

Footnotes:

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Editor's note— The city's prior zoning ordinance was adopted March 24, 1987, to be effective April 7, 1987. That original ordinance was supplemented periodically until October 12, 2010, when the entire ordinance was revised, readopted and used as the base ordinance for this zoning chapter.

State Law reference— City planning and zoning, board of appeals, Wis. Stats. § 62.23; community and other living arrangements, Wis. Stats. § 60.63; platting lands and recording and vacating plats generally, Wis. Stats. § 236.01 et seq.; local subdivision regulation, Wis. Stats. § 236.45; comprehensive municipal planning, Wis. Stats. § 66.1001; zoning of wetlands and shorelands, Wis. Stats. § 62.231; floodplain zoning, Wis. Stats. § 87.30; navigable waters protection law, Wis. Stats. § 281.31; farmland preservation, Wis. Stats. § 91.01 et seq.; fences generally, Wis. Stats. § 90.01 et seq.; regional planning programs, Wis. Stats. § 60.82; housing authorities, Wis. Stats. § 66.1201 et seq.

ARTICLE I. - IN GENERAL

Sec. 22-1. - Areas to which this chapter applies.

- (a) This chapter applies to all lands located within the city and to such lands that may be added to the city subsequent to the effective date of this chapter.
- (b) Application of this chapter to lands newly added to the city by annexation shall be governed by applicable state law.
- (c) (This section will be reserved for use in the event the city decides to apply this chapter to extraterritorial areas.)

(Ord. No. 2010-O-09, § 22.04, 10-12-2010)

Sec. 22-2. - Comprehensive plan adopted.

The city has adopted as though fully set forth in this chapter that certain document entitled "Growing Fitchburg 2030 City of Fitchburg Comprehensive Plan" dated March 10, 2020, and as amended. A copy of the adopted plan is available in the office of the city clerk.

(Ord. No. 2010-O-09, § 22.05, 10-12-2010; Ord. No. 2020-O-05, § 1, 3-10-2020)

Sec. 22-3. - Compliance.

- (a) The use of any land; the size, shape and placement of lots; the use, occupancy, size and location of structures and equipment and all other matters dealt with in this chapter shall comply with the terms of this chapter and other applicable regulations. It shall be unlawful for a use, structure or occupancy to occur in noncompliance with the terms of this chapter and other applicable regulations.
- (b) Any actions, decisions or interpretations under this article shall be consistent with the city comprehensive plan (as originally approve and as amended) adopted pursuant to Wis. Stats. § 66.1001.

(Ord. No. 2010-O-09, § 22.11, 10-12-2010)

Sec. 22-4. - Pre-existing substandard parcels.

- (a) Lots or parcels used or proposed to be placed in a use allowable under this chapter that are deficient in minimum lot area or minimum lot width may be allowable for such use if the parcel was of record with the register of deeds on the effective date of the ordinance from which this chapter is derived in its current size or shape and if the following conditions are met:
- (1) If one or more adjoining parcels are owned by the same party and if joinder of parcels or movement of parcel boundaries is determined to be feasible, the substandard parcel shall be required to be made more conforming by combination with the adjoining parcel or movement of parcel boundaries.
 - (2) If the deficiency is lack of required frontage on a public street, an existing substandard parcel may nevertheless be approved if it has either 20 feet of frontage on a public street or (for residential parcels) effective and workable easement access to a public street.
 - (3) An existing substandard parcel that is zoned residential may be allowed as a site for a residential dwelling structure not to exceed two units if it has 6,000 square feet of lot area and at least 60 feet of lot width at the building line along with an effective and workable easement access to a public street. If such a parcel is 6,000 square feet or more in area but less than standard dimensions, the area of such lot may not be reduced.
- (b) These allowances apply only to pre-existing substandard parcels and do not establish policy or precedent favoring the creation of new substandard lot configurations.

(Ord. No. 2010-O-09, § 22.13, 10-12-2010)

Sec. 22-5. - Pre-existing nonconforming uses and developments.

- (a) The lawful established and operational use of a structure or premises existing on the effective date of this chapter or the effective date of an amendment to this chapter may be continued although such use does not conform with the provisions of the chapter or the amendment, except as hereinafter specified.
- (b) Use nonconformity. The total structural repairs or alterations of a lawfully established nonconforming building, premises, structure or fixture shall not during its life exceed 50 percent of the assessed value of the building, premises, structure or fixture unless permanently changed to a conforming use.
- (c) Dimensional nonconformity. If a nonconforming use or the use (conforming or nonconforming) of a structure that is nonconforming as to dimensional requirements is discontinued for a period of 12 months, any future use of the building or premises shall conform to the chapter.
- (d) A building or structure that is nonconforming as to dimensional standards may be repaired, altered or expanded provided that such work does not increase the dimensional nonconformity of the building or structure.

(Ord. No. 2010-O-09, § 22.14, 10-12-2010)

Sec. 22-6. - General provisions and exceptions.

- (a) Heights for institutional facilities such as, but not limited to government structures, churches, utility structures, and schools, may exceed the height of the district in which it is located, but not otherwise provided for, as long as such height is approved by the plan commission on a conditional use basis. In addition to the standards and conditions identified in section 22-640, the plan commission may also place conditions relative to the structure's use or occupancy above the maximum height of the district in which the structure is located.
- (b) Setbacks for an underground basement parking structure in a business or industrial district may be reduced to be within two feet from the property line on a conditional use basis, provided that any part of the garage that is exposed above grade shall meet the required district setbacks and any aboveground buildings meet the required district setbacks.
- (c) Roof overhangs of up to two feet shall not be subject to the setback requirements.
- (d) Community gardens shall be allowed in all zoning districts subject to the following:
 - (1) Gardens shall be limited to the cultivation of fruits, vegetables, herbs, plants and flowers.
 - (2) Gardens shall be run by a nonprofit entity, community group, or neighborhood group acting as a garden coordinator. The garden shall be served by a water supply sufficient to support the cultivation practices on the site. A small storage shed, 100 square feet or less, shall be permitted, but it shall meet the front setback for the respective district, shall be at least four feet from a side or rear lot line and shall not be greater than 15 feet in height.
 - (3) Greenhouses and/or hoopouses associated with a community garden require a conditional use permit (except within the R-D Rural Development and A-X/A-T Agricultural Districts where they are permitted) and those structures shall follow the dimensional standards of the zoning district.
- (e) Wind turbines. Wind turbines may be erected and maintained in any zoning district subject to the following standards:
 - (1) No turbine shall be permitted within an environmental corridor or wetland, and any turbine in the A-X zoning district shall be subject to article V, section 22-482(4)(b) herein.
 - (2) A wind turbine of 35 feet of total height or less shall be a permitted use in any district, except for the park and recreation zoning district.
 - (3) Any wind turbine in the park and recreation district shall require a conditional use permit.
 - (4) A wind turbine over 35 feet in height may be considered for conditional use application only if it is proposed to be on a lot that is one acre or larger in size.
 - (5) Wind turbines that are over 60 feet in height and that meet all technical standards of this chapter may, nevertheless, be rejected for conditional use approval by the plan commission upon a finding that the height is wholly out of proportion with prevailing heights of structures and objects within the neighborhood and would consequently be seriously disruptive of neighborhood aesthetic character or fails to meet any of the criteria set forth in section 22-640(c).
 - (6) Setbacks shall be pursuant to Public Service Commission (PSC) regulations enacted pursuant to Wis. Stats. § 196.378.
 - (7) Standards for conditional use review.

- a. Plan commission staff shall identify all applicable federal or state construction codes.
 - b. All applicable utility regulations shall be satisfied as to interconnection and operation of interconnected systems.
 - c. The proposed installation shall be controlled by fences or other anticlimbing devices.
 - d. Conditions shall be placed requiring removal when use of wind tower has ceased.
- (8) Application requirements. Applications for conditional use approval shall include or be accompanied by a plot plan.
- (9) Soil test data may be required by the plan commission staff if such data is necessary to judge the adequacy of design.
- (f) The minimum open space requirements within the business and industrial zoning districts shall only apply to lands platted or zoned after October 12, 2010.

(Ord. No. 2010-O-09, § 22.15, 10-12-2010; Ord. No. 2011-O-05, § 1, 4-26-2011; Ord. No. 2015-O-01, § 1, 2-24-2015)

Sec. 22-7. - Standard zoning districts.

This chapter identifies zoning districts containing use identifications and dimensional-intensity standards. Lands placed in one of these districts shall be eligible for development according to the rules for that district. The location and boundaries of the zoning districts are hereby established as shown on the map entitled "Zoning District Maps of the City of Fitchburg," together with all information shown thereon and all amendments thereto shall be as much a part of this article as if fully set forth and described herein.

(Ord. No. 2010-O-09, § 22.20, 10-12-2010)

Secs. 22-8—22-32. - Reserved.

ARTICLE II. - RESIDENTIAL DISTRICTS

DIVISION 1. - GENERALLY

Sec. 22-33. - Residential objectives.

Development objectives for the residential portion of the Fitchburg community shall be as follows:

- (1) For presently developed areas, to preserve existing community values of quiet, privacy, safety, natural beauty, attractive landscape features and open space; to promote property improvement and upkeep; and to allow structures, parcels and yard areas to be adapted to new variations in residential and related usages reflecting changing conditions, without detracting from the residential character of neighborhoods.
- (2) For developing areas, to encourage production of new housing patterns that will be functional, attractive, adaptable and capable of holding their value. It is also an objective to allow for new types, formats, and mixtures of housing to reflect changing consumer preferences, economics, and technologies.

Secs. 22-34—22-54. - Reserved.

DIVISION 2. - R-L LOW DENSITY DISTRICT

Sec. 22-55. - Permitted uses.

For the R-L Low Density District, permitted uses are as follows:

- (1) Residential occupancy of a single-family detached dwelling unit structure.
- (2) Limited vocational activities. Residential occupancy also includes limited vocational (household occupations) activities. Permits are not required prior to engaging in such activities, but the following standards apply:
 - a. The activity must be clearly secondary and incidental to residential use.
 - b. The activity must not significantly alter the residential character of the dwelling unit, dwelling structure or the parcel.
 - c. The activity must not unreasonably interfere with residential occupancy of other parcels in the neighborhood.
 - d. The activity must not create environmental, safety or health hazards such as noise, light, odors, vibrations, electrical emissions, or other fire or safety hazards that are noticeably out of character with those produced by normal residential occupancy.
 - e. Traffic generated by the vocational activity may not exceed that which is customary to residential occupancies in the neighborhood.
 - f. Signage for the vocational activity will be governed by the sign ordinance.
 - g. The parcel and structure must contain adequate area to accommodate the vocational activity without interfering with residential occupancy of other parcels in the neighborhood.
 - h. Garage sales as a type of vocational activity are allowable in all residential districts provided that not more than two are held on a single premises per year and that each such sale shall not exceed four days in duration.
 - i. Day care is allowable as a vocational activity on a residential premises. Conditional use approval will be required, however, if Wis. Stats. § 66.1017 apply. (See section 22-220.)
- (3) Group homes with capacity to accommodate eight or fewer individuals are a permitted occupancy in the R-L district.
- (4) Residential accessory developments and occupancies, pursuant to section 22-56.

Sec. 22-56. - Accessory occupancies; special standards.

For the R-L Low Density District, accessory occupancies, special standards are as follows:

- (1) Gardens and landscape features (walks, steps, railing, terraces, trellises, birdfeeders/baths, swing sets, sandboxes, compost storage, sprinkler systems, landscape lighting, clothes lines, etc.).
 - a. Retaining walls shall be setback at least one foot from the property line.
 - b. Solid walls that extend three feet or more above the ground for three or more feet of their length can be no closer than two feet to any lot line.
- (2) Window wells.
 - a. Small window wells no greater than 18 inches from the foundation and no more than three feet along the foundation are exempt from these standards.
 - b. A window well may encroach up to a maximum of three feet into the required rear yard and may encroach up to a maximum of two feet into a required side yard.
 - c. Not more than one window well shall be permitted to encroach into each of the rear or side yards.
- (3) Driveways cannot be closer than two feet to a side or rear lot line unless such driveway is jointly used by the adjoining landowners pursuant to an express recorded easement or other recorded document evidencing the same. Driveways must be hard surfaced.
- (4) Parking spaces that are in locations other than in a driveway cannot be directly in front of a dwelling structure on the front side of the lot, or between the side of the house and the street on a corner lot, or in the front setback except in the driveway. A driveway is an actively used private way and shall not be more than two lanes in width in any part of the lot except for the direct path from the garage or primary parking space to the street. Parking spaces shall not be closer than two feet from the side or rear lot lines.
- (5) Patios/decks at ground level or at a floor level shall be no more than four feet above ground level at any point under the deck (decks at greater height are considered part of the structure and may not intrude into setback areas). For detached gazebos or screen enclosures, maximum lot coverage rules apply. There shall be a ten-foot minimum separation measured in from any side (or the side yard setback of the subject property's zoning district, whichever is lesser) or rear lot line to the edge or side of the facility unless the applicant has obtained a signed and notarized affidavit of consent to run with the land from the owner(s) of record of the neighboring properties identifying a closer distance, and has recorded this against both parcels in the register of deeds office and with the city zoning administrator.
- (6) Detached garages/carports and storage buildings greater than 400 square feet in floor area shall comply with setback standards. They must not be taller than the principal structure, and in no case more than 15 feet in height. Maximum lot coverage rules apply. Such accessory structure(s) shall not be forward of the front face of the principal structure.
- (7) Storage buildings/sheds/enclosures/pet houses/runs must obey front setbacks and cannot be less than four feet from a side or rear lot line. They cannot be taller than the principal structure and in no case more than 15 feet in height. They cannot exceed 400 square feet in floor area for each such structure. Maximum lot coverage rules apply. Such accessory structure(s) shall not be forward of the front face of the principal structure.
- (8)

Hard surface sport and play areas and swimming pools. There shall be a ten-foot minimum distance from side or rear lot line (measured from water edge or edge of sport or play area) unless the applicant has obtained a signed and notarized affidavit of consent to run with the land from the owners of record of the neighboring properties identifying a closer distance, and has recorded this against both parcels in the register of deeds office and with the city zoning administrator. Pools must be fenced.

(9) Air conditioning equipment, heat pumps, antenna. Height limits for the district apply. Such equipment shall not be located forward the front faces of the principal structure and shall be located at least four feet from side and rear property lines. Any object that has potential for safety, or attractive nuisance problems must, at the discretion of the zoning administrator, be security fenced. Noise levels may not exceed 65 db at the lot line.

(10) Fences.

- a. Fences must be kept in good repair. Decorative sides must face outward. Supporting members or braces shall be on the inside and smooth or flat faces on the outside. If two faces are used, each face shall be of the same type and finish. Chainlink fence is permitted. Fences may not have chicken wire, woven wire, barbed wire, razor wire, electric wire, hazardous wire edges or similar materials.
- b. Perimeter fences are those located within five feet of the lot line. These cannot exceed six feet in height and cannot be forward of the front face of the house, except as provided below.
- c. Fences, perimeter or otherwise, in front yards shall be decorative only; at least 50 percent of their bulk must be air space and they must be not more than four feet in height.

(11) Earth station dish antennas.

- a. Dish antennas shall be built and anchored to withstand winds of not less than 80 miles per hour. No dish antennas shall be erected in any yard except a rear yard, nor shall more than one dish antenna be permitted on a lot or parcel.
- b. Dish antennas over one meter in diameter and satellite devices that are not designed to receive video programming shall be located and screened to minimize their visual impact on surrounding residential properties. They shall also be shielded or filtered to prevent the emission or reflection of electro-magnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties.

(12) Dogs and cats.

(13) Domesticated animals, other than dogs and cats, with a maximum weight of generally less than 30 pounds.

(14) Limited animal husbandry:

- a. Not exceeding 25 percent of one animal unit per acre or a pro-rated portion of an acre.
- b. Bees. The keeping of honey bees (*apis Mellitera*) in the yards of single family residences or duplexes located in the R-L, R-LM or R-M district shall be allowed, provided the use complies with the following:
 1. *Number and size of beehives.*
 - A. No hive shall exceed 20 cubic feet in volume.
 - B.

Up to a maximum of six hives allowed on lots up to two acres. Lots of two to five acres shall be allowed up to eight hives. There shall be no limit on the number of hives kept on a lot or parcel of five acres or more in area.

- C. The beekeeping use shall be accessory to the primary residential use and not be a commercial operation.

2. *Location and setbacks.*

- A. Hives shall be located only on lots with single- or two-family residential as the primary use.
- B. Hives shall not be located in the front yard of any lot, with the hive entrance(s) to face away from the nearest property line.
- C. A hive shall be at least three feet from a property line, 25 feet from a public sidewalk or public path, and 25 feet from a principal building on an abutting property.
- D. If a property line is located within 25 feet of a hive, a six-foot tall flyway barrier, comprised of a wall, fence or dense vegetation, or combination thereof, shall be positioned to transect both legs of a triangle extending from an apex at the hive to each end point of the part of the property line to be shielded.

3. *Management practices.*

- A. Beekeepers shall utilize best practices to avoid creating nuisances, including monitoring bees on a regular basis for the health of the hive, and undertaking beekeeping activities at times when they will not interfere with neighbors' activities and enjoyment of their property.
- B. A sufficient supply of on-site water shall be provided for all hives.
- C. Any hive that is abandoned or its use discontinued for a period of 12 consecutive months shall be removed from the premises by the property owner. Hives shall not be modified for any use other than beekeeping.
- D. All honey bees shall be kept in hives with removable combs, which shall be kept in good repair and usable condition.

4. *Permit required.*

- A. No person shall acquire, keep, or stock honey bees in the city without being a beekeeper and obtaining a valid permit issued by the zoning administrator, or his/her designee. A permit shall be valid unless revoked pursuant to subsection 4.D. Submission of a completed application shall be accompanied with a fee as identified in the city fee schedule. Applicant shall attest that all requirements of subsections 1—3 are met.
- B. Any person(s) proposing to keep bees shall notify all property owners and residents on or adjacent to the property on which the hives will be kept, prior to beginning any beekeeping activity.
- C. Permit is not transferrable. A permit provides permission for honey beekeeping at the address listed in the permit application and only for the permit holder. The permit shall not be transferred to any other person or location. The beekeeper must also notify the planning and zoning department when beekeeping is no longer being conducted on the property, in which case the hive(s) shall be removed from the site.

D. Permit revocation. A permit shall be subject to revocation upon failure to comply with any provisions of this section, or if the city determines that continued operation and maintenance of the hive constitutes a reasonable threat to the general health or safety or others. Once a permit is revoked, a permit shall not be reissued.

5. *Definitions.*

A. *Beekeeper* means a person who owns or has charge of one or more colonies of bees, or is requesting to own or take charge of one or more colonies of bees, and has demonstrated to the zoning administrator that he or she is qualified (via education, training, mentor) to act as a beekeeper.

B. *Colony* means an aggregate of honey bees in a hive consisting principally of workers, but having, when perfect, one queen and at times many drones, including the brood.

C. *Flyway barrier* means an obstacle designed to cause bees to fly upward after exiting the hive and directing them away from neighboring and adjoining areas inhabited by humans.

D. *Hive* means the shelter/structure housing a colony of bees including the combs, honey, and pollen.

E. *Honey bee* means all life stages of the common domestic honey bee, *apis Mellifera* species.

(Ord. No. 2010-O-09, 10-12-2010; Ord. No. 2017-O-07, § 1, 9-26-2017)

Sec. 22-57. - Conditional uses.

For the R-L Low Density District, conditional uses are as follows:

- (1) Dependency living arrangements which allow a dwelling structure to have two complete dwelling units (that is, two units individually contained, each having its own bathroom, kitchen, sleeping and other areas), where one of the two units is not larger than 750 square feet in floor area. One of the two dwelling units, within this structure shall be owner occupied, except for periods of bona fide temporary absences, while the other dwelling unit shall be occupied by either the care provider or the dependent person. There shall not be separate direct entrances for each dwelling unit on the front of the building, unless this prohibits handicapped access. There shall also be at least one interior doorway connecting the two dwelling units.
- (2) Family day care as defined under section 22-220.
- (3) Schools.
- (4) Churches.
- (5) Recreational facilities.
- (6) Rest homes and nursing homes.
- (7) Private clubs.
- (8) Utility and governmental facilities.
- (9) Group homes with capacity to accommodate nine or more individuals.
- (10) Residential-all district conditional uses under division 8 of this article.

(11) Bed and breakfast establishments.

(Ord. No. 2010-O-09, § 22.23, 10-12-2010)

Sec. 22-58. - Dimensional standards.

For the R-L Low Density District, dimensional standards are as follows:

- (1) Minimum lot area per dwelling unit: 10,000 square feet (one acre, unsewered).
- (2) Minimum lot width: 80 feet.
- (3) Minimum front setback: 30 feet, except that an open air front porch (with only railings and support posts) or stoop may protrude to within 25 feet of the front lot line.
- (4) Minimum side setback: Ten feet (can be reduced to five feet if adjacent parcel has a setback that provides a minimum of 15 feet from the adjoining property line, provided there remains a minimum of 20 feet of building separation. The adjoining setback must be committed by deed restriction).
- (5) Minimum street side setback (corner lot): 25 feet.
- (6) Minimum rear setback: 35 feet, except that the rear setback may be reduced to as low as 25 feet on a conditional use basis to allow screen porches, and three or four season rooms which are primarily glass or windows.
- (7) Maximum height of structures: 35 feet or three stories, whichever is less.
- (8) Maximum lot area coverage and buildings: 35 percent.
- (9) A single-family dwelling structure with accessory apartment is required to meet the same dimensional standards as a single-family dwelling structure without accessory apartment. A parkland dedication fee shall be assessed for each accessory unit.

(Ord. No. 2010-O-09, § 22.24, 10-12-2010)

Secs. 22-59—22-89. - Reserved.

DIVISION 3. - R-LM LOW TO MEDIUM DENSITY DISTRICT

Sec. 22-90. - Permitted uses.

For the R-LM Low to Medium Density District, permitted uses are as follows:

- (1) Residential occupancy of a single-family detached dwelling unit structure.
- (2) Limited vocational activities (same as [section 22-55\(b\)](#)).
- (3) Group homes (same as [section 22-55\(c\)](#)).
- (4) Residential accessory developments (same as [section 22-56](#)).

(Ord. No. 2010-O-09, § 22.25, 10-12-2010)

Sec. 22-91. - Conditional uses.

For the R-LM Low to Medium Density District, conditional uses are as follows:

- (1) Dependency living arrangements.
- (2) Family day care and group homes with nine or more individuals (see division 8 of this article).
- (3) Schools, churches, recreational facilities.
- (4) Rest homes and nursing homes.
- (5) Private clubs.
- (6) Utility and governmental facilities.
- (7) Bed and breakfast establishments.

(Ord. No. 2010-O-09, § 22.26, 10-12-2010)

Sec. 22-92. - Dimensional standards.

For the R-LM Low to Medium Density District, dimensional standards are as follows:

- (1) Minimum lot area per dwelling unit: 7,200 square feet. No unsewered lots shall be allowed.
- (2) Minimum lot width: 60 feet.
- (3) Minimum front setback: 30 feet, except that an open front porch or stoop may protrude to within 25 feet of the front lot line.
- (4) Minimum side setback: Eight feet (can be reduced to five feet if the adjacent parcel has a setback that provides a minimum of 11 feet from the adjoining property line, provided there remains a minimum of 16 of building separation. The adjoining parcel must be committed by deed restriction).
- (5) Minimum street side setback (corner lot): 25 feet.
- (6) Minimum rear setback: 25 feet.
- (7) Maximum height of structures: 35 feet or three stories.
- (8) Maximum lot area coverage and building: 35 percent.

(Ord. No. 2010-O-09, § 22.27, 10-12-2010)

Secs. 22-93—22-112. - Reserved.

DIVISION 4. - R-M MEDIUM DENSITY DISTRICT

Sec. 22-113. - Permitted uses.

For the R-M Medium Density District, permitted uses are as follows:

- (1) Residential occupancy of a two-family attached dwelling unit structure.
- (2) Limited vocational activities. The standards and procedures of section 22-55(b) apply in the R-L district.
- (3) Group homes with capacity to accommodate eight or fewer individuals.

- (4) The standards and procedures of section 22-55(d) apply in the R-M district, except that the following standards are modified to accommodate zero lot line (see subsection (5) of this section):
 - a. Drives may be located up to the lot line or joint, provided a joint drive application is approved;
 - b. Patios and decks have a zero setback for the zero lot line side setback.
- (5) Residential occupancy of zero-lot line single-family attached dwelling units of a zero-lot line lot subject to:
 - a. A maintenance agreement shall be entered into by the owners of both zero-lot line parcels to ensure equal and reasonable maintenance and repair schedules are conducted for both single-family attached residential units.
 - b. An eight-foot maintenance easement, four-feet on each side of the zero-lot line side property line, to allow for normal maintenance of each single-family attached residential unit shall be recorded with the register of deeds office and a recorded copy provided to the zoning administrator.
 - c. The dwelling wall abutting the zero lot line shall be a one hour fire wall.

(Ord. No. 2010-O-09, § 22.28, 10-12-2010)

Sec. 22-114. - Conditional uses.

For the R-M Medium Density District, conditional uses are as follows:

- (1) R-L conditional uses.
- (2) Residential occupancy of single-family detached dwelling unit structures.

(Ord. No. 2010-O-09, § 22.29, 10-12-2010)

Sec. 22-115. - Dimensional standards.

For the R-M Medium Density District, dimensional standards are as follows:

- (1) Parcels having single-family detached dwelling unit structures:
 - a. Minimum lot area: 7,200 square feet (one acre, unsewered).
 - b. Minimum lot width: 60 feet.
 - c. Minimum front yard setback: 30 feet, except that an open front porch or stoop may protrude to within 25 feet of the front lot line.
 - d. Remaining standards are the same as those for the R-LM district.
- (2) Parcels having a two-family attached dwelling unit structure:
 - a. Minimum lot area: 10,000 square feet (one acre, unsewered).
 - b. Minimum lot width: 80 feet.
 - c. Minimum front yard setback: 30 feet, except that an open front porch or stoop may protrude to within 25 feet of the front lot line.
 - d. Remaining standards shall be the same as those for single-family detached dwelling unit structures.
- (3) Zero-lot line lots having single-family attached dwelling structures:
 - a. Minimum lot area: 5,000 square feet (one acre, unsewered).

- b. Minimum lot width: 40 feet.
- c. Minimum front yard setback: 30 feet, except that an open front porch or stoop may protrude to within 25 feet of the front lot line.
- d. Minimum zero-lot line side yard (shared) setback: Zero feet. A two foot eave protrusion shall be permitted across the zero lot line into the adjoining lot.
- e. Remaining standards shall be the same as those for single-family detached dwelling unit structures.

(Ord. No. 2010-O-09, § 22.30, 10-12-2010)

Secs. 22-116—22-143. - Reserved.

DIVISION 5. - R-H HIGH DENSITY DISTRICT

Sec. 22-144. - Permitted uses.

For the R-H High Density District, permitted uses are as follows:

- (1) R-L permitted uses, except single-family detached dwelling units.
- (2) R-M permitted uses, except two-family detached dwelling units.
- (3) Residential occupancy of dwelling unit structures having three to eight dwelling units.
- (4) Group homes with capacity to accommodate 15 or fewer individuals.

(Ord. No. 2010-O-09, § 22.31, 10-12-2010)

Sec. 22-145. - Conditional uses.

For the R-H High Density District, conditional uses are as follows:

- (1) R-L conditional uses.
- (2) Group homes having capacity to accommodate 16 or more individuals.
- (3) Two-family detached dwelling units.
- (4) Offices located within buildings that have three or more dwelling units, provided that the total area devoted to exclusive office usage including offices used for building or project management purposes, does not exceed 3,000 square feet in any building, and provided that only incidental retail sales are conducted within such offices.
- (5) Funeral homes, provided no crematory is operated on site.
- (6) Residential occupancy of dwelling structures having greater than eight dwelling units.
- (7) Cooperative housing. Every two bedrooms shall count as one dwelling unit for parking purposes. For density purposes, every bedroom shall equate to an efficiency unit under section 22-146(2)b.

(Ord. No. 2010-O-09, § 22.32, 10-12-2010)

Sec. 22-146. - Dimensional standards.

For the R-H High Density District, dimensional standards are as follows:

- (1) Not more than two multiple family dwelling unit structures per lot unless a greater number is approved by conditional use.
- (2) Lot area requirements.
 - a. Two family dwelling unit structures: 10,000 square feet.
 - b. Each dwelling unit type shall provide the following minimum lot areas:

Efficiency	2,000 square feet
1 bedroom	2,200 square feet
2 bedrooms	2,400 square feet
3 bedrooms	2,700 square feet
4 bedrooms or more	3,100 square feet

Exceptions:

If more than half of the dwelling units in a building are efficiency units, those in excess of half shall be counted as one bedroom units.

500 square feet of lot area per structured parking space shall be deducted from the minimum lot area for any building that provides structured parking on-site, either within the building or in a detached underground parking structure.

- c. No R-H zoned lot created after October 12, 2010, shall exceed 90,000 square feet in area.

- (3) Minimum lot width: 80 feet.
- (4) Minimum front setback: 30 feet, except that an open front porch or stoop may protrude to within 25 feet of the front lot line.
- (5) Minimum side setback: Ten feet (20 feet if the parcel abuts an R-L zoned parcel).
- (6) Minimum street side setback: 25 feet.
- (7) Minimum rear setback: 25 feet.
- (8) Maximum building height: 45 feet or three stories; whichever is less unless a conditional use is approved for additional stories up to six or 75 feet whichever is less.
- (9) Maximum lot area coverage: 35 percent.

DIVISION 6. - R-HA DISTRICT

Sec. 22-176. - Purpose.

- (a) The R-HA district is applied to limited areas within the city that developed or were committed as to usage under pre-1986 R-4 zoning standards to levels of intensity or within dimensional standards that would not be allowed for new construction under the R-H district herein.
- (b) Within this R-HA district, the rules of the former R-4 district in effect as of April 7, 1987, apply to govern development in the case of vacant-but-committed parcels or to govern continued occupancy and/or rebuilding in the case of damage or destruction of the existing structures. Map designations shall indicate whether former R-4 zoning would so apply.

(Ord. No. 2010-O-09, § 22.35, 10-12-2010)

DIVISION 7. - R-R RURAL DENSITY DISTRICT

Sec. 22-206. - Permitted uses.

For the R-R Rural Density District, permitted uses are as follows:

- (1) Residential occupancy of one single-family detached dwelling unit structure.
- (2) All uses permitted in the R-L district, except that, in section 22-56, driveways related to subsection (3) of this section do not have to be hard surfaced; parking spaces related to subsection (4) of this section can be anywhere on the property; structures related to subsections (6) and (7) of this section may be located in front of the principal structure and are allowed to be up to 35 feet in height; fence regulations related to subsection (10) of this section do not apply; and subsection (13) of this section only applies to R-R lots less than two acres.
- (3) Agricultural uses. The number of livestock kept on a zoning lot in the R-R district shall not exceed one animal unit for each full acre and the lot must be at least two acres in size. Any structure housing livestock shall be at least 100 feet from a residential zoning district, other than the R-R district.

(Ord. No. 2010-O-09, § 22.36, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012)

Sec. 22-207. - Conditional uses.

For the R-R Rural Density District, conditional uses are as follows:

- (1) All uses conditional in the R-L district.

- (2) Parking of one truck or road tractor or school bus or semi-tractor and its trailer in excess of 4.0 tons gross vehicle weight.

(Ord. No. 2010-O-09, § 22.37, 10-12-2010)

Sec. 22-208. - Dimensional standards.

For the R-R Rural Density District, dimensional standards are as follows:

- (1) Minimum lot area per dwelling unit: one acre.
- (2) Minimum lot width: 150 feet.
- (3) Minimum front setback: 40 feet.
- (4) Minimum side setback: ten feet.
- (5) Minimum street side setback: 30 feet.
- (6) Minimum rear setback: 50 feet.
- (7) Maximum height of structures: 35 feet or three stories, whichever is less.
- (8) Maximum lot area coverage and buildings: ten percent.

(Ord. No. 2010-O-09, § 22.38, 10-12-2010)

Secs. 22-209—22-216. - Reserved.

DIVISION 8. - CONDITIONAL USES APPLICABLE TO ALL RESIDENTIAL DISTRICTS

Sec. 22-217. - Planned residential cluster by conditional use.

- (a) The plan commission is authorized to vary minimum lot area and setback standards to allow clustering within a project without increasing the number of dwelling units over the entire project site.
- (b) The plan commission may reject a project under this section without prejudice and with a recommendation that the project be pursued under the SmartCode or PD district provisions of the Municipal Code of Ordinances if the commission concludes that public benefits will result from planning the project and possibly any nearby sites conjunctively.
- (c) Perimeter setbacks cannot be varied to be less than 25 feet on any street side of a parcel; eight feet on any rear yard; any combination of side yard distance for a total of 13 feet, providing for 13 feet of separation between principal buildable areas.
- (d) The plan commission may, under this section, approve maximum lot coverages above the standard 35 percent to a maximum of 40 percent.
- (e) Urban agriculture or community gardens may be established as a component of a planned residential cluster and approved as part of the conditional use permit.
- (f) Application to single-family lotted subdivisions shall only occur where:
 - (1) The conditional use application accompanies the initial rezoning;

- (2) It is anticipated by a comprehensive development plan;
 - (3) The plan commission determines that strong planning and design principles are utilized to promote a unified cluster housing project; and
 - (4) Strong deed restrictions have been developed to promote quality housing and design.
- (g) In addition, applications submitted after October 12, 2010, shall abide by the following standards:
- (1) The proposed cluster shall not be part of an existing subdivision or shall not contain any portion of an existing subdivision plat.
 - (2) Parcel size of all contiguous lands owned or controlled by a developer shall be less than ten acres.
 - (3) All public improvements shall be installed in not more than two phases.
 - (4) The remaining land area that would have otherwise been developed but for clustering, shall be restricted to open space, active recreation, or urban agriculture.
 - (5) This section shall not be used to create lots that would otherwise have been allowed by their size under R-LM or R-L zoning, or to simply decrease building setbacks.
 - (6) A standard subdivision drawing showing how the land would otherwise have been developed at minimum lot sizes of the current residential zoning district is required to be submitted in order to allow a comparison and evaluation with the planned residential cluster proposal.
 - (7) Planned residential cluster proposal shall provide plans and documents in written and graphic form to fully describe the project and its benefits. Draft deed restrictions, easements, and condominium documents shall be submitted with the application.
- (h) The plan commission shall not, under this procedure, approve variations in standard municipal services or waivers to any park requirements.

(Ord. No. 2010-O-09, § 22.39(2), 10-12-2010)

Sec. 22-218. - Urban agriculture.

Urban agriculture may be allowed as a conditional use, provided that the following is reviewed and approved as part of the conditional use:

- (1) Animal husbandry, where during the conditional use process, the allowed animal units shall be set, but in no case shall the animal units exceed 50 percent of one animal unit per acre, or pro-rated portion of an acre.
- (2) One roadside stand for each urban agriculture site for sales of products produced and processed on the site may also be allowed by the conditional use permit.
- (3) Processing of products grown or raised on the site.
- (4) A management plan is provided as part of the conditional use application in order to mitigate noise, odor, and waste disposal, spreading of manure, application of fertilizers and pesticides, use of mechanized equipment, and other nuisance activities that may be identified.
- (5) Greenhouses and/or hoopouses, which may be allowed as part of the operation, shall following the dimensional standards of the zoning district.

(6) Any compost operations shall be shown on a site plan, and described in the management plan, and are subject to approval by the conditional use.

(Ord. No. 2010-O-09, § 22.39(2), 10-12-2010)

Sec. 22-219. - Group homes.

Group homes that fall within the meaning of community living arrangements are as defined in Wis. Stats. § 62.23(7)(I) or subsequent relevant changes and that are identified as conditional uses in particular districts of this chapter shall be governed in conditional use review by standards of Wis. Stats. § 62.23(7)(I)9, and the procedures of Wis. Stats. § 62.23(7)(I) shall apply.

(Ord. No. 2010-O-09, § 22.39(3), 10-12-2010)

Sec. 22-220. - Family day care.

A conditional use permit is required for any situation where the number of persons receiving custodial care exceeds the number set forth by Wis. Stats. § 66.1017. In such situations the plan commission shall examine applicable licensing standards and shall apply these to proposed operations. In the absence of such standards, the commission may impose conditions intended to accomplish safety of the facility and reasonable compatibility with the neighborhood.

(Ord. No. 2010-O-09, § 22.39(4), 10-12-2010)

Sec. 22-221. - Schools.

Public or private schools are as defined by state statutes. The plan commission shall have review powers over appropriateness of location, site planning, architectural design, grading, lighting and other impact factors.

(Ord. No. 2010-O-09, § 22.39(5), 10-12-2010)

Sec. 22-222. - Church.

A church is a place of worship, associated meetings and educational facilities, associated office and storage and garage facilities and homes on the same site for persons engaged in religious functions, all integrally involved in the affairs of a church, congregation or religious society recognized under Wis. Stats. ch. 187. The plan commission shall have review powers over appropriateness of location, site planning, architectural design, grading, lighting and other impact factors.

(Ord. No. 2010-O-09, § 22.39(6), 10-12-2010)

Sec. 22-223. - Recreational facilities.

- (a) The following uses may be considered for conditional use approval in any residential district: nature preserves and passive recreation areas, outdoor parks and open space, pedestrian and bike trails (non-motor equipment only except for maintenance and service vehicles), active outdoor recreation play fields including spectator seating, swimming pools, tennis and racquetball and related court facilities, indoor or outdoor, exercise and fitness facilities, archery ranges, golf courses and associated facilities (driving range,

pitch and putt, mini-golf) and similar usages and facilities. Additionally, one lodging or boarding unit associated with the facility may be allowed as part of the conditional use (as used here lodging or boarding unit means a room or group of rooms used for daily or weekly use, with no one person or family occupying the unit for more than 90 consecutive days). Recreational facilities (without boarding or lodging) to serve a single dwelling unit do not require conditional use approval.

- (b) Conditional use approval requirements extend to the use as appropriate for the site and area, appropriateness of site design, approval of all structures, equipment, facilities and approval of a use program statement describing what activities will take place, duration, extent, hours, controls, noise generation, lighting supervision, parking, collateral operations (food and beverage, concessions, etc.). Approvals will be specific as to the range of allowable activities.

(Ord. No. 2010-O-09, § 22.39(7), 10-12-2010; Ord. No. 2013-O-18, § 1, 9-24-2013)

Sec. 22-224. - Utility and governmental facilities.

- (a) Conditional use approval shall be required for utility and governmental facilities that involve any of the following, individually or in combination:
- (1) Installation or removal or significant modification of major utility facilities including any wireless facilities. Major means primary system facilities (interceptors, mains, pumping stations, principal pipelines, substations, new structures, housing equipment and the like).
 - (2) Acquisition, development or significant modification or removal of municipal facilities, municipal buildings or structures, yards or sites for storage, transfer, waste management, installation or modification of roads.
 - (3) Utility and governmental agencies are encouraged to submit system plans to the city for review and comment, including periodic update submissions, so that individual facility reviews can occur in a planning framework.
 - (4) In submitting either system plans or facility plans, applicants shall identify the necessity of the facility. Where the city is legally entitled to require full conditional use review and approval, the full conditional use review procedure shall occur.
- (b) Visible utility and governmental facilities shall be sited, designed and screened so as to be reasonably compatible with the appearance of the surrounding areas.
- (c) The zoning administrator shall be responsible for determining what specific facilities are subject to this section.

(Ord. No. 2010-O-09, § 22.39(8), 10-12-2010)

Secs. 22-225—22-236. - Reserved.

ARTICLE III. - BUSINESS DISTRICTS

Footnotes:

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Editor's note— SIC numbers are listed in parentheses and incorporated by reference.

DIVISION 1. - GENERALLY

Secs. 22-237—22-245. - Reserved.

DIVISION 2. - B-P PROFESSIONAL OFFICE DISTRICT

Sec. 22-246. - Purpose.

The purpose and objectives of the business district is to provide commercial areas that will provide services to the public in an attractive, safe and convenient manner. The B-P district is established for areas having predominantly office uses, typically generating low traffic volumes and traffic turnover.

(Ord. No. 2010-O-09, § 22.40, 10-12-2010)

Sec. 22-247. - Permitted uses.

For the B-P Professional Office District, permitted uses are as follows:

- (1) Office activities.
 - a. Professions including health services, office or clinic basis. (801—804)
 - b. Finance, real estate, insurance. (60—67, except for convenience cash business)
 - c. Government offices. (91—96)
 - d. Business offices. (89)
 - e. Business services, including convenience printing, excluding services to buildings. (73, except 734)
 - f. Educational services, provided all activities are enclosed within buildings. (82)
 - g. Legal services. (81)
 - h. Business and Professional Associations. (861—862)
 - i. Medical and dental laboratories. (807, 808, 809)
- (2) Computer services. (737)
- (3) Existing residential units.
- (4) Studios, art studios, interior decorating studio, photographic studio, music studio, dance studio and art institutes.
- (5) Retail sales and services provided by vending machines or by personnel when such retail area is within a building, so constructed and maintained that all access is from a lobby, hall or court and not directly from the out-of-doors; it is the intent that such sales and services are provided for the convenience of the patrons and occupants of the building.
- (6) Beauty shops and barbershops. (723, 724)

- (7) An establishment may devote up to 30 percent of its floor space to processing, fabrication, or assembling of a manufacturing nature and incidental to the principal use.
- (8) The ground floor of each principal structure must be devoted principally to an allowable use, permitted or conditional, other than residential. The principal use of ground floor areas may not be parking or storage.

(Ord. No. 2010-O-09, § 22.41, 10-12-2010; Ord. No. 2015-O-02, § 1, 1-27-2015)

Sec. 22-248. - Conditional uses.

For the B-P Professional Office District, conditional uses are as follows:

- (1) Theatres for performing arts.
- (2) Labor unions and similar labor organizations; civic, social and fraternal associations; political organizations; religious organizations; membership organizations, not elsewhere classified. (863, 864, 865, 866, 869)
- (3) Nursing homes; rest homes. (805)
- (4) Residential. Residential units may be located on the second or third floor. The lot area must provide 5,000 square feet of area for each residential unit.
- (5) Agricultural production. (01-02)
- (6) Class I restaurants.
- (7) Educational services, with activities outside building. (82)
- (8) Health clubs.
- (9) Liquor stores. (5921)
- (10) Day care.
- (11) Hotels and motels. (701)
- (12) Wireless communication facilities.
- (13) Funeral homes. (7261)

(Ord. No. 2010-O-09, § 22.42, 10-12-2010; Ch. Ord. No. 2018-O-21, § 1, 6-12-2018)

Sec. 22-249. - Dimensional standards.

Dimensional standards set forth below shall be applied on a permitted use basis. These intensity and dimensional standards may be reduced by the plan commission in the course of design review upon findings that reductions will provide adequate site area and layout to accommodate the uses contemplated on the site and that negative impacts upon neighboring properties will be avoided. Where deemed appropriate by the plan commission, property owners may be required to obtain permanent, binding consents from abutting property owners with such consents running with the land filed with the register of deeds.

- (1) Minimum lot area: 8,000 square feet, one acre unsewered.
- (2) Minimum lot width: 60 feet.

- (3) Minimum front setback: 20 feet.
- (4) Minimum side setback: ten feet.
- (5) Side street setback: 15 feet.
- (6) Rear setback: ten feet.
- (7) Maximum building height: The lesser of 42 feet or three stories. Height over three stories or 42 feet is subject to conditional use approval.
- (8) Minimum open space: 25 percent.
- (9) Design review is required for all parking lots. Use of a parcel or portion of a parcel for parking lot purposes associated with a business establishment on a different parcel is allowable with design review approval.

(Ord. No. 2010-O-09, § 22.43, 10-12-2010)

Secs. 22-250—22-276. - Reserved.

DIVISION 3. - B-G GENERAL BUSINESS DISTRICT

Sec. 22-277. - Purpose.

The B-G General Business District is established for areas having general business and office uses, mostly at small or medium scale compatible with the suburban setting. In order to ensure this small or medium scale, the total gross building footprint of a single improved structure on a parcel shall not exceed 70,000 square feet nor shall the total gross building footprints of all improved structures on a parcel exceed a total of 150,000 square feet.

(Ord. No. 2010-O-09, § 22.44, 10-12-2010)

Sec. 22-278. - Permitted uses.

For the B-G General Business District, permitted uses are as follows:

- (1) Office activities.
 - a. Professions including health services, office or clinic basis. (801—804)
 - b. Finance, real estate, insurance. (60—67, except for convenience cash business)
 - c. Government offices. (91—96)
 - d. Business offices.
 - e. Business services including convenience printing, excluding services to buildings. (73 except 734)
 - f. Educational services, provided all activities are enclosed within buildings. (82)
- (2) Commercial activities.
 - a. Variety stores; hardware stores. (525, 53)
 - b. Food stores. (54)
 - c.

Auto accessory stores (completely enclosed). (553)

- d. Apparel and accessory stores. (56)
- e. Furniture; home furnishings and equipment. (57)
- f. Drugstores. (591)
- g. Liquor stores. (592)
- h. Miscellaneous shopping goods. (594)
- i. Miscellaneous retail stores. (59, except 598 and secondhand business)
- j. Coin operated laundry and dry cleaning. (7215)
- k. Dry cleaning, retail, not including diaper service, linen service, towel service, industrial laundry, carpet and upholstery cleaning. (7211, 7212, 7216, 7219)
- l. Printing and publishing; photographic studio. (27, 722)
- m. Other personal services. (723, 724, 725)
- n. Business services. (73)
- o. Watch, clock and jewelry manufacture and repair. (763)
- p. Electrical, electronic, radio, television and related repairs. (762)
- q. Social services. (83)
- r. Dance, fitness and health centers.
- s. Museums. (84)
- t. Miscellaneous services. (89)
- u. Mass transit depots and facilities. (41)
- v. Outdoor sales/display. The following types of outdoor sales/display are allowable in the B-G district either as a principal use or as an accessory use:
 - 1. Impermanent or short-term seasonal outdoor storage or display of sales merchandise.
 - 2. Outdoor sales with sales occurring from open displays, vehicles or tents; farmers markets, flea markets, outdoor sales of artwork, crafts, or food.
 - 3. Permits are required from the city zoning administrator. The decisions of the administrator on applications for permits shall be based upon the following criteria:
 - (i) The outdoor lighting system, if any, for the sales operation shall be designed so that no direct source of light is visible from the public right-of-way and so that no direct beam of light shall be cast upon adjacent lands.
 - (ii) If a public address system is used, the volume of sound transmitted shall not be over 65 db at the property line.
 - (iii) Fencing may be required by the zoning administrator as needed, upon determination of the administrator and/or the police department, for safety or security reasons.
 - (iv) Conditions may be placed upon the approved permit pertaining to traffic flow and parking, after consultation with the police department.

- (v) Conditions may be placed upon the approved application to achieve consistency with regulations under city ordinances governing peddlers.
- (vi) Hours of operation and duration of sales/displays shall be specified in the approved permit.
- (vii) No permit shall be approved unless the application is made by or cosponsored by a merchant of related merchandise whose retail business currently occupies a building on or near the same premises.

w. Light manufacturing, assembly and warehousing accessory to a permitted or conditional use which shall not exceed more than 30 percent of the total uses by floor space.

(3) The ground floor of each principal structure must be devoted principally to an allowable use, permitted or conditional, other than residential. The principal use of ground floor areas may not be parking or storage.

(4) Existing residential dwelling units.

(Ord. No. 2010-O-09, § 22.45, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012; Ord. No. 2015-O-02, §§ 2, 3, 1-27-2015)

Sec. 22-279. - Conditional uses.

For the B-G General Business District, conditional uses are as follows:

- (1) Amusement and recreation services. (79)
- (2) Agricultural production. (01-02)
- (3) Residential. Residential units located above the sidewalk level floor.
- (4) Restaurants all classes.
- (5) Gas stations class I and II or with a convenience store.
- (6) Drinking places. (5813)
- (7) Outdoor/display. Permanent or long-term seasonal outdoor storage or display of sales merchandise.
- (8) Medical, dental laboratories and health care services. (807, 808 and 809)
- (9) Hotels and motels. (701)
- (10) Wireless communication facilities.
- (11) Light manufacturing, assembly and warehousing, accessory and incidental to a permitted or conditional use, which may exceed 30 percent but no more than 45 percent of the total use by floor space.
- (12) Light manufacturing, assembly, and warehousing associated with a licensed alcohol manufacturing establishment which produces, processes, or ferments beers, wines, or distilled spirits in conjunction with a restaurant, tasting room, or retail sales.
- (13) Convenience cash business or secondhand business. In addition to the standards of section 22-640(c) the following standards shall also be applied by the plan commission:
 - a. Distance to any other cash convenience business;
 - b. Distance to an existing residential zoning district or residential use;
 - c. Distance to a school.

In its review of the application the plan commission shall avoid concentrations of these uses within in any one locale, or to be detrimental to a neighborhood. Any distance of less than 1,000 feet shall be presumed to be detrimental.

(Ord. No. 2010-O-09, § 22.46, 10-12-2010; Ord. No. 2015-O-02, § 4, 1-27-2015; Ord. No. 2019-O-10, § 1, 4-23-2019)

Sec. 22-280. - Dimensional standards.

Dimensional standards for the B-G district shall be the same as the B-P district.

(Ord. No. 2010-O-09, § 22.47, 10-12-2010)

Secs. 22-281—22-308. - Reserved.

DIVISION 4. - B-H HIGHWAY BUSINESS DISTRICT

Sec. 22-309. - Purpose.

Lands placed within these districts take the form of clustered or strip commercial areas, land extensive development patterns of retail, service, warehouse, light industrial uses, most of which are highway-oriented. While serving these functional purposes, these areas also serve as gateways to the Fitchburg community. Design review will seek to create as much attractiveness as is economically feasible and consistent with the functioning of the businesses.

(Ord. No. 2010-O-09, § 22.48, 10-12-2010)

Sec. 22-310. - Permitted uses.

For the B-H Highway Business District, permitted uses are as follows:

- (1) Ambulance service.
- (2) Animal hospital and kennel. (074-075)
- (3) Gas station with convenience store; minor automobile service such as car wash only when secondary to a gas station. (554)
- (4) Diaper service, linen service, towel service, industrial laundry, carpet and upholstery cleaning. (721)
- (5) Car and truck sales and rental of vehicles (551, 552; 751).
- (6) Cabinet shop, plumbing shop, upholstery shop, electrical shop, etc. (76)
- (7) Farm machinery sales and service. (5083, 7699)
- (8) Food locker. (4222)
- (9) Building and lumber supplies and services. (52)
- (10) Motel and hotel. (701)
- (11) Printing and publishing. (27)
- (12) Funeral homes. (726)

(13) Wholesale facilities and services. (50, 51)

(14) Municipal buildings and services. (91, 92)

(Ord. No. 2010-O-09, § 22.49, 10-12-2010; Ord. No. 2024-O-16, § 1, 6-25-2024)

Sec. 22-311. - Conditional uses.

For the B-H Highway Business District, conditional uses are as follows:

- (1) Contractor's offices, shops and yards. (15, 16, 17)
- (2) Bus, train or transit depot. (40, 41)
- (3) Transportation services. (47)
- (4) Postal services. (43)
- (5) Department and discount stores. (53)
- (6) Light industrial uses (see I-G district, section 22-396 and 22-397(d)).
- (7) Auto, truck and heavy equipment repair. (753)
- (8) Auto supply. (553)
- (9) Boat and recreational equipment. (555—557)
- (10) Services to buildings. (734)
- (11) Greenhouses, nurseries and landscaping sales and services. (018, 078)
- (12) Amusement and recreation services. (79) and motion picture theatres (783), including retail sales of sporting goods practiced in association with the recreational services.
- (13) Agricultural production. (01-02)
- (14) Restaurants, all classes, drinking places. (58)
- (15) Grocery stores. (541)
- (16) Wireless communication facilities.
- (17) Residence for a caretaker of an on-site business operation.
- (18) Adult entertainment establishments, as defined in section 62-19, Fitchburg Ordinances, provided there is a buffer of 1,320 feet, beginning from the property line of the adult entertainment establishment, between any other adult entertainment establishment, or any day care center that is licensed for eight or more children, any school, park, or place of worship.

(Ord. No. 2010-O-09, § 22.50, 10-12-2010; Ord. No. 2024-O-16, § 1, 6-25-2024)

Sec. 22-312. - Dimensional standards.

Dimensional standards for the B-H Highway Business District set forth below shall be applied on a permitted use basis. These intensity and dimensional standards may be reduced by the plan commission in the course of design review upon findings that reductions will provide adequate site area and layout to accommodate the uses

contemplated on the site and that negative impacts upon neighboring properties will be avoided. Where deemed appropriate by the plan commission, property owners may be required to obtain permanent, binding consents from abutting property owners with such consents running with the land.

- (1) Minimum lot area: 8,000 square feet, one acre unsewered.
- (2) Minimum lot width: 60 feet.
- (3) Minimum front setback: 25 feet.
- (4) Minimum side setback: ten feet.
- (5) Side street setback: 20 feet.
- (6) Rear setback: 20 feet.
- (7) Maximum building height: The lesser of the 42 feet or three stories. Height over three stories or 42 feet is subject to conditional use approval.
- (8) Minimum open space: 15 percent.

(Ord. No. 2010-O-09, § 22.51, 10-12-2010)

Secs. 22-313—22-342. - Reserved.

DIVISION 5. - RD RURAL DEVELOPMENT DISTRICT

Sec. 22-343. - Purpose.

- (a) As of October 12, 2010, no property shall be rezoned to the RD district.
- (b) The purpose of the rural development is to accommodate certain commercial uses that have developed in rural areas, including those commercial uses that support agricultural production and provide a holding zone for areas that are intended for future urban development. These areas will be zoned in accordance with the use designation appearing in the comprehensive plan when logical extension of utilities and facilities can be provided. This will discourage haphazard and premature development from occurring at the fringes of the city's urban service area.

(Ord. No. 2010-O-09, § 22.52, 10-12-2010)

Sec. 22-344. - Permitted uses.

For the RD Rural Development District, permitted uses are as follows:

- (1) Agricultural uses. (01-02)
- (2) All uses permitted in the R-L district.

(Ord. No. 2010-O-09, § 22.53, 10-12-2010)

Sec. 22-345. - Conditional uses.

For the RD Rural Development District, conditional uses are as follows:

- (1) All uses conditional in the R-L district.
- (2) Horticultural specialties. (018)
- (3) Commercial animal operation. (075)
- (4) Veterinary services. (074)
- (5) Landscape services and sales. (078)
- (6) Fish hatcheries. (092)
- (7) Repair, sales and service of farm machinery and equipment. (5083, 7699)
- (8) Sales distribution, mixing, blending and storage of feeds, seeds and fertilizer. (2048, 287, 5191)
- (9) Manufacture of dairy products. (202)
- (10) Storage of construction equipment necessary for the operation of a general mechanical or landscape contracting business (limit of 12 items of construction equipment stored on lot).
- (11) School bus storage, parking, maintenance and repair of buses stored on lot. (4151)
- (12) Parking of one truck or road tractor or semi-tractor and its trailer in excess of 4.0 tons gross vehicle weight.
- (13) Mineral extraction operations, including washing, crushing, quarrying borrow pits, or other processing or removal of mineral resources, the erection of buildings and the installation of necessary machinery used in said extraction or processing, and the preparation of hot blacktop mix and ready-mixed concrete.
 - a. An application for a permit shall be submitted by the owner and shall include an adequate description of the operation; a plan of the site showing the proposed and existing roads and drives, the sources, quantity and disposition of water to be used, if any; estimated dates for completion of the extraction and commencement and completion dates for the reclamation; a reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area.
 - b. The reclamation plan shall contain adequate provision that all final slopes around the area be flatter than a three to one horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle of repose in a quarrying operation; excavations below the grade of the nearest abutting public street or highway shall be setback from the street or highway a distance not less than that required for buildings and structures under this article; excavations made to a water producing depth shall not be closer than three feet measured from the water table, all final slopes shall be covered with topsoil from the original site and seeded to prevent erosion; the plan shall require that after completion of the anticipated operation that the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the city.
 - c. Application for a conditional use permit for a mineral extraction operation, or for a hot blacktop mix or ready-mixed concrete plant, shall be submitted to the plan commission for public hearing and approval. The conditional use permit shall be for a period of time as stated in the application or as modified by the plan commission. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The plan commission shall consider the effect of the proposed operation and the proposed reclamation upon existing and

future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The plan commission may approve, approve conditionally or reject the application and reclamation plan.

- (14) Wireless communication, radio, television transmitting towers, microwave towers, community antenna television including the buildings or structures necessary for their operation but not including buildings for offices or studios. The parcel of land shall be of a size large enough to ensure that if a tower shall fall, it will not fall on adjacent property or on the right-of-way of a public road.
- (15) Dumping grounds, sanitary landfill sites, demolition material disposal sites and incinerator sites shall also comply with Wis. Stats. § 60.72 and shall meet the minimum standards as adopted by the state department of natural resources pursuant to Wis. Stats. §§ 144.43 and 144.44.
- (16) Golf courses. (7992)
- (17) Junk and salvage yards and solid waste recycling centers. (4953)
- (18) Landing strips or landing fields. (4582)
- (19) Food stores maximum 5,000 square feet. (54)
- (20) Farm supplies. (5191)
- (21) Welding shops. (7692)
- (22) Public warehousing. (422, except 4226)
- (23) Used merchandising stores. (5931)

(Ord. No. 2010-O-09, § 22.54, 10-12-2010; Ord. No. 2015-O-27, § 1, 10-27-2015)

Sec. 22-346. - Dimensional standards.

For the RD Rural Development District, dimensional standards are as follows:

- (1) Minimum lot area: five acres (may be reduced to a minimum of one acre on a conditional use basis).
- (2) Minimum lot width (measured at end of easement for "flag lots"): 150 feet.
- (3) Minimum front setback: 40 feet.
- (4) Minimum side setback: ten feet.
- (5) Minimum street side setback: 30 feet.
- (6) Minimum rear setback: 50 feet.
- (7) Maximum height of structures: 45 feet, except that there is no height limitation for agricultural related buildings or agricultural businesses. Other structures may be allowed to exceed 45 feet on a conditional use basis.
- (8) Minimum open space: 40 percent.

(Ord. No. 2010-O-09, § 22.55, 10-12-2010)

Secs. 22-347—22-356. - Reserved.

DIVISION 6. - CONDITIONAL USES APPLICABLE TO ALL BUSINESS DISTRICTS

Sec. 22-357. - Design review.

Uses identified as conditional uses in the B-P, B-H and RD districts receive normal design review as do permitted uses in these districts. Conditional uses receive additional review on the question of whether the use proposed is appropriate to the site, at the time that it is proposed for development and in the manner proposed. In conducting this review, the plan commission shall give specific attention to the scale of proposed operations in relation to the scale of prevailing or expected nearby uses, the likelihood of problems arising through hours of operation, peaking of usages, stability of the operation, service demands upon the city, impacts on the neighborhood, roads or service systems. Approvals may be conditioned, as necessary, to ensure that the public interest will be served.

(Ord. No. 2010-O-09, § 22.59, 10-12-2010)

Secs. 22-358—22-367. - Reserved.

ARTICLE IV. - INDUSTRIAL DISTRICTS

DIVISION 1. - GENERALLY

Secs. 22-368—22-393. - Reserved.

DIVISION 2. - I-G GENERAL INDUSTRIAL DISTRICT

Sec. 22-394. - Purpose.

- (a) This district accommodates areas that are predominantly industrial in character. Industrial includes light manufacturing, transportation and wholesaling operations, and a limited number of retail and service establishments.
- (b) In Fitchburg, there are several high quality industrial areas having transportation and other services that are appropriate to industrial usage. These areas should be reserved for industrial and related uses, with retail establishments locating in the several business districts of the community.

(Ord. No. 2010-O-09, § 22.60, 10-12-2010)

Sec. 22-395. - Allowable uses.

A use or operation within this district may have several segments or components. Some of these segments may be classified as permitted use segments and others as conditional use segments. Where this is the case, conditional use approval shall be required and shall extend only to the portion of the operation that requires conditional use approval.

Sec. 22-396. - Permitted uses.

For the I-G General Industrial District, permitted uses are as follows:

- (1) State-classified manufacturing operations, as defined. (21—39)
- (2) Other uses of an industrial or product processing nature including manufacturing, production, assembling, disassembling, cleaning, servicing, freezing or the like, provided that conditional use approval is required for heavy manufacturing operations as set forth in this section. (7218, 7397, 76)
- (3) Manufacture of food products, food processing for shipment off site. (20)
- (4) Warehousing or distribution operations, not including predominantly retail sales to customers on site. (50, 51)
- (5) Wholesaling sales to retail buyers only. Non-store retailers. (596)
- (6) Trucking operations, including truck terminals, transfer facilities, vehicle maintenance, cleaning and repair as a component of trucking operations. (42)
- (7) Postal services. (43)
- (8) Printing, publishing, bookbinding, blueprinting, duplicating. (27)
- (9) Offices of construction firms, shops, storage areas, display rooms. (15—17)
- (10) Public works operation offices, shops, storage areas, display rooms. (91)
- (11) Lumber and building material yards selling on a wholesale basis or selling predominantly to building contractors with most deliveries made by the yard to off-site destinations. (521)
- (12) Laboratories, research, development and testing and manufacturing and fabrication in conjunction with such research and development and operations. (7391-7392)
- (13) Telecommunications facilities. (48)
- (14) Landscape and horticultural services. (078)

(Ord. No. 2010-O-09, § 22.62, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012)

Sec. 22-397. - Conditional uses.

For the I-G General Industrial District, conditional uses are as follows:

- (1) Heavy manufacturing operations that are likely to generate substantial noise, smoke, dust, heat, cold, humidity fumes, particulate matter, electrical disturbance, radiation emission, glare, night illumination, vibrations, smells, risk of spills, fires or explosions. Conditional use approval is required for operations that generate or are likely to generate one or more of these effects regularly to an extent that is or will be distinctly present and noticeable beyond the property boundary.
- (2) Waste material storage, processing, treatment or disposal, as a principal use. (4953)
- (3) Sales, retail or wholesale, and servicing of farm equipment and construction equipment, not including sales of automobiles or trucks. (5083, 7699)

- (4) Retail sales or services that exclusively or predominantly serve businesses and employees of the industrial area and are a minor part (less than 25 percent) of the total parcel usage by area, volume or similar measures.
- (5) Agricultural production. (01-02)
- (6) Business services such as commercial art and photography, computer and data processing, photo-finishing and equipment rental and leasing. (733, 737, 7374, 7395)
- (7) Amusement and recreation services. (79)
- (8) Wireless communication facilities. (02-O-35)
- (9) Residence for a caretaker of an on-site business operation.
- (10) Social services. (83)

(Ord. No. 2010-O-09, § 22.63, 10-12-2010; Ord. No. 2017-O-01, § 1, 2-28-2017)

Sec. 22-398. - Dimensional standards.

For the I-G General Industrial District, dimensional standards are as follows:

- (1) Minimum lot area: 20,000 square feet.
- (2) Minimum lot width: 100 feet.
- (3) Minimum front yard setback: 30 feet.
- (4) Minimum side yard setback: ten feet.
- (5) Minimum side street setback: 20 feet.
- (6) Minimum rear setback: 15 feet.
- (7) Maximum building height: 42 feet on a permitted use basis; above 42 feet on a conditional use basis.
- (8) Maximum lot area coverage: 70 percent.
- (9) Minimum open space: ten percent.

(Ord. No. 2010-O-09, § 22.64, 10-12-2010; Ord. No. 2012-O-09, § 1, 6-26-2012)

Secs. 22-399—22-424. - Reserved.

DIVISION 3. - I-S SPECIALIZED INDUSTRIAL DISTRICT

Sec. 22-425. - Purpose.

The I-S Specialized Industrial District is established to provide an aesthetically attractive working environment exclusively for and conducive to the development and protection of offices, research and development institutions, and certain specialized manufacturing establishments, all of a non-nuisance type. The essential purpose of this district is to achieve development which is practical, feasible and economical and an asset to the owners, neighbors and the community and to promote and maintain desirable economic development activities in a parklike setting.

Sec. 22-426. - General regulations.

- (a) No use shall be so conducted as to cause the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere. All uses shall be conducted in such a manner so as to preclude any nuisance, hazard, or commonly recognized offensive conditions or characteristics, including creation or emission of dust, gas, smoke, noise, fumes, odors, vibrations, particulate matter, chemical compounds, electrical disturbance, humidity, heat, cold, glare, or night illumination. Prior to issuance of a zoning certificate or occupancy certificate, the zoning administrator may require evidence that adequate controls, measures, or devices have been provided to ensure and protect the public interest, health, comfort, convenience, safety, and general welfare from such nuisance, hazard, or offensive condition.
- (b) All business, servicing or processing, except off-street parking and off-street loading, and outside storage areas as regulated hereinafter, shall be conducted within completely enclosed buildings.
- (c) Parking of trucks as an accessory use, when used in the conduct of a permitted business listed hereinafter, shall be limited to vehicles of not over four tons gross vehicle weight when located within 150 feet of a residence district boundary line.

Sec. 22-427. - Permitted uses.

For the I-S Specialized Industrial District, permitted uses are as follows:

- (1) Any production, or processing, cleaning, servicing, testing or repair of materials, goods or products, limited to the following uses, products, components, or circumstances:
 - a. Electronic and electrical products and instruments, such as transistors, semiconductors, small computers, scanners, monitors and compact communication devices.
 - b. High technology products related to the fields of physics, oceanography, astrophysics, metallurgy, chemistry and biology.
 - c. Laser technology, radiology, X-ray and ultrasound products, manufacturing and assembly.
 - d. Medical and dental supplies.
 - e. Optical, fiber optical and photographic products and equipment.
 - f. Orthopedic and medical appliances, such as artificial limbs, brace supports and stretchers.
 - g. Products related to process design, process simulation, software development, and safety engineering.
 - h. Scientific and precision instruments and components, including robotics.
 - i. Small-scale products (finished weight not exceeding 50 pounds) related to energy and environmental or to telecommunications and satellite applications.
 - j.

Small-scale products (finished weight not exceeding 50 pounds) related to the resource industries of agriculture and food production, forestry, petrochemicals and mining.

- k. Specific products not listed above but similar in intent and character and which may be defined as being produced or assembled manually or by a light industrial process by virtue of the use of only light machinery; being conducted entirely within enclosed substantially constructed buildings; in which the open area around such buildings is not used for storage of raw, materials or manufactured products, or for any industrial purpose other than loading and unloading operations; and which are not noxious or offensive by reason of emission of smoke, dust, fumes, odors, noise, or vibrations beyond the confines of the building.
- (2) Laboratories, research, development and testing, including testing facilities and equipment, and manufacturing and fabrication of products in conjunction with such research or development.
- (3) Offices, business and professional, including banks and financial institutions. (Except for convenience cash business)
- (4) Pilot plants or other facilities for the testing of manufacturing, processing or fabrication methods, or for the testing of products or materials.
- (5) Telecommunication centers.

(Ord. No. 2010-O-09, § 22.67, 10-12-2010; Ord. No. 2015-O-02, § 5, 1-27-2015)

Sec. 22-428. - Conditional uses.

For the I-S Specialized Industrial District, conditional uses are as follows:

- (1) Parking facilities, open and accessory, for the storage of private passenger automobiles only, when located elsewhere than on the same zoning lot as the principal use served.
- (2) Public utility and public service uses as follows:
 - a. Bus stations, bus terminals, bus turnarounds (off-street), bus garages and bus lots. (41)
 - b. Electric power production and substations. (491)
 - c. Natural gas transmission and distribution. (492)
 - d. Radio and television towers. (483)
 - e. Railroad passenger stations and rights-of-way. (40)
 - f. Telephone exchanges, microwave relay towers, telephone transmission equipment buildings and service yards and telephone booths (outside).
- (3) Any production, or processing, cleaning, servicing, testing or repair of materials, goods or products, limited to the following uses, products, components, or circumstances:
 - a. Cameras and other photographic equipment.
 - b. Ceramic products, such as pottery, figurines and small glazed tiles.
 - c. Cosmetics and toiletries, drugs, perfumes, and perfumed soaps.
 - d. Drugs and pharmaceutical products.
 - e. Electrical appliances, such as lighting fixtures, irons, fans and toasters.

- f. Electrical equipment assembly, such as home radio and television receivers and home movie equipment, but not including electrical machinery.
 - g. Electrical supplies, manufacturing and assembly, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries.
 - h. Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious and semiprecious stones, rubber, shell, wood (but not including a planing mill) and yarn.
 - i. Products related to material research and development in such areas as prepared glass, ceramics, carbon fiber, metals, textiles, polymers, plastics, chemical foams and inorganic chemicals such as liquid crystals, and synthetic fuels.
 - j. Products (finished weight exceeding 50 pounds) related to energy and environmental or to telecommunications and satellite applications.
 - k. Products (finished weight exceeding 50 pounds) related to the resource industries of agriculture and food production, forestry, petro-chemicals and mining.
- (4) Conference centers and hotel facilities.
 - (5) Agricultural production. (01-02)
 - (6) Retail sales or services that exclusively or predominantly serve businesses and employees of the industrial area and are a minor part (less than 25 percent) of the total parcel usages by area, volume or similar measures.

(Ord. No. 2010-O-09, § 22.68, 10-12-2010)

Sec. 22-429. - Dimensional standards.

For the I-S Specialized Industrial District, dimensional standards are as follows:

- (1) Minimum lot area: 20,000 square feet.
- (2) Minimum lot width: 100 feet.
- (3) Minimum front yard setback: 20 feet.
- (4) Minimum side yard setback: ten feet.
- (5) Minimum side street setback: 15 feet.
- (6) Minimum rear setback: 30 feet.
- (7) Maximum building height: 42 feet permitted; above 42 feet on a conditional use basis.
- (8) Maximum lot area coverage: 65 percent.
- (9) Minimum open space: 30 percent.

(Ord. No. 2010-O-09, § 22.69, 10-12-2010)

Secs. 22-430—22-456. - Reserved.

ARTICLE V. - AGRICULTURAL DISTRICTS

DIVISION 1. - GENERALLY

Secs. 22-457—22-480. - Reserved.

DIVISION 2. - A-X EXCLUSIVE AGRICULTURE DISTRICT

Sec. 22-481. - Purpose; intent.

- (a) The purposes of the A-X Exclusive Agriculture District are to:
- (1) Preserve productive agricultural land for food and fiber production;
 - (2) Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs;
 - (3) Maintain a viable agricultural base to support agricultural processing and service industries;
 - (4) Prevent conflicts between incompatible uses;
 - (5) Reduce costs for providing services to scattered nonfarm uses;
 - (6) Pace and shape urban growth;
 - (7) Implement the provisions of the county agricultural plan; and
 - (8) Comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under Wis. Stats. § 71.09(11).
- (b) This district is generally intended to apply to lands in productive farm operations including: lands historically exhibiting good crop yields or capable of such yields; lands which have been demonstrated to be productive for dairying, livestock raising and grazing; other lands which are integral parts of such farm operations; land used for the production of specialty crops such as mint, sod, fruits and vegetables; and lands which are capable of productive use through economically feasible improvements such as irrigation.
- (c) The plan commission may consider a rezone out of A-X Exclusive Agriculture District after holding a public hearing pursuant to Wis. Stats., § 91.48, if all of the following apply:
- (1) The political subdivision finds all of the following, after public hearing:
 - a. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - b. The rezoning is consistent with any applicable comprehensive plan.
 - c. The rezoning is substantially consistent with the county's certified farmland preservation plan.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - (2) The city shall, by March 1 of each year, provide a rezone report and map to DATP and Dane County identifying the number of acres rezoned out of A-X.

Sec. 22-482. - Permitted uses.

For the A-X Exclusive Agriculture District, permitted uses are as follows:

- (1) Agricultural uses, provided that a facility used to keep cattle, swine, poultry, sheep or goats will have less than 500 animal units.
- (2) New farm residence that is the only residence on the farm and is occupied by an individual who earns more than 50 percent of his or her gross income on the farm, subject to the provisions of chapter 24, land division. For more than one farm residence, see section 22-483(1).
- (3) Existing farm residence.
- (4) The following agricultural accessory uses provided they meet the definition of Wis. Stats. § 91.01(1)(a) (b)or(d)
 - a. Roadside stands for the sale of agricultural products produced primarily from that farm operation.
 - b. Wind tower, solar panels, or manure digester intended to serve a single farm.
 - c. Agricultural entertainment activities anticipated to have an attendance of less than 500 persons at any one time during the day.
 - d. Limited vocational activities (refer to section 22-55(2)).
- (5) Undeveloped natural resource and open space areas.

(Ord. No. 2010-O-09, § 22.71, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012; Ord. No. 2015-O-01, § 3, 2-24-2015; Ord. No. 2021-O-12, § 1(Exh. A), 8-24-2021)

Sec. 22-483. - Conditional uses.

In addition to the conditional use requirements in section 22-640, no conditional use in the A-X District shall be approved by the plan commission unless the commission shall also find:

1. The use and its locations in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
2. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
3. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
4. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
5. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

The department of agriculture, trade and consumer protection may promulgate rules imposing additional limits on the conditional uses that may be allowed in a farmland preservation zoning district in order for a farmland preservation zoning ordinance to comply with Wis. Stats. § 91.42.

For the A-X Exclusive Agriculture District, conditional uses are as follows:

- (1) A second or subsequent single-family farm residence to be occupied by either a parent or child of the farm operator or an individual who earns more than 50 percent of his or her gross income on the farm.
- (2) Governmental, institutional, or religious use.
- (3) Transportation, communications, pipeline, electric transmission, utility including wind energy, and drainage use.
- (4) Conversion of existing single-family farm residence to a two-family farm residence, if both residences are to be occupied by an individual who earns more than 50 percent of his or her gross income on the farm.
- (5) Separation of farm residences and related structures which existed prior to the effective date of the ordinance from which this article is derived and which remain after farm consolidation.
- (6) The following agricultural accessory uses, provided they meet the definition of Wis. Stats. § 91.01(1)(a) (b) or (d):
 - a. Horse boarding, breeding, training and other equestrian facilities.
 - b. Bed and breakfast establishments.
 - c. Agricultural entertainment activities anticipated to have an attendance of more than 500 persons at any one time during the day.
 - d. Retail establishments, not including roadside stands, restaurants of any class, or drinking places, for the sale of raw, processed, or value-added agricultural products produced primarily from the farm operation on site;
- (7) Agriculture—Related Uses and any other use that the department of agriculture, trade and consumer protection, by rule identifies as an agriculture-related use, such as:
 - (a) Agricultural equipment dealership.
 - (b) Agricultural research facilities.
 - (c) Grain elevators.
 - (d) Manure digesting facilities which serve more than one farm operation.
 - (e) Agricultural products processing facilities, including, but not limited to, those related to livestock, aquaculture, and byproducts thereof, and crops.
 - (f) Feed mills.
 - (g) Animal feed storage facilities.
 - (h) Agricultural related educational facilities, such as secondary schools, community college or university facilities to support agricultural course work.
- (8) Nonmetallic mineral extraction operations that comply with Wis. Stats. § 91.46(6).
- (9) A new or expanded facility that will be used to keep cattle, swine, poultry, sheep or goats, and that will have more than 500 animal units, if the proposed facility meets the standards prescribed in ch. ATCP 51, Wis. Adm. Code.

(Ord. No. 2010-O-09, § 22.72, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012; Ord. No. 2021-O-12, § 1(Exh. A), 8-24-2021)

For the A-X Exclusive Agriculture District, dimensional standards are as follows:

- (1) Minimum parcel size: 35 acres.
- (2) Minimum lot width: 150 feet.
- (3) Front setback: 35 feet.
- (4) Side setback: ten feet.
- (5) Rear setback: 50 feet.
- (6) Side yard abutting public street: 30 feet.
- (7) Maximum height of dwelling structures: 35 feet.
- (8) Maximum height of farm buildings: No limitation.
- (9) Maximum height of other structures: 45 feet, may exceed on a conditional use basis.
- (10) Side setback for barns, feeding or loafing sheds, hog houses and the like: 100 feet, if adjacent to residential district.
- (11) General provisions:
 - a. Any lot or parcel shown in a preliminary subdivision plat or a certified survey map which has been received for review by the agency prior to the effective date of the A-X Exclusive Agriculture District shall have the same status as pre-existing lots.
 - b. Any preexisting substandard parcels in the A-X Exclusive Agriculture District that have a width of less than 150 feet and have an area of less than five acres do not permit the keeping or raising of livestock.
 - c. Any pre-existing residential building or its accessory building that is located on a lot that does not meet the area requirements of section 22-58 and is destroyed by fire, explosion, act of God or act of public enemy, the building may be rebuilt, provided the locational requirements of the R-L Residence District are complied with.

(Ord. No. 2010-O-09, § 22.73, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012)

Secs. 22-485—22-506. - Reserved.

DIVISION 3. - A-T TRANSITIONAL AGRICULTURE DISTRICT

Sec. 22-507. - Purpose.

- (a) The purpose of the A-T Transitional Agriculture District is to provide a non-certified agricultural zoning district to preserve productive farm operations. Productive farm operations include lands historically exhibiting good crop yields or capable of such yields; lands which have been demonstrated to be productive for dairying, livestock raising and grazing; other lands which are integral parts of such farm operations; land used for the

production of specialty crops such as mint, sod, fruits and vegetables; and lands which are capable of productive use through economically feasible improvements such as irrigation. The A-T district does not qualify for farmland preservation tax credits.

- (b) The permitted and conditional uses and dimensional standards required in the A-T district are the same as the A-X district.

(Ord. No. 2010-O-09, § 22.74, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012)

Secs. 22-508—22-537. - Reserved.

DIVISION 4. - A-S SMALL LOT AGRICULTURE DISTRICT

Sec. 22-538. - Purpose.

- (a) The purposes of the A-S Small Lot Agriculture District are to:
 - (1) Preserve productive agricultural land for food and fiber production;
 - (2) Maintain a viable agricultural base to support agricultural processing and service industries;
 - (3) Prevent conflicts between incompatible uses; and
 - (4) Reduce costs for providing services to scattered nonfarm uses on zoning lots below 35 acres in size.
- (b) This district may be applied to areas where smaller agricultural parcels form a portion of a contiguous agricultural block of land and where non-agricultural development would be incompatible with surrounding agricultural uses. The A-S district is also intended to ensure that urban agriculture and community gardens in the urban service area are located to meet the needs for local food production. The A-S district is not intended for residences. The A-S district does not qualify for farmland preservation credit.
- (c) This district may also be used as a temporary holding zone for outlots created for staging purposes and which are to be replatted and developed at a later date consistent with the comprehensive plan.

(Ord. No. 2010-O-09, 10-12-2010)

Sec. 22-539. - Permitted uses.

For the A-S Small Lot Agriculture District, permitted uses are as follows:

- (1) Agricultural uses. The number of livestock kept on a zoning lot in the A-S district shall not exceed one animal unit for each full acre.
- (2) Roadside stands for the sale of agricultural products produced primarily from that farm operation.
- (3) Undeveloped and natural resource and open spaces areas.
- (4) Structures and improvements that are consistent with agricultural uses such as, but not limited to, barns, silos, livestock shelters or storage sheds for farm equipment.
- (5) Agricultural entertainment activities anticipated to have an attendance of less than 150 persons at any one time during the day.

(6) Wind tower, solar panels, or manure digester intended to serve a single farm.

(Ord. No. 2010-O-09, 10-12-2010; Ord. No. 2021-O-12, § 1(Exh. A), 8-24-2021)

Sec. 22-540. - Conditional uses.

For the A-S Small Lot Agriculture District, conditional uses are as follows:

- (1) Additional livestock over the one animal unit per full acre.
- (2) Agriculture-related uses and any other use that the state department of agriculture, trade and consumer protection by rule identifies as an agriculture-related use, such as:
 - a. Agricultural equipment dealership.
 - b. Agricultural research facilities.
 - c. Grain elevators.
 - d. Manure digesting facilities which serve more than one farm operation.
 - e. Agricultural products processing facilities, including, but not limited to, those related to livestock, aquaculture, and byproducts thereof, and crops.
 - f. Feed mills.
 - g. Animal feed storage facilities.
 - h. Agricultural related educational facilities, such as secondary schools, community college or university facilities to support agricultural course work.
- (3) Retail establishments, not including roadside stands, restaurants of any class, or drinking places, for the sale of raw, processed, or value-added agricultural products produced primarily from the farm operation on site;
- (4) Agricultural entertainment activities anticipated to have an attendance of more than 150 persons at any one time during the day;
- (5) Rural event venue:
 - a. All applicable rules, regulations, and requirements not identified in the following, b.—o., shall be met.
 - b. Minimum lot size shall be three acres, maximum lot size shall be ten acres, with the exception of an existing A-S lot which shall follow the minimum and maximum lot size of the A-S zoning district, and the venue shall be part of a farm, defined herein as all land under common ownership that is primarily devoted to agricultural use, with said use defined in section 22-651 herein.
 - c. Any new building shall also house one or more of the following uses:
 1. Agricultural entertainment.
 2. Retail establishments, not including roadside stands, restaurants of any class, or drinking places, for the sale of raw, processed, or value-added agricultural products produced primarily from the farm operation on site.
 - d. A 200 foot open buffer shall be provided on all sides of the property not abutting a public roadway. Event activities are not permitted within this buffer area. Where possible, agricultural crops or suitable landscaping shall remain or be grown in the buffer area, to maintain the rural/agricultural

character of the site. Buffer content shall be subject to review and approval of the fire inspector. This buffer requirement may be increased, decreased, or waived at the discretion of the plan commission.

- e. Buffer plantings shall be provided along a property line where there is an abutting residence to screen views, lights and noise from the operation. Plantings shall be as specified in the conditional use permit.
- f. The increase in traffic generated by the venue shall not create a nuisance to nearby residents by way of traffic, noise, or significant increases in parking on public ways.
- g. Parking may be either gravel or paved as determined by the plan commission. Overflow parking on grass or hay areas is permissible.
- h. Parking areas of any type shall not be located in the required buffer area or within any other setback areas required by this section.
- i. Signage and site lighting shall comply with city ordinances. Lighting shall be the minimum necessary to provide for site safety and comply with ordinance standards. Lighting shall be directed away from adjacent properties.
- j. Structures shall meet Fire Code standards for public assembly and shall be inspected by the fire inspector prior to occupancy.
- k. The display of fireworks on the site is permitted only following issuance of a separate fireworks permit from the city. Outdoor bonfires are allowed only after prior written approval of the fire inspector. The launching of fire kites is prohibited.
- l. Amplified music and dancing are permitted only within the venue as part of the conditional use permit. Outside amplified music is only permitted by a sound permit per existing city ordinance, issued prior to each such event.
- m. The sale and consumption of alcohol beverages on the premises are subject to the city's licensing requirements, and all other applicable regulations. A license is not required for events where alcohol beverages are brought to the venue premises and offered on a complimentary basis to guests. The serving area for alcohol beverages shall not exceed 1,200 square feet. Additionally, no money may exchange hands for events, including, but not limited to, entrance fees, donations, raffles, food or plate charge, to the portion of the license not required.
- n. The following accessory uses are permitted on the site following issuance of the required conditional use permit:
 - 1. Non-motorized playground equipment.
 - 2. Wagon, sleigh, and hay rides.
 - 3. Animal displays, petting farms, and pony rides.
 - 4. An outdoor site for conducting wedding ceremonies.
 - 5. Food preparation facilities to support on-site activities.
 - 6. Seasonal outdoor mazes of agricultural origin, such as of corner hay/straw bales design.
- o. Conditional use permit applicants shall provide the following information at the time of application:

1. All information not identified in the following, 2.—11., but required per the city's existing conditional use permit application.
2. Size of venue and guest capacity, including a floor plan of the venue and other areas/structures to be utilized, provision of restroom facilities (temporary, portable restroom facilities are prohibited), and location of refuse/recycling receptacles and disposal method.
3. Signage and lighting plan.
4. Months (seasons) and hours/days of operation.
5. Primary types of events to be hosted and events which will not be hosted, to include descriptions of proposed accessory activities such as hayrides, petting farms, bonfires, etc.
6. Anticipated number of events per year and maximum number of attendees per event.
7. Music use at the venue, including types of sound amplification.
8. Temporary structures or tents to be used in association with events.
9. Acknowledgment of placement of a deed restriction on the property, to be recorded at the time of issuance of the conditional use permit, ensuring rural event venue use, or another permitted/conditional use as allowed in the Agriculture-Small (A-S) zoning district, in to perpetuity or to such time as the city extinguishes said restriction.
10. Insurance coverage.
11. Any other documentation required by the zoning administrator.

(Ord. No. 2010-O-09, 10-12-2010; Ord. No. 2021-O-12, § 1(Exh. A), 8-24-2021)

Sec. 22-541. - Dimensional standards.

For the A-S Small Lot Agriculture District, dimensional standards are as follows:

- (1) Minimum parcel size:
 - a. Three acres.
- (2) Maximum parcel size: Less than 35 acres.
- (3) Front setback: 35 feet.
- (4) Side setback: ten feet.
- (5) Rear setback: 50 feet.
- (6) Side setback for barns, feeding or loafing sheds, hog houses and the like: 100 feet if adjacent to residential district.
- (7) Side yard abutting public street: 30 feet.
- (8) Maximum building height: 45 feet, except there is no height limitation for farm buildings. Other structures may exceed 45 feet on a conditional use basis.

(Ord. No. 2010-O-09, 10-12-2010; Ord. No. 2013-O-33, § 1, 1-14-2014)

Secs. 22-542—22-560. - Reserved.

Sec. 22-561. - Purpose.

The purpose of the Park and Recreation District is threefold:

- (1) This district provides for those areas dedicated to or owned by the city for purposes of use as public park or open space.
- (2) This district provides protection against problems which may result from development in areas where development is inappropriate by reason of unsuitable soils, wetlands, floodplains, or steep slopes.
- (3) This district provides appropriate areas for commercially operated recreational uses of land within the city, including uses consistent with those of a recreational nature.

(Ord. No. 2010-O-09, § 22.75, 10-12-2010)

Sec. 22-562. - Permitted uses.

For the Park and Recreation District, permitted uses are as follows:

- (1) Hunting, fishing and trapping.
- (2) Propagation and raising of game animals, fowl and fish.
- (3) Sustained yield forestry.
- (4) The harvesting of any wild crops.
- (5) Grazing.
- (6) Utility and governmental facilities.
- (7) Parks, recreation areas and other recreational facilities located on publicly owned or controlled land.
- (8) Greenways, drainageways and open space areas.
- (9) Golf courses, not lighted for operating during hours of darkness.
- (10) Historic, natural and scientific areas.
- (11) Game farms and refuges.
- (12) Fish and wildlife habitat.
- (13) Wildlife preserves.
- (14) Pedestrian and bike trails (non-motor equipment only, except for maintenance and service vehicles).

(Ord. No. 2010-O-09, § 22.76, 10-12-2010)

Sec. 22-563. - Conditional uses.

For the Park and Recreation District, conditional uses are as follows:

- (1) Recreational facilities not otherwise allowed in section 22-562, located on privately owned lands.
- (2) Recreational camps, campgrounds and camping resorts.

- (3) Skeet, trap, rifle and pistol ranges.
- (4) Private hunting and shooting preserves.
- (5) Hotels and bed and breakfast places.
- (6) Parking areas.
- (7) Stables and horse shows.
- (8) Restaurants, class I, II and V.
- (9) Uses incidental to the operation of any permitted or conditional use.
- (10) Wireless communication facilities.

(Ord. No. 2010-O-09, § 22.77, 10-12-2010)

Sec. 22-564. - Dimensional standards.

For the Park and Recreation District, dimensional standards are as follows:

- (1) Minimum lot area: 20,000 square feet.
- (2) Minimum lot width: 100 feet.
- (3) Minimum front setback: 25 feet.
- (4) Minimum side setback: ten feet.
- (5) Minimum rear setback: 50 feet.
- (6) Minimum open space: 50 percent.

The provisions of subsections (1) through (6) of this section do not apply to public outlots used for drainage, connectivity or public recreation purposes.

The provisions of subsection (3) through (6) of this section may be decreased on conditional use basis for parks, recreation areas and other recreational facilities, and utility and government facilities, located on publicly owned or controlled land. Subsection (6), and in accordance with section 22-607(b)(7) herein, may be decreased provided it is not contrary to an existing approval, and on-site infiltration, pervious pavement or other measures to mitigate the lower percent are provided and maintained.

(Ord. No. 2010-O-09, § 22.78, 10-12-2010; Ord. No. 2021-O-05, § 1, 3-23-2021)

Secs. 22-565—22-591. - Reserved.

ARTICLE VII. - SPECIAL DISTRICTS

DIVISION 1. - GENERALLY

Sec. 22-592. - PD Planned Development District.

- (a) The PD Planned Development District, pursuant to Wis. Stats. § 62.23(7)(b), provides a regulatory framework to encourage improved environmental design by allowing flexibility in the development of land while ensuring compliance with the basic intent of the zoning ordinance and with the city comprehensive plan. The planned development district has no set standards and specifications. Developers can propose uses or combination of uses and configurations of intensity and density of development. Through a process of plan commission review, public hearing and common council review and approval, accompanied by discussions with developers and, as appropriate, with other interested parties, individualized zoning standards shall be created. These standards have the same legal force and effect as do standard zoning requirements.
- (b) To achieve the community benefits of the PD zoning district, the project size shall be large enough to allow clustering and to establish a coherence of design. The land area shall be at least 100,000 square feet.
- (c) The objective of the planned development district is not simply to allow exceptions to otherwise applicable regulations. It is instead to encourage a higher level of design and amenity than is possible to achieve under other zoning districts.

(Ord. No. 2010-O-09, § 22.82, 10-12-2010)

Sec. 22-593. - Procedure for general implementation plan (GIP).

The procedure for rezoning to a planned development district shall be as required for any other zoning district change under this chapter, except that, in addition thereto, the following information describing a general implementation plan shall be filed by the applicant with the plan commission staff:

- (1) A map of the project area including its relationship to surrounding properties and topography and other key features, such as, but not limited to, woodlots, heritage or specimen trees, streams, wetlands, floodplains, environmental corridors, rock outcroppings, and existing buildings or improvements. Specific wetland, woods or tree inventories, impact analysis, or other studies relative to key features may be required by planning staff or the plan commission.
- (2) A statement of rationale as to why the planned development district zoning is proposed. The proposal shall detail in text, graphic, and statistical forms the lack of other available chapter 22 zoning districts to provide the development intended. The statement shall identify barriers that the developer perceives in other chapter 22 zoning districts and opportunities for community betterment the developer suggests are available through the proposed planned development district zoning.
- (3) An analysis of social and economic impacts on the community of the project.
- (4) An analysis of how the proposal is consistent with, and will advance the goals, policies and objectives of the comprehensive plan.
- (5) A detailed analysis discussing the intended specific environmental design, the amenities to be gained by the planned development district zoning proposal, and, specifically, a statement as to why such benefits and amenities would not be realized under any other chapter 22 zoning district.
- (6) A general development plan of the proposed project showing at least the following information in sufficient detail to make possible evaluation against criteria for approval:
 - a.

Public and private roads, driveways and parking facilities; bicycle and pedestrian facilities, bus shelters, and any other multi-modal forms of transportation and their related facilities.

- b. Land uses and size, arrangement and location of lots and proposed buildings or groups of buildings.
 - c. The types, size, intended uses, and location of structures.
 - d. A general utility plan, preliminary grading plan.
 - e. The location of recreational and open space areas and facilities and specifically describing those that are to be reserved or dedicated for public acquisition and use.
 - f. General landscape treatment plan.
 - g. Statistical data on size of the development, density/intensity of various parts of the development, ratio of various land uses, economic analysis of the development, expected staging, and any other plans or data required by the plan commission or common council.
- (7) General outline of the intended organizational structure for a property owners association, if any; proposed condominium documents, if any; deed restrictions and all agreements necessary to accommodate private provision of common services, if any.
- (8) For any project plan proposed, a schedule for completion of the public and private improvements proposed within the project plan.
- (9) Neighborhood input.
- a. Prior to the formal petition for rezoning, the applicant shall make a reasonable effort to meet with property owners and individuals within and near the area of the proposal. Property owners and residents within the project area and those within 300 feet of the project boundary shall be noticed at least ten days prior to a meeting in which the conceptual project will be presented. The meeting shall be fashioned to solicit input on the proposed design. More than one neighborhood meeting may be necessary to gather input, address comments received, and provide information relative to any intended application.
 - b. A statement describing the reasonable efforts made to meet with and receive input from individuals required to receive notice shall be submitted with the rezoning petition application when it is filed for review at the planning department.

(Ord. No. 2010-O-09, § 22.83, 10-12-2010)

Sec. 22-594. - Plan commission review.

- (a) Following determination by the plan commission staff that an application is complete, the matter shall be reviewed by city staff and shall then be placed on a plan commission agenda for initial review, prior to the filing of a formal application. Initial review is a review of the project at the concept level and is not binding. The preferred procedure is for an iteration of the plan commission's initial review to occur prior to introduction of a formal petition for rezoning. The purpose of this meeting, or meetings, is to allow a discussion of the plan commission regarding the possible planned development zoning application, need for planned development district zoning, and the environmental, economic, environmental, social and other benefits of design to be obtained from the proposal, general statistics on the possible project and why not other existing zoning district will suffice. The plan commission may recommend that the project not be

pursued under planned development zoning. After this meeting, or meetings, with the plan commission, the applicant may then submit a formal application for planned development district general implementation plan zoning. Whenever the required petition is introduced, the normal rezoning procedure occurs, including notice and hearing before the plan commission. The issues that are the subject of this public hearing are the rezoning request and the general implementation plan.

- (b) Following the required public hearing before the plan commission, the plan commission shall meet to make a determination and recommendation whether to advise the common council to approve the rezoning and the general implementation plan, to approve it with modifications, or to deny it.

(Ord. No. 2010-O-09, § 22.84, 10-12-2010)

Sec. 22-595. - Criteria for approval.

As a basis for determining the acceptability of a planned development district, the following criteria shall be applied to the general implementation plan with specific consideration as to whether or not it is consistent with the general purpose and intent of the city zoning ordinance, the city comprehensive plan, the city comprehensive park open space and recreation plan, whether it has been prepared with competent professional expertise and guidance, that it produces significant community benefits of an environmental design nature or otherwise that compensate for modifications in standards of municipal zoning.

- (1) *Character and intensity of land use.* The uses proposed and their intensity and arrangement on the site shall:
- a. Respect the physical attributes of the site with particular concern for preservation of natural features, tree growth and open space. The project shall be accomplished in such a manner as to minimize grading of the existing terrain, by working with topographic conditions. Grading and improvements on slopes of 12 percent or greater shall be limited.
 - b. Produce an attractive environment of sustained aesthetic and ecological desirability, economic stability and functional practicality compatible with the development prospects for the area.
 - c. Not adversely affect the anticipated provision of school or municipal services.
 - d. Not create traffic or parking demand incompatible with the existing or proposed facilities to serve it.
 - e. Produce a transportation network that emphasizes connectivity and reduction of motor vehicle trips.
 - f. Provide a block structure appropriate to pedestrian activity.
 - g. Ensure environmental features are protected to a greater degree than that which would otherwise be required, or occur.
 - h. Provide an environmental design, including amenities, of buildings and site improvements that are greater than that which would otherwise occur or be required.
 - i. Provide a greater level of economic, social and other benefits than would otherwise be realized.
- (2) *Economic feasibility and impact.* The proponents of a planned development district shall provide evidence satisfactory to the plan commission and the common council that the project will not adversely affect the economic prosperity of the city or the values of surrounding properties.

(3)

Engineering design standards. Streets and other ways, outdoor lighting, provision for stormwater drainage, sanitary sewer service, water supply, or other similar environmental and municipal engineering considerations of current ordinance requirements shall, at a minimum be met, but to advance environmental design will likely need to be exceeded. The plan commission and common council may require the use of higher levels of transportation and lighting improvements, stormwater management, or water conservation techniques than is required by current ordinance or other governmental guidelines. Such standards shall be appropriate to advancing environmental design objectives and the public health, safety and welfare as determined by the city.

- (4) *Preservation and maintenance of open space in a planned development district.* Provision shall be made for the preservation and maintenance of open spaces either by public reservation or dedication to public entities or commitment to preservation by a private entity. PD contracts shall contain specific reference to the ownership of such open space areas and to the provision for maintenance.
- (5) *Transmittal of plan commission recommendations, report and related matters.* The plan commission's reports and recommendations shall be made in a written report to the common council. A complete set of maps, plans and written documentation fully describing the proposed development as recommended by the plan commission at a general implementation plan level shall accompany the report of the plan commission. The matter shall not be considered by the council unless this documentation has a signature by the plan commission secretary over a statement that the documentation is complete and that it accurately reflects plan commission recommendations. In a situation in which the applicant disagrees with certain recommendations of the plan commission and is urging the common council to approve with modifications, the applicant shall supply documentation of those modifications to the council prior to the matter being placed on the agenda of the common council.

(Ord. No. 2010-O-09, § 22.85, 10-12-2010)

Sec. 22-596. - Owner's consent following common council approval.

After the planned development district general implementation plan (PD-GIP) ordinance is adopted by the common council, to take effect, the owners of record and mortgage holders of all included parcels shall consent in writing and provide an original signed and notarized document to the city clerk and a signed copy to the zoning administrator within 30 days of the date of common council adoption in order for the PD-GIP rezoning ordinance. Consent shall be binding upon future owners of the parcels in question.

(Ord. No. 2010-O-09, § 22.86, 10-12-2010)

Sec. 22-597. - Effect of PD-GIP zoning.

The approval of a general implementation plan shall not authorize issuance of building permits. The permits shall not be issued until approval by the city of the specific implementation plan.

(Ord. No. 2010-O-09, § 22.87, 10-12-2010)

Sec. 22-598. - Filing; effective date.

When the consent signatures for lands in the parcel being rezoned are all acquired and delivered to the city clerk and zoning administrator within the 30 days as required by section 22-596, the documentation on plan commission and common council action and on the general implementation plan and the consent signatures shall be logged in and filed by the city, and the property shall be indicated as rezoned on city zoning maps. The date this occurs is the effective date of the rezoning. The map indication shall be PD-GIP. The city clerk shall record at the Dane County register of deeds office an affidavit of notice of PD zoning against all real property included in the district. This shall be done as near the effective date of the PD-GIP rezoning as is possible. The city shall require the applicant to supply necessary property descriptions, parcel numbers and to pay recording and publication fees.

(Ord. No. 2010-O-09, § 22.88, 10-12-2010)

Sec. 22-599. - Specific implementation plan (SIP).

After the common council approval and recording of the PD-GIP ordinance, the applicant may file a specific implementation plan for review and recommendation by the plan commission and approval by the common council. For applications submitted prior to October 12, 2010, a SIP shall be filed (for all or part of the project) within one year of the date of council approval of the PD-GIP. For PD-GIP applications submitted after October 12, 2010, the specific implementation plan (for the entire PD-GIP) shall be filed within three years of the date of council approval of the PD-GIP.

- (1) The specific implementation plan shall be a precise plan for development, containing graphic and tabular presentations at a level of detail equivalent to the level of detail of a final plat, and for multi-family and commercial buildings, include scaled drawings of building dimensions, building and site improvement placement. Accompanying text information shall describe in detail the development plans, methodologies and timetables, building and site uses for the area covered by the specific implementation plan.
- (2) For PD-GIP ordinances approved or submitted prior to October 12, 2010, the area included in a specific implementation plan may be only a portion of the area included in a previously approved general implementation plan. For specific implementation plans for PD-GIP applications submitted after October 12, 2010, the following shall apply:
 - a. The specific implementation plan shall cover all land in the approved general implementation plan as one submittal.
 - b. The PD-SIP for the entire PD-GIP shall be submitted within three years of the common council approval of the PD-GIP ordinance. If not submitted within three years, the PD-GIP approval lapses and a new PD-GIP approval pursuant to sections 22-593 through 22-596, or a different zoning approval is required. After three years, no PD-SIP shall be approved unless the GIP has been reapproved.
 - c. A public hearing as if it were a matter of rezoning, shall be held on any specific implementation plan (PD-SIP) application or amendment (substantial alteration) to a PD-SIP.

(3)

The specific implementation plan submission may include specific site plan and design information, allowing the plan commission to combine design review and review of the specific implementation plan. Design review may, at the choice of the applicant, be deferred until a later time when specific site and building developments will be brought forth.

- (4) As part of submission for specific implementation plan approval, the applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works and public improvement elements of the proposed development.
- (5) A copy of the recorded general implementation plan and all approved and relevant documents shall be submitted with the specific implementation plan request.
- (6) The plan commission or common council may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the specific implementation plan, as such may be relevant to review procedures and standards.

(Ord. No. 2010-O-09, § 22.89, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012)

Sec. 22-600. - Plan commission review.

- (a) When the specific implementation plan submission is deemed by plan commission staff to be complete, the matter shall be reviewed by staff and then placed upon an agenda of the plan commission for review, consideration and approval, modification or rejection.
- (b) The specific implementation plan submission shall be reviewed by the plan commission against the current standards of this chapter, the comprehensive plan and the previously approved general implementation plan. Without limiting the plan commission's ability to deny a specific implementation plan, in order to approve a specific implementation plan, the plan commission must determine that the specific implementation plan is consistent with the general implementation plan as well as the current standards of this chapter and the comprehensive plan.
- (c) If the plan commission recommends approval of a specific implementation plan, complete documentation describing this specific implementation plan, and any contracts that the plan commission deems necessary for the implementation of the plan, shall be prepared, reviewed by zoning administrator as complete and, when found to be complete by said zoning administrator, shall be placed on the agenda of the common council.

(Ord. No. 2010-O-09, § 22.90, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012)

Sec. 22-601. - Common council review.

The common council shall consider and act on the specific implementation plan after reviewing the recommendations of the plan commission on same. The specific implementation plan submission shall be reviewed by the common council against the current standards of this chapter, the current comprehensive plan, and the previously approved general implementation plan.

(Ord. No. 2010-O-09, § 22.91, 10-12-2010)

Sec. 22-602. - Filing and effective date.

Sections 22-596 through 22-598 apply to the processing, consent signatures and recording of a specific implementation plan following approval by the common council. Signatures are required by property owners and mortgage holders only in the area affected by the specific implementation plan.

(Ord. No. 2010-O-09, § 22.92, 10-12-2010)

Sec. 22-603. - Effect of SIP approval; alterations.

The filing of an approved specific implementation plan (SIP) shall only authorize release of building and other land use permits necessary to carry out development activities consistent with that approved plan, when all conditions or requirements of the SIP and other ordinances have been met. It is the responsibility of the applicant to provide proof of satisfaction of all conditions and requirements.

- (1) If a proposed amendment to the PD-SIP is inconsistent with or alters an approved general implementation plan, the PD-SIP shall not be approved unless the PD-GIP is amended in accordance with the procedures pursuant to sections 22-593 through 22-596.
- (2) Any subsequent change of use of any parcel or any modification of the specific implementation plan shall first be submitted for approval to the plan commission and if, in the opinion of the plan commission, such change or modification constitutes a substantial alteration of the specific implementation plan, the specific implementation plan shall be required to be amended through the same procedures used to approve, file and record the specific implementation plan. If, in the opinion of the plan commission, such changes or modification do not constitute a substantial alteration of the specific implementation plan, the change may be accomplished by approval of the plan commission. Such approved modifications shall be documented and recorded in the official file of the city on the PD district.
- (3) For specific implementation plan zoning approved prior to October 12, 2010, a specific implementation plan approval lapses one year after its date of adoption by the common council if substantial development progress has not occurred.
- (4) For general implementation plans approved after October 12, 2010 (including the specific implementation plan approved under that GIP), all public improvements shall be required to be installed within 12 months of the date of common council approval unless a staging plan has been approved per chapter 24 (land division).

(Ord. No. 2010-O-09, § 22.93, 10-12-2010)

Sec. 22-604. - Design review; objectives.

Design review is implemented under municipal authority to promote the public health, safety and welfare and under municipal zoning authority. Requirements for design review and approval apply to uses and developments regardless of the characterization of the use or development within this chapter as a permitted use or conditional use. Projects submitted under the SmartCode District shall not be subject to design review under this chapter.

Sec. 22-605. - Developments requiring design review.

- (a) Site and structural development of residential projects having three or more dwelling units.
- (b) Site and structural development in business districts.
- (c) Site and structural development in industrial districts.
- (d) Site and structural development in planned development districts.
- (e) Utility and governmental facilities.
- (f) Those variance cases deemed by the zoning board of appeals to justify design review. Design review shall be advisory to the zoning board of appeals.
- (g) Any parking area, even if not accompanying an otherwise included development, if it has five or more parking spaces.
- (h) Rural event venue.
- (i) In addition, design review districts may be designated by ordinance adopted by the common council. Once adopted, design review standards shall apply to such districts within the terms of such designated ordinance.

(Ord. No. 2010-O-09, § 22.99, 10-12-2010; Ord. No. 2021-O-12, § 1(Exh. A), 8-24-2021)

Sec. 22-606. - Administration of design review.

- (a) The zoning administrator shall advise applicants when they apply for zoning permits or other approvals whether design review applies. If design review applies, the applicant will be given checklists, application forms and timetables. These documents shall have prior plan commission approval as to format and content. Applicants may request and have pre-application conferences with staff.
- (b) Completed applications and supporting materials must be reviewed by staff prior to placement on the plan commission agenda. Staff must be satisfied that a complete packet of information will be available to the plan commission prior to the commencement of the plan commission meeting at which the item is set for decision review.
- (c) The plan commission will review applications set for design review. Following such review, discussions with applicants and agents, and discussion within the plan commission and with staff, the commission shall render a decision of approval, conditional approval or rejection. Decisions shall be in writing and shall identify those elements of the approved design which the commission intends to be mandatory. The zoning administrator shall have applicants sign acknowledgments of receipts of written plan commission design review decisions prior to issuance of a zoning/building permit.
- (d) A project that has had design review and that has a zoning/building permit is approved for execution only in accord with the directives included in the design review approval. Construction or execution that deviates from directives may not occur within terms of this chapter without prior city approval. The zoning administrator is responsible for determining whether to give staff approval to such deviations on a finding that they are minor variations as to the plan commission's decision or whether full plan commission review and approval is needed upon a finding that the deviations are major.

Sec. 22-607. - Design review standards.

- (a) *Jurisdiction.* Design review applies to exterior structural and design features, landscaping and site planning.
- (b) *Directives.* The following specific design standards are established and are intended to be applied in the informed judgment of the plan commission:
- (1) The land forms and landscape will be preserved in their natural state, insofar as practicable, by minimizing soil and tree removal that is not essential to project development and by retaining grades and contours in keeping with the general appearance of neighboring developed areas.
 - (2) Building masses and long, straight building fronts and sides (relative to the overall length of the building) that are visually accessible shall be broken up and made more variegated with staggers and offsets, with landscaping or surficial features or with accumulation of mass in the form of smaller, related units. This is a directive standard as to residential and commercial structures and those industrial structures that are visually accessible to larger volumes of traffic and a recommendatory standard to industrial buildings within the center core of industrial districts.
 - (3) Within residential properties, parking areas that are located in front or street-side yards must have landscape screening and/or screening by fencing having decorative character to soften views of parked vehicles. All design reviewed parking lots shall have decorative landscape treatment at the perimeter of the lot and, for larger lots, in island areas within the lot, to provide break-up of the expanse of paving. (See [section 22-609.](#))
 - (4) Mechanical equipment (heating, air conditioning and ventilation) that will be readily visible when viewed from ground level from other properties or from major public ways should be softened by screening or covered in a manner that forms an integral part of the building design.
 - (5) External garbage or refuse containers shall be screened by walls, fences, berms or effective landscaping, or combinations thereof.
 - (6) Landscaping. Each project subject to design review must provide landscaping of sufficient height and density to accomplish positive visual impact within three years from the time of planting.
 - (7) All developments and occupancies subject to design review shall be planned and constructed so that surface drainage drains from structures. Impervious surface ratios shall be limited to no more than 65 percent, except where a different level has been set forth through an approved plan, land division approval, other zoning standard, or other zoning approval. The commission, in its judgment, may allow a higher ratio provided it is not contrary to an existing approval, and on-site infiltration, pervious pavement or other measures to mitigate the higher ratio are provided and maintained.
 - (8) The following principles of landscape design are stated as guides to be applied with discretion by the plan commission taking into account how visible the site is to public view, sensitivity of neighboring properties and the cost considerations:
 - a. Overhead canopy trees contribute to a pattern within the neighborhood and streetscape focus plantings (trees or shrubs) accomplish screening of less attractive elements, afford privacy, noise control and windbreak, soften transitions from vertical to horizontal features and create visual focal

points.

- b. Ground plane plantings (lawns, ground cover, etc.) provide lower level continuity, and retard soil erosion.
 - c. Terraces, trellises, walks, drives, garden walls and berms and related elements increase variety.
 - d. Plan commission preferences on species shall be made available in writing to project applicants.
- (9) The plan commission shall, in the exercise of its judgment, prohibit or regulate outdoor storage, product display or sale of items where a plan or design goal, objective, directive or suggestion exists, or where the advancement of the public interest, welfare or safety is involved. Any outdoor storage area, display or sale area shall be clearly identified on submitted site plan. At a minimum, storage of materials, fuel, scrap, inoperative vehicles and similar objects in places that are readily visible from major public rights-of-way or parts of neighboring properties where a significant amount of viewing is expected shall be minimized and, where necessary, shall be effectively screened. Where other portions of this chapter establish more stringent standards, the other portions shall govern.
- (10) Exterior lighting, when used, shall be established, directed and maintained so as not to be cast directly on public rights-of-way or occupied structures or neighboring properties or be lighted in intensity or colors seriously disturbing to neighboring properties.

(Ord. No. 2010-O-09, § 22.101, 10-12-2010)

Sec. 22-608. - Recommendations.

Other features of site design and construction, building and structural design and construction and landscaping that are not listed under directives may also be addressed by plan commission advisory suggestions within the design review process upon a finding that the suggestion would be desirable to make the development a positive asset to the visual appearance of the community and positive contribution to the growth and stability of the community tax base.

(Ord. No. 2010-O-09, § 22.102, 10-12-2010)

Sec. 22-609. - Off-street parking and loading.

- (a) *Purpose.* This section provides for the regulation of accessory off-street parking and loading facilities. Projects submitted under the SmartCode District shall be subject only to parking and loading regulations under chapter 23. For all other districts, these regulations are intended to:
- (1) Increase the safety and capacity of public streets by requiring off-street loading facilities to be provided.
 - (2) Minimize adverse effects of off-street parking and loading facilities on adjoining properties.
 - (3) Lessen congestion and prevent the overtaxing of public streets by regulating the location and capacity of accessory off-street parking or off-street loading facilities.
- (b) *General regulations.*
- (1) *Application to changing circumstances.*
 - a. When the intensity of use of any building, structure or premises shall be increased through addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be

provided for such increase in intensity of use.

- b. When the existing use of a building or structure is changed to a new use, parking or loading facilities shall be provided as required for such new use.
- c. Accessory off-street parking or loading facilities in existence on the effective date of the ordinance from which this article is derived and located on the same lot as the building or uses served shall not hereafter be reduced below, or if already less than, shall not be further reduced below the requirements for a similar new building or use under the provisions of this article.

- (2) *Permissive parking and loading facilities.* Nothing in this chapter shall be deemed to prevent the voluntary establishment of accessory off-street parking or loading facilities to serve an existing use of land or buildings, provided that there is adherence to all regulations herein governing the location, capacity, design and operation of such facility.
- (3) *Control of off-street parking facilities.* In cases where parking facilities are permitted on land other than the zoning lot on which the building or use served is located, such facilities shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory. Such possession shall be by deed whereby the owner of land on which the parking facilities are to be located shall be bound by a covenant filed and recorded in the county register of deeds office, requiring such owner, his/her heirs or assigns to maintain the required number of parking facilities for the duration of the use served.
- (4) *Specifications of off-street parking facilities.* Off-street parking facilities shall be provided in accordance with the regulations set forth herein as well as subsection (3) of this section.
 - a. *Utilization.* In the residence district, accessory off-street parking facilities provided for uses listed herein shall be solely for the parking of passenger automobiles of occupants or guests and not more than one truck limited to four tons gross vehicle weight.
 - b. *Computation.* When determination of the number of off-street parking spaces required by the city results in a requirements of a fractional space, any fraction may be disregarded.
 - c. *Mixed uses.* Where parking demand for particular parcels or uses have definite time patterns, the parking area for one may be shared with another use having a complementary time pattern, subject to conditional use approval. Parking areas that are provided off-site and/or shared parking facilities shall be subject to plan commission conditional use review and conditions to ensure workability.
 - d. *Size, layout, landscaping and surfacing.* The standards of the city for size of spaces, layouts of parking areas, surfacing access from parking areas to streets or driveways, and landscaping shall be governed by specifications and standards, promulgated administratively by the zoning administrator and approved by the plan commission. These specifications and standards shall be periodically reviewed and updated, as necessary. In the formulation and review of such standards, requirements as to handicapped access, variations in size and type of vehicles and other relevant considerations shall be taken into account.
 - e. *Lighting.* Illumination of off-street parking areas shall be established and directed so as not to be cast directly upon public rights-of-way or occupied structures or neighboring properties or to be illuminated in intensity or color or character that is likely to be seriously disturbing to neighboring

properties.

(Ord. No. 2010-O-09, § 22.105, 10-12-2010)

Sec. 22-610. - Off-street loading facilities.

Off-street loading berths accessory to uses allowed by this chapter shall be provided in accordance with the regulations set forth herein. Projects submitted under the SmartCode District shall only be subject to off-street loading facilities under chapter 23.

- (1) *Utilization.* Space allocated to any off-street loading berths shall not, while so allocated, be used to satisfy the space requirements of any off-street parking facilities or portions thereof, and off-street loading berths shall be available for their designated purpose when needed.
- (2) *Size.* Unless otherwise specified, a required off-street loading berth shall be at least ten feet in width by at least 35 feet in length, exclusive of aisle and maneuvering space and shall have a vertical clearance of at least 14 feet.
- (3) *Access.* Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in such manner that will least interfere with traffic movements or the safety of intersections.
- (4) *Applicability of parking area requirements.* Parking area requirements for design, paving and maintenance shall be applied to loading berths.
- (5) *Schedule of off-street loading facilities.* The required number of loading facilities and standards for layout, surfacing, and landscaping shall be established by a schedule promulgated administratively by the zoning administrator with prior approval of the plan commission. Said schedule shall be reviewed and updated periodically.

(Ord. No. 2010-O-09, § 22.107, 10-12-2010)

Sec. 22-611. - RC Rural Cluster District.

- (a) The Rural Cluster (RCD) District provides a regulatory framework, as identified in Sections 22-612—22-623 herein, to provide limited development by using the potential splits of one per 35 acres (see the city's *Rural Residential Development Criteria*, Appendix B - *City of Fitchburg Comprehensive Plan*) on property outside of the urban service area and future urban development boundary, while complying with the comprehensive plan as well as maintaining compatibility with the surrounding agricultural uses. Such clustered development is intended to better harmonize rural development with surrounding agricultural activities recognizing that it is the city's primary goal to preserve and enhance farming and farmland in rural Fitchburg. This option is intended to conserve agricultural, forested and open space land, historic and natural features. Such clustered development is intended to permit the compact grouping of homes located to blend with the existing landscape and other natural features and to preserve the visual character of the landscape.
- (b) RCD has no set standards or specifications, other than what is set forth in this section. Developers are encouraged to propose uses that preserve, complement and enhance natural features such as but not limited to topography, woodlands, wetlands, and streams. The common council shall approve the standards

and specifications which shall constitute the zoning and architectural controls of the property.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-612. - RC Rural Cluster District—Procedures for general implementation plan (GIP).

In addition to the procedure required for all zoning changes, the following information describing a general implementation plan shall be filed by the applicant with plan commission staff:

- (1) A survey of the project area including its relationship to surrounding properties and uses, with topographic, soil type and other key features, such as, but not limited to, woodlots, heritage or specimen trees, streams, all drainage channels, waterways, wetlands, floodplains, environmental corridors, rock outcroppings, and existing buildings or improvements. Specific wetland, woods or tree inventories, impact analysis, or other studies relative to key features may be required by planning staff or the plan commission.
- (2) An overview map which shall place the proposed site in the middle of an area at least one-half mile in the four directions to clearly identify adjacent land ownership and uses.
- (3) A statement as to the rationale as to why the RC zoning is proposed. Identify the private and public benefits and liabilities of the development.
- (4) An analysis of the social, environmental, traffic and economic impacts on the community of the project.
- (5) An analysis of how the proposal is consistent with, and will advance the goals, policies and objectives of the comprehensive plan.
- (6) A general development plan of the proposed project showing and describing at least the following information in sufficient detail to make a possible evaluation against criteria for approval:
 - a. Public and private roads, driveways, and parking facilities, current and planned.
 - b. Land uses, arrangement, location and size of lots.
 - c. All proposed buildings or groups of buildings with their uses identified.
 - d. Impact of traffic with trips generated and likely traffic routes and count increases.
 - e. A waste disposal plan including septic limitations and system types required. Per chapter 24, land division code, in no case shall a new building site or new habitable building be allowed if sanitary service is required by a holding tank.
 - f. A water supply plan with types of well or wells and how they are shared.
 - g. An inventory of trees, prairies or prairie remnants, wetland and wetland plants, 300 foot wetland buffer, natural features, threatened and endangered species and fence lines.
 - h. An inventory of existing historic features, historic buildings or buildings of possible historic value.
 - i. General landscape treatment plan, including species to be used. Native and non-invasive species are required.
 - j. Statistical data on the size of the development, density, ratio of land uses, expected staging and any other plans or data required by the plan commission or common council.
 - k. Soil types by name and class, and percent of development on each class type.

I. Tillage history.

- (7) An outline of the intended ownership structure including owners association if any, ownership of open space, deed restrictions, and the provision of common services, if any.
- (8) For wooded or partly wooded site, a forestry plan.
- (9) Ownership of claims that are being used to allow dwelling unit construction at one claim per dwelling unit planned. Agreement for the purchase of claims (with signatures from the owners) will need to be submitted for each dwelling unit proposed at the time of the rezone to GIP.
- (10) A map identifying the lands to which the claims are associated and an outline of potential areas (35 acres per each claim) to be placed in a restriction, limiting the property to agricultural uses of land [Note: uses to be determined] in favor of the city during the SIP approval process. The restriction may be removed or altered by a $\frac{2}{3}$ majority vote of the common council, but only after entry of the property into the urban service area. Nothing herein contained shall prevent a property owner from instituting a non-removable restriction, such as an agricultural conservation easement, through agreement with a third party or other means. Land subject to restriction in favor of the city shall not be located within the urban service area or a long-term growth boundary.
- (11) Neighborhood input.
 - a. Prior to the formal petition for rezoning, the applicant shall make a reasonable effort to meet with property owners and individuals within and near the area of the proposal. Property owners and residents within the project area and those within 300 feet or a minimum of the three closest property owners of the project boundary shall be noticed at least ten days prior to a meeting in which the conceptual project will be presented. The meeting shall be fashioned to solicit feedback on the proposed design. More than one neighborhood meeting may be necessary to gather input, address comments received and provide information relative to any intended application.
 - b. A statement describing the reasonable efforts made to meet with and receive input from individuals required to receive notice shall be submitted with the rezoning petition application when it is filed for review at the planning department.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-613. - RC Rural Cluster District—Plan commission review.

- (a) Following determination by the zoning administrator that an application is complete, the matter shall be reviewed by city staff and shall then be placed on a plan commission agenda for initial review, prior to the filing of a formal application. Initial review is a review of the project at the concept level and is not binding. The preferred procedure is for an iteration of the plan commission's initial review to occur prior to introduction of a formal petition for rezoning. The purpose of this meeting, or meetings, is to allow a discussion of the plan commission regarding the possible planned development zoning application and the environmental, economic, social and other benefits of design to be obtained from the proposal and general statistics on the possible project.
- (b)

Following the required public hearing before the plan commission, the plan commission shall meet to make a determination and recommendation whether to advise the common council to approve the rezoning and the general implementation plan, to approve it with modifications, or to deny it.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-614. - RC Rural Cluster District—Criteria for RC approval.

The intent of this code is to allow for limited development outside of the future urban development boundary while preserving certain natural characteristics of the property. To this end, the plan commission shall evaluate each proposed rezoning in light of the following criteria:

- (1) RC rezoning requests shall be located on land at least 75 percent of which has either no tillage history and/or has a soil classification of IV, V, VI, VII, or VIII for that portion to be divided to accommodate the residential development. Specific site reviews should be based on the types of agricultural uses surrounding the rural cluster. If high quality agricultural soils with large contiguous acres are present, the compatibility and blending should occur to maintain the large contiguous agricultural acres, with the cluster being located at the edge/corner.
- (2) RC requests shall be considered on the basis of one dwelling unit per 35 acres, utilizing 1979 as the base year. Potential claims that are outside of the future urban development boundary may be transferred to another property for the intent of creating a rural cluster that is located outside of the future urban development boundary. Agreements for the purchase of claims (with signatures from the owners and mortgage holders) will need to be submitted with the GIP. As a condition of SIP approval, land (35 acres per each claim) shall have a restriction with the city recorded at the county register of deeds restricting development to approved agricultural land uses [Note: Uses to be determined]. This restriction shall follow criteria identified in subsection 22-612(10). A land owner may, at their option, also file a non-removable restriction, such as a conservation easement, with a recognized 501(c)(3) land trust or conservancy, or other acceptable means.
- (3) Requests are to be compatible with nearby agricultural zoning uses and shall provide for only one single family detached dwelling unit per claim, and require all new residential lots to have a right to farm document recorded to protect surrounding agricultural operations. A rural cluster shall consist of at least two and no more than ten single family detached dwelling units.
- (4) The rezoning requests shall incorporate techniques to accomplish the following:
 - a. Protection and preservation of farmland and natural features.
 - b. Preservation and enhancement of natural features, including but not limited to woodlands, wetlands, prairies, streams, ponds, lakes, and other natural features.
 - c. Preservation of wildlife and flora habitat.
 - d. Enhancement of wildlife and flora habitat, including but not limited to small game, birds, waterfowl, and other fauna.
 - e. Be consistent with or advantageous for the Fitchburg Parks and Open Space Plan.
- (5) Aesthetic desirability and effect on rural viewscape:

- a. Preserve scenic views by minimizing views of new development from existing roads.
 - b. Rural clusters may be visible from access and surrounding roads so long as the cluster is designed to be unobtrusive in the rural viewscape. This can be accomplished as follows:
 1. The buildings are grouped together to appear as a single farmstead and are designed utilizing historicist architecture (See [section 22-623](#)).
 2. The buildings are grouped together to appear to be a rural hamlet and are designed utilizing historicist architecture.
 3. The visible buildings from access and surrounding roads of a cluster fulfill the requirements of 1. or 2. above and the balance of the buildings are not visible.
 4. The visible buildings of the cluster are designed with organic architecture so that their visual impact is minimal, blending into the landscape.
 - c. Building groupings to permit reduced minimum lot sizes. Where practicable, each lot shall adjoin another lot. Each lot shall have frontage and driveway access to a public street. The public street to serve a rural cluster shall provide at least two separate and distinct routes of travel.
 - d. Fencing, new plantings, and other screening.
 - e. Historic restoration.
 - f. Woodland, wetland or prairie restoration, improvement or expansion, along with maintenance.
 - g. Other features of site design and construction, building and structural design and construction and landscaping that are not listed above may also be addressed by the plan commission as advisory suggestions within the design review process upon a finding that the suggestion would be desirable to make the development a positive asset to the visual appearance of the community and positive contribution to the growth and stability of the community tax base.
- (6) Compatibility with recreational trails, bike trails - specifically the Fitchburg Heritage Circle Route and wildlife corridors noted in the Fitchburg Park and Open Space Plan.
- (7) Engineering design standards. Streets and other ways, provision for stormwater drainage, sanitary sewer/septic service, water supply, or other similar environmental and municipal engineering considerations of current ordinance requirements shall, at a minimum be met, but advanced environmental design will likely be required. Dark sky certified outdoor lighting shall be used. The plan commission and common council may require the use of higher levels of transportation and lighting improvements, stormwater management or water conservation techniques than is required by current ordinance or other governmental guidelines. Such standards shall be appropriate to advancing environmental design objectives and the public health, safety and welfare as determined by the city. Stormwater stay on-shall be at 90—100 percent of the predevelopment rate.
- (8) Driveways. Each residential building shall be served by its own driveway from the public street and follow standards created and set forth by the public works department under [section 27-399](#) of the Fitchburg Municipal Code.
- (9)

Preservation and maintenance of open space in a Rural Cluster District. Provision shall be made for the preservation and maintenance of any open spaces either by public reservation or dedication to public entities or commitment to preservation by a private entity. RC agreements shall contain specific reference to the ownership of such open space areas and to provision for maintenance. Rural clusters shall provide plans and documents in written and graphic form to fully describe the project and its benefits. Draft deed restrictions, easements, and preservation and maintenance of open space documents shall be submitted with the application. This section is only relevant if providing a public or private community open space within the cluster.

- (10) Park dedication or fee in lieu and park improvement fees are part of the land division approval process and shall be determined as defined in subsections 24-2(d)(1)–(3) of the city's land division code, chapter 24.
- (11) Transmittal of plan commission recommendations, report and related matters. The plan commission's reports and recommendations shall be made in a written report to the common council. A complete set of maps, plans and written documentation fully describing the proposed development as recommended by the plan commission at a general implementation plan level shall accompany the report of the plan commission. The matter shall not be considered by the council unless this documentation has a signature by the plan commission secretary over a statement that the documentation is complete and that it accurately reflects plan commission recommendations. In a situation in which the applicant disagrees with certain recommendations of the plan commission and is urging the common council to approve with modifications, the applicant must supply documentation of those modifications to the council prior to the matter being placed on the agenda of the common council.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-615. - RC Rural Cluster District—Owner's consent.

The owners of record and mortgage holders of all included rezone parcels shall consent in writing and provide an original signed and notarized document to the city clerk and a signed copy to the zoning administrator within a single 30-day period following common council adoption in order for the RC general implementation plan (RCD-GIP) zoning to take effect. Consent shall be binding upon future owners of the parcels in question.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-616. - RC Rural Cluster District—Effect of RCD-GIP zoning.

The approval of a general implementation plan shall not authorize issuance of building permits. The permits may not be issued until approval by the city of the specific implementation plan, and the conditions of the approval are met.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-617. - RC Rural Cluster District—Filing—Effective date.

When the consent signatures for lands in the parcel being rezoned to RCD-GIP are all acquired and delivered to the city clerk and zoning administrator within the 30 days as required by section 22-615, the documentation on plan commission and common council action and on the general implementation plan and the consent signatures shall be

logged in and filed by the city, and the property shall be indicated as rezoned on city zoning maps. The date this occurs is the effective date of the rezoning. The map indication shall be RCD-GIP. The city clerk shall record at the county register of deeds the ordinance or an affidavit of notice of RC zoning against all real property included in the district. This shall be done as near the effective date of the RCD-GIP rezoning as is possible. The city shall require the applicant to supply necessary property descriptions, parcel numbers and to pay recording and publication fees.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-618. - RC Rural Cluster District—Specific implementation plan (SIP).

After the common council approval and recording of the RCD-GIP ordinance, the applicant may file a specific implementation plan for review and recommendation by the plan commission and approval by the common council. The specific implementation plan (for the entire RCD-GIP) shall be filed within three years of the date of council approval of the RCD-GIP.

- (1) The specific implementation plan shall be a precise plan for development and shall contain graphic and tabular presentations at a level of detail equivalent to the level of detail of a final plat. Accompanying plans and text information shall describe in detail the building development plans, methodologies and timetables for the area covered by the specific implementation plan. The specific implementation plan shall cover all land in the approved general implementation plan as one submittal.
- (2) The RCD-SIP for the entire RCD-GIP shall be submitted within three years of the common council approval of the RCD-GIP ordinance. If the SIP request is not submitted within three years, the RCD-GIP approval lapses and a new RCD-GIP approval shall be obtained pursuant to section 22-612 through 22-614. After three years, no RCD-SIP shall be approved unless the GIP has been reapproved.
- (3) A public hearing as if it were a matter of rezoning, shall be held on any specific implementation plan (RCD-SIP) application or amendment to a RCD-SIP.
- (4) The specific implementation plan submission may include site plan and design information, allowing the plan commission to combine design review and review of the specific implementation plan. Design review (see section 22-623) may, at the choice of the applicant, be deferred until a later time when specific site and building plans will be brought forth.
- (5) RC requests shall be considered on the basis of one dwelling unit per 35 acres, utilizing 1979 as the base year. Potential claims that are outside of the future urban development boundary may be transferred to another property for the intent of creating a rural cluster that is located outside of the future urban development boundary. Land (35 acres) that is tied to each potential claim shall, as a condition of SIP approval, have a restriction in accord with section 22-620 and in favor of the city limiting land use to agriculturally approved uses [Note: uses to be determined] recorded at the county register of deeds. A land owner may, at their option, also file a non-removable restriction, such as a conservation easement, with a recognized 501(c)(3) land trust or conservancy, or other acceptable means. Signed agreements regarding the use of claims from outside the property, and relevant land restriction(s) shall be submitted with the RCD-SIP application, but the recording of such agreements shall be a condition of RCD-SIP approval.

(6)

As part of submission for specific implementation plan approval, the applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development.

- (7) A copy of the recorded general implementation plan and all approved and relevant documents shall be submitted with the specific implementation plan request.
- (8) The plan commission or common council may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the specific implementation plan, as such may be relevant to review procedures and standards.
- (9) No land division approval, except for comprehensive development plan, and/or preliminary plat approval, shall occur prior to approval of RCD-SIP zoning. Final plat or certified survey map land division approval shall be a condition of RCD-SIP approval.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-619. - RC Rural Cluster District—Plan commission review.

- (a) When the specific implementation plan submission is deemed by the zoning administrator to be complete, the matter shall be reviewed by staff and then placed upon the agenda of the plan commission for review, consideration and approval, modification or rejection.
- (b) The specific implementation plan submission shall be reviewed by the plan commission against the standards of sections 22-611—22-623, the comprehensive plan and the previously approved general implementation plan. In order to approve a specific implementation plan, the plan commission must determine that the specific implementation plan is reasonably consistent with the previously approved general implementation plan as well as the current standards of this chapter and the comprehensive plan.
- (c) If the plan commission recommends approval of a specific implementation plan, complete documentation describing this specific implementation plan, and any agreements that the plan commission deems necessary for the implementation of the plan, shall be prepared, reviewed by zoning administrator as complete and, when found to be complete by said zoning administrator, shall be placed on the agenda of the common council.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-620. - RC Rural Cluster District—Common council review.

The common council shall consider and act on the specific implementation plan after reviewing the recommendations of the plan commission on same. The specific implementation plan submission shall be reviewed by the common council against the current standards of this chapter, the current comprehensive plan, and the previously approved general implementation plan.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-621. - RC Rural Cluster District—Filing and effective date.

Upon approval, and receipt of consent of property owner signatures, which shall occur within 30 days of common council approval of the RCD-SIP, the ordinance noting RCD-SIP zoning shall be recorded at the county register of deeds. No land division approval, except for comprehensive development plan and/or preliminary plat approval shall occur prior to approval of RCD-SIP zoning. Final land division approval shall be a condition of RCD-SIP approval. Applicant shall pay for all publication and recording costs.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-622. - RC Rural Cluster District—Effect of SIP approval; alterations.

The filing and recording of an approved specific implementation plan shall only authorize release of building and other land use permits necessary to carry out development activities consistent with that approved plan, when all conditions or requirements of the SIP and other ordinances have been met. It is the responsibility of the applicant to provide proof of satisfaction of all conditions and requirements.

- (1) If a proposed amendment to the RCD-SIP is inconsistent with or alters an approved general implementation plan, the RCD-SIP shall not be approved unless the RCD-GIP is amended in accordance with the procedures pursuant to sections 22-612 to 22-614.
- (2) Any subsequent change of use of any parcel or any modification of the specific implementation plan shall first be submitted for approval to the plan commission and if, in the opinion of the plan commission, such change or modification constitutes a substantial alteration of the specific implementation plan, the specific implementation plan shall be required to be amended through the same procedures used to approve, file and record the specific implementation plan. If, in the opinion of the plan commission, such changes or modification do not constitute a substantial alteration of the specific implementation plan, the change may be accomplished by approval of the plan commission. Such approved modifications shall be documented and recorded in the official file of the city on the RC district.
- (3) All public improvements shall be required to be installed within 12 months of the date of common council approval unless a staging plan has been approved per chapter 24, land division code.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Sec. 22-623. - RC Rural Cluster District—Design review.

- (a) All new residential, agricultural or other structures visible from access and surrounding roads shall be required to obtain architectural design review approval, pursuant to sections 22-604—22-606 of chapter 22, zoning ordinance and chapter 25, architectural control, before any building permits may be issued. Architectural design review applies to all exterior structural and design features including site planning, site facilities and any building done within or on the site, as outlined in the aesthetic desirability and effect on rural lands, section 22-614(5). Any structure that is not visible from access and surrounding roads does not require design review.
- (b) Architectural standards for clusters visible from access and surrounding roads:
 - (1)

Historicist architecture is building design that utilizes traditional Midwestern American forms and surface decoration. These may include Greek Revival, Queen Anne, Italianate, Second Empire, Gothic Revival, Four square or Rural Victorian Vernacular styles. The use of Builder's Modern or Ranch, Shed contemporary, Norman Scansion, Georgian Revival and other suburban styles are not Historicist. Large-scale renditions of traditional forms may not be Historicist.

- (2) The new building, from a reasonable distance such as the access road, shall appear to be of a building type and age similar to other pre-1930 buildings currently existing on the rural landscape. Such building, if placed next to an existing rural structure constructed prior to 1930, would not clash in scale or decorative surfaces with the pre-existing structure.
- (3) Building groupings may recapitulate farmsteads, grouped farmsteads or rural hamlets, mimicking the historic forms of pre-existing pre-1930 groupings.
- (4) The use of fencing, landscaping, berms and other landscaping devices to obscure or hide buildings or portions of buildings when the building themselves or their grouping does not conform to (1), (2) or (3) above will be allowed as long as the viewscape goals are met.
- (5) The restoration of an existing structure that has lost its original appearance may be used to provide a portion of a visible cluster. E.g., a "modernized" vinyl sided house with a traditional rural pre-1930s form may be restored or re-skinned to an original or Historicist appearance and other Historicist buildings clustered with the restored building.
- (6) The restoration of significant buildings, such as pre 1980s structures, whether originally used for residential, agricultural or commercial purposes is encouraged.
- (7) The restoration of wetlands or prairies may be required as part of the landscape and viewscape improvement of the cluster. A tall grass prairie may be used with organic or historicist architecture to "stage set" a rural cluster by providing a feeling of distance between existing roads and the cluster. The expansion and restoration of wooded areas may reduce or eliminate from the viewscape some or all buildings of a cluster that do not meet the standards for visible architecture.

(Ord. No. 2012-O-18, § 1, 12-11-2012)

Secs. 22-624—22-638. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 22-639. - Zoning amendments.

- (a) The city zoning ordinance may be amended pursuant to procedures provided by state law.
- (b) Petitions to amend the zoning ordinance may be initiated by any alderperson or any city board, committee, commission or officer. Petitions to amend zoning districts may, in addition, be initiated by any person owning real estate, provided that the proposed amendment affects real estate owned by such person or a larger parcel that includes real estate owned by such person.
- (c)

The plan commission shall direct that application forms for zoning ordinance amendment petitions be developed and approved by the commission and that such, or close equivalents, shall be used to initiate amendment petitions.

- (d) All petitions for amendment shall be introduced to the zoning administrator and referred to the plan commission with the information notice of the introduction and referral being given by the administrator to the common council.
- (e) The plan commission shall establish a date for public hearing before the plan commission on all proposals for zoning amendments. Class 2 notice shall be given prior to such hearing. At least ten days' prior written notice shall be given to the clerk of any municipality whose boundaries are within 1,000 feet of any lands affected by a proposed change in zoning district boundaries. Failure to give such notice to nearby municipalities shall not invalidate the hearing or the change, if adopted. The public hearing shall be conducted by the plan commission in accordance with the notice, unless recessed and rescheduled in accordance with state law.
- (f) At least ten days' prior written notice shall be given by ordinary mail to owners of record of all lots or parcels within the protest petition area under Wis. Stats. § 62.23(7) and to the alderpersons of the affected district.
- (g) Protest petitions may be lodged regarding amendments to zoning district maps in accordance with provisions of Wis. Stats. § 62.23(7).
- (h) Following the public hearing, the plan commission shall issue its recommendations on the proposed amendment to the common council.
- (i) Following receipt of the recommendations and report of the plan commission, the common council may take action upon the proposed amendment.
- (j) Where allowed by state zoning law, rezonings may be conditioned where the common council deems imposition of conditions a necessity to achieve the public interest and the intent of this chapter.

(Ord. No. 2010-O-09, § 22.112, 10-12-2010)

Sec. 22-640. - Conditional uses.

- (a) *Identification and purpose.* The city zoning ordinance identifies certain uses of property within each zoning district as conditional uses. Applications to establish or modify such uses shall be decided pursuant to this section as a matter of discretionary judgment, upon consideration of the specific proposal in relation to the site, uses of neighboring properties, area conditions and the provisions of the city land use plan. Approval of conditional uses shall be accompanied by conditions established by the plan commission.
- (b) *Procedures.*
 - (1) Applications for conditional use approval shall be made on application forms developed and approved by the plan commission.
 - (2) An application fee, as set forth in the annual budget appendix fee schedule, shall be paid at the time an application is filed. Applications originated by the city shall be exempt from application fee.
 - (3) A conditional use application that has been rejected shall not be accepted for resubmittal within six months from the date of rejection unless the plan commission determines that there has been a significant change in the proposal or in relevant conditions.

- (4) When the plan commission staff has received a complete application, and the application fee, and when the staff has completed such research and staff review as the plan commission has directed be applied to such applications, the application and related file shall be transmitted to the plan commission for its review and consideration.
- (5) The plan commission shall establish a date for public hearing before the plan commission on all proposals for conditional use approvals. Class 1 notice shall be given prior to such hearing. At least ten days' prior written notice shall be given to the clerk of any municipality whose boundaries are within 1,000 feet of any lands affected by a proposed change in zoning district boundaries. Failure to give such notice to nearby municipalities shall not invalidate the hearing or the use, if adopted. The public hearing shall be conducted by the plan commission in accordance with the notice, unless recessed and rescheduled in accordance with state law.
- (6) At least ten days prior written notice shall be given by ordinary mail to owners of record of all lots or parcels within 300 feet or a minimum of the three closest property owners, and to other parties of interest, including alderpersons representing the district in which the request has been made.
- (7) Following the public hearing, the plan commission may approve, disapprove or approve with modifications a conditional use application. The decision of the plan commission shall be recorded in the minutes and shall contain a written statement of reasons for the commission's determination, including reasons specifically related to the standards of this chapter or of documents related to this chapter by cross-referencing provisions, and of any conditions required to be imposed upon the use if the application is approved or approved with modifications.
- (8) Adopted motions to approve conditional uses shall include identification of conditions. These conditions may address, without limitation because of specific enumeration: the site plan, timetable of development, operation of the proposed use, surety requirements for performance of required activities, increased yard requirements, period or hours of operation, landscaping or planting screens, deed restrictions, parking areas and signs, types of construction, erosion control, preservation of significant natural or historic features or other considerations relevant to applicable standards and all conditions referenced in section 22-717(b). All conditions imposed shall be recorded in the minutes and correspondence sent to the applicant and other parties registering an interest and may, at the discretion of the commission, be recorded, at the expense of the applicant, in legal documentation filed in relation to the property at the county register of deeds. All such conditions shall be fully binding upon the property as if they were specific terms of this article.
- (9) A decision of the plan commission granting or denying a conditional use may be appealed to the common council. Applications for such appeal shall be signed by the applicant or by persons who would have protest petition rights under Wis. Stats. § 62.23(7) were the matter one of rezoning, or by any member of the common council. Such application for appeal shall be filed within ten days of the date of the plan commission action. Upon filing of the appeal application, the entire plan commission file shall be submitted by commission staff to the city clerk for transmittal to the common council and all plan commission minutes on the matter shall be reproduced and sent to members on the common council. The appeal shall be placed on the agenda of the common council. Before rendering its decision on the

appeal, the common council shall hold a public hearing. The common council may either affirm, reverse or modify the action of the plan commission. In making its determination the common council shall be guided and controlled by subsection (a) of this section.

- (10) Where an approved conditional use contemplates construction of buildings and structures, the failure to commence such construction within one year after approval of the conditional use shall render the approval void. In addition, the failure to complete such construction within two years after approval shall render the approval void unless the applicant has demonstrated good cause to the plan commission and the plan commission has affirmatively voted to provide such an extension. In no case shall the plan commission grant an extension longer than one year nor shall the plan commission grant more than one extension for a single approved conditional use.
 - (11) If a use allowed by a conditional use permit is established but ceases for a period of 24 or more consecutive months, the conditional use permit for the area shall expire.
- (c) *General standards.* No conditional use shall be approved by the plan commission unless the commission shall find:
- (1) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (2) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
 - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4) That adequate utilities, access road, drainage and/or necessary facilities have been or are being provided.
 - (5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - (6) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
- (d) *Conditions.* Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the plan commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter.

(Ord. No. 2010-O-09, § 22.115, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012)

Sec. 22-641. - Conditions on rezonings.

- (a) Statement of purpose. Conditional re-zonings are authorized as provided herein to enable adaptation of zoning to unique circumstances regarding particular sites, uses or neighborhoods when the city has not had sufficient experience with the type of use in question to lead to treatment of the use as conditional use.

- (b) The plan commission may recommend and the common council may adopt an ordinance effecting an amendment of the zoning district map containing the condition that the change in the map will take effect on such date occurring within three months of the date of common council approval of the amendment when the first on-site inspection for building location is made and approved for the project sought to be established, and in the event such approved inspection has not occurred by the three-month time period, the possibility of making effective the re-zoning will then be terminated.
- (c) The plan commission may recommend and the common council may adopt an ordinance effecting an amendment of the zoning district map containing the condition that the change in map will take effect on such date occurring with within three months of date of common council approval of the amendment when a restrictive covenant has been recorded binding the property to conditions specified in the amending ordinance, and in the event such covenant is not recorded by the end of the three-month period, the possibility of making effective the re-zoning will then be terminated. Conditions specified to be in such required covenants shall be related to the purposes of the ordinance. They may include, as specific cases warrant, limits of permissible uses to less than the full range of uses otherwise allowable in the district into which the land is being placed. Enforcement rights over such covenant controls shall be afforded to the city and owners of property within 300 feet of the site. The covenant controls shall be amendable or repealable upon petition of the owner of the lands subject to the controls, and approval of the common council after a hearing similar to a re-zoning hearing. A re-zoning of the lands to a different zoning district shall also act to repeal the covenant controls. Except as provided above, the covenants shall run with the land.
- (d) Other similar controls appropriate to handling by covenant provisions may also be imposed.

(Ord. No. 2010-O-09, § 22.116, 10-12-2010)

Sec. 22-642. - Zoning board of appeals.

- (a) *Appointments, terms, rules and procedures.* The zoning board of appeals shall be appointed and shall be governed as to terms, vacancies, removals, and as to rules and procedures by Wis. Stats. § 62.23(7)(e) and by provisions herein.
- (b) *Functions of zoning board of appeals.* Functions of the board of appeals shall be to hear and decide applications for variances under the zoning ordinance and to hear and decide applications for appeal of administrative interpretations.
- (c) *Public hearings.* The zoning board of appeals shall conduct a public hearing on all administrative appeals, variances and other decision matters before it and shall cause a class I notice under Wis. Stats. ch. 985 to be published and shall give due notice of the hearing to all parties in interest. For appeals or variances in overlay districts written notice shall be given to the southern district office of the department at least ten days prior to hearings on proposed variances and appeals for map or text interpretation.
- (d) *Any party may appear in person or by agent at such hearing.* The chair may administer oaths to parties testifying and may compel attendance of witnesses. All testimony before the board by persons other than board members and all documentary evidence or material pertaining to matters before the board shall be received at hearings conducted by the board, provided that the content of relevant ordinance or statutory materials shall be deemed to be before the board in all cases and need not be entered into the record. All parties in interest shall be afforded reasonable opportunity to comment on all materials or information so

received. Board members who are in possession of facts that may have a bearing on the matter before the board shall enter same into the record of the hearing and opportunity shall be allowed for comment on such entries.

- (e) *Deliberations and decisions.* The board shall deliberate on matters before it. The concurring vote of four members of the board shall be necessary to approve any appeal, variance or other decision matter before the board. The vote of each matter decided by the board shall be recorded in the minutes. If a member is absent or if a member fails to vote, such facts shall similarly be recorded. The minutes of the board shall show the board's decisions and the votes of members thereon. Each decision of the board shall be accompanied by written reasons in support of the decision. All decisions shall be made in strict accordance with the standards of the ordinance and the board shall decide all matters before it within a reasonable time. For overlay districts copies of all decisions shall be submitted to the department within ten days after they are granted or denied.

(Ord. No. 2010-O-09, § 22.117, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012)

Sec. 22-643. - Appeals board functions—Appeals of interpretations of the zoning administrator.

- (a) *Appealable matters.* Decisions by the zoning administrator that consist of interpretations of the terms of the city zoning ordinance and that are made in the course of determining whether a permit or approval will be issued by the administrator are appealable to the zoning board of appeals as administrative appeals. Decisions by the zoning administrator to issue an enforcement demand or to commence other enforcement activities, where the administrator has determined that a violation of the ordinance exists, are appealable to the board of appeals as an administrative appeal.
- (b) *Procedures for initiating an administrative appeal.*
- (1) *Eligible appellants.* Administrative appeals may be initiated by any person aggrieved by the decision or interpretation being appealed, or by any officer, department, board or committee of the city government.
 - (2) *Time for appeals.* An appeal shall be commenced within 30 days after decision or interpretation was made.
 - (3) *Initiating an appeal.* An appeal may be commenced by filing with the zoning administrator a notice of appeal identifying the decision being appealed, the grounds for the requested relief and payment of applicable fees. Upon receipt of such a notice, the zoning administrator shall notify the board of appeals and shall transmit to the board all papers and files which constitute the record of the decision being appealed.
 - (4) *Stays.* An appeal of a decision to issue a permit or approval or to issue an enforcement demand or to commence other enforcement proceedings shall cause the permit or approval action to be suspended or shall stay further enforcement prosecution unless the zoning administrator or city attorney files with the board of appeals a certificate, supported by a statement of facts, alleging that suspension or stay will cause imminent peril to life or property. If such a certificate is filed, proceedings shall not be stayed except upon a restraining order issued by a court.

(5)

Decisions of the zoning board of appeals. Following the procedures specified in section 22-642(c) through (e), the board shall decide the matter based upon whether the decision, determination or interpretation being appealed was in error. The board may reverse or affirm, wholly or partly, or may modify the decision appealed from, or may make such decision as ought to have been made, and to that end shall have all powers of the officer from whom the appeal is taken. Decisions by the board on administrative appeals shall be based upon the terms of the ordinance and evidence as to legislative intent.

(Ord. No. 2010-O-09, § 22.119, 10-12-2010)

Sec. 22-644. - Same—Variances.

- (a) *Initiating a request for variance.* Applications for variances in zoning regulations may be filed by any party having a property interest in the property in question, along with payment of the applicable fee. The zoning administrator shall transmit the application to the board.
- (b) *Review and decision.* Following a public hearing and other investigations, including review of plan commission recommendations, if available, the board shall decide the matter based upon the following standards:
 - (1) No variance may be granted that would have the effect of allowing a use of land or property that would violate state law or administrative rules.
 - (2) To grant a variance, the board must find that the variance will not be contrary to the public interest where, owing to special and peculiar conditions, applicable only to the specific property in question, a literal enforcement will result in exceptional practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public health, safety and welfare secured and substantial justice done.
 - a. Exceptional practical difficulty and unnecessary hardship shall be construed as a whole, with no distinction made.
 - b. When considering a dimensional standard variance that will not involve significant change in the character of the neighborhood, the hardship/difficulty test is whether compliance with the strict letter of the restrictions on lot area, setbacks, frontage, height, lot area coverage or occupancy or density would unreasonably prevent the owner from using the property for an allowed purpose or would render conformity unnecessarily burdensome.
 - c. When considering a dimensional variance that would, if approved, cause significant change in the character of the neighborhood, the hardship/difficulty test is whether, in absence of approval, no feasible use can be made of the property.
 - d. Use variances (variances allowing a use not specified for that district by this article) should be considered only when the use in question is new or is one not provided for anywhere in the ordinance. The board may consider such variances only when the use is very similar in its inherent characteristics and impact characteristics to uses within the district in question.
 - (3) The board may grant a variance to extend a zoning district boundary for a distance not to exceed 25 feet, but only where the boundary of a district divides a lot in a single ownership.

(Ord. No. 2010-O-09, § 22.120, 10-12-2010)

Sec. 22-645. - Zoning administrator.

- (a) *Position designated.* A zoning administrator shall be designated through city personnel procedures.
- (b) *Duties, responsibilities and authority.*
 - (1) *Records.* The zoning administrator shall be responsible for keeping all records of applications received, committee, board or office actions on such applications, permits issued, inspections made, enforcement actions undertaken and similar activities, as well as general correspondence pertaining to the functions of the office and program.
 - (2) *Inspections.* Zoning administration shall make such inspections of premises as are required, to determine compliance of land use activities with the terms of this chapter. Except in cases of emergency, such inspections shall be made only at reasonable hours, with reasonable notice to property owners and/or occupants and with consent, unless made pursuant to an inspection warrant issued pursuant to state law.
 - (3) *Determinations and interpretations.* The zoning administrator shall make those administrative decisions and determinations required for administration of this chapter.
 - (4) *Permits, approvals, fees or certificates of occupancy.* The zoning administrator shall receive applications under this chapter and shall process the applications and collect and dispose of fees in accordance with city ordinance and administrative procedures. Permits or approvals issued by the zoning administrator shall be issued on the basis of plans and applications as submitted and authorize only the uses, arrangements and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this chapter. Permits shall lapse and become void if operations described in the permit are not commenced within one year of issuance of the permit, unless otherwise specified in this chapter or by specific approval of an extension or variation.
 - (5) *Advice and recommendations.* The zoning administrator shall, upon general or specific request of the plan commission or board of appeals or other body or officer of the city, issue reports, and make recommendations on matters that come before such commission, board or officer.

(Ord. No. 2010-O-09, § 22.125, 10-12-2010)

Sec. 22-646. - Permits.

- (a) Certain development activities and occupancies shall require application for and issuance of a permit in order for them to be legally established. The plan commission is hereby delegated the authority to promulgate permit requirements, to establish forms for permit applications and permit forms themselves.
- (b) Failure to obtain a required permit is a violation of this article.
- (c) Issuance of a permit authorizes only the development of occupancy set forth in approved plans submitted as part of a permit application and no other development or occupancy. Issuance of a permit creates no liability on the part of the city or its issuing officers and does not limit the right of the city to change ordinance requirements.

Sec. 22-647. - Park fee requirements.

The following fees shall be required as a condition for any rezoning, conditional use permit or design review for any residential unit receiving such approval within the city, unless provision of fee, land or street frontage for the proposed development has been applied previously to the real estate subject to the application. This section is not applicable to the SmartCode District under chapter 23.

(1) *Fee in lieu of dedication.*

- a. Chapter 24, land division, requires a park land dedication of 2,900 square feet per dwelling unit. Where the park commission, in its sole discretion, determines that there is no suitable land for a park, or parks, within the proposed development, the dedication of land is not feasible, or the dedication would not be compatible with the comprehensive plan, or the park commission determines that a cash contribution would better serve the public interest, the parks commission shall then require a fee in lieu of making a land dedication.
- b. The fee to be imposed under subsection (1)a of this section shall be a per dwelling unit fee as set forth in the annual budget appendix fee schedule. In calculating the fee, the typical cost of land sold for residential subdivisions or development shall be considered. This fee shall be collected and paid in lump sum, prior to any land division being executed by the city, or prior to any zoning permit or building permit being issued if a land division is not required.
- c. The park commission may, in its sole discretion, permit the developer to satisfy the requirement of subsection (1)a of this section by combining a land dedication with a fee payment.
- d. The city shall place any fee collected pursuant to the provisions of this section in a separate account to be used for land acquisition and development of adequate park, playground, recreation and open space to meet the needs created by the proposed development.

- (2) *Park improvement fee.* The developer shall pay, prior to issuance of a zoning permit or building permit a per dwelling unit park improvement fee (a separate fee for single-family units, two-family units and multifamily units) as set forth in the annual budget appendix fee schedule. The collected fees shall be utilized to construct park facilities for the plat, survey or development. The park commission shall give priority to establishing the proper neighborhood park facilities according to the plan for parks and open spaces and the generally accepted standards prior to expenditure for facilities in area or community parks. The collected fee shall go into special segregated funds. The fee, per unit, relates to the cost of improvements for a neighborhood park.

(3) *Reserved.*

(Ord. No. 2010-O-09, § 22.128, 10-12-2010; Ord. No. 2018-O-38, § 4, 11-27-2018)

Sec. 22-648. - Enforcement.

- (a) *Declarations of unlawful conduct, activities and conditions.*

(1)

It shall be unlawful for any building or structure to be erected, constructed, placed, moved or structurally altered, or for any use of land, premises, building or structure to be established or changed in violation of the provisions of this chapter.

- (2) It shall be unlawful to fail to comply with any standard of this chapter or with any condition or qualification placed upon the issuance of a permit or approval or variance granted in due course under this chapter.

(b) *Liability.*

- (1) Owners of lands or properties, occupiers of land or premises, and agents of owners or occupiers including, without limitation because of enumeration, contractors, surveyors, plumbers, installers, soils technicians, or their agents, or lending institutions and insurers or their agents are responsible for compliance with all provisions of this chapter which bear upon their area of competency and responsibility.
- (2) Any such party who violates or aids or abets in a violation shall be liable to prosecution or remedial action.
- (3) This chapter applies fully to all public governmental and quasi-public and quasi-governmental lands, developments and activities unless specifically exempted by state or federal law.

(c) *Investigation of compliance; notice of violations.*

- (1) The zoning administrator is responsible for inspecting and investigating compliance of land use activities with the terms of this chapter.
- (2) If, upon such inspection or investigation, the zoning administrator becomes aware of a condition which he/she concludes is or likely to become unlawful, the administrator shall immediately notify the parties to the situation whom he/she deems to be responsible and potentially liable. Such notice shall include:
 - a. A demand that the condition that is alleged to constitute the present or potential violation be halted, prevented from occurring or remedied; or
 - b. A statement that a complaint on the condition and request for prosecution has been or will be transmitted to the city attorney and/or to enforcement officials, state agencies, or both.
- (3) If an enforcement demand is issued and is not complied with, the zoning administrator may file a request for prosecution with the city attorney, unless an administrative appeal has been commenced and a stay order has been issued.

(d) *Enforcement and penalties.*

- (1) Any building or structure hereafter erected, moved or structurally altered or any use hereafter established in violation of any provision of this Code shall be deemed an unlawful building, structure or use. The zoning administrator shall promptly report all such violations to the city attorney who shall cause an action to be brought to enjoin the erection, moving or structural alteration of such building or the establishment of such use or to cause such building, structure or use to be vacated, or removed.
- (2) Any person who violates any provision of this Code or disobeys or refuses to comply with the enforcement of any provision of this Code shall also be subject to a forfeiture of \$100.00 per day.

(e) *Other enforcement provisions.*

- (1) Where a conditional use, variance, planned development or design review has been approved subject to specified conditions, and where such conditions are not complied with, the body which last approved such conditions may conduct a hearing pursuant to this section upon a petition submitted by any interested party or by the zoning administrator to revoke the approval. A finding of noncompliance with the conditions imposed shall be grounds for revocation.
- (2) Relationship to nuisance actions. No provision of this chapter shall be construed to bar an action to enjoin or abate the use or occupancy of any land or structure as a nuisance upon the laws of the state.
- (3) Conditions placed on rezonings, approvals or permits may include requirement of bonds or similar surety arrangements to ensure performance of required obligations.

(Ord. No. 2010-O-09, § 22.130, 10-12-2010)

Sec. 22-649. - Interpretation and definitions.

- (a) *Relationship of zoning to plan documents.* City comprehensive plan documents or plans for components of city development shall, unless otherwise specified herein, be guides to interpretation of this chapter. Wherever possible, interpretation decisions rendered under this chapter shall harmonize zoning regulation decisions with plans and with other plan implementation regulations.
- (b) *General intent.* The intent of this chapter is to contribute to the betterment of the community for the benefit of persons who reside in the community. The chapter intends to promote the public health, safety and welfare, to promote orderly development in all sectors, and to maintain and improve the quality of the community.
- (c) *Rules of language construction.* The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:
 - (1) The singular number includes the plural and the plural is singular.
 - (2) The present tense includes the past and future tenses and the future the present.
 - (3) The word "shall" is mandatory and the word "may" is permissive.
 - (4) The masculine gender includes the feminine and neuter genders.
 - (5) Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning shall be construed as set forth in such definition thereof.
- (d) *Liberal interpretation.* In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.
- (e) *Conflicting regulations.* Where the standards of this chapter are either more restrictive or less restrictive than standards imposed by any other laws, ordinances, statutes, resolutions, or regulations, the regulation that is more restrictive or that imposes higher standards or requirements shall prevail. The SmartCode, chapter 23, shall prevail over the terms of this chapter.
- (f) *Classification of uses.* In each zoning district, there are uses which are permitted uses and uses which are conditional uses.
 - (1)

Permitted uses for each district may be undertaken in that district upon issuance of a zoning permit for those permitted uses that require a permit, and upon compliance of the use with other applicable laws and ordinances.

- (2) Uses listed in each zoning district as conditional uses may be undertaken in that district only upon approval of a conditional use application pursuant to this chapter and upon compliance of the use with other applicable laws and ordinances.
- (3) A term "allowable uses" in this chapter refers to both permitted and conditional uses.
- (g) *Uses not classified.* When a use is not specifically provided for in this chapter, the plan commission or a property owner may request a study by the plan commission to determine whether the proposed use is compatible with the land use plan, what zoning district would be appropriate and a determination as to conditions and standards relating to such use; the common council may, upon receipt of the study, initiate an amendment to this chapter to provide for the particular use under consideration or find that the use is not compatible in the particular location.
- (h) *Separability.* It is hereby declared to be the intent of the common council that the several provisions of this chapter are separable. If a court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, such judgment shall not affect any other provision of this chapter not specifically included in said judgment. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to particular property, building or structure, such judgment shall not affect application of said provision to any other properties, buildings or structures not specifically included in said judgment.
- (i) *SIC reference.* Use listings in the business and industrial districts generally employ terminology of the Standard Industrial Classification SIC Manual published by the US Printing Office and interpretive decisions shall be guided by reference to that publication.
- (j) *General provisions for use.* Any use not listed as a permitted use in a district is prohibited in that district and except as otherwise expressly provided, any use listed as a permitted use in any other district shall be construed as a prohibited use in any other district.
- (k) *"Land use plan" and "master plan" defined.* The terms "land use plan" and "master plan" shall mean the city comprehensive plan, adopted March 24, 2009, as subsequently amended.

(Ord. No. 2010-O-09, § 22.135, 10-12-2010)

Sec. 22-650. - Standards for lots and setbacks.

- (a) Each lot newly created shall provide appropriate size, shape and configuration for the uses that predominate or typify the zoning district in which the lot is established.
- (b) Each structure or occupancy for which a minimum lot size and lot dimensions are specified in this chapter shall have a lot prescribed for it, either a traditional legal land parcel or a zoning lot. A zoning lot is a lot equivalent, exclusively identified for the particular structure or occupancy to allow determination of lot standards. The structure or occupancy need not have exclusive legal possession of the zoning lot, but no two zoning lots shall overlap. The zoning administrator or plan commission may establish rules so that zoning lots function in a manner equivalent to traditional lots, but condominium forms of ownership shall not be discriminated against in the administration of this chapter.
- (c)

No required yard shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this chapter.

(d) Setbacks are established within the various use districts. No structure to accommodate a principal use may be established or maintained within a setback. Section 22-55 governs other structural development or occupancies within setbacks.

(e) The provisions of this section shall not be applied to projects permitted under the SmartCode District, chapter 23.

(Ord. No. 2010-O-09, § 22.136, 10-12-2010)

Sec. 22-651. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory means a use of property or an activity that is subordinate and incidental to the primary use and/or activity and that does not alter the appearance of the premises or the external impacts that the premises has on the neighborhood so as to be out of character with dominant, principal uses allowed under this chapter.

Agricultural accessory use means any of the following land uses on a farm:

- (1) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
- (2) An activity or business operation that is an integral part of, or incidental to, an agricultural use.
- (3) A business, activity, or enterprise, whether or not associated with an agricultural use that is conducted by the owner or operator of a farm, that requires no buildings, structures or improvements other than those described in part (1) or farm residences that employ no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

Agricultural entertainment A farm-based activity, enterprise or business that combines the elements and characteristics of agriculture and tourism or education, and is accessory to a principal agricultural use, which is not necessarily located in an existing building and may have more than one full-time equivalent employee. Examples of agricultural entertainment include: corn mazes, hay rides, sleigh rides, petting farms, on farm tours, agricultural-related museums, demonstrations of farming practices, techniques and methods, fee-based fishing and hunting, horseback riding, nature trails, haunted barns and similar activities which are related to agriculture.

Agricultural related use means:

- (1) An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
- (2) Any other use that the department of agriculture, trade and consumer protection (DATCP), by rule, identifies as an agriculture-related use.

Agricultural uses mean any of the following:

- (1)

Any of the following activities conducted for the purpose of producing an income or livelihood: crop or forage production, keeping livestock, beekeeping, nursery, sod or Christmas tree production, floriculture, aquaculture, fur farming, forest management and enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

(2) Any other use that the department of agriculture, trade and consumer protection (DATCP) by rule, identifies as an agricultural use.

Animal husbandry means all operations primarily oriented to the on-site raising and/or use of animals, at an intensity of less than one animal unit per acre. It does not include domestic animals that are raised or live in or about habitation of humans and are dependent on people for food or shelter. Animal husbandry is limited to rabbits, poultry, beekeeping, fish farming, and only where and when the person performing the animal husbandry lives on the site.

Animal unit. One animal unit shall be defined as being the equivalent of one cow, or four hogs, or ten sheep, or ten goats, or 100 poultry, or one horse, or one pony, or one mule, or 100 rabbits.

Bed and breakfast establishment means a lodging establishment as defined in Wis. Stats. § 254.61, such that the establishment shall provide eight or fewer rooms for rent to no more than a total of 20 tourists or transients, provides no meals other than breakfast and provides the breakfast only to renters of the place, is the owner's personal residence and is occupied by the owner at the time of lodging. In addition, the bed and breakfast must have been originally built and occupied as a single-family residence, or prior to use as a place of lodging, was converted to use and occupied as a single-family residence.

Boathouse, as defined in Wis. Stats. § 30.121(1), means a permanent structure used for the storage of watercraft and associated materials and includes all such structures which are totally enclosed, have roofs or walls, or any combination of structural parts.

Building means a structure having a supported roof intended for a shelter or enclosure.

Building height measurement means a distance to be measured from the mean ground eave immediately adjoining the front of the structure to the top of the cornice of a flat roof, or to the deck line of a mansard roof, or to a point on the roof directly above the highest wall of a shed roof, or to the uppermost point on a round or other arch type roof, or to the midpoint of the highest gable on a pitched or hip roof.

Building permit means the permit or permits issued by the zoning administrator in enforcing this chapter.

Building separation means the intended purpose of side yard setbacks, specifically to allow adequate separation for privacy, fire safety, emergency vehicular access and open space provision.

Campground means a parcel or tract of land, maintained, intended or used for the purpose of supplying temporary or overnight living accommodations to the public by providing designated areas for the placement of trailers, tents, buses, automobiles or sleeping bags, and may include buildings to provide services to the patrons such as restrooms, bathing, laundry and commissary facilities. A primitive campground shall be any area or site designated for camping purposes which is accessible only by hiking, boating or canoeing.

Cemetery shall include, but not be limited to, cemeteries, mausoleums, columbarians, crematoriums and burial chapels and shall be subject to Wis. Stats. § 157.06.

Certificate of compliance means a certification issued by the zoning administrator stating that the construction and use of land or a building, the elevation of fill or the first floor of a structure is in compliance with all of the provisions of this article.

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

Church is defined in section 22-222.

Classes of notice shall be established pursuant to Wis. Stats. ch. 985.

Clinic means an office or building in which dental, veterinary, medical or paramedical services are provided on an out-patient basis. Such services as laboratory, X-ray and first aid services may be provided.

Club means a nonprofit association of persons paying membership fees, whose premises are generally restricted to members and their guests.

Commercial animal operation means a licensed establishment for the housing, grooming, breeding, boarding, training or selling of animals on a commercial, for gain basis.

Community garden means one form of urban agriculture, where an area of land is managed and maintained by a non-profit organization, neighborhood group, community group, or the city. The land is categorized into management plots (usually not exceeding 20 feet by 20 feet), with each plot gardened by different citizens or groups to grow locally produced food and/or ornamental crops, such as flowers, not for sale.

Conceal from view means substantially block view from most off-site locations. A site is not required to be concealed from view from locations that have considerably higher elevation.

Conditional use means a use which is permitted by this article provided that certain conditions specified in the ordinance are met and that a permit is granted by the plan commission or, where designated, the board of appeals.

Consistent with means free from variation or contradiction so that there is agreement between the comprehensive plan and the regulations used to implement the comprehensive plan. A regulation is consistent with the comprehensive plan if any element addressed in both the comprehensive plan and the proposed regulations are free from variation, is in agreement, and achieves the goals, objectives and policies of the comprehensive plan.

Construction equipment shall include, but not be limited to, tractors, both wheeled and crawler types, graders, end loaders, scrapers, bulldozers, cranes, back hoes, drag lines, trucks, including dump, stake body or semi-trailer of more than 2½ ton capacity, utility service vehicles and air compressors. Any of the aforementioned equipment that is used in connection with a farm operation and is not leased or contracted for use on any other property shall not be considered construction equipment.

Convenience cash business is a business licensed pursuant to Wis. Stats. § 138.09, or 218.05 which provide nontraditional, short-term consumer loans in which the consumer receives cash in exchange for giving the lender a post-dated check, title to a motor vehicle, or electronic access to the consumer's bank account for the amount of the loan for a period of time before negotiating the check or for payment to the lender an agreed-upon finance fee or refinancing or consolidating such transaction. Such businesses are also known as, but not limited to, payday loan, cash

advance, or check-cashing, or title loan. This does not include financial institutions authorized to do business under state or federal laws including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan associations and credit unions.

Cooperative housing means a dwelling unit where 100 percent of ownership is held by a cooperative corporation incorporated under Wis. Stats. ch. 185 in which all the residents are members of the cooperative, as the term is used in Wis. Stats. ch. 185. In such housing all residents have private bedrooms, but share cooking, dining and common areas and share some household maintenance and cooking duties. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

Day care means provision of custodial care for persons for remuneration. If done within a dwelling unit in which residential living is the primary usage in residential occupancy, the use is classified as family day care. If done in other premises, the use is classified as general day care.

Department means the Wisconsin Department of Natural Resources.

Development means any new use, change of use and any change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; any placement of mobile homes; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials or public or private sewage disposal systems or water supply facilities.

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

Dwelling structures means buildings having one or more dwelling units plus associated areas (storage, utility spaces, recreation spaces, hallways, entryways). Dwelling structures do not, for purposes of this article, include mobile homes or manufactured homes.

Dwelling units means sets of rooms or spaces within which sleeping, kitchen, bathroom facilities are provided, contained within the unit, and serving a single person or group of persons who constitute the household that is occupying the dwelling unit.

Electrical interconnection means the point at which the wind tower electrical system is connected to an existing electric distribution system.

Encroachment means any fill, structure, building, use or development in the floodway.

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

Equipment means apparatus not constituting a structure.

Existing mobile home park or mobile home subdivision means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale on which the construction of facilities for servicing the lots (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of the ordinance from which this article is derived.

Family means any number of individuals related by blood or marriage, or not to exceed five persons not so related, living together on the premises as a single housekeeping unit, including any domestic servants.

Farm. See Wis. Stats § 71.613(1)(d).

Farm residence. A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:

- (1) An owner or operator of the farm.
- (2) A parent or child of an owner or operator of the farm.
- (3) An individual who earns more than 50 percent of his or her gross income from the farm.

Federal Emergency Management Agency (FEMA) means the federal agency that administers the National Flood Insurance Program.

Fixed houseboat, as defined in Wis. Stats. § 30.121(1), means a structure not actually used for navigation which extends beyond the ordinary highwater mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas caused by the overflow of inland waters, or the unusual and rapid accumulation or runoff of surface waters from any source. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Floodplain means that land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain is comprised of the floodway and the floodfringe and general floodplain areas.

Freeboard represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a river or stream bed.

Garage means that part of a building or structure, including a carport intended or used primarily for storing passenger vehicles, trailers, motor homes, and trucks.

Garage sale means any display of used goods, and sale of said goods on a property customarily used as a residence. The person or persons conducting the sale shall reside on the lot where the same is conducted.

Gas station.

- (1) *Gas station, class I*, means a retail place of business engaged only in the sale of motor fuels and incidental petroleum products.

- (2) *Gas station, class II*, means a retail place of business engaged primarily in the sale of motor fuel, but also engaged in supplying goods and services generally associated with the operation and maintenance of motor vehicles. This may include the sale of petroleum products, sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services and the performance of automotive maintenance and repair.
- (3) *Gas station, class III*, means a retail place of business engaged in the sale of motor fuels and dispensing of services generally associated with the operation and maintenance of motor vehicles; the dispensing of food when food is served to a customer and consumed by him/her while seated at a counter or table; and providing of places of temporary residence for motorists, tourists or travelers.

Group home means community living arrangements under Wis. Stats. § 46.03(22), including those child welfare agencies, group homes for children and community based residential facilities identified therein. For purposes of applying lot size, parking and similar requirements to group homes, the zoning administrator shall classify the structure by size as being equivalent to a single-family, two-family or a multiple-unit structure with a specified number of units or equivalent units.

Hard surfaced parking and drive areas means effectively dust-proofed, through means as specified by the city zoning administrator. The administrator shall, from time to time, consult with the plan commission in regard to this list of means.

Hearing notice means a publication or a posting meeting the requirement of Wis. Stats. ch. 985. Class 1 notice is required at a minimum for appeals; published at least one week (seven days) before the hearing. Class 2 notice is required at a minimum for all zoning ordinances and amendments; published twice, once each week consecutively, the last publication at least one week (seven days) before the prior.

Home occupation or household occupation means a limited vocational activity allowed as part of a residential occupancy, provided that such activity meets the following criteria:

- (1) The activity must be clearly secondary and incidental to residential use.
- (2) The activity must not significantly alter the residential character on the dwelling unit, dwelling structure or the parcel.
- (3) The activity must not unreasonably interfere with residential occupancy of other parcels in the neighborhood.
- (4) The activity must not create environmental, safety or health hazards such as noise, lights, odors, vibrations, electrical emissions, or other fire or safety hazards that are noticeably out of character with those produced by normal residential occupancy.
- (5) Traffic generated by the vocational activity may not exceed that which is customary to residential occupancies in the neighborhood.
- (6) Signage for the vocational activity must comply with city sign regulations.
- (7) The parcel and structure must contain adequate area to accommodate the vocational activity without interfering with residential occupancy of other parcels in the neighborhood.

Hospital means an institution providing health services, primarily for in-patients, and medical and surgical care of the sick and injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

Hotel means a building in which board and lodging are provided to the transient public for compensation.

Hydraulic reach means that portion of the river or stream extending from one significant change in the hydraulic character of the river or stream to the next significant change. These changes are usually associated with breaks in the slope of the water surface profile, and may be caused by bridges, dams, expansion and contraction of the water flow, and changes in stream bed slope or vegetation.

Hydrologic reach means a designated length of river, stream or lake where the storage of floodwaters therein has been taken into account to reduce the regulatory flood discharge. Major manmade or natural changes in the river character, limits of political jurisdiction, or a change in the flood-routing technique used to determine the storage and translation of a flood wave through the area of interest may be used to define the end of a hydrologic reach (e.g., a dam may be considered a major manmade change in the river character or a change from channel routing to reservoir routing may be considered a major change in the flood-routing technique).

Incidental encompasses secondary and accessory and means developments and occupancies that are subordinate or secondary to the actual dominant use or the uses that are intended to be dominant in the district.

Incidental retail sales means sales provided for the convenience of occupants of the building.

Land use means any nonstructural use made of unimproved or improved real estate. Also see *Development*.

Lines represents the limits of obstruction to flood flows. These lines are designated on both sides of, and generally parallel to, the channel of a river or stream. They are established by assuming that the area landward (outside of the encroachment lines) will ultimately be developed in such a way that it will not convey flood flows, but the development will not cause an increase to regional flood elevations upstream. It is assumed that any development riverward of these lines will cause an obstruction and will require a detailed analysis to determine its effect on the regional flood elevations upstream.

Livestock includes, but is not limited to, bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm raised fish.

Lot area means the area of a lot in a horizontal plane bounded by the lot lines, but not including any area occupied by waters of an existing lake or river or by wetlands or by lands which have been dedicated as a public thoroughfare, street, park, conservation area, path or trail. Each dwelling structure shall have a lot and a lot area within that lot specified for it and all submission for city approval and all approvals shall specifically reference the lot and lot area for each dwelling structure. Required lot areas shall be owned in fee title. It shall not be legal to establish required lot dimensions by combining lands owned in fee title with lands in which the owner has only an easement or similar interest.

Lot coverage means the portions of a lot or parcel occupied by the principal structure or structures; detached garages and carports; detached gazebos, screen enclosures and patios and decks as provided in [section 22-56](#); storage buildings, sheds and enclosures; pet houses/runs and hard surface play areas not part of a driveway. Pool decking shall

be considered as a patio or deck.

Lot line means a perimeter line of a lot, except where any portion of a lot extends into the public right-of-way or a proposed public right-of-way, the nearest line of such public right-of-way shall be the lot line for applying the provisions of this chapter.

Lot line, front, means the boundary of a lot which abuts an existing public street, and in the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are within ten percent of being equal, the front lot line shall be that street line designated by the owner and filed in the office of the zoning administrator.

Lot line, rear, means that boundary line of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be aligned ten feet in length within the lot, connecting the side lot lines and parallel to the front lot line.

Lot line, side, means any boundary of a lot which is not a front lot line or a rear lot line.

Lot of record means a platted lot or lot described in a certified survey map or metes and bounds description which has been approved by the city or by the county and has been recorded in the office of the register of deeds.

Lot width means the minimum distance between the side lot lines of any lot measure parallel to the front lot line measured at the setback distance required by this article.

Manufactured home means any structure, transportable in one or more sections, which in the traveling mode is 12 body feet or more in width, and 18 feet or more in length and at least 864 square feet when erected on site, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and which complies with all manufactured home construction and safety standards established under 242 USC 5401 et seq.

Manufactured housing. See Wis. Admin. Code § ILHR 20(52). The term "manufactured housing" does not include manufactured homes.

Mobile home means every vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, except that excluded from this definition is every "manufactured home" as defined above.

Mobile homes park means any plot or plots of ground upon which two or more units, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for an accommodation. Is subject to the requirements of Wis. Stats. § 66.058.

Motel means a building containing sleeping rooms for the temporary accommodation of tourists and not for permanent occupancy except by the owner or resident operator.

Municipality means city, village or town.

Navigable waters means Lake Superior, Lake Michigan, all natural inland lakes within the state, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state.

Neighboring properties means properties directly affected by deck or related developments (see [section 22-55](#)). If the neighboring property is not occupied by a dwelling structure, the plan commission must approve variations in separations.

Nonconforming structure means a structure that was once conforming to dimensional standards but is now nonconforming as to the current dimensional standards of this code.

Nonconforming use means a use or activity that was lawful prior to the adoption, revisions, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

Notice, classes. See *Classes of notice*.

Occupancy means human or human directed occupation of a lot, with or without physical, structural development.

Open space means space which is not occupied by structures, facilities or hard surface, whether or not impervious or pervious. It does not include gravel drives and parking areas, but would include clear landscape stone unless underlain by a nonpervious barrier. Open space does include lawns, gardens or bark beds, sandboxes or similar type facilities.

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

Ordinary highwater 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 characteristic.

Owner of record means the owner of a lot of record as per the then current city tax records.

Parking space, structured, means spaces inside garages roofed and enclosed on at least three sides.

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

Person aggrieved means any individual, partnership, corporation, association, public or private organization, officer, department, board, commission or agency of the municipality, whose rights, duties or privileges are adversely affected by a determination under this chapter.

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

Premises means a lot together with buildings, structures or equipment thereon.

Principal means the primary or dominant use of a lot or premises.

Recreational facility is defined in division 8 of article II.

Regional flood means a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years. This means that in any given year, there is a one percent chance that the regional flood may occur or be exceeded. During a typical 30-year mortgage period, the regional flood has a 26 percent chance of occurrence. The regional flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the general watershed region or both. FEMA uses the term "base flood" which means the regional flood.

Residential occupancy means the occupancy of a dwelling unit, dwelling structure and parcels containing such entities for residential living purposes.

Restaurant means an establishment where food and drink is prepared and served. Restaurants are classified by this chapter as follows:

- (1) Sit down, substantially all of patrons sit at tables inside.
- (2) A predominant percentage of patrons sit down inside, although some may carry out food.
- (3) A predominant number of patrons carry out, although some inside seating is provided.
- (4) All patrons carry food out.
- (5) Concession establishments without seating, selling ice cream, popcorn and comparable items as the primary use.

Roadside stand means a structure having a ground area of not over 200 square feet, not permanent by being attached to the ground, readily removable in its entirety and to be used solely for the sale of farm and garden products produced on the premises. Such structures may be located within the setback lines of roads, but shall not interfere with visibility along the highway.

Rotor means a system of rotating aerodynamic elements attached to a single shaft that converts the kinetic energy in the wind into mechanical shaft energy.

Rural event venue means an existing or new building of a traditional agrarian architectural style and surrounding grounds, requiring a rural location and located outside the city's urban service, equipped to host organized meetings and/or social-gatherings, including, but not limited to, weddings, parties, and corporate events.

Sanitary landfill means a type of land disposal operation involving the disposal of solid waste on land.

School is defined in division 8 of article II.

Secondhand business is any person or business requiring a license under [chapter 66](#) of the Fitchburg Municipal Code.

Setback means a minimum horizontal distance measured from the specified property line or street right-of-way (see lot line front) to a point parallel to the lot line or street right-of-way.

Shorelands means lands within the following distances from the ordinary highwater mark of navigable waters; 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

Sleeping room rental means rental, on a regular basis, or sleeping accommodations, whether or not combined with meals or related services, within a dwelling unit that is also occupied by the lessor.

Small animals means animals generally below a weight of 100 pounds kept on a domesticated basis as household pets, also includes birds such as parrots, parakeets, canaries and the like.

Soften views means impose partial interferences with direct visual contact from most off-site locations, so that the object of view is not constantly dominant.

Solid waste disposal operation means the operation or maintenance of a solid waste disposal site or facility, for the collection, storage, utilization, processing or final disposal of solid waste, including, but not limited to, land disposal, incinerator, transfer, air curtain destruction, composting reduction, shredding, compression, processing and salvage. In house re-use of the imperfect finished products to make a merchantable finished product is not a solid waste disposal operation.

Solid waste recycling center means a solid waste disposal operation at which temporary storage and processes such as baling of paper, grinding of glass and flattening of cans, are conducted on segregated solid waste to facilitate re-use of the segregated solid waste as raw material.

State classified manufacturing means manufacturing uses and operations as defined in Wis. Stats. § 70.955(1) to (3).

Storage capacity of a floodplain means the volume of space above an area of floodplain land that can be occupied by floodwater of a given stage at a given time, regardless of whether the water is moving.

Story (measurement of height) means that portion of the building located above the basement. A space is considered a basement if it is below grade or partly below grade but located so that the vertical distance from average grade to the floor below is more than the vertical distance from average grade to ceiling.

Structure means materials forming a construction for use, occupancy or ornamentation, whether installed on or above lands or waters. Includes buildings and other constructed objects.

Turbine height means full height measured from ground level at base to the tip of the blade vertically extended.

Unnecessary hardship means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards such as area, setbacks, frontage, or height unnecessarily burdensome or unreasonable in light of the purpose of this article. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.

Urban agriculture means cultivation or growing of vegetables, fruits, grains, nuts, herbs or flowers for human consumption or ornamental use. Urban agriculture may also include animal husbandry. Urban agriculture shall also include processing for human consumption food grown on site. Plant waste, and animal manure generated on-site may be composted and used on site as a soil amendment or fertilizer.

Use means:

- (1) A purpose or activity of a development or occupancy.
- (2)

A detached subordinate structure or a use which is clearly incidental to, and customarily found with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

Utility and governmental facility means the transmission, switching and related facilities, antenna, and similar equipment of installations necessary to conduct public utility, gas, electric, telephone, cable communications within the community or through the community; and municipal lands, facilities, installations or equipment necessary to perform governmental functions. For purposes of this section, municipal includes city, town, county, state, educational agencies, metropolitan sewerage commission, federal entities, and private entities performing public services under service contracts with the municipality. Municipality also includes private entities performing public services under service contracts with a municipality. Municipal lands and facilities include those leased by or to a municipality.

Variance means an authorization granted by the board of appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this article. A variance may not permit a use of property otherwise prohibited by the ordinance or allow construction not protected to the flood protection elevation.

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

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

Wetland district means the zoning district, created in this zoning ordinance, comprised of areas that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this article.

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

Wind turbine system means any mechanical device designed for the purpose of converting win energy into electrical or mechanical power.

Window well means an area below grade that retains the earth around a window that is either entirely or partially below grade, and is constructed for the primary purpose of providing light and ventilation and/or egress from a below grade space during an emergency.

Zero-lot line lot means a lot created with no side yard set back on one side of the lot to create a shared building envelope between the two lots. This shared building envelope shall only be used to build or divide a duplex where the common wall between the two units is built, or determined to be, the common boundary line to create two separate attached single-family dwelling units.

Zero-lot line side yard means the side yard of a zero-lot line lot with no setback. No lot can have more than one side yard with the zero set back.

Zoning lot means a lot containing a single zoning classification within all or a part of a lot of record.

(Ord. No. 2010-O-09, § 22.150, 10-12-2010; Ord. No. 2012-O-03, 4-24-2012; Ord. No. 2015-O-02, § 6, 1-27-2015; Ord. No. 2021-O-12, § 1(Exh. A), 8-24-2021)

ARTICLE VIII. - WETLAND OVERLAY ZONING

DIVISION 1. - GENERALLY

Sec. 22-676. - Statutory authorization.

This article is adopted pursuant to the authorization in Wis. Stats. §§ 62.23, 62.231, 59.692, and 281.31.

(Ord. No. 2010-O-09, § 22.201, 10-12-2010)

Sec. 22-677. - Findings of fact.

The uncontrolled development and use of the wetlands, rivers and streams, and the pollution of navigable waters of the city would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The state legislature has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty.

(Ord. No. 2010-O-09, § 22.202, 10-12-2010)

Sec. 22-678. - Purpose.

To promote the public health, safety, convenience and general welfare, and protect life, health and property this article has been established to:

- (1) Maintain the stormwater and floodwater storage capacity of wetlands;
- (2) Protect life, health and property;
- (3) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Protect fish spawning grounds, fish, aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat;
- (5) Prohibit certain uses detrimental to the wetland area;
- (6) Preserve shore cover and natural beauty by restricting wetland excavation, filling and other earth moving activities;
- (7) Minimize expenditures of public monies for costly flood control projects;
- (8) Reduce rescue and relief efforts, generally undertaken at the expense of the tax paying public;
- (9) Prevent business interruptions which usually result in the loss of local incomes;
- (10) Reduce damage to public facilities such as utilities, municipal buildings, streets and bridges which may be located in the floodplains;

- (11) Prevent the occurrence of future flood blight areas on floodplains;
- (12) Discourage the victimization of unwary land and home buyers; and
- (13) Prevent increases in regional flood heights which could increase damage during floods and which may result in conflicts or litigation between property owners.

(Ord. No. 2010-O-09, § 22.203, 10-12-2010)

Sec. 22-679. - Title.

This article shall be known as the Wetland Overlay Zoning for the City of Fitchburg, Wisconsin.

(Ord. No. 2010-O-09, § 22.204, 10-12-2010)

Sec. 22-680. - Compliance; other permits.

Any development, as defined in section 22-651, in wetlands shall be in full compliance with the terms of this article. However, see section 22-691 for the standards applicable to nonconforming uses. It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1344.

(Ord. No. 2010-O-09, § 22.211, 10-12-2010)

Sec. 22-681. - Municipalities and state agencies regulated.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Wis. Stats. § 30.12(4)(a) applies.

(Ord. No. 2010-O-09, § 22.212, 10-12-2010)

Sec. 22-682. - Abrogation and greater restrictions.

- (a) This article supersedes all the provisions of any zoning ordinance enacted under Wis. Stats. § 62.23 which relate to wetlands, except that where another zoning ordinance is more restrictive than the provisions contained in this article, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise. The more restrictive of either the wetland district or floodplain district (see article X of this chapter for floodplain district regulations) regulations shall apply when a property is located in both zoning overlay districts.
- (b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this article imposes greater restrictions, the provisions of this article shall prevail.

(Ord. No. 2010-O-09, § 22.213, 10-12-2010)

Sec. 22-683. - Interpretation.

In their interpretation and application, the provisions of this article 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 powers granted by the state law. Where a provision of this article is required by a standard in Wis. Admin. Code ch. NR 117, and where the article provision is unclear, the provision shall be interpreted in light of the Wis. Admin. Code ch. NR 116 or Wis. Admin. Code ch. NR 117 standards in effect on the date of the adoption of the ordinance from which this article is derived or in effect on the date of the most recent text amendment to this article.

(Ord. No. 2010-O-09, § 22.214, 10-12-2010)

Sec. 22-684. - Severability.

Should any portion of this article be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this article shall not be affected.

(Ord. No. 2010-O-09, § 22.215, 10-12-2010)

Sec. 22-685. - Zoning maps.

The maps designated below are hereby adopted and made part of this article. They are on file in the office of the zoning administrator:

Wisconsin Wetland Inventory maps stamped "FINAL" on January 22, 1986.

(Ord. No. 2010-O-09, § 22.216, 10-12-2010)

Sec. 22-686. - District boundaries of wetlands.

- (a) The wetland zoning district includes all wetlands in the city which are two acres or more in size and are shown on the final wetland inventory map that has been adopted and made a part of this article in section 22-685.
- (b) When an apparent discrepancy exists between the wetland district boundary shown on the official zoning maps and the actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the department to determine if the wetland district boundary as mapped, is in error. If department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official zoning maps, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period.

(Ord. No. 2010-O-09, § 22.217, 10-12-2010)

Sec. 22-687. - Permitted uses in wetlands.

The following uses are permitted subject to the provisions of Wis. Stats. chs. 30 and 31 and the provisions of other local, state and federal laws, if applicable:

- (1) Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
 - a. Hiking, fishing, swimming, boating and the following outside the urban service area: hunting, snowmobiling and trapping;
 - b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - c. The practice of silviculture, including the planting, thinning and harvesting of timber;
 - d. The pasturing of livestock;
 - e. The cultivation of agricultural crops; and
 - f. The construction and maintenance of duck blinds.
- (2) Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
 - a. The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - b. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(Ord. No. 2010-O-09, § 22.218, 10-12-2010)

Sec. 22-688. - Conditional uses in wetlands.

- (a) The following conditional uses may be allowed in the wetland district, including wetland alteration only to the extent specifically provided below and notification to the southern district office of the state department of natural resources at least ten days prior to the hearing and mailing a copy of the action on the conditional use to said office:
 - (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under section 22-687, provided that:
 - a. The road cannot, as a practical matter, be located outside the wetland;
 - b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in section 22-690(a);
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - d. Road construction activities are carried out in the immediate area of the roadbed only; and
 - e. Any wetland alteration must be necessary for the construction or maintenance of the road.
 - (2) The construction and maintenance of nonresidential buildings provided that:

- a. The building is used solely in conjunction with a use permitted in the wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - b. The building cannot, as a practical matter, be located outside the wetland;
 - c. The building does not exceed 500 square feet in floor area; and
 - d. Only limited filling and excavating necessary to provide structural support for the building is allowed.
- (3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
- a. Any private development allowed under this article shall be used exclusively for the permitted purpose;
 - b. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 - c. The construction and maintenance of roads necessary for the uses permitted under this subsection are allowed only where such construction and maintenance meets the criteria in section 22-687; and
 - d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (4) The construction and maintenance of electric and telephone transmission lines and water, gas and sewer lines, and related facilities provided that:
- a. The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the wetland;
 - b. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 - c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in section 22-690(a).
- (5) The construction and maintenance of line-haul railroad operations within railroad rights-of-way provided that:
- a. The line-haul railroad improvement cannot, as a practical matter, be located outside the wetland;
 - b. Only limited filling for railroad beds or excavating for drainage necessary for such construction and maintenance is allowed; and
 - c. Such construction or maintenance including vegetation cutting is done in a manner designed to minimize the adverse impact upon the natural functions of the wetlands listed in section 22-690(a).
- (6) The maintenance and repair of existing drainage systems, where permissible under Wis. Stats. § 30.20 to restore preexisting levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Wis. Stats. ch. 30 and that dredged spoil is placed on existing spoil banks where possible.
- (7)

The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance.

(8) The installation and maintenance of sealed tiles for the purpose of draining lands outside the wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in section 22-690(a).

(9) Hunting, snowmobiling and trapping within the urban service area.

(Ord. No. 2010-O-09, § 22.21, 10-12-2010)

Sec. 22-689. - Prohibited uses in wetlands.

Any use not listed in section 22-687 is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this article in accordance with sections 22-687 and 22-720.

(Ord. No. 2010-O-09, § 22.220, 10-12-2010)

Sec. 22-690. - Rezoning wetlands.

(a) Rezoning of a wetland shall require amendment of the Final Wisconsin Wetland Inventory Map adopted in section 22-685 pursuant to procedures established in section 22-720. The city shall not rezone a wetland in a wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:

(1) Stormwater and floodwater storage capacity;

(2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;

(3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into surface waters;

(4) Shoreline protection against soil erosion;

(5) Fish spawning, breeding, nursery or feeding grounds;

(6) Wildlife habitat; or

(7) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species. Upon notification of a proposed amendment as required by section 22-720, if the district office of the department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in this subsection (a), the department shall so notify the city of its determination either prior to or during the public hearing held on the proposed amendment.

(b) If the department notifies the city plan commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in subsection (a) of this section, that proposed amendment, if approved by the city shall not become effective until more than 30 days have elapsed since written notice of the council approval was mailed to the department, as required by section 22-720. If within the 30-day period, the department notifies the council or board that the department intends to adopt a superseding wetland zoning ordinance for the city under Wis. Stats. § 62.231(6) the proposed amendment

shall not become effective until that ordinance adoption procedure is completed or otherwise terminated. The record of the council or board decision on the proposed amendment shall advise the petitioner of the provisions of this section.

(Ord. No. 2010-O-09, § 22.221, 10-12-2010)

Sec. 22-691. - Nonconforming structures and uses.

- (a) Notwithstanding Wis. Stats. § 62.23(7)(h), the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure in existence at the time of adoption or subsequent amendment of this article adopted under Wis. Stats. § 62.231 or of an environmental control facility in existence on May 7, 1982, related to that structure, is permitted under Wis. Stats. § 62.231(5). Section 62.23(7)(h) applies to an environmental control facility that was not in existence on May 7, 1982, but was in existence on the effective date of this article or amendment.
- (b) The lawful use of a building, structure or property which existed at the time this article, or an applicable amendment to this article, took effect and which is not in conformity with the provisions of this article, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:
 - (1) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this article.
 - (2) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this article adopted under Wis. Stats. § 62.231 may be continued although such use does not conform with the provisions of the article. However, such nonconforming use may not be extended or increased.
 - (3) The maintenance and repair of nonconforming boathouses which are located below the ordinary highwater mark of any navigable waters shall comply with the requirements of Wis. Stats. § 30.121.
 - (4) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

(Ord. No. 2010-O-09, § 22.222, 10-12-2010)

Secs. 22-692—22-710. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 22-711. - Zoning administrator.

The zoning administrator shall have the following duties and powers:

- (1) Advise applicants as to the provisions of this article, assist them in preparing permit applications and appeal forms.
- (2) Issue permits and certificates of compliance and inspect properties for compliance with this article.

- (3) Keep records of all official actions such as:
 - a. All permits issued;
 - b. Inspections made;
 - c. Work approved;
 - d. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
- (4) Have access to any structure profiles, maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
- (5) Investigate and report violations of this article to the appropriate municipal planning agency and the district attorney, corporation counsel or municipal attorney.

(Ord. No. 2010-O-09, § 22.231, 10-12-2010)

Sec. 22-712. - Zoning permits.

- (a) *When required.* Unless another section of this article specifically exempts certain types of development from this requirements, a zoning permit shall be obtained from the zoning administrator before any development, as defined in section 22-651, including any change in the use of an existing building or structure, is initiated.
- (b) *Application.* An application for a permit shall be made to the zoning administrator upon forms furnished and shall include the following information for the purpose of proper enforcement of these regulations:
 - (1) *General information.*
 - a. Name, address, and telephone number of applicant, property owner and contractor.
 - b. Legal description of the property and a general description of the proposed use or development indicating new construction or modification to existing structures.
 - (2) *Site development plan.* The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 - a. Location, dimensions, area and elevation of the lot noted on a copy of the wetland inventory map, if applicable;
 - b. Location and boundaries of wetlands;
 - c. Specifications and dimensions for areas of proposed wetland alteration;
 - d. Location of the ordinary highwater mark of any abutting navigable waterways;
 - e. Existing and proposed topographic and drainage features and vegetative cover;
 - f. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
 - g. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - h. Location and elevation of existing or future access roads.
- (c) *Expiration.* All permits issued under the authority of this article shall expire six months from the date of issuance.

(Ord. No. 2010-O-09, § 22.232, 10-12-2010)

Sec. 22-713. - Certificates of compliance.

- (a) Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator, subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article.
 - (2) Application for such certificate shall be concurrent with the application for a permit.
 - (3) The certificate of compliance shall be issued within ten days after notification of completion of the work specified in the permit, providing the building or premises or proposed use conforms with all the provisions of this article.
- (b) The zoning administrator may issue a temporary certificate of compliance for a building, premises or part thereof according to rules and regulations established by the municipality.
- (c) Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing at the time of adopting of this article, certifying after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this article.
- (d) Other permits. The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344.

(Ord. No. 2010-O-09, § 22.233, 10-12-2010)

Sec. 22-714. - Fees.

The common council shall set fees for the following and include in the annual budget appendix fee schedule:

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Board of appeals.
- (4) Rezoning, including PDDs.
- (5) Conditional use permits.

(Ord. No. 2010-O-09, § 22.234, 10-12-2010)

Sec. 22-715. - Board of appeals.

The mayor shall appoint a board of appeals under Wis. Stats. § 62.23(7)(e), consisting of five members subject to confirmation by the governing body. The board of appeals shall adopt rules for the conduct of their business as required by Wis. Stats. § 63.23(7)(e)3.

- (1) *Powers and duties.* The board of appeals shall:

- a. *Appeals in overlay zoning districts.* Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article.
- b. *Variances.* May grant, upon appeal, a variance from the dimensional standards of this article pursuant to section 22-716.

(2) *Appeals to the board.*

- a. *Generally.* Appeals to the board of appeals may be taken by any person aggrieved of by an officer, department, board or bureau of the community affected by any order, requirement decision, or determination of the official whose decision is in question. Such appeals shall be taken within 60 days as provided by the rules of the board, by filing with the official whose decision is in question, and with the board of appeals, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all the documents constituting the record concerning the matter appealed.
- b. *Notice and hearing.* The board of appeals shall fix a reasonable time for a hearing on the appeal or application. Public notice shall be provided by publishing the appropriate notice as required by state law with the notice specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the southern district office of the department at least ten days prior to hearing on proposed conditional uses. At the public hearing, any party may appear in person or by agent or attorney.
- c. *Decision.* A decision regarding the appeal or application shall be made as soon as practical. Copies of all decision on conditional uses, shall be submitted to the appropriate district office of the department within ten days after they are granted or denied. The final disposition of an application to the board of appeals shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the application for lack of jurisdiction or prosecution or grant the application.

(Ord. No. 2010-O-09, § 22.235, 10-12-2010)

Sec. 22-716. - Variances.

- (a) The board of appeals may, upon appeal, grant a variance from the dimensional standards of this article where an applicant convincingly demonstrates that:
 - (1) Literal enforcement of the provisions of the article will result in unnecessary hardship on the applicant;
 - (2) The hardship is due to adoption of the article and special conditions unique to the property; and not common to a group of adjacent lots or premises (in such case the zoning ordinance or map must be amended); and
 - (3) Such variance is not contrary to the public interest;
 - (4) Such variance is consistent with the purpose of this article (section 22-678).
- (b) A variance shall not:

- (1) Allow development below regional flood elevations;
- (2) Grant or increase any use of property prohibited in the zoning district;
- (3) Be granted for a hardship based solely on an economic gain or loss;
- (4) Be granted for a hardship which is self created;
- (5) Damage the rights or property values of other persons in the area.

(Ord. No. 2010-O-09, § 22.236, 10-12-2010)

Sec. 22-717. - Conditional use permits.

- (a) Any use listed as a conditional use in this article shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the plan commission, following the procedures in subsection (c) of this section. To secure information upon which to base its determination, the plan commission may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this article.
- (b) Conditions. Upon consideration of the permit application and the standards applicable to the permitted uses in this article, the plan commission shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this article, as are necessary to further the purposes of this article as listed in section 22-678. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion protection measures; increased side yard setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers; docks, parking areas and signs; and type construction.
- (c) Hearing applications for conditional use permits.
 - (1) Notice and hearing. The plan commission shall fix a reasonable time for a hearing on the appeal or application. The plan commission shall give public notice by publishing a class 1 notice under Wis. Stats. ch. 985 specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the southern district office of the department at least ten days prior to hearings on proposed conditional uses. At the public hearing, any party may appear in person or by agent or attorney.
 - (2) Decision. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decision on conditional uses, shall be submitted to the appropriate district office of the department within ten days after they are granted or denied. The final disposition of an application to the board of appeals shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the application for lack of jurisdiction or prosecution or grant the application.

(Ord. No. 2010-O-09, § 22.237, 10-12-2010)

Sec. 22-718. - To review appeals or permit denials.

- (a) The board of appeals shall review all data constituting the basis for the appeal of permit denial. The data may include (where appropriate):
- (1) Permit application data listed in section 22-712;
 - (2) Other data submitted to the zoning administrator with the application, or submitted to the board with the appeal.
- (b) For appeals of all denied permits the board shall:
- (1) Follow the procedures of section 22-715;
 - (2) Consider any zoning agency recommendations;
 - (3) Either uphold the denial or grant the appeal.

(Ord. No. 2010-O-09, § 22.238, 10-12-2010)

Sec. 22-719. - Public information.

- (a) Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.
- (b) All available information in the form of maps, engineering data and regulations shall be readily available and should be widely distributed.
- (c) All legal descriptions of property in the floodplain should include information designating the floodplain zoning classification when such property is transferred.

(Ord. No. 2010-O-09, § 22.239, 10-12-2010)

Sec. 22-720. - Amending wetland zoning regulations—procedures.

The city may supplement or change the district boundaries and the regulations contained in this article according to Wis. Stats. § 62.23(7)(d)2, Wis. Admin. Code ch. NR 117, and the following:

- (1) The wetland district amendment provisions of section 22-690 apply.
- (2) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the department within five days of the submission of the proposed amendment to the plan commission.
- (3) All proposed text and map amendments shall be referred to the plan commission, and a public hearing shall be held as required by Wis. Stats. § 62.23(7)(d)2, following publication of a class 2 notice as defined in section 22-651. The appropriate district office of the department shall be provided with written notice of the public hearing at least ten days prior to such hearing.
- (4) A copy of the decision on each amendment shall be provided to the department district office within ten days of the decision. No map or text amendment shall become effective until reviewed and approved by the department.

(Ord. No. 2010-O-09, § 22.240, 10-12-2010)

Sec. 22-721. - Enforcement and penalties.

See forfeitures schedule in chapter 70 for penalties for any person who violates or refuses to comply with any of the provisions of this article. Every violation of this article is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30(2).

(Ord. No. 2010-O-09, § 22.241, 10-12-2010)

Sec. 22-722. - Definitions.

Definitions of this article are the same as those found in section 22-651.

(Ord. No. 2010-O-09, § 22.250, 10-12-2010)

Secs. 22-723—22-742. - Reserved.

ARTICLE IX. - WELLHEAD PROTECTION

Sec. 22-743. - Purpose and authority.

- (a) The residents of the city depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this article, the wellhead protection ordinance (hereafter "this article" or "WHP ordinance"), is to institute land use regulations and restrictions to protect the municipal water supply of the city and promote the public health, safety and general welfare of the residents.
- (b) Statutory authority of the city to enact these regulations was established by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection, in Wis. Stats. §§ 59.69(1) and 62.23(7)(c) to the statutory authorization for county and municipal planning and zoning to protect the public health, safety and welfare. In addition, under Wis. Stats. § 62.23(7)(c), the city has the authority to enact this article, effective in the incorporated areas of the city, to encourage the protection of groundwater resources.

(Ord. No. 2010-O-09, § 22.301, 10-12-2010)

Sec. 22-744. - Application of regulations.

The regulations specified in this WHP ordinance shall apply within the city's corporate limits. If there is a conflict between this article and the other zoning ordinance provisions, the more restrictive provision shall apply.

(Ord. No. 2010-O-09, § 22.302, 10-12-2010)

Sec. 22-745. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means an individual, partnership, association, corporation, municipality or state agency, or other legal entity who causes activities which are regulated by this chapter.

Aquifer means a saturated, permeable geologic formation that contains and will yield significant quantities of water.

Domestic wastewater means a combination of liquid and water-carried wastes and wastewater discharged from toilets, conveniences, or other sanitary plumbing facilities, which contain no incompatible pollutants exceeding the limitations set forth in the sewer use ordinance, and which contain no substances prohibited by the terms of the sewer use ordinance, or by the Madison Metropolitan Sewage District (MMSD).

Municipal water supply means the municipal water supply of the City of Fitchburg.

Recharge area means the area which encompasses all areas or features that, by surface infiltration of water, reaches the zone of saturation of and aquifer that supplies groundwater to a well. This area extends beyond the city's corporate limits.

State of Wisconsin authorizing agency means the State of Wisconsin Department of Commerce or successor agencies or other regulating agencies.

UST facilities means underground fuel oil or gasoline storage tank facilities, including but not limited to, fueling stations and storage tanks, both public and private.

(Ord. No. 2010-O-09, § 22.303, 10-12-2010)

Sec. 22-746. - Groundwater protection overlay districts.

(a) *Restricted zone*. The primary portion of the Fitchburg wells recharge areas to be protected is an area of land having a radius of 1,200 feet, whose center is offset 600 feet south of each municipal well. If any portion of a parcel falls within the above defined radius the whole parcel shall be considered within the restricted zone. The restricted zones for each well shall more specifically be defined as the areas outlined in the maps attached hereto as exhibits A through H and incorporated herein as if fully set forth. Any parcel that is outlined in exhibits A through H that is later divided by a certified survey map or plat will be considered removed from the restricted zone if the new parcel limits fall outside the above defined radius. These lands are subject to land use and development restrictions because of their close proximity to the well fields and the corresponding threat of contamination.

(b) *Management zone*. Lands outside the restricted zone but within the corporate limits of the city shall be considered in the "management zone." The city reserves the right to require applications for approval in this zone, in accordance with section 22-750, for uses considered restricted in the restricted zone and to require additional environmental monitoring/structures. All underground gasoline and fuel oil storage tanks in this zone shall be approved and installed in accordance with section 22-752.

(Ord. No. 2010-O-09, § 22.304, 10-12-2010)

Sec. 22-747. - Requirements for existing facilities and land uses.

The following requirements apply to the existing facilities within the restricted zone at the time of enactment of such zone which may cause or threaten to cause environmental pollution include, but are not limited to, the state department of natural resources draft or current list of "Inventory of Sites or Facilities Which May Cause or Threaten to Cause Environmental Pollution" kept on file in the director of public work's office, the state department of commerce's list of underground storage tanks, list of facilities with hazardous, solid waste permits, and all other facilities which are considered a restricted use in restricted uses, section 22-749, all of which are incorporated herein as if fully set forth.

- (1) Such facilities as above shall provide copies of all federal, state and local facility operation approvals, permits, or certificates; operational safety plans; and ongoing environmental monitoring results to the city.
- (2) Such facilities shall provide additional environmental or safety structures/monitoring as deemed necessary by the city, which may include but is not limited to, the production of any and all environmental statements detailing the extent of chemical use and storage on the property, stormwater runoff management and/or groundwater monitoring.
- (3) Such facilities as above cannot engage in or employ a use, activity, or structure listed in restricted uses, section 22-749, which they did not engage in or employ at the time of enactment of a restricted zone, and can only expand, replace or rebuild those present uses, activities, equipment, or structures on the site or property of record associated with the facility at the time of enactment of a restricted zone, and in a manner that improves the environmental and safety technologies already being utilized. No existing use, activity, or structure listed as a restricted use shall be expanded, replaced, modified, or rebuilt unless a conditional use permit is granted for such expansion, replacement, modification, or rebuilding. This section does not apply to normal maintenance or minor repairs.
- (4) If deemed necessary by the city, such facilities shall have the responsibility of divesting, filing and maintaining, with the city, a current contingency plan satisfactory to the city, which details how they intend to respond to any emergency which may cause or threaten to cause environmental pollution that occurs at their facility, including notifying municipal, county and state officials.

(Ord. No. 2010-O-09, § 22.305, 10-12-2010)

Sec. 22-748. - Permitted uses.

The following uses are permitted in the restricted zone. An approval application shall be submitted in accordance with section 22-751(1) for all uses not listed here or in section 22-749.

- (1) Public and private parks, playgrounds and beaches, provided there are no on-site wastewater disposal systems or holding tanks.
- (2) Wildlife, natural, and woodland areas.
- (3) Biking, hiking, skiing, nature, equestrian and fitness trails.
- (4) Residential which is municipally sewered.
- (5) Unsewered (single-family) existing residential lots which meet all the requirements of Wis. Admin. Code ch. COMM 83 and the separation distance requirement of section 22-750(3).

(6) Commercial office and retail activities listed in sections 22-247 and 22-248, excluding agriculture production, which are municipally sewered and only discharge domestic wastewater into the sewer system.

(7) Limited road salting.

(Ord. No. 2010-O-09, § 22.306, 10-12-2010)

Sec. 22-749. - Restricted uses.

The following uses are restricted within the restricted zone. An approval application shall be submitted in accordance with section 22-751(2) for all restricted uses. These uses are restricted based on the high probability that activities associated with these uses will cause groundwater contamination.

- (1) Animal confinement facilities, animal waste spreading, and animal waste storage except animal waste storage facilities regulated by the county.
- (2) Stockyards and feedlots.
- (3) Rendering plants and slaughterhouses.
- (4) Wastewater treatment and spray facilities.
- (5) Septic or sludge spreading, storage or treatment.
- (6) Septic wastewater and sewage lagoons, pits, spreading, storage and treatment.
- (7) Private on-site wastewater treatment systems or holding tanks receiving 8,000 gallons per day or more.
- (8) Bulk fertilizer and/or pesticide facilities.
- (9) Hazardous and/or toxic material waste facilities and/or storage.
- (10) Buried hydrocarbon and/or hazardous chemical storage tanks. Hazardous chemicals are identified by OSHA criteria under 40 CFR 370.
- (11) UST facilities.
- (12) Coal, salt and deicing material storage.
- (13) Asphalt products manufacturing.
- (14) Dry cleaning, exterminating, and printing and duplicating businesses.
- (15) Bus or truck terminals.
- (16) Railroad yards and maintenance stations.
- (17) Junkyards or auto salvage yards.
- (18) Paint, coating, electroplating and wood preserving facilities and/or manufacturing.
- (19) Radioactive waste facilities.
- (20) Chemical manufacturers (Standard Industrial Classification Major Group 28).
- (21) Industrial lagoons and pits.
- (22) Pesticide and fertilizer dealer, transfer or storage.
- (23) Motor vehicular service stations, repair, renovation and auto body repair.
- (24) Nonmetallic earthen materials extraction or sand and gravel pits.

(25) Landfills, solid waste and recycling facilities.

(26) Cemeteries.

(27) Stormwater infiltration basins without pretreatment, including vegetative filtration and/or temporary detention.

(Ord. No. 2010-O-09, § 22.30, 10-12-2010)

Sec. 22-750. - Separation distances.

The following separation distances as specified in the Wis. Admin. Code ch. NR 811 shall be maintained and shall not be exempted as listed in section 22-746 or as later amended by the state.

- (1) 50 feet between a municipal well and a storm sewer main.
- (2) 200 feet between a municipal well and any sanitary sewer main, sanitary sewer manhole, lift station or a single-family residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and successfully air pressure tested in place to meet current Standard Specifications for Sewer and Water Construction in Wisconsin. In no case may the separation distance between a municipal well and a sanitary sewer main be less than 50 feet.
- (3) 400 feet between a municipal well and a septic system, tank or soil absorption unit receiving less than 8,000 gallons per day, a cemetery or a storm water drainage pond.
- (4) 600 feet between a municipal well and any gasoline or fuel oil storage tank installation that has received written approval from Department of Commerce or its designated agent under Wis. Admin. Code § COMM 10.10.
- (5) 1,000 feet between a municipal well and land application of municipal, commercial or industrial waste; industrial, commercial or municipal wastewater, lagoons or storage structures; manure stacks or storage structures; and septic tanks or soils absorption units receiving 8,000 gallons per day or more.
- (6) 1,200 feet between a municipal well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; sanitary landfill; coal storage area; gasoline or fuel oil storage tanks that have not received written approval from Department of Commerce or its designated agent under Wis. Admin. Code § COMM 10.10; bulk fuel storage facilities; and pesticide handling or storage facilities.

(Ord. No. 2010-O-09, § 22.308, 10-12-2010)

Sec. 22-751. - Exemptions and waivers.

The city shall review all written exemption requests for all uses not listed in section 22-748 for approval. All determinations shall be made by the city within 60 days of the request for approval, provided however, that this 60 day period of limitations may be extended by the city for good cause as determined in the sole and absolute discretion of the city. No exemption shall be granted for UST Facilities and to the separation distances listed in section 22-750.

- (1)

Approval application for uses not listed in sections 22-748 and 22-749. All requests shall be in writing, whether on or in substantial compliance with forms to be provided by the city, and may require an environmental assessment report prepared by a licensed professional engineer specialized in environmental engineering. Supplemental information which must be submitted to the city shall include:

- a. Name and address of the applicant.
- b. Name and address of the owner of the property.
- c. Description of proposed use.
- d. Location of proposed use in relation to existing and proposed city public water supply wells.

Said application shall be forwarded to the zoning administrator for recommendation from the director of public works. The director of public works shall have the ability to request additional information if necessary.

(2) *Application for uses listed in section 22-749.* All requests shall be in writing, whether on or in substantial compliance with forms to be provided by the city, and may require an environmental assessment report prepared by a licensed environmental engineer. Supplemental information which must be submitted to the city shall include:

- a. Name and address of the applicant.
- b. Name and address of the owner of the property.
- c. Proposed use.
- d. Location of proposed use in relation to existing and proposed city public water.
- e. Site plan of the project showing layout of the restricted use.
- f. Contingency plan for public notification in event of an emergency, or discovery of a release of contaminants.

Said application shall be forwarded to the zoning administrator for recommendation from the director of public works. The director of public works shall have the ability to request additional information if necessary.

(3) *Review process.* All the following factors shall be considered during the review process:

- a. The city's responsibility, as a public water supplier, to protect and preserve the health, safety and welfare of its citizens.
- b. The degree to which the proposed land use practice, activity or facility may seriously threaten or degrade groundwater quality in the city.
- c. The economic hardship which may be faced by the landowner if the application is denied.
- d. The availability of alternative options to the applicant, and the cost, effect and extent of availability of such alternative options.
- e. The proximity of the applicant's property to other potential sources of contamination.
- f. The location of the applicant's property in the restricted zone.
- g.

The existing condition of the city's groundwater flow, including topography, depth of soil, extent of aquifer, depth of water table and location of private wells.

- h. Any other hydrogeological data or information which is available from any public or private agency or organization.
- i. The potential benefit, both economic and social, from the approval of the applicant's request for permit.

If the director of public works, in consultation with the zoning administrator, determines to approve the application, an approval letter shall be sent to the applicant with the terms and conditions of approval and statement that the applicant agrees to comply with the terms and conditions set forth by the city.

- (4) *Conditional approval.* Any approvals granted will be made conditional and may include environmental and/or safety monitoring which indicates whether the facility may be emitting any releases or harmful contaminants to the surrounding environment. The city may require that a bond be posted for future monitoring and cleanup costs if deemed necessary at the time of granting an exemption.
- (5) *Revocation of approval.* The city's approval may be rescinded or revoked, prior to its expiration date, if the city, upon a determination, after notice and hearing before the board of public works, that rescission or revocation is appropriate and that any one or more of the following have occurred:
 - a. Provisions of this article have been violated, and the violations have not been or cannot be satisfactorily remedied in a time frame acceptable to the city.
 - b. Conditions imposed on the approval have been violated, and the violations have not been or cannot be satisfactorily remedied in a time frame acceptable to the city.
 - c. Use of the property is discontinued for a period of one year.
 - d. Applicant is required by state or federal regulations or state authorizing agency to permanently discontinue use.
- (6) *Application costs.* The applicant shall be solely and exclusively responsible for any and all costs associated with the application, including the following:
 - a. The cost of an environmental impact study if so required by the city or its designee.
 - b. The cost of groundwater monitoring or groundwater wells if required by the city.
 - c. The costs of an appraisal for the property of other property evaluation expense if required by the city or its designee.
 - d. The costs of city's employee's time associated in any way with the application based on the hourly rate paid to the employee multiplied by a factor, determined by the city, representing the city's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.
 - e. The cost of city equipment employed.
 - f. The cost of mileage reimbursed to the city employees.

- (7) *Abrogation and greater restrictions.* Nothing set forth in this chapter shall be construed as or is intended to be a waiver or release of any other agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this article imposes greater restrictions, the provisions of this

article shall govern.

(Ord. No. 2010-O-09, § 22.309, 10-12-2010)

Sec. 22-752. - Requirements for proposed UST facilities.

- (a) *Approval.* UST facility approval is required for all proposed UST facilities as outlined in section 22-746(b).
- (1) *Approval application.* A person desiring to install a UST facility shall file with the city clerk a copy of all applicable federal, state and county permit applications for the proposed UST installation and shall obtain written approval from the city prior to commencing the installation. Supplemental information which must be submitted to the city shall include name and address of the applicant, the name and address of the owner of the property, the location of proposed UST facility in relation to existing and proposed city public water supply wells, site plan of project showing layout of proposed UST facility, and a contingency plan for public notification in event of an emergency, or discovery of a release of contaminants.
- (2) *Review of application.* The city clerk shall forward a completed application to the zoning administrator for determination of compliance with provisions of this article. If the zoning administrator, in consultation with the director of public works, determines that the application is complete and the requirements of this article are met, a UST facility approval letter shall be sent to the applicant with the terms and conditions of approval and statement that the applicant agrees to comply with the terms of this article.
- (3) *Term of approval.* The city's approval of the UST facility shall coincide with the terms of the underground storage tank permit issued for the UST facility by the state authorizing agency. The city's approval may be transferred to a new owner or assign upon notice to the city via a copy of the registration of change of ownership submitted to state authorizing agency by the new owner or assign. UST facility approval shall be renewed provided that owner submits to city copies of the following:
- a. All state authorizing agency UST permit renewal forms and accompanying material. Upon receipt of the renewed state UST permit, the owner shall provide a copy to the city.
 - b. An affidavit confirming that the UST facility is in compliance with the requirements of the expiring UST facility approval letter.
 - c. A statement confirming that the UST facility conforms with the requirements of any current UST-WHP or wellhead protection ordinance.
- (4) *Revocation of approval.* The city's approval may be rescinded or revoked, prior to its expiration date, the common council upon a determination, after notice and hearing, that rescission or revocation is appropriate and that any one or more of the following have occurred:
- a. Provisions of this article have been violated, and the violations have not been or cannot be satisfactorily remedied in a time frame acceptable to the city.
 - b. Conditions imposed on the approval have been violated, and the violations have not been or cannot be satisfactorily remedied in a time frame acceptable to the city.
 - c. Use of the property is discontinued for a period of one year.
 - d.

UST facility owner is required by state or federal regulations or state authorizing agency to permanently close the UST facility.

(5) *Abrogation and greater restrictions.* Nothing set forth in this chapter shall be construed as or is intended to be a waiver or release of any other agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this article imposes greater restrictions, the provisions of this article shall govern.

(b) *Design requirements.* Underground storage tanks shall be designed and installed in accordance with applicable federal, state and local statutes and codes, Wis. Admin. Code § COMM 10.51 or its successor statute or code, and as specified herein. Where there is conflict between this article and applicable statutes and codes, the more restrictive shall apply.

(1) Tanks shall be double wall with interstitial monitoring. Fiberglass reinforced plastic external corrosion protection shall be required if a steel tank is used.

(2) Piping shall be double walled noncorrosive pipe.

(3) Spill and overfill prevention shall consist of equipment that will restrict flow to tank when at 95 percent full, alert, operator one minute prior to overfilling, and provide automatic shutoff of flow into storage tank so none of the fittings on tank top are exposed to product.

(4) Tank leak detection shall consist of interstitial monitoring with sensors between tank walls.

(5) Piping leak detection shall consist of automatic line leak detection, and interstitial monitoring.

(6) Provide deep burial submersible containment sump to contain leakage and install sensors to monitor the piping interstitial space.

(7) Provide deep burial dispenser pan containment to contain leakage from dispenser and stall pan sensors to monitor the interstitial space of the piping.

(Ord. No. 2010-O-09, § 22.310, 10-12-2010)

Sec. 22-753. - Inspections.

Subject to applicable provisions of law, the city or authorized representative thereof shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling, and records examination pertaining to the requirements of this chapter to ensure that activities are in accordance with the provisions of sections 22-747 through 22-752. Upon request of the entity which is the subject of the inspection, and if permitted by the state Public Records Law, information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the appointed individual for the above stated purposes, the board of public works may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.

(Ord. No. 2010-O-09, § 22.311, 10-12-2010)

Sec. 22-754. - Variances and administrative appeals.

- (a) The owner of an existing or proposed restricted use may appeal any decision of the zoning administrator and/or director of public works, with such appeals being accomplished in accordance with the rules established under section 22-643. A variance may be requested from the requirements of this code within the rules and procedures set forth by the board of appeals and in section 22-644. Variances will not be granted where environmental protection will be compromised as deemed by the board of appeals. A variance shall not be granted from any design standard or requirement of state or federal law, nor may any variance be granted which results in requirements which are less stringent than those of state or federal law.
- (b) A request for variance shall include a detailed analysis as prepared, certified and sealed by a professional engineer as to why the variance is being requested, proposed method of installation and potential environmental risk of proposed installation versus required installation.
- (c) A request for variance will be acted on by zoning board of appeals with input from the board of public works. The board of public works will submit input within 30 days from date of filing appeal. If variance is approved, it shall be noted as a condition on the restricted use approval letter and shall run for the period of the approval or such shorter period as established in the approval.

(Ord. No. 2010-O-09, § 22.312, 10-12-2010)

Sec. 22-755. - Remediation; cost reimbursement.

- (a) In the event that the individual and/or facility causes the release of any contaminants which endanger or potentially threaten the city's groundwater supply, the individual and/or facility is responsible for seeing that the activity causing said release shall immediately cease, the contingency plan for public notification shall be immediately initiated and remedial action satisfactory to the city and other state or federal agency with jurisdiction shall promptly occur. The city's requirements are in addition to any other state or federal requirements. The city may take steps to protect the groundwater if an imminent threat exists or the person fails to do so when requested by the city.
- (b) The individual/facility shall be responsible for all costs of remediation and shall reimburse the city for its direct and indirect costs incurred for inspection, oversight, review and documentation of the remedial action.
 - (1) City consultant fees (legal and/or engineering) at the invoice amount plus administrative costs for oversight, review and documentation.
 - (2) The cost of city employees' time associated in any way with cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the city representing city's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits.
 - (3) The cost of city equipment employed.
 - (4) The cost of mileage reimbursed to city employees attributed to the cleanup.
- (c) The applicant, or any other person shall also be responsible for any and all costs incurred or damages suffered by the city or other affected persons, if they cause or contribute contamination of the city's groundwater supply.
- (d) Following any release or threatened release, the city may require additional test monitoring and/or facility improvements and/or may revoke city approval of the application pursuant to sections 22-751 and 22-752.

(Ord. No. 2010-O-09, § 22.313, 10-12-2010)

Sec. 22-756. - Enforcement and penalties.

- (a) Any person who violates, neglects or refuses to comply with any of the provisions of this chapter, shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$500.00, plus the costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense.
- (b) The city may seek restraining orders, injunctive relief and/or any other available legal remedy to obtain compliance with the provisions of this article and/or protect the city's groundwater supply from contamination. If the city prevails in whole or in part in pursuit of such legal remedies, the city shall be entitled to recover its litigation costs, including actual reasonable attorney's fees.
- (c) If a person fails or refuses to pay all costs or make all reimbursement as required in section 22-755, then the city may levy such amounts due as a special charge against the property upon which the potential contamination is located or any other property owned by the person within the city and collect the amounts due in accordance with the procedures of Wis. Stats. § 66.0703.
- (d) These enforcement provisions are not intended to be mutually exclusive nor do they preclude private claims or actions. The city may pursue enforcement actions it deems appropriate under the circumstances.

(Ord. No. 2010-O-09, § 22.314, 10-12-2010)

Sec. 22-757. - Conflict, interpretation and severability.

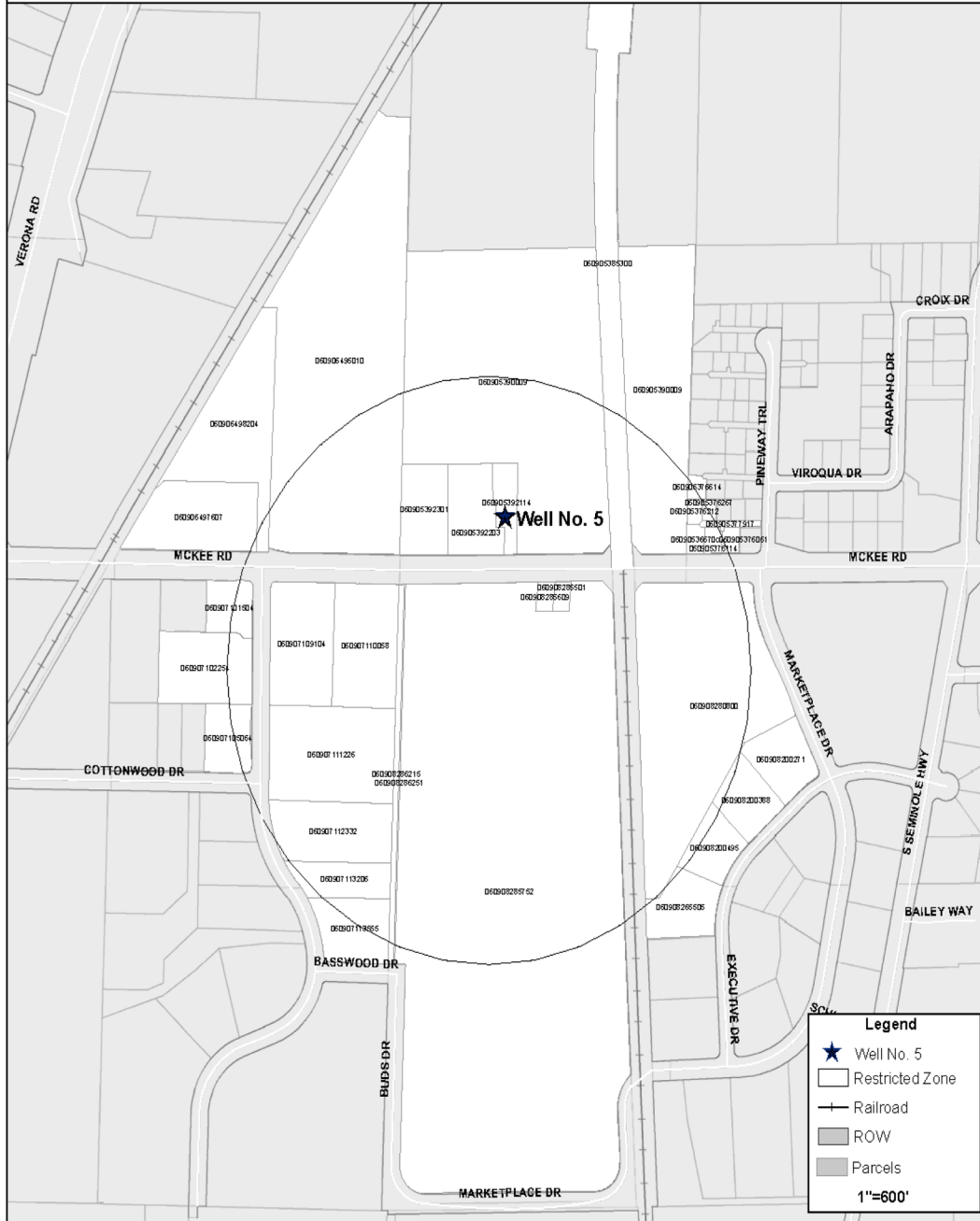
- (a) *Conflict and interpretation of provisions.* If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter. In their interpretation and application, the provisions of this article shall be held to be the minimum and are not deemed a limitation or repeal of any other power granted by state law.
- (b) *Severability of code provisions.* If any section, subsection, sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The common council hereby declares that they would have passed this Code and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

Well No. 4 Restricted Zone



EXHIBIT A

Well No. 5 Restricted Zone

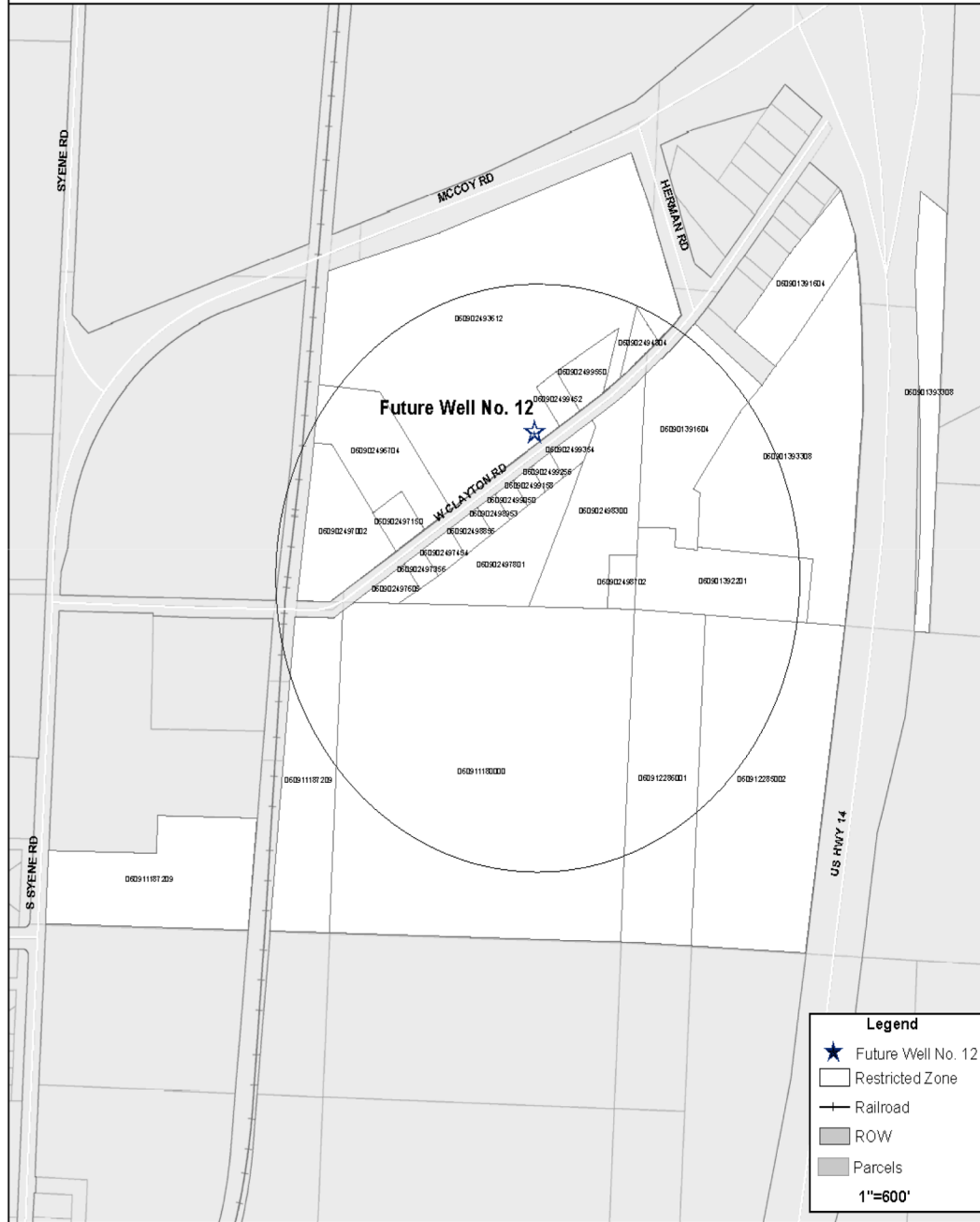


Well No. 10 Restricted Zone



EXHIBIT F

Future Well No. 12 Restricted Zone



The following exhibits are available in color in the official ordinance book in the clerk's office for viewing:

Exhibit A	Well No. 4 - Restricted Zone
Exhibit B	Well No. 5 - Restricted Zone
Exhibit C	Well No. 7 - Restricted Zone
Exhibit D	Well No. 8 - Restricted Zone
Exhibit E	Well No. 9 - Restricted Zone

Exhibit F	Well No. 10 - Restricted Zone
Exhibit G	Well No. 11 - Restricted Zone
Exhibit H	Future Well No. 12 - Restricted Zone

(Ord. No. 2010-O-09, § 22.315, 10-12-2010)

Secs. 22-758—22-782. - Reserved.

ARTICLE X. - FLOODPLAIN OVERLAY ZONING

Footnotes:

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Editor's note— Ord. No. 2025-O-10, § 1(Att.), adopted July 22, 2025, repealed art. X, divs, 1, 2, §§ 22-783—22-853 and enacted a new art. X as set out herein. Former art. X pertained to similar subject matter and derived from Ord. No. 2010-O-09, §§ 22.401—22.404, 22.411—22.423, 22.430—44.435, 22.441—22.444, 22.450—22.464, 22.470, adopted October 12, 2010 and Ord. No. 2014-O-31, § 1, adopted August 26, 2014.

DIVISION 1. - GENERALLY

Sec. 22-783. - Statutory authorization.

This article is adopted pursuant to the authorization in Wis. Stats. §§ 61.35 and 62.23, and the requirements in Wis. Stats. § 87.30.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-784. - Findings of fact.

The uncontrolled development and use of the floodplains, rivers and streams, and the pollution of navigable waters of the city would impair the public health, safety, convenience, general welfare and the tax base. The state legislature has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-785. - Purpose.

This subchapter is intended to regulate floodplain development to:

- (1) Protect life, health and property;

- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts, undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplains;
- (6) Minimize the occurrence of future flood blight areas on floodplains;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflict or litigation between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-786. - Title.

This article shall be known as the Floodplain Overlay Zoning for the City of Fitchburg, Wisconsin.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-787. - Areas to be regulated.

This article regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE on the flood insurance rate map. Additional areas identified on maps approved by the department of natural resources (DNR) and local community may also be regulated under the provisions of the article, where applicable.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-788. - Official maps and revisions.

(a) Special flood hazard areas (SFHA) are designated as A, AE, AH, AO or A1-30 on the flood insurance rate maps based on flood hazard analyses summarized in the flood insurance study (FIS) listed below. Additional flood hazard areas subject to regulation under this article are identified on maps based on studies approved by the DNR and listed below. These maps and revisions are on file in the office of the city planning department of the City of Fitchburg.

(b) Official maps, based on the FIS:

Flood Insurance rate maps (FIRM) panel numbers 55025C0413G, 55025C0415G, 55025C0416G, 55025C0417G, 55025C0418G, 55025C0419G, 55025C0438G, 55025C0576G, 55025C0580G dated 01/02/2009. Flood Insurance Rate Map (FIRM) panel numbers 55025C0584H and 55025C0585H dated 09/17/2014. Flood Insurance Rate Map (FIRM) panel numbers 55025C0601G and 55025C0605G dated 01/02/2009. Flood insurance study (FIS) for Dane County dated 04/09/2025. Approved by the DNR and FEMA.

(c)

Official maps, based on other studies: Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at this site of the proposed development.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-789. - Establishment of floodplain zoning districts.

The flood hazard areas regulated by this article are divided into districts as follows:

- (1) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to section 22-803(e) of this article.
- (2) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to section 22-803(e) of this article within A Zones shown on the FIRM.
- (3) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.
- (4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-790. - Locating floodplain boundaries.

- (a) Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in this section in (1) and (2) below. If a significant difference exists, the map shall be amended according to section 22-851 of this article. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined. Disputes between the zoning administrator and the applicant over the district boundary line shall be settled according to section 22-846 and the criteria in (1) and (2) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to section 22-851 of this article.
 - (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
 - (2) Where flood profiles do not exist for projects, including any boundary of zone A or AO, the location of the boundary shall be determined by the map scale.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-791. - Removal of lands from floodplain.

- (a) Compliance with the provisions of this article shall not be grounds for removing lands from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to lands outside the floodplain and the map is amended pursuant to section 22-851 of this article.
- (b) The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The zoning administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
 - (1) The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
 - (2) The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F;
- (c) Removal of lands from the floodplain may also occur by operation of Wis. Stat. § 87.30(1)(e) if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-792. - Compliance; other permits.

- (a) No structure or use within area regulated by this article shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable federal, state, and local regulations that apply to uses within the jurisdiction of these regulations. (See division 2 of this article for the standards applicable to nonconforming uses.)
- (b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with section 22-852.
- (c) Floodplain development permits issued on the basis of plans and applications approved by the zoning administrator authorize only the use, and arrangement, set forth in such plans and applications, or amendments thereto if approved by the zoning administrator. Use, arrangement, or construction contrary to that authorized shall be deemed in violations of these regulations and punishable in accordance with section 22-852.
- (d) It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1344.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-793. - Municipalities and state agencies regulated.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when Wis. Stats. § 30.2022 applies. Although exempt from a local zoning permit and permit fees, WisDOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with federal, state, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under Wis. Stats. § 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the zoning administrator that the proposed project is a culvert replacement or bridge replacement under twenty-foot span at the same location, the project is exempt from DNR permit under Wis. Stats. § 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the applicant in the analysis of the project site.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-794. - Abrogation and greater restrictions.

- (a) This article supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. § 62.23 or 87.30, which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-795. - Interpretation.

In their interpretation and application, the provisions of this article are the minimum requirements and shall be liberally construed in favor of the city and are not a limitation on or repeal of any other powers granted by the state law. If a provision of this article, required by Wis. Admin. Code ch. NR 116, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this article or in effect on the date of the most recent text amendment to this article.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-796. - Warning and disclaimer of liability.

The flood protection standards in this article are based on engineering experience and research. Larger floods may occur or the flood height may be increased by manmade or natural causes. This article does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages, nor does this

article create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this article.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-797. - Severability.

Should any portion of this article be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this article shall not be affected.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-798. - Annexed areas for cities and villages.

The Dane County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the city for all annexed areas until the city adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code ch. NR 116, and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the city's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the city's zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-799. - General development standards.

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.

- (a) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
 - (1) Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) Be constructed with flood-resistant materials;
 - (3) Be constructed by methods and practices to minimize flood damages; and
 - (4) Be constructed to ensure that utility and mechanical equipment is elevated to or above the flood protection elevation.
- (b) If a subdivision or other proposed new development is in a flood-prone area, the community shall assure that:
 - (1) Such a proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;
 - (2) Public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure to flood hazards.

All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this article and all other requirements in section 22-840. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-800. - General provisions for all floodplain districts.

(a) *Hydraulic and hydrologic analyses.*

(1) No floodplain development shall:

- a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
- b. Cause any increase in the regional flood height due to floodplain storage area lost.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of section 22-851, Amendments, are met.

(b) *Watercourse alterations.*

(1) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of subsection (a) of this section must be met and the flood carrying capacity within the altered or relocated watercourse shall be maintained.

(2) As soon as is practicable, but no later than six months after the date of the watercourse alteration or relocation and pursuant to section 22-851, Amendments, the community shall apply for a letter of map revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

(c) *State statute chapters regarding development.* Development which requires a permit from the department, under Wis. Stats. chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning article are made according to section 22-851, Amendments.

(d) *Public or private campgrounds.* Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

(1) The campground is approved by the department of agriculture, trade and consumer protection;

(2) A land use permit for the campground is issued by the zoning administrator;

(3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;

(4)

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

- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in subsection (4) of this section to remain in compliance with all applicable regulations, including those of the state department of agriculture, trade and consumer protection and all other applicable regulations;
- (6) All mobile recreational vehicles placed on the site must meet one of the following:
 - a. Be fully licensed, if required, and ready for highway use; or
 - b. Not occupy any site in the campground for more than 180 consecutive days, at which time the mobile recreational vehicle must be removed from the floodplain for a minimum of 24 hours; or
 - c. Meet the requirements in either sections 22-801, 22-802, and 22-803 for the floodplain district in which the structure is located.

A mobile recreational vehicle, defined in this section, is ready for highway use if it is on its wheel or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

- (7) All mobile recreational vehicles that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a mobile recreational vehicle consistent with section 22-800(d)(6) and shall ensure compliance with all the provisions of this section.
- (8) The municipality shall monitor the limited authorizations issued by the campground operator to ensure compliance with the terms of this section.
- (9) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (10) All service facilities, including, but not limited to, refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.
- (11) Standards for structures in a campground:
 - a. All structures must comply with section 22-800(d) or meet the applicable requirements in sections 22-801, 22-802, and 22-803 for the floodplain district in which the structures is located;
 - b. Deck/landing - a portable landing may be allowed for mobile recreational unit for each entry provided that the landing is not permanently attached to the ground or mobile recreational unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of

these temporary landings during flood events must be addressed within the written agreement with municipality compliant with section 22-800(d)(4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

- c. Decks/patios that are constructed completely at grade may be allowed but must also comply with applicable shoreland zoning standards.
- d. Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or mobile recreational vehicle, is not used as a habitable structures, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with section 22-800(d)(4).
- e. Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, mobile recreational vehicles, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with section 22-800(d)(4).

(12) A zoning use permit shall be obtained as a provided under section 22-840 before any development; repair, modification, or addition to an existing structure; or change in the use of building or structure, including sewer and water facilities, may be initiated.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-801. - FW Floodway District.

- (a) *Applicability.* This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 22-803(e).
- (b) *Permitted uses.* The following open space uses are allowed within the Floodway District, and in the floodway areas of the General Floodplain District, provided that they are not prohibited by any other regulations, that the standards contained in subsections (c) and (d) of this section are met, and that all permits or certificates have been issued according to sections 22-840 and 22-841:
 - (1) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails subject to the fill limitations of section 22-801(c)(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with subsections (c) and (d) of this section.

- (5) Extraction of sand, gravel or other materials according to subsection (c)(4) of this section.
 - (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stats. chs. 30 and 31.
 - (7) Public utilities, streets and bridges that comply with subsection (c)(3) of this section.
 - (8) Portable latrines that are removed prior to flooding and systems associated with recreational areas and department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Adm. Code ch. SPS 383.
 - (9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Wis. Adm. Code chs. NR 811 and NR 812.
 - (10) Wastewater treatment ponds or facilities permitted under Wis. Adm. Code s. NR 110.15(3)(b).
 - (11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.
- (c) *Standards for developments in the floodway.*
- (1) *General.*
 - a. Any development in the floodway shall comply with section 22-800 and have a low flood damage potential;
 - b. Applicants shall provide an analysis calculating the effects of the proposal on the regional flood height to determine the effects of the proposal according to sections 22-800(a) and 22.840. The analysis must be completed by a registered professional engineer in the state of Wisconsin.
 - c. Any encroachment in the regulatory floodway is prohibited unless the data submitted for sub-section (c)(1)b. above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in section 22-791.
 - (2) *Structures.* Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - a. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - b. Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
 1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
 2. Have structural components capable of meeting all provisions of section 22-801(c)(2)g. below; and
 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with 22-801(c)(2)g. below.

- c. Mechanical and utility equipment must be elevated to or above the flood protection elevation;
 - d. Must be anchored to resist flotation, collapse, and lateral movement; and
 - e. It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.
 - f. For a structure designed to allow the automatic entry of floodwaters below the regional flood elevation, the applicant shall submit a plan that meets section 22-801(2)a. through 22-801(2)e. and meets or exceeds the following standards:
 1. The lowest floor must be elevated to or above the regional flood elevation;
 2. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 3. The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open; and
 4. The use must be limited to parking, building access or limited storage.
 - g. Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
 1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
 2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in sections 22-801(d)(4) and 22-801(d)(5);
 3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
 4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 5. Placement of utilities to or above the flood protection elevation.
- (3) Public utilities, streets and bridges may be allowed by permit, provided that:
- a. Adequate floodproofing measures are provided to the flood protection elevation; and
 - b. Construction meets the development standards of section 22-800(a).
- (4) Fills or deposition of materials may be allowed by permit, if:
- a. The requirements of section 22-800(a) are met;
 - b. No material is deposited in navigable waters unless a permit is issued by the department pursuant to Wis. Stats. ch. 30 and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 USC 1344 has been issued, if applicable, and all other requirements have been met;
 - c.

The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

d. The fill is not classified as a solid or hazardous material.

(d) *Prohibited uses.* All uses not listed as permitted uses in subsection (b) of this section are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems except portable latrines that are removed prior to flooding, and systems associated with recreational areas and department-approved campgrounds, that meet the applicable provisions of local ordinances and Wis. Admin. Code SPS 383;
- (5) All wells, whether public or private, which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code chs. NR 811 and 812;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code § NR 110.15(3)(b); and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway, which complies with the regulations for the floodplain area occupied.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-802. - FF Floodfringe District.

(a) *Applicability.* This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to section 22-803(e).

(b) *Permitted uses.* Any structure, land use, or development, including accessory structures and uses, is allowed within the Floodfringe District, provided that the standards contained in subsection (c) of this section are met, that the use is not prohibited by this article or any other ordinance or local, state, or federal regulation and that all permits or certificates required under this article have been secured by the applicant.

(c) *Standards for development in the floodfringe.* All of the provisions of section 22-800 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of section 22-834.

(1) *Residential uses.* Any structure, including a manufactured home, which is to be newly constructed, or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of section 22-834.

a. All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structures shall be one foot or more above the regional flood elevation

extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be shown to meet section 22-791.

- b. Notwithstanding section 22-802(c)(1), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed below the regional flood elevation.
 - c. Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (c)(1)d of this section.
 - d. In developments where existing street or sewer line elevations make compliance with subsection (c)(1)c of this section impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 2. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.
- (2) *Accessory structures or uses.* In addition to section 22-800, new construction and substantial improvements of accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- (3) *Commercial uses.* In addition to section 22-800, any commercial structure which is erected, constructed, reconstructed, altered or moved into the floodfringe shall meet the requirements of subsection (c)(1) of this section. Subject to the requirements of subsection (c)(5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (4) *Manufacturing and industrial uses.* In addition to section 22-800, any manufacturing or industrial structure which is to be erected, constructed, reconstructed, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in section 22-849. Subject to the requirements of subsection (c)(5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (5) *Storage or processing of materials.* Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life, shall be stored at or above the flood protection elevation or floodproofed in compliance with section 22-849. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (6) *Public utilities, streets and bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans and:
- a.

When failure or interruption of public utilities, streets and bridges would endanger public health or safety or where such facilities are deemed essential to the orderly functioning of the area, construction or repair of such facilities shall only be permitted if they are designed to comply with section 22-849.

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

(7) *Sewage systems, wells, solid waste sites.*

- a. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to section 22-849, to the flood protection elevation and meet the provisions of all local ordinances and Wis. Admin. Code SPS 383.
- b. All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to section 22-849, to the flood protection elevation, and shall meet the provisions of Wis. Admin. Code chs. NR 811 and 812.
- c. Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(8) *Deposition of materials.* Any deposited material must meet all the provisions of this article.

(9) *Manufactured homes.*

- a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - 1. Have the lowest floor elevated to the flood protection elevation; and
 - 2. Be anchored so they do not float, collapse or move laterally during a flood.
- c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes, shall meet the residential development standards for the floodfringe in subsection (c)(1) of this section.

(10) *Mobile recreational vehicles.* All mobile recreational vehicles must be on site for less than 180 consecutive days and be either:

- a. Fully licensed and ready for highway use; or
- b. Shall meet the elevation and anchoring requirements in subsection (c)(9) of this section.

A mobile recreational vehicle is ready for highway use if it's on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

- (a) *Applicability.* The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the flood insurance rate maps identified in section 22-788.
- (b) *Floodway Boundaries.* For proposed development in zone A, or in zone AE within which a floodway is not delineated on the flood insurance rate map identified in section 22-788, the boundaries of the regulatory floodway shall be determined pursuant to section 22-803(e). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of section 22-801. If the development is located entirely within the floodfringe, the development is subject to the standards of section 22-802.
- (c) *Permitted uses.* Pursuant to subsection (e) of this section, it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in sections 22-801 for floodways and 22-802 for floodfringe are allowed within the General Floodplain District, provided that the procedures of subsection (e) of this section, sections 22-839, 22-840 and 22-841 are met, and all permits or certificates required have been secured by the applicant.
- (d) *Standards for development.* If the proposed use is located within a floodway, the provisions of section 22-801 shall apply, pursuant to subsection (e) of this section. If the proposed use is located within the floodfringe, the provisions of section 22-802 shall apply, determined pursuant to subsection (e) of this section. The rest of this article applies to all development.
- (1) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:
 - a. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or
 - b. If the depth is not specified on the FIRM, two feet above the highest adjacent natural grade or higher.
 - (2) New construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
 - (3) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.
 - (4) All development in zones AO and zone AH shall meet the requirements of section 22-802 applicable to floodfringe areas.
- (e) *Procedures for determining floodway and floodfringe limits.* Upon receiving an application for development within Zone A, or within Zone AE where a floodway has not been delineated on the flood insurance road maps, the zoning administrator shall:
- (1) Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures; and the flood zone as shown on the FIRM.
 - (2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:

- a. A hydrologic and hydraulic study as specified in section 22-840(c).
- b. Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
- c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-804. - Flood Storage District (FSD).

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

- (1) *Applicability.* The provisions of this section apply to all areas within the FSD Flood Storage District, as shown in the official floodplain zoning maps.
- (2) *Permitted uses.* Any use or development which occurs in a flood storage district must meet the applicable requirements in section 22-802(c).
- (3) *Standards for development in flood storage districts.*
 - a. Development in flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
 - b. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
 - c. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district, on this waterway, is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per section 22-851, Amendments, of this article.
 - d. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Secs. 22-805—22-833. - Reserved.

DIVISION 2. - NONCONFORMING STRUCTURES AND USES

Sec. 22-834. - Nonconforming uses—General provisions.

(a) Applicability.

- (1) The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with Wis. Stats. § 87.30 and Wis. Admin. Code ch. NR 116.12-14 and 44 CFR 59-72., these standards shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use was created.
- (2) As permit applications are received for additions, modifications, or substantial improvements to nonconforming building in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value, and a list of the costs of those activities associated with changes to those buildings.

(b) The existing lawful use of a structure, property, or its accessory use which is not in conformity with the provisions of this article, may be continued, subject to the following conditions:

- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they are made in conformity with the provisions of this article. For the purpose of this section, the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components; and the maintenance, repair or replacement of existing private sewage or water supply systems, or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value of those modifications present.
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land

access must be provided for residential and commercial uses in compliance with section 22-802(c). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this paragraph.

- (5) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c). Maintenance to any nonconforming structure, which does not exceed 50 percent of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for a substantial improvement calculation.
- (6) If on a per event basis the total value of the work being done under (4) and (5) above equals or exceeds 50 percent of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c).
- (7) Except as provided in subsection (b)(8) of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and structure meet the provisions of this article. For the purpose of this subsection, a structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.
- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met, and all required permits have been granted prior to the start of construction:
 - a. *Residential structures.*
 1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of subsection 22-849(b).
 2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
 3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
 4. In A zones, obtain, review and utilize any flood data available from a federal, state or other source.
 - 5.

In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 22-803(d).

6. In AO zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. *Nonresidential structures.*

1. Shall meet the requirements of section 22-834(b)(8)a.1-6.

2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in section 22-849(a) or (b).

3. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in 22-803(d).

(c) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with section 22-801(c)(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 22-849 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of section 22-834(b)(8)a if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-835. - Floodway District.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

(1) Has been granted a permit or variance which meets all ordinance requirements.

(2) Meets the requirements of section 22-834.

(3) Shall not increase the obstruction to flood flows or regional flood height.

(4) Any addition to the existing structure shall be floodproofed, pursuant to section 22-849, by means other than the use of fill, to the flood protection elevation; and

(5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

a. The enclosed areas shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;

c.

Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

- d. The use must be limited to parking, building access or limited storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, section 22-849(c) and Wis. Admin. Code SPS 383.
- (c) No new well or modification to an existing well, used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of this article, section 22-849(c) and Wis. Admin. Code chs. NR 811 and NR 812.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-836. - Floodfringe District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the city and meets the requirements of section 22-802(c), except where subsection (b) of this section is applicable.
- (b) Where compliance with the provisions of subsection (a) of this section would result in unnecessary hardship, and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of appeals, using the procedures established in sections 22-845 and 22-847, may grant a variance from those provisions of subsection (a) of this section for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, shall not be installed;
 - (4) Flood depths shall not exceed two feet;
 - (5) Flood velocities shall not exceed two feet per second; and
 - (6) The structure shall not be used for storage of materials as described in section 22-802(c)(5).
- (c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, section 22-849(c) and Wis. Admin. Code SPS 383.
- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this chapter, section 22-849(c) and Wis. Admin. Code chs. NR 811 and 812.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-837. - Flood storage areas.

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in section 22-804(3) are met.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-838. - Administration.

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

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-839. - Zoning administrator.

(a) *Duties and powers.* The zoning administrator is authorized to administer this chapter and shall have the following duties and powers:

- (1) Advise applicants of the article provisions, assist in preparing permit applications and appeals, and ensure that the regional flood elevation for the proposed development is shown on all permit applications.
- (2) Issue permits and inspect properties for compliance with provisions of this article, and issue certificates of compliance where appropriate.
- (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (4) Keep records of all official actions such as:
 - a. All permits issued; inspections made, and work approved;
 - b. Documentation of certified lowest floor and regional flood elevations;
 - c. Floodproofing certificates;
 - d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
 - e. All substantial damage assessment reports for floodplain structures; and
 - f. List of nonconforming structures and uses.
- (5) Submit copies of the following items to the department regional office:
 - a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text;
 - b. Copies of case-by-case analyses, and other required information including an annual summary of floodplain zoning actions taken; and
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (6) Investigate, prepare reports, and report violations of this article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.

(7) Submit copies of amendments and biennial reports to the regional FEMA office.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-840. - Zoning permits.

- (a) *When required.* Unless another section of this article specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any development, repair, modification or addition to an existing structure, as defined in section 22-853, including any change in the use of an existing building or structure, including sewer and water facilities, is initiated.
- (b) *Application.* An application for a permit shall be made to the zoning administrator upon forms furnished and shall include the following information for the purpose of proper enforcement of these regulations:
- (1) *General information.*
- a. Name, address, and telephone number of applicant, property owner and contractor.
 - b. Legal description, proposed use and whether it is new construction or a modification.
- (2) *Site development plan.* The site plan shall be drawn to scale and submitted as a part of the permit application form and shall contain:
- a. Location, dimensions, area and elevation of the lot;
 - b. Location of the ordinary highwater mark of any abutting navigable waterways;
 - c. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
 - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - e. Location and elevation of existing or future access roads;
 - f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
 - g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of sections 22-800 through 22-803 are met; and
 - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 22-800(a). This may include any of the information noted in section 22-801(c)(1).
- (c) *Hydraulic and hydrologic studies to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the department.
- (1) *Zone A floodplains and in AE zones within which a floodway is not delineated.*
- a.

Hydrology. The appropriate methods shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code,

Hydrologic analysis: Determination of regional flood discharge.

- b. *Hydraulic modeling.* The regional flood elevation shall be based on the standards in Wis. Admin. Code ch. NR 116.07(4), Hydraulic analysis: Determination of regional flood elevation, and the following:
 1. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 2. Channel sections must be surveyed.
 3. Minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 4. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 5. The most current version of HEC-RAS shall be used.
 6. A survey of bridge and culvert openings and the top of road is required at each structure.
 7. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 8. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 9. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- c. *Mapping.* A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
 1. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 2. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

(2) *Zone AE Floodplains.*

a.

Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Wis. Admin. Code ch. NR 116.07(3), Hydrologic analysis: Determination of regional flood discharge.

- b. *Hydraulic model.* The regional flood elevation shall be based on the standards in Wis. Admin. Code ch. NR 116.07(4), Hydraulic analysis: Determination of regional flood elevation, and the following:
 1. *Duplicate effective model.* The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the floodway data table in the FIS report to within 0.1 foot.
 2. *Corrected effective model.* The corrected effective model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for department review.
 3. *Existing (pre-project conditions) model.* The existing model shall be required to support conclusions about the actual impacts of the project associated with the revised (post-project) model or to establish more up-to-date models on which to base the revised (post-project) model.
 4. *Revised (post-project conditions) model.* The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
 5. All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
 6. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective model upstream and downstream of the revised reach as required. The effective model shall not be truncated.
- c. *Mapping.* Maps and associated engineering data shall be submitted to the department for review which meet the following conditions:
 1. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or flood boundary floodway maps (FBFMs), construction plans, bridge plans.
 2. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
 3. Annotated FIRM panel showing the revised one percent and two-tenths percent annual chance floodplains and floodway boundaries.
 - 4.

If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and state plan coordinate system in accordance with FEMA mapping specifications.

5. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
6. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
7. Both the current and proposed floodways shall be shown on the map.
8. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(d) *Expiration.* All permits issued under the authority of this article shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause. If the permitted work has not started within 180 days of the permit date, the development must comply with any regulations, including any revisions to the FIRM or FIS, that took effect after the permit date.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-841. - Certificate of compliance.

- (a) No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator subject to the following provisions:
 - (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article.
 - (2) Application for such certificate shall be concurrent with the application for a permit.
 - (3) If all article provisions are met, the certificate of compliance shall be issued within ten days after written notification that the permitted work is completed.
 - (4) The applicant shall submit a certification signed by a registered professional engineer, architect, or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of section 22-849 are met.
 - (5) Where applicable pursuant to section 22-803(d), the applicant must submit a certificate by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
 - (6) Where applicable pursuant to section 22-803(d), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by section 22-803(d).

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-842. - Other permits.

Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including, but not limited to, those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-843. - Plan commission.

(a) The plan commission shall:

- (1) Oversee the functions of the office of the zoning administrator; and
- (2) Review and advise the governing body on all proposed amendments to this article, maps and text;
- (3) Publish adequate notice pursuant to Wis. Stats. ch. 985, specifying the date, time, place, and subject of the public hearing.

(b) The plan commission shall not:

- (1) Grant variances to the terms of the article in place of action by the board of appeals; or
- (2) Amend the text or zoning maps in place of official action by the common council.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-844. - Fees.

The common council shall set fees for the following and include in the annual budget appendix fee schedule.

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Board of appeals.
- (4) Re-zonings, including PDDs.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-845. - Board of appeals.

The board of appeals, created under Wis. Stats. § 62.23(7)(e) is hereby authorized or shall be appointed to act for the purposes of this article. The board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of their business as required by Wis. Stats. § 63.23(7)(e)3. The zoning administrator shall not be the secretary of the board.

(1) *Powers and duties.* The board of appeals shall:

- a. *Appeals.* Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article;
- b. *Variances.* Hear and decide, upon appeal, a variance from the ordinance standards; and

c. *Boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

(2) *Appeals to the board.*

a. *Generally.* Appeals to the board of appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement decision, or determination of the official whose decision is in question. Such appeals shall be taken within 60 days as provided by the rules of the board, by filing with the official whose decision is in question, and with the board of appeals, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all the documents constituting the record concerning the matter appealed.

b. *Notice and hearing.*

1. *Notice.* The board of appeals shall fix a reasonable time for a hearing on the appeal or application. Public notice shall be provided by publishing the appropriate notice as required by state law with the notice specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the department regional office at least ten days prior to hearings.

2. *Hearing.* At the public hearing, any party may appear in person or by agent or attorney. The board shall resolve boundary disputes according to section 22-846; decide variance applications according to section 22-847; and/or decide appeals of permit denials according to section 22-848.

c. *Decision.* A final decision regarding the appeal or variance application shall;

1. Be made within a reasonable time;
2. Be sent to the department regional office within ten days of the decision;
3. Be a written determination signed by the chairman or secretary of the board;
4. State the specific facts which are the basis for the board's decision;
5. Either affirm, reverse, vary or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-846. - Boundary disputes.

(a) The following procedure shall be used by the board of appeals in hearing disputes concerning the floodplain district boundaries:

(1) Where a floodplain district boundary is established by approximate or detailed floodplain studies, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the board, other available

evidence may be examined;

- (2) The person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the board of appeals; and
- (3) Where it is determined that the district boundary is incorrectly mapped, the board should inform the plan commission or person contesting the location of the boundary to petition the municipality for a map amendment according to section 22-851, Amendments.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-847. - Variances.

- (a) The board of appeals may, upon appeal, grant a variance from the standards of this article where an applicant convincingly demonstrates that:
 - (1) Literal enforcement of the article provisions will cause unnecessary hardship;
 - (2) The hardship is due to adoption of the floodplain article and special conditions unique to the property, and not common to a group of adjacent lots or premises (in such case the zoning ordinance or map must be amended);
 - (3) Such variance is not contrary to the public interest; and
 - (4) Such variance is consistent with the purpose of this article in section 22-785.
- (b) In addition to the criteria in subsection (a) of this section, to qualify for a variance under FEMA regulations, the following criteria must be met:
 - (1) The variance shall not cause any increase in the regional flood elevation;
 - (2) Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 - (3) Variances shall only be granted upon a showing of good and sufficient cause
 - (4) Variances shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances;
 - (5) Variances shall not increase costs for rescue and relief efforts, cause fraud on or victimization of the public, and shall not be contrary to the purpose of the article; and
 - (6) Failure to grant the variance would result in exceptional hardship.
- (c) A variance shall not:
 - (1) Grant or increase any use of property prohibited in the zoning district;
 - (2) Be granted for a hardship based solely on an economic gain or loss;
 - (3) Be granted for a hardship which is self-created;
 - (4) Damage the rights or property values of other persons in the area;
 - (5) Allow actions without the amendments to this article or maps required in section 22-851, Amendments; and
 - (6) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

- (d) When a floodplain variance is granted, the board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-848. - To review appeals of permit denials.

- (a) The board of appeals shall review all data constituting the basis for the appeal of permit denial. This data may include:
- (1) Permit application data listed in section 22-840;
 - (2) Floodway/floodfringe determination data in section 22-803(e);
 - (3) Data listed in section 22-801(c)(1)b where the applicant has not submitted this information to the zoning administrator; and
 - (4) Other data submitted with the application, or submitted to the board with the appeal.
- (b) For appeals of all denied permits the board shall:
- (1) Follow the procedures of section 22-845;
 - (2) Consider zoning agency recommendations; and
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the board shall:
- (1) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of section 22-851, Amendments.
 - (2) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-849. - Floodproofing standards for nonconforming structures or uses.

- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to or above the flood protection elevation and submits a FEMA floodproofing certificate. Floodproofing is not an alternative to the development standards in this article including sections 22-799, 22-800, 22-801, 22-802, and 22-803.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
- (1) Certified by registered professional engineer or architect; or
 - (2) Meets or exceeds the following standards:
 - a.

A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

- b. The bottom of all openings shall be no higher than one foot above grade; and
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) Floodproofing measures shall be designed, as appropriate, to:

- (1) Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors;
- (2) Protect structures to the flood protection elevation;
- (3) Anchor structures to foundations to resist flotation and lateral movement;
- (4) Minimize or eliminate infiltration of flood waters;
- (5) Minimize or eliminate discharges into flood waters;
- (6) Placement of essential utilities to or above the flood protection elevation; and
- (7) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed area shall be designed by a registered engineer or architect to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking, building access or limited storage.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-850. - Public information.

- (a) Place marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.
- (b) All maps, engineering data and regulations shall be available be widely distributed.
- (c) Real estate transfers should show what floodplain district any real property is in.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-851. - Amendments.

Obstructions or increases may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with subsection (1) of this section.

In AE zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with subsection (1) of this section. Any such alterations must be reviewed and approved by FEMA and the DNR.

In A zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain maps, floodway lines, and water surface profiles, in accordance with subsection (1) of this section.

(1) *Generally.* When amendments are required, the procedures in section 22-851, subsection (2) below, shall apply. Official amendments are required for any changes in the official floodway lines, water surface profiles, floodplain zoning maps or text of the floodplain overlay zoning article. Article amendments may also be made upon petition of any interested party according to the provisions of Wis. Stats. § 62.23. Such petitions shall include all necessary data required by sections 22-803(e) and 22-840. The governing body may change or supplement the floodplain zoning district boundaries and this article in the manner outlines in subsection (2) of this section. Actions which require an amendment to the article and/or submittal of a letter of map change (LOMC) include, but are not limited to, the following:

- a. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- b. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- c. Any changes to any other officially adopted floodplain maps listed in 22-788(c);
- d. Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- e. Correction of discrepancies between the water surface profiles and floodplain maps;
- f. Any upgrade to a floodplain zoning subchapter text required by Wis. Admin. Code § NR 116.05 or otherwise required by law, or for changes by the city; and
- g. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

(2) *Procedures.* Article amendments may be made upon petition of any party according to the provisions of Wis. Stats. § 62.23. The petitions shall include all data required by sections 22-840 and 22-803(e). The zoning permit shall not be issued until a letter of map revision is issued by FEMA for the proposed changes.

- a. The proposed amendment shall be referred to the plan commission for a public hearing and recommendation to the common council. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 62.23.
- b. No amendments shall become effective until reviewed and approved by the department of natural resources.
- c.

All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements, or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the common council.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-852. - Enforcement and penalties.

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. See forfeiture/bond/deposit schedule for penalties for any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this article. Each day of continued violation shall constitute a separate offence. Every violation of this article is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30. Fines/penalties in the floodplain are limited to no more than \$50.00/day/violation under Wis. Stats. § 87.30.

(Ord. No. 2025-O-10, § 1(Att.), 7-22-2025)

Sec. 22-853. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined, words and phrases in this article shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The term "may" is permissive; the term "shall" is mandatory and is not discretionary.

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

AH zone. See "Area of shallow flooding."

AO zone. See "Area of shallow flooding."

Accessory structure or use means a facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.

Alteration means an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

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

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

Building. See "Structure."

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

Campground means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more mobile recreational vehicles and/or camping units, or which is advertised or represented as a camping area.

Camping unit means any portable device, no more than 400 square feet in area, used as a temporary shelter, including, but not limited to, a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

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

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

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

Deck means an unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.

Department means the Wisconsin Department of Natural Resources.

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

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

Encroachment means any fill, structure, equipment, use or development in the floodway.

Federal Emergency Management Agency (FEMA) means the federal agency that administers the National Flood Insurance Program.

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

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

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

Flood insurance rate map (FIRM) means a map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood insurance study means a technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A zones. Flood insurance rate maps, that accompany the flood insurance study, for the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

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

Flood protection elevation means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. Also see "freeboard."

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

Floodfringe means the portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

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

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

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

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

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

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

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

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

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

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is either:

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

Increase in regional flood height means a calculated upward rise in the regional flood elevation, greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Land use means any nonstructural use made of unimproved or improved real estate. Also see "Development."

Lowest adjacent grade means the elevation of the lowest ground surface that touches any of the exterior walls of a building.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Maintenance means the act or process of ordinary upkeep or repairs, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

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

Mobile/manufactured home park or subdivision means a parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

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

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

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

Model, corrected effective means a hydraulic engineering model that corrects any errors that occur in the duplicate effective model, adds any additional cross sections to the duplicate effective model, or incorporates more detailed topographic information than that used in the current effective model.

Model, duplicate effective means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

Model, effective means the hydraulic engineering model that was used to produce the current effective flood insurance study.

Model, existing (pre-project) means a modification of the duplicate effective model or corrected effective model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the corrected effective model or duplicate effective model.

Model, revised (post-project) means a modification of the existing or pre-project conditions model, duplicate effective model or corrected effective model to reflect revised or post-project conditions.

Municipality or municipal means the county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

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

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

Non-flood disaster means a fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.

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

Nonconforming structure means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this article for the area of the floodplain which it occupies. For example, an existing residential structure in the floodfringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.

Nonconforming use means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this article for the area of the floodplain which it occupies, such as a residence in the floodway.

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.

Official floodplain zoning map means that map, adopted and made part of this chapter, as described in [section 22-788](#), which has been approved by the department and FEMA.

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

Ordinary highwater 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 characteristic.

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

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

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

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

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

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

Structure means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

Subdivision has the meaning given in Wis. Stats. § 236.02(12) defined as a division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where the act of division creates five or more parcels or building sites of 1½ acres each or less in areas; or five or more

parcels or building sites of 1½ acres each or less in area are created by successive divisions within a period of five years.

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

Substantial improvement means any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvements regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

Variance means an authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

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

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

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

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