who are
8359 determined by the zoning administrator to be parties of interest. Unintentional failure to accomplish
8360 these notifications shall not invalidate the procedures.
8361 (Ord. 994 § 11.7, 1982).

8362

8363 **19.72.075 Hearings--Notice to DNR.**

8364 The zoning board of appeals shall transmit a copy of each application for a variance to wetland
8365 regulations in the C-1 and FWW districts or to floodland regulations Chapter 19.46 and a copy of all
8366 appeals in these districts, to the Wisconsin Department of Natural Resources (DNR) for review and
8367 comment at least ten days prior to any public hearing. Final action on the application shall not be taken
8368 for thirty days or until the DNR has made its recommendation, whichever comes first. A copy of all

8369 decisions relating to shoreland wetland regulation or to floodland regulations, and a copy of all decisions
8370 relating to shoreland wetland and floodland appeals, shall be transmitted to the DNR within ten days of
8371 the date of such decision.
8372 (Ord. 1600 § 8(part), 2006: Ord. 1196 § 1(part), 1990).

8373
8374 **19.72.080 Findings prerequisite to grant of variance.**

8375 No variance to the provisions of this title shall be granted by the board unless it finds beyond a
8376 reasonable doubt that all of the following facts and conditions exist, and so indicates in the minutes of
8377 its proceedings:

8378 A. The particular physical surroundings, shape, or topographical conditions of the specific property
8379 involved would result in a particular hardship upon the owner as distinguished from a mere
8380 inconvenience, if the strict letter of the regulations were to be carried out;

8381 B. The conditions upon which the application for a variance is based would not be applicable generally
8382 to other property within the same zoning classification;

8383 C. The purpose of the variance is not based exclusively upon a desire for economic or other material
8384 gain by the applicant or owner;

8385 D. The hardship is not one that is self-created;

8386 E. The proposed variance will not impair an adequate supply of light and air to adjacent property or
8387 substantially increase the congestion in the public streets, or increase the danger of fire, or endanger
8388 the public safety, or substantially diminish or impair property values within the neighborhoods;

8389 F. The proposed variance will not have the effect of permitting a use which is not otherwise permitted
8390 in the district;

8391 G. No variance shall be granted in a floodland district where not in compliance with Section
8392 19.46.070(C)(4) of this title.

8393 (Ord. 1600 § 8(part), 2006: Ord. 1060 § 24, 1985).

8394
8395 **19.72.085 Wetland and floodland mapping disputes.**

8396 The following procedure shall be used in settling disputes of wetland and floodland boundaries:

8397 A. Wetland Disputes. Whenever the board of appeals is asked to interpret a C-1, C-2 or FWW district
8398 boundary where an apparent discrepancy exists between the city's Final Wetland Inventory Map and
8399 actual field conditions, the city shall contact the Wisconsin Department of Natural Resources (DNR) to
8400 determine if the wetland inventory map is in error. If the DNR staff concurs that the particular area was
8401 incorrectly mapped as a wetland, the board of appeals shall direct the city plan commission to initiate
8402 appropriate action to rezone the property within a reasonable amount of time.

8403 B. Floodland Disputes. Whenever the board of appeals is asked to interpret a floodland boundary
8404 where an apparent discrepancy exists between the federal Flood Insurance Study and actual field
8405 conditions, the procedure specified in Section 19.46.070(C)(3) of this title shall be used.

8406 (Ord. 1600 § 8(part), 2006: Ord. 1196 § 1(part), 1990).

8407
8408 **19.72.090 Board decisions guided by title provisions.**

8409 In deciding applications for appeals of administrative interpretations, for substitutions, and for
8410 approvals of unclassified uses, the board shall be guided by the intent of this title.

8411 (Ord. 994 § 11.9, 1982).

8412
8413 **19.72.100 Decisions--Time limit--Additional conditions--Expiration and extensions.**

- 8414 A. The board of zoning appeals shall decide all appeals and applications within thirty days after the final
8415 hearing, and shall transmit a signed copy of the board's decision to the appellant or applicant, zoning
8416 administrator, and city plan commission.
- 8417 B. Conditions may be placed upon any zoning permit ordered or authorized by this board.
- 8418 C. Variances, substitutions or zoning permits acted upon by the board shall expire within six months
8419 unless substantial work has commenced pursuant to such grant. Extension may be granted by decision
8420 of the board.

8421 (Ord. 994 § 11.10, 1982).

8422 Steps for Appeals to Board of Zoning Appeals

8423 **GRAPHIC LINK:**[Click here](#)

8424

8425 **19.72.110 Notice to floodland variance applicants.**

8426 Applicants receiving variances in floodland districts shall be notified, in writing, by the board of
8427 appeals that increased flood insurance premiums and threat to life and property may result from the
8428 granting of the variance. The board shall keep a copy of the notification in its files.

8429 (Ord. 1196 § 1(part), 1990).

8430

8431 **Chapter 19.75 ADMINISTRATION AND ENFORCEMENT**

8432 Sections:

8433 [19.75.010 Introduction to Chapter 19.75.](#)

8434 [19.75.020 Zoning administrator--Office created--Powers and duties generally.](#)

8435 [19.75.030 Zoning administrator--Ordinance interpretation duties.](#)

8436 [19.75.035 Public information.](#)

8437 [19.75.040 Zoning administrator--Permit issuance duties.](#)

8438 [19.75.050 Certificate of zoning compliance requirements.](#)

8439 [19.75.060 Zoning administrator--Inspection of properties for compliance--City attorney duties.](#)

8440 [19.75.070 City manager's administrative responsibilities.](#)

8441 [19.75.080 Unlawful activities designated--Penalties--Additional remedies.](#)

8442

8443 **19.75.010 Introduction to Chapter 19.75.**

8444 Chapter 19.75 deals with the administrative responsibilities of the zoning administrator,
8445 recordkeeping responsibilities of the city manager, and with compliance inspection and enforcement
8446 under this title. It should be recognized that the city plan commission and the board of zoning appeals
8447 have administrative responsibilities as well, and these are prescribed elsewhere in this title.

8448 (Ord. 994 § 12.1, 1982).

8449

8450 **19.75.020 Zoning administrator--Office created--Powers and duties generally.**

8451 A. The office of zoning administrator is hereby created. The zoning administrator is the administrative
8452 and enforcement officer for the provisions of this Title 19.

8453 B. The duties of the zoning administrator shall be to:

8454 1. Issue interpretations of the zoning ordinance codified in this title, and make and maintain records
8455 thereof;

8456 2. Issue all zoning permits and make and maintain records thereof;

8457 3. Issue all certificates of zoning compliance, and make and maintain records thereof;

8458 4. Conduct inspections to determine compliance with the terms of this title;

8459 5. Record the lowest floor elevations of all structures erected, moved, altered or improved in the
8460 floodland districts;

- 8461 6. Maintain permanent and current records of activities under this title, including, but not limited to all
8462 maps, amendments, conditional use records, variance records, appeal records, and applications
8463 ~~therefor~~therefore;
- 8464 7. Provide a public information program relative to all matters arising out of this title;
- 8465 8. Receive, file and forward to the city clerk all applications for amendments to this title;
- 8466 9. Receive, file and forward to the plan commission all applications for amendments to this title and
8467 applications for plan and architectural review;
- 8468 10. Receive, file and forward to the board of zoning appeals all applications for appeals, variances or
8469 other matters on which the board of zoning appeals is required to act under this title. See also Section
8470 19.72.050 allowing appeals to be filed with the board secretary;
- 8471 11. Initiate enforcement activities, and participate in such enforcement activities in relation to existing
8472 or potential violations of this title;
- 8473 12. Initiate studies of the provisions of this title, and make recommendations to the plan commission at
8474 appropriate intervals or upon request;
- 8475 13. Attend meetings of the plan commission and the board of zoning appeals;
- 8476 14. Perform such activities as are reasonably required to conduct the responsibilities enumerated
8477 herein, and respond to requests or directives from supervising officials of the city.
8478 (Ord. 1060 § 26, 1985).

8479

8480 **19.75.030 Zoning administrator--Ordinance interpretation duties.**

- 8481 A. A primary duty of the zoning administrator is interpretation of the ordinance codified in this title.
8482 The zoning administrator shall respond expeditiously to requests for clarification and interpretation. The
8483 administrator is encouraged to seek counsel of the city attorney in making such interpretations.
- 8484 B. Informal and unwritten interpretations by the zoning administrator are not binding upon the city
8485 government, nor are those written interpretations that are expressly stated not to be binding. The
8486 zoning administrator shall have sole authority to decide when an interpretation shall be put in writing,
8487 except that the administrator shall make response to duly filed permit applications.
- 8488 C. Written interpretations by the zoning administrator are binding upon the city unless they are
8489 expressly made nonbinding. The written interpretation placed on this title by the zoning administrator
8490 shall be the official city interpretation unless that interpretation is retracted or revised in writing by the
8491 zoning administrator, or until it is reversed or modified by order of the board of zoning appeals or by a
8492 court.
- 8493 D. Written interpretations by the zoning administrator may be appealed to the board of zoning appeals
8494 as provided in Section 62.23(7)(e), 7, Wisconsin Statutes, and in Chapter 19.72.
8495 (Ord. 994 § 12.3, 1982).

8496

8497 **19.75.035 Public information.**

8498 To the fullest extent possible, the zoning administrator shall make available to the public all
8499 reports and documents concerning the city comprehensive plan and any component thereof. In
8500 addition, available information in the form of reports, bulletins, maps, and engineering data shall be
8501 readily available and widely distributed. The plan commission may set fees necessary to recover the
8502 costs of providing information to the public. Where useful, the zoning administrator, or his agent, may
8503 set marks on bridges or buildings or other markers which show the depth of the 100-year recurrence
8504 interval flood; or may set markers delineating the boundaries of wetlands.
8505 (Ord. 1196 § 1(part), 1990).

8506

8507 **19.75.040 Zoning administrator--Permit issuance duties.**

8508 A. Most types of land use change that are regulated by this title require a permit to be issued before
8509 the change may be legally undertaken. (See Chapter 19.63, Plan Review.) The zoning administrator's
8510 decision whether to issue a zoning permit is an interpretation decision in which the terms of this title are
8511 applied to a projected land use as described in the permit application and accompanying documents.
8512 When a permit is issued, the city is communicating its official statement that the land use described in
8513 the permit application is deemed to be legal under this title as Title 19 stands at that time. A permit that
8514 is issued does not, by itself, vest a right to complete the land use change. Changes in law or ordinance
8515 may have the effect of cancelling city approval if these occur before the project is far enough toward
8516 consummation to have a vested right to proceed to completion. A permit that is issued applies only to
8517 the development project as it is specifically described in the application. Permits may be time-limited in
8518 their duration to allow a re-review of prevailing conditions.

8519 B. 1. Every application for a zoning permit shall contain the information required in Section 19.63.020,
8520 on plan review application requirements. The administrator may also require evidence of compliance
8521 with other applicable laws or ordinances as a condition precedent to the issuance of a zoning permit.
8522 2. Any permit obtained through material misrepresentation shall be null and void.

8523 C. 1. Coincident with the issuing of a permit, the zoning administrator shall prepare a card, certifying
8524 that a permit has been issued. This card shall bear the same number as the permit and shall identify the
8525 construction and premises covered by the permit. This card shall be posted in a conspicuous place on
8526 the premises during construction and no construction shall be commenced until this card has been
8527 posted.

8528 2. If the zoning administrator deems it appropriate, conditions may be placed on the permit. The
8529 permit card shall spell out the Title 19 requirements as applied by the zoning administrator to the
8530 development proposal. A full set of conditions shall be retained by the zoning administrator and a
8531 summary of pertinent parts shall be communicated in writing to the owner, agents and contractors.

8532 D. When a fully completed permit application is submitted and is then denied by the zoning
8533 administrator, the denial and the reasons for the denial shall be recorded in the records of the zoning
8534 office, and this decision shall be appealable under subsection D of Section 19.75.030. Permit denials that
8535 are done without presentation of a fully completed application and the issuance of a denial on that
8536 application are not appealable.

8537 E. Issuance of a permit is equivalent to a written interpretation decision and is appealable as provided
8538 in subsection D of Section 19.75.030.

8539 F. Where a development requires a uniform state building permit, the zoning permit may take the form
8540 of inscription of zoning approval on the building permit and description of pertinent conditions in the
8541 file and on the permit placard.
8542 (Ord. 994 § 12.4, 1982).

8543
8544 **19.75.050 Certificate of zoning compliance requirements.**

8545 No building or addition thereto constructed after June 24, 1982, the effective date of this Title
8546 19, and no addition to a previously existing building shall be occupied, and no land (except that used for
8547 garden purposes, or for public recreation purposes and without buildings or structures), which is vacant
8548 on June 24, 1982, shall be used for any purpose until a certificate of zoning compliance has been issued
8549 by the zoning administrator. No use shall be changed until the certificate of zoning compliance has been
8550 issued by the zoning administrator. The application for and processing of a request for such a certificate
8551 shall be the same as for a zoning permit. A certificate of zoning compliance shall state that the uses of
8552 the property are legal under the zoning ordinance, either by expressed terms of the ordinance, or as a
8553 matter of nonconforming usage. Conditions or qualifications may be appended.
8554 (Ord. 994 § 12.5, 1982).

8555
8556 **19.75.060 Zoning administrator**~~or Neighborhood Services manager~~**--Inspection of properties**
8557 **for zoning compliance--City attorney duties.**

8558 A. It shall be the duty of the zoning administrator to inspect or cause to be inspected all properties for
8559 which a zoning permit has been issued to determine whether the development of land use change that
8560 was the subject of the permit has occurred in full compliance with this title. The acceptance by an
8561 applicant of a zoning permit grants consent to the zoning administrator to make such inspections as are
8562 reasonably necessary to determine compliance.

8563 B. It shall also be the duty of the zoning administrator to inspect or cause to be inspected all properties
8564 within the jurisdiction of this title for compliance with the terms of this title. Inspections may be at
8565 random, under a routine pattern, as a follow-up to permit issuance, or upon complaint or inquiry. Based
8566 on the possible violation, the zoning administrator may, or designee, direct the neighborhood services
8567 manager to inspect the property.

8568 C. Where facts obtained from inspection or by other means lead the zoning administrator to conclude
8569 that a violation of this title probably exists, the zoning administrator ~~or neighborhood services manager~~
8570 shall create an evidentiary file documenting the basis for this conclusion. After completion and review of
8571 this file, the zoning administrator ~~or neighborhood services manager~~ may take the following initial
8572 enforcement actions on his own motion:

- 8573 1. Communicate in person, by letter, or telephone, with the owner, the architect, contractors, or other
8574 relevant parties, expressing the conclusion that a violation probably exists, requesting information,
8575 requesting that the parties review the compliance question, and that they communicate with the zoning
8576 administrator on this matter within a specified time appropriate to the circumstances.
- 8577 2. Where the zoning administrator deems it appropriate to prevent further construction or alteration, a
8578 stop-work order may be issued by the administrator. This order shall be prominently posted on the
8579 property and mailed to relevant parties, and it shall demand that work violating this title be halted
8580 immediately and shall advise its readers and recipients to contact the zoning administrator's office.
- 8581 3. Where the zoning administrator deems it appropriate, he may issue a citation for a zoning ordinance
8582 violation, under the city's citation ordinance.
- 8583 4. All written communications, including stop-work orders, shall have an expressed time limit for
8584 contact with the zoning office, and shall advise that the matter will be turned over to the city attorney
8585 for legal action on that date unless the matter has been resolved.

8586 D. Where enforcement actions described in subsection C above have not satisfied the zoning
8587 administrator that the property and its usage have been made to comply, the evidentiary file and all
8588 correspondence shall be turned over to the city attorney. The city attorney shall review the file. The
8589 attorney may require an evidentiary hearing before making a prosecutorial decision. If the file is deemed
8590 by the city attorney not to show a probable violation, the city attorney shall so indicate in an
8591 explanatory letter, and pertinent parties shall be so notified. If the city attorney does not so conclude,
8592 the attorney shall immediately issue a letter to the violating parties and other pertinent individuals
8593 establishing a specific timetable for compliance to be accomplished and specifying that legal action will
8594 be taken if compliance is not accomplished within the time period specified. If the deadline is not met,
8595 the attorney shall institute prosecution by lawsuit requesting injunctive relief or forfeiture or both. The
8596 attorney may also prosecute a nuisance action and/or may refer the matter to the district attorney for
8597 possible violation of state law or code, as the facts may indicate.

8598 E. Formal decisions by the zoning administrator or by the city attorney on probable violations are
8599 administrative determinations made in the course of enforcing this title, and are capable of appeal to
8600 the board of zoning appeals pursuant to Section 66.23(7), Wisconsin Statutes.

8601 F. The city police department shall have enforcement authority concerning all of the provisions of Title
8602 19. This shall include, but not be limited to, issuance of citations for zoning ordinance violations under
8603 the city's citation ordinance.
8604 (Ord. 1382 § 1, 1997; Ord. 994 § 12.6, 1982).

8605
8606 **19.75.061 Zoning administrator or Neighborhood Services manager--Inspection of properties**
8607 **for occupancy compliance--City attorney duties.**

8608 A. It shall be the duty of the zoning administrator or neighborhood services manager to inspect
8609 properties for A. It shall be the duty of the zoning administrator or neighborhood services manager to
8610 inspect properties for which a complaint has been filed to determine whether the permitted occupancy
8611 is in full compliance with this title for districts R-O, R-1, R-2, R-2A, R-3, R-3A, and R-3B and all overlay
8612 districts of this title. The acceptance by an applicant of a zoning permit grants consent to the zoning
8613 administrator or Zoning Administrator neighborhood services manager to make such inspections as are
8614 reasonably necessary to determine compliance.

8615 B. Investigation will include address verification, and lease verification, and the need for the owner to
8616 comply with the City's rental permit program.

8617 BC. Inspections may include a site visit to request a lease from the tenants. Inspections will be due to a
8618 complaint or inquiry. Based on the possible violation, the zoning administrator may direct the
8619 neighborhood services manager to inspect the property.

8620 CD. Where facts obtained from inspection, or by other means, lead the zoning administrator or Zoning
8621 Administrator Administrator neighborhood services manager to conclude that a violation of occupancy
8622 probably exists, the zoning administrator or neighborhood services manager shall create an evidentiary
8623 file documenting the basis for this conclusion. After completion and review of this file, the zoning
8624 administrator or Zoning Administrator Administrator neighborhood services manager may take the
8625 following initial enforcement actions on their his own motion:

8626 1. Communicate in person, by letter, or telephone, with the property owner requesting information,
8627 requesting that the parties review the compliance question, and that they communicate with the zoning
8628 administrator on this matter within a specified time appropriate to the circumstances.

8629 2. Where the Zoning Administrator Administrator zoning administrator deems it appropriate, he or she
8630 may issue a citation for a zoning ordinance violation, under the city's citation ordinance.

8631 E. Formal decisions by the Zoning Administrator zoning administrator or by the city attorney on
8632 probable violations are administrative determinations made in the course of enforcing this title, and are
8633 capable of appeal to the board of zoning appeals pursuant to Section 66.23(7), Wisconsin Statutes.

8634 (Ord. 1382 § 1, 1997; Ord. 994 § 12.6, 1982).

8635
8636
8637 **19.75.070 City manager's administrative responsibilities.**

8638 A. It shall be the duty of the city manager, or of other city officials and staff as determined by the city
8639 manager, to provide the plan commission and the board of zoning appeals with staff services to assure
8640 that all meetings are fully noticed and conducted in accordance with procedural requirements of the
8641 Wisconsin planning and zoning statute (Section 62.23(7), Wisconsin Statutes), the open meeting law and
8642 the public record law. Similarly, the city manager or delegated public official shall maintain all minutes,
8643 proceedings and records of the plan commission and board of zoning appeals in full compliance with the
8644 public record requirements of state planning and zoning law and the open meeting and public record
8645 laws of the State of Wisconsin.

8646 B. The city manager is the appointing officer for the zoning administrator. The city manager shall not,
8647 however, dictate the outcome of interpretation or permit decisions or enforcement decisions by the

8648 administrator. The city manager, if affected by any decision of the zoning administrator, shall have the
8649 right to appeal the administrator's decision to the board of zoning appeals, pursuant to Section
8650 62.23(7)(e)4, Wisconsin Statutes.

8651 C. It shall be the duty of the city manager and zoning administrator to establish and maintain a system
8652 of records on land usage, coordinating records of permits, decisions of the plan commission and board
8653 of zoning appeals, city council, land subdivision records, city-required covenants, development
8654 conditions and contracts, etc., so as to provide city officials and citizens with reasonably full access to all
8655 the regulatory matters pertaining to particular parcels.
8656 (Ord. 994 § 12.7, 1982).

8657
8658 **19.75.080 Unlawful activities designated--Penalties--Additional remedies.**

8659 A. The following ~~activities~~ shall constitute violations of this title, and shall subject those responsible to
8660 penalties as listed below.

8661 It is a violation of Title 19 to:

8662
8663 1. Own any property or structure that does not fully comply with the terms of this title: one hundred to
8664 three hundred

8665 dollars~~1.~~ Establish or cause to be established, or allow or fail to remedy, any usage of land or premises
8666 or any structure which does not fully comply with the terms of this title, or to aid or abet in such activity:
8667 ~~Fifty one hundred to three to two~~ hundred fifty dollars;

8668 ~~23.~~ Failure to request and obtain a zoning permit for a land use or a land use change that requires such
8669 a permit under this title: Fifty one hundred to three hundred to two hundred fifty dollars; ~~(Double~~
8670 ~~permit fees if a permit is subsequently requested.)~~ In cases where a permit is subsequently requested,
8671 the standard permit fee shall be doubled;

8672 ~~34.~~ Fail to comply with a stop-work order duly issued by the zoning administrator: Two hundred fifty to
8673 four hundred dollars.

8674 B. Each day of a ~~known~~ violation shall constitute a separate offense.

8675 C. In addition to the remedies specified above, adjacent or neighboring property owners may institute
8676 appropriate actions or proceedings to prevent, enjoin, abate, remove or correct structural or land use
8677 activities that are or will be in violation of this title, or to prevent or abate activities or conditions that
8678 constitute nuisances.

8679 D. In addition to any other penalties or remedies available, the city or any landowner within three
8680 hundred feet of the property, may maintain an action for injunctive relief to restrain any violation of the
8681 density and use limitations set forth in Section 19.09.520 and/or to enforce compliance with Section
8682 19.09.520, upon a showing that a person has engaged in, or is about to engage in, an act or practice
8683 constituting a violation of that section.

8684 (Ord. 994 § 12.8, 1982).

8685 (Ord. No. 1695A, 8-5-2008)

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