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SUBCHAPTER I: ZONING CODE (1879 08/13/96)

17.01 HISTORY. Zoning in the City of Baraboo was piecemeal for some time. The first major step was taken June 15, 1945, when Ordinance #696 restricted the construction of commercial buildings in residential areas and listed the general business area of the City.

On October 9, 1947, the Plan Commission was created by Ordinance #721.

At that time, an overall zoning ordinance was being planned for the City. On February 26, 1948, an interim zoning ordinance, Ordinance #725, was passed by the Council to control use in the City until such time as the planning was completed. On August 27, 1953, the final zoning ordinance, Ordinance #771, was passed. On June 13, 1961, the City adopted its first zoning district map by Ordinance No. 869.

In September 1965, the City retained the planning consultant firm of Candeub, Fleissig, & Associates to assist and guide in the preparation of a Master Comprehensive Zoning Plan. On April 8, 1969, the City adopted its first Master Plan. In 1970, the City made substantial amendments to the zoning code pursuant to the recommendations made in the Master Plan. The amended Zoning Code included a subdivision control ordinance that became effective on December 1, 1970.

In 1968, the City further adopted floodplain maps and a Floodplain Zoning Ordinance based upon a model prepared by the Department of Natural Resources. In June 1977, and again in June 1979, the flood-plain ordinances were amended in order to comply with requirements of the Department of Natural Resources and with HUD flood insurance requirements. In May 1991, the City repealed and recreated a new Floodplain and Shoreland-Wetland
Zoning Code for the City pursuant to Ordinance No.1605. The ordinances were based upon a model code provided to the City by the Wisconsin Department of Natural Resources. Also, in May of 1991, the City adopted new Floodplain maps pursuant to the requirements of the Department of Natural Resources.

The first Comprehensive Master Plan and the Zoning Code adopted pursuant to this Plan adequately served the City until the latter part of the 1980's. During the 1980's, the Zoning Code and Master Plan gradually became outdated due to the City's continued growth. In July of 1990, the Baraboo Plan Commission concluded that an updated Master Plan and a revised Zoning Code were needed in order to maintain control over the City's growth and development.

The City retained the services of Mid-State Associates, Inc. of Baraboo to assist and guide in the development of an updated Master Plan and Zoning Code. Between January of 1991 and May of 1992, the City Plan Commission worked closely with Mid-State Associates, Inc. to develop the new plan. Numerous public hearings were held by the Plan Commission during this time and on May 26, 1992, the Plan Commission approved the revised Comprehensive Master Plan for the City. On June 9, 1992, the City Council adopted Resolution No. 92-148 approving and adopting the Master Plan recommended by the Plan Commission.

On September 14, 1992, the Council repealed and recreated §17.08 and §17.21 through 17.28 of the 1992 Zoning Code, thereby revising all of the zoning definitions and establishing new residential districts, business districts, industrial districts and agricultural districts. On February 23, 1993, the City adopted a new Zoning District Map, thereby making all zoning districts within the City consistent with the new districts established in the revised zoning code.

In March 1995 a working group consisting of the City Engineer, City Attorney, Zoning Administrator, City Administrator, and consultants from Mid–State Associates, Inc. recommended that additional Code revisions be made to update and clarify the Code. The revisions resulting from this work were presented to the Plan Commission, and the Plan Commission recommended to the City Council that a revised City Zoning Code be adopted. A public hearing on the revised City Zoning Code was held before the City Council on July 23, 1996, and on August 13, 1996, the City Council adopted the revised Zoning Code by Ordinance No. 1879.

17.02 AUTHORITY. These regulations are adopted under the authority granted by §62.23 (7), Wisconsin Statutes.

17.03 SHORT TITLE. This chapter shall be known as, referred to, or cited as, the "Zoning Code(s)." "The Codes" or "City Code(s)" refers to all of the following: Zoning Code, Shoreland/Wetland Zoning Code, Subdivision and Platting Code, Building Codes, other City Codes and the Master Plan.

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

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

(1) To protect the character and the social and economic stability of all parts of the City and to encourage orderly and beneficial development of the City;

(2) To protect and conserve the value of land throughout the City and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;

(3) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities;

(4) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the City, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings;

(5) To prevent the pollution of air, streams and ponds;

(6) To ensure the adequacy of drainage facilities;

(7) To safeguard the water table, and to encourage the wise use and management of natural resources through- out the City in order to preserve the integrity, stability and beauty of the City and the value of the land;

(8) To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, scattered and low-grade subdivision.

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

17.07 INTERPRETATION. The provisions of this chapter shall be interpreted and applied as minimum requirements, shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any power granted by the Wisconsin Statutes.

17.08 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have at common law. (1652 09/14/92, 2446 08/23/2016, 2506 11/27/18; 2513 03/12/19)

(1) ABUT. To have a common property line; to be adjacent to.

(2) ACCESSORY BUILDING. A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises. When an accessory building is a part of the main building, or is substantially attached thereto, the front yard, height, side-yard and rear-yard requirements of the main building shall be applied to the accessory building. Accessory buildings shall be subject to their respective setback requirement.

(3) ACCESSORY USE. A use of land or a portion of a building customarily incidental to the actual principal use of the land or building and located on the same parcel or property with such principal use.

(4) AGRICULTURAL SERVICES. Includes all operations pertaining to the sale, handling, transport, packaging, storage or disposal of agricultural equipment, products, by-products or materials primarily used by agricultural operations. Examples of such land uses include agricultural implement sales, storage or repair operations; feed and seed stores; agricultural chemical dealers and/or storage facilities; animal feed storage facilities; commercial dairies; food processing facilities; canning and other packaging facilities; and agricultural waste disposal facilities.

(5) ALLEY. A special public right-of-way affording only secondary access to abutting properties said right-of-way being less than twenty-one (21) feet wide.

(6) AMUSEMENT AND RECREATION SERVICES. The operation of sports, amusement, and recreation services such as, but not limited to, bathing beaches, swimming pools, riding academies, carnival operations, exposition operations, horse shows, picnic grounds operations, and shooting galleries but specifically, excluding rental of rowboats and canoes.

(7) APARTMENT. A residential building or portion thereof, containing dwelling units used for occupancy by three or more families living independently of each other and containing three or more residential dwelling units.

(8) APARTMENT HOUSE. See MULTI-FAMILY DWELLING.

(9) BASEMENT. The portion of a dwelling below the first floor or ground floor with its entire floor below grade.

(10) BED-AND-BREAKFAST ESTABLISHMENT. "Bed-and-Breakfast Establishment" means any place of lodging that:

(a) Provides four or fewer rooms for rent to no more than a total of 20 tourists or transients; and

(b) Provides no meals other than breakfast and provides the breakfast only to renters of the place; and

(c) Is the owner's personal residence; and

(d) Is occupied by the owner at the time of rental; and

(e) Was 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; and

(f) Has had completed, before May 11, 1990, any structural additions to the dimensions of the original structure, including by renovation, except that a structural addition, including a renovation, to the structure may, after May 11, 1990, be made within the dimensions of the original structure.

(g) All drives and parking areas shall be hard surfaced and there shall be one off-street parking stall for each guest room and all parking stalls shall be located on the premises or on the adjoining premises. All off-street parking areas and drives shall be maintained so as to be accessible at all times and shall be cleared of snow within 24 hours after snow has accumulated.

(h) Is licensed as a Bed and Breakfast Establishment by the Wisconsin Department of Health and Social Services.

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

(12) BUILDING AREA. The total living area bounded by the exterior walls of a building at the floor levels, but not including basements, utility rooms, garages, porches, breezeways and unfinished attics.

(13) BUILDING HEIGHT. The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure or from the curb level in the front of lot, whichever is higher, to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel hip and pitch roofs; or to the deck line of the mansard roofs.

(14) BUS DEPOT. A facility where buses are stored and maintained.

(15) CAMPGROUND. A parcel or tract of land, maintained, intended or used for the purpose of supplying temporary or overnight living accommodations by providing designated areas for the placement of trailers, tents, busses, automobiles or sleeping bags, and may include buildings to provide services to the patrons such as restrooms, bathing, laundry and commissary facilities. A campground shall be licensed as a campground by the Wisconsin Department of Health and Social Services and shall be subject to the provisions of the Wisconsin Administrative Code. Occupancy of a camping unit on a continuous, year round basis or utilization of a camping unit as a permanent abode or legal place of residence is prohibited.

(16) CARPORT. A structure having a roof, with or without supporting walls, posts or columns; used, designated or intended to be used for the protection or shelter of up to three (3) private motor vehicles. For the purpose of this ordinance, a carport shall be considered to be the equivalent of a garage.

(17) CENTERLINE. A line equidistant from the edge of the median separating the main traveled ways of an existing or planned divided road or highway, or the centerline of the main traveled way of an undivided road or highway.

(18) CLINIC. Health care clinics operating for the primary purpose of providing out-patient treatment for human ills by one or more health care providers and including related facilities such as laboratories and other service facilities.

(19) CLOTHING STORES. Retail stores where clothing is sold, such as dry goods and shoe stores, and dress, hosiery, and millinery shops.

(20) CLUSTER DEVELOPMENT. A residential real estate development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

(21) COMMUNITY. The City of Baraboo, Wisconsin.

(22) COMMUNITY LIVING ARRANGEMENT.

A homeless or safe haven shelter providing short-term residential assistance to a defined service population; any of the following facilities licensed or operated, or permitted under the authority of the State of Wisconsin Department of Health and Family Services: child welfare agencies under §48.60, Wisconsin Statutes, group homes for children under §48.02(7), Wisconsin Statutes, and community based residential facilities under §50.01, Wisconsin Statutes; but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons, jails or juvenile secured or unsecured detention centers. (2294 11/25/2008)

(23) CONDITIONAL USE. A use of a special nature which makes impracticable its predetermination as a permitted approval by the Plan Commission in accordance with this subchapter.

(24) CONDOMINIUM. See §703.02(4), Wisconsin Statutes.

(25) CONDOMINIUM DEVELOPMENT. A residential real estate development subject to a condominium declaration pursuant to Chapter 703, Wisconsin Statutes.

(26) CONVENIENCE STORE. A commercial place of business engaged in the sale of food, beverages and miscellaneous products designed to be consumed off the premises. The business may also sell motor fuel and goods generally associated with the operation and maintenance of a motor vehicle.

(27) CORNER LOT. See LOT, CORNER.

(28) DAY CARE CENTER. Any facility or home licensed as a day care center by the State of Wisconsin Department of Health and Social Services under §48.65 Wis. Stats. where care is provided for compensation.

(29) DENSITY PER GROSS AREA. The quotient of the total number of dwelling units divided by the gross site area.

(30) DEPARTMENT STORE. A retail store where items, including clothing, housewares, automotive pro-ducts, hardware, garden supplies, food, craft supplies, jewelry, domestic equipment and appliances may be sold.

(31) DEVELOPMENT. 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 TYPE 1 Manufactured 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, excavating or drilling operations; the deposition or extraction of earthen materials; and the installation of public or private sewage disposal systems or water supply facilities.

(32) DORMITORY. A residential building primarily used by students for sleeping purposes that is contiguous to a school, college or other institution.

(33) DRAINAGE WAY. Any natural or artificial water course, including, but not limited to, streams, rivers, creeks, ditches, channels, canals, conduits, culverts, streams, waterways, gullies, ravines or washes in which waters flow in a definite direction and/or force; either continuously or intermittently. It also includes any area adjacent thereto, which is subject to inundation by reason of overflow or floodwater.

(34) DWELLING. A detached residential building designed and constructed for human occupancy that satisfies the following minimum requirements: (1733 05/17/94, 2446 08/23/16)

(a) Has a minimum of 864 square feet of habitable floor area.

(b) Has a minimum width along any exterior side elevation of 24 feet for the principal building and a minimum internal height of 7.5 feet or more than 50 percent (50%) of the living area.

(c) Is firmly fastened to a solid foundation constructed on the site in compliance with Ch. 14 of this Code and the current DSPS One to Two Family Uniform Dwelling Code with the exterior covering material extending to the ground, except that when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation.

(d) Is connected to the City sewer and waterworks systems.

(e) Is not housing classified as TYPE 1 Manufactured Homes located in a TYPE 1 Manufactured Home Park.

(35) DWELLING, MULTIPLE-FAMILY. A residential building containing three or more dwelling units (See DWELLING UNIT).

(36) DWELLING, ROW HOUSE OR TOWN HOUSE. One of a series of three or more attached dwelling units separated from one another by continuous vertical party walls un-pierced from basement floor to roof.

(37) DWELLING, SINGLE FAMILY. A detached residential building designed for or occupied by only one (1) family.

(38) DWELLING, TWO-FAMILY (CONVENTIONAL DUPLEX). A single family dwelling which is attached on one side to another single family dwelling. The two residences are

located on the same lot. (2250 04/10/07, 2446 08/23/16)

(39) DWELLING, TWO-FLAT. A two story single family residence, which is in complete compliance with the State of Wisconsin Uniform Dwelling Code (UDC), which has been converted into a two-family residence. The two residences are both located on the same lot. (2250 04/10/07, 2446 08/23/16)

(40) DWELLING UNIT. A structure or part of a structure which is used, or intended to be used, as a home, residence or sleeping place by one or more persons maintaining a common household, to the exclusion of all others.

(41) EATING ESTABLISHMENTS - TYPE 1. Licensed eating establishments that do not, and will not have, a liquor license, drive-thru service, pick-up service, and will operate no longer than fifteen (15) hours a day.

(42) EATING ESTABLISHMENTS - TYPE 2. Licensed eating establishments that may include liquor licenses, drive-thru service, pick-up service, and may operate twenty-four (24) hours a day.

(43) EMERGENCY SHELTER. Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare or fire, flood, windstorm, riots and invasions.

(44) ESSENTIAL SERVICES. Services provided by public and quasi-public utilities necessary for the exercise of the principal use or service to the principal structure. These services include: underground, surface or over-head gas, electrical, steam, water, sanitary sewerage, storm water drainage, communication systems, and accessories thereto, such as poles, towers, wires, mains, drains, wells, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire stations, police stations, EMS stations, traffic signals, pumps, lift stations and hydrants, but not including outside storage areas.

(45) EQUALIZED VALUE. The assessed value of a structure divided by the ratio of the assessed value to the recommended value, as last published by the Department of Revenue for the City of Baraboo.

(46) FAMILY. Any number of persons related by blood, adoption, marriage, or not more than three (3) un-related persons, living together in one (1) dwelling as a single housekeeping entity.

(47) FENCE. Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

(48) FLOOR AREA. The sum of the total horizontal areas of the floors of the principal building on a lot, excluding the garage exterior measured from the exterior faces of exterior walls. The term floor area shall include basements; elevator shafts; stairwells at each story; floor space used for mechanical equipment with structural head-room of six feet-six inches (6'6") or more; penthouses; attic space, whether or not a floor has been laid, providing structural headroom of six feet-six inches (6'6") or more; interior balconies; all season porches; and mezzanines.

(49) FRONTAGE. All the property abutting on one (1) side of a street between two (2) intersecting streets, or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

(50) FRONT YARD. The portion of a lot between the front of a building or dwelling and a public street measured along the street line. Corner lots shall have two (2) such yards.

(51) GARAGE, PRIVATE. A privately owned building used only for storage of not more than three (3) motor-driven vehicles (See also CARPORT).

(52) GARAGE, PUBLIC. Any garage, other than a private garage, which is open to the public and used for the storage of motor vehicles.

(53) GAS STATION. A building or place of business where gasoline, oil, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade and/or where minor repair service is rendered. This does not include convenience stores.

(54) GOVERNING BODY. The City Council of the City of Baraboo, Wisconsin.

(55) GROUP DEVELOPMENT. A group development is any development containing:

(a) Two or more structures containing principal permitted land uses on the same lot or parcel; and/or
(b) Any single structure devoted to institutional, office, or commercial land uses containing more than 40,000 gross square feet of floor area.

Common examples of Group Developments include condominium complexes, strip centers, shopping centers, and office centers. One tenant office or commercial buildings containing less than 40,000 gross square feet of floor area is not a group development even though such development may contain parcels under common ownership. (1983 07/27/99)

(56) HOME OCCUPATION. (2235 08/22/2006)

(a) A "Home Occupation" is defined as the production of goods and/or services, customarily conducted for gain or support, within a residence by a member of the family residing in the residence, and that has three or more of the following characteristics:

1. The direct sales of merchandise or service to customers at the residence, or meeting directly with customers at the residence.
2. Non-immediate family employees come to the residence.
3. The delivery of materials used in the home occupation to the residence.
4. Equipment used in the home occupation is stored outside the residence.
5. Evidence of use as a home occupation visible or audible from off the property.

Regardless of circumstances, a home occupation shall not include a daycare not required to be licensed by the State, home sales parties not exceeding twice per calendar month, an activity engaged in by persons under the age of 18 years, or private lessons offered in a home, such as music or reading.

(b) If a home occupation is permitted as a conditional use for a residence, it shall comply with the following general conditions:

(1) Retail sales are not permitted within a home occupation building.

(2) Shopping by customers is not permitted within a home occupation building.

(3) Displayed items produced by the home occupation may be displayed but not sold.

(4) A home occupation shall produce no offensive noise, vibration, dust, odors, smoke, heat, pollution, glare, or radio, electrical, or television interference or otherwise produce a nuisance.

(5) No materials which decompose by detonation shall be allowed in conjunction with a home occupation.

(6) No home occupation shall be permitted which changes the outside appearance of the dwelling or is visible from the street.

(7) Materials used in or produced by a home occupation may not be stored or displayed outside of any building.

(8) Nonresident employees of a home occupation may be permitted by the Plan Commission if the Plan Commission makes the following findings:

1. That no non-resident employee shall perform any work or services at the site of the home occupation,

2. That a non-resident employee shall not work out of a branch office located in his/ her home within the City unless the said branch office is also granted a conditional use permit, and

3. That a non-resident employee shall not report for work at the site of the home occupation and leave his/her vehicle parked in the vicinity of the home occupation during the work day.

(9) The volume of vehicular or pedestrian traffic or parking shall not result in congestion or be in excess of what is compatible with a residential neighborhood. There shall be no deliveries to or from a home occupation with a vehicle larger than a 30-foot long single-unit truck nor more than one delivery per day. Trucks shall not operate out of resident districts as part of a home occupation.

(10) No more than one (1) home occupation shall be permitted per each lot.

(11) A home occupation shall be carried on wholly within buildings on the lot by resident occupants and the total area devoted to the home occupation shall not exceed 20 percent of the gross floor area of the dwelling unit.

(12) No home occupation shall be permitted that generates sewerage or water use in excess of what is normal for a residential dwelling.

(13) No home occupation shall be permitted which requires plumbing, electrical, or structural changes when such changes are not dictated by the primary residential use of the property.

(14) Home occupation uses shall meet all applicable fire and building code safety requirements.

(15) No home occupation involving visits to the site of the home occupation by customers or the loading and unloading of business-oriented material shall be operated between the hours of 8:00 p.m. and 8:00 a.m.

(16) The following uses are prohibited as home occupations:

1. Veterinary clinics, pet grooming or boarding.
2. Antique shop.
3. Automobile or other motor vehicle repair or paint shops.
4. Barber shops and beauty parlors.
5. Furniture stripping and/or refinishing.
6. Gift shops.
7. Manufacturing or assembling items for sale from components not made on the same premises.
8. Mortuaries.
9. Photographic studios.
10. Private clubs.

(57) HOTEL. A building in which there are more than five (5) sleeping rooms designed for occupancy as a temporary residence of transient guests for compensation, who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite, including a permanent apartment for a resident manager. (2294 11/25/2008)

(58) INDOOR INSTITUTIONAL. All indoor public and private institutional facilities such as libraries, museums and community centers, schools, colleges, churches, nonprofit clubs, nonprofit fraternal organizations, hospitals, jails, prisons and similar land uses but specifically excluding gyms, swimming pools, convention centers.

(59) INTERSECTION. A grade-separated intersection on a State Trunk Highway with one or more turning roadways for travel between intersection legs.

(60) INTERIOR LOT. See LOT, INTERIOR.

(61) INTERSECTING HIGHWAY. A highway of any political jurisdiction which forms one or more legs of an interchange and to which access is not fully controlled.

(62) LOADING AREA. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley.

(63) LODGING HOUSE (Including Boarding and Rooming House). A residential building that is the primary residence of the owner where lodging is provided for compensation for not more than three (3) persons who are not members of the family. Lodging or meals or both are provided for compensation on a weekly or monthly basis. A lodging house excludes establishments that offer short-term accommodations for transients such as hotels, motels, bed and breakfasts, and emergency shelters.

(64) LOT. A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use; and sufficient in size to meet the area and other open space provisions of the City Codes.

(65) LOT, CORNER. A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135° or less, measured on the lot side.

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

(67) LOT, FAN SHAPED. A parcel of land having a minimum 30-foot width on a public street. The lot width at the building setback line must be at least sixty (60) feet.

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

(69) LOT, THROUGH. An interior lot having frontage on two (2) non-intersecting streets.

(70) LOT LINES AND AREA. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

(71) LOT WIDTH. The width of a parcel of land measured at the building setback line.

(72) MANUFACTURED-HOME PARK. A parcel of land under single ownership planned and improved for the placement of TYPE 1 Manufactured Homes for dwelling purposes. The park must comply with the provisions of this chapter and Ch. 12 of the City Code.

(73) MANUFACTURED HOME (TYPE 1). Single family detached housing built to the National Manufactured Housing Construction and Safety Standards Act of 1974 and includes structures known as manufactured homes or mobile homes. A factory-built, single family structure that is manufactured under the authority of 42 U.S.C. §5401, the National Manufactured Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which

is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame; and includes any additions, attachments, annexes, foundations and appurtenances. A manufactured home (TYPE 1) does not comply with the State One and Two-Family Dwelling Code (Subch. II of Ch. 101, Wis. Stats.) or with the Manufactured

(74) MANUFACTURED BUILDING (TYPE 2). A manufactured building is also known as a manufactured home TYPE 2. Any structure or component thereof which is intended for use as a dwelling and: (1) is of closed construction and fabricated or assembled on site or off site in manufacturing facilities for installation, connection, or assembly and installation, at the building site; or (2) is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection or assembly and installation, on the building site and for which certification is sought by the manufacturer. A manufactured building does not mean any manufactured home TYPE 1 or mobile home. A manufactured building is a dwelling unit that complies with Subch. III of Ch. 101, Wis. Stats., and shall have been inspected and certified by Department of Industry, Labor and Human Relations (DILHR) as complying with Subch. III and shall display the compliance insignia issued by DILHR.

(75) MIXED-USE DEVELOPMENT. The planned development or series of planned development stages for the combination of residential, commercial, and/or industrial land uses. The development is to promote improved environmental design and innovative land uses in the City. To this intent, Mixed-Use Developments allow variation in the relationship of uses, structures, and open spaces in developments conceived and implemented as cohesive unified projects or as programmed series of development stages. It is the intent of these developments to be compatible with the applicable zoning district and with the surrounding zoning districts. It is further intended to encourage more rational and well-planned developments with relationship to public services, energy efficiency, and community appearance consistent with the overall intent of the Zoning Code and the Master Plan of the City.

(76) MOBILE HOME: A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used, and includes any additions, attachments, annexes, foundations, and appurtenances. (See §66.058 Wis. Stats.

(77) MOTEL. At least five (5) attached, semi-attached or detached sleeping units for the accommodation of transient guests, including a permanent apartment for a resident manager. (2294 11/25/2008)

(78) MUNICIPAL LIMITS. Official City of Baraboo boundaries.

(79) MUSEUM. A building of historical significance operated by a non-profit corporation or government.

(80) NON-CONFORMING USES OR STRUCTURES. See §17.15 of this chapter.

(81) OFFICE. Office land uses include all exclusively indoor land uses whose primary functions are the handling of information or administrative services. Such land uses do not typically provide services directly to customers on a walk-in or on-appointment basis. (2250 04/10/07)

(82) OFFICIAL FLOODPLAIN ZONING MAP. See Subch. II of this chapter.

(83) PARKING LOT. A public or private structure or premises containing parking spaces for automobiles, trucks, and motorcycles subject to compliance with this code.

(84) PARKING SPACE. A graded or surfaced area of not less than one hundred eighty (180) square feet, either enclosed or open, for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

(85) PERSONAL OR PROFESSIONAL SERVICES. Personal service and professional service land uses include all exclusively indoor land uses whose primary function is the provision of services directly to an individual on a walk-in or on-appointment bases. Examples of such uses include professional services, insurance or financial services, realty offices, medical offices, or clinics, veterinary clinics, barber shops, beauty shops, and related land uses. (2250 04/10/07)

(86) PLANNED RESIDENTIAL DEVELOPMENT. The development of land for residential purposes under unified control and is planned as a development as a whole through a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements. A planned residential development may include a program for the provision, operation, and maintenance of such areas, facilities and improvements as will be

for the common use by some or all of the occupants of the planned development, but which will not be provided, operated or maintained at general public expense. A planned residential development may include apartment complexes, townhouses or cluster developments.

(87) PRINCIPAL BUILDING. A building in which is conducted the principal use of the lot on which it is located.

(88) PROFESSIONAL CATTERY. An area in a residence used by the owner/occupant of the residence to raise and sell purebred cats and kittens and which complies with the following conditions: no more than twenty-five (25) cats older than six (6) months of age shall be kept in the residence at any one time; none of the cats or kittens shall be allowed or permitted to be outside of the residence at any time; the cats and kittens shall be raised in a safe, sanitary and healthful environment and shall be properly fed and groomed at all times and all waste shall be disposed of in a safe and sanitary manner; the owner shall have the premises and each cat and kitten on the premises inspected, at the owner's sole expense, not less than two (2) times per calendar year by a veterinarian currently licensed by the State of Wisconsin, with each inspection being at least five (5) months apart and the inspecting veterinarian shall file a written report with the City's Zoning Administrator setting forth his/her findings; a City employee of the police department or the Office of the Zoning Administrator shall be authorized to inspect the residential area used for the operation of this home occupation at any reasonable time without notice to the owner or occupant thereof; no signs shall be displayed advertising this use on the premises and the general conditions for home occupations set forth in §17.08(51) (d) - (p) shall be satisfied. (1809 04/18/95).

(89) PROFESSIONAL HOME OFFICE. An office in the residence of a clergyman, architect, landscape architect, professional engineer, registered land surveyor, lawyer, artist, teacher, author, musician or other similar recognized professions. The office shall be incidental to the residence; used to conduct the residence's profession; where the office does not exceed twenty percent (20%) of the floor area of one (1) story of a dwelling unit where the office is located; no more than one (1) nonresident person is employed; and only one (1) name plate, not exceeding four (4) square feet in area containing the name and profession of the occupant of the premises shall be exhibited.

The following uses are <u>prohibited</u> as professional home offices:

(a) Animal hospitals, pet grooming, or boarding.
(b) Antique shops.
(c) Automobile or other motor vehicle repair or paint shops.
(d) Barber shops and beauty parlors.
(e) Furniture stripping and/or refinishing.
(f) Gift shops.
(g) Manufacturing or assembling items for sale from components not made on the same premises.
(h) Mortuaries.
(i) Photographic studios.
(j) Private clubs.
(k) Restaurants.
(l) Small-engine repair shops.
(m) Stables or kennels.
(n) Any other home occupations not meeting the criteria established by the Zoning Code.

(89L) SHORT-TERM RENTAL. Means a residential dwelling that is offered for rent for a fee and for fewer than 29 consecutive days, as defined in §66.0615 (1)(dk), Wis. Stat.

(90) RETAIL SALES AND SERVICES. Retail sales and service land uses include all land uses which conduct or display sales or rental merchandise or equipment, or non-personal or non-professional services, entirely within an enclosed building. (2250 04/10/07)

(91) ROUTINE MAINTENANCE. Painting, window replacement in the same opening area, roofing replacement without altering roof line. (2250 04/10/07)

(92) PUBLIC AIRPORT. Any airport that complies with the definitions contained in the Wisconsin Statutes.

(93) REAR YARD. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one (1) of the street yards on a corner lot.

(94) ROUTINE MAIINTENANCE – Painting, window replacement in the same opening area, roofing replacement without altering roof line. *(This Section sunsets on 12/09/2013 or upon adoption of Smart Growth Zoning changes, whichever occurs first.)* (2132 12/09/03)

(95) SALVAGE YARD. An area consisting of buildings, structures or premises where junk, waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile-wrecking yards, house-wrecking and structural-steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operational condition. Storage of three (3) or more unlicensed vehicles on the same premise may be evidence of operation of a salvage yard.

(96) SATELLITE ANTENNAS. See §17.38.

(97) SELF-SERVICE FACILITY. Real property containing individual leased spaces but does not include a warehouse or other facility if the operator of the warehouse or facility issues a warehouse receipt, bill of lading or other document of title for personal property stored in the leased spaces. The facility is rented to a person who has free access to the storage space and is responsible for the property. (2445 8/23/16)

(98) SERVICE STATION. Any retail garage, other than a private garage, which is open to the public and used for equipping, servicing, repairing, leasing, or the parking of motor vehicles that are under repair.

(99) SETBACK. The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof, excluding uncovered steps.

(100) SEXUALLY ORIENTED BUSINESS. See Ch. 12 of this Code.

(101) SHORT-TERM RENTAL DWELLING (2446 08/23/2016) Any single family dwelling that is rented to any person on a day-to-day basis or for a period of time of less than 30 consecutive nights. Any advertising of a short term rental dwelling shall be conclusive proof that a dwelling is being used as a short-term rental dwelling. Any real property that is used for short-term rental shall no longer be considered a single-family dwelling.

(102) SIDE-BY-SIDE SINGLE FAMILY ATTACHED DWELLINGS. A duplex building containing two dwelling units, each having its own independent outside access, with no other dwelling units located directly above or below it, and having a shared wall in common with one adjacent similar dwelling unit. (2257 05/22/07, 2446 08/23/16)

(103) SIDE YARD. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.

(104) SIGNS. Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, idea, opinion, firm, association, corporation, profession, business, commodity or product, and which is visible from any public street or highway.

(105) STORY. The portion of a building included between the surface of a floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling above it. A basement or cellar having ½ or more of its height above grade shall be deemed a story for purposes of height regulation.

(106) STORY, HALF. The space under any roof except a flat roof which, if occupied for residential purposes, shall be counted as a full story.

(107) STREET. All property dedicated or intended for public or private purposes, or subject to public easements therefore, and twenty-one (21) feet or more in width providing access to abutting properties.

(108) STREET LINE. A dividing line between a lot, tract, or parcel of land and a contiguous street.

(109) STREET YARD. See FRONT YARD.

(110) STRUCTURAL ALTERATIONS. Any change that would convert an existing building or structure, or a substantially different building or structure, or a change that would contribute to the longevity or permanence of the building or structure. Ordinary maintenance repairs, such as internal and external painting, decorating, paneling, replacement of doors and/or windows or other non-structural components, installation of insulation, or the repair or replacement of heating, electrical or plumbing improvements, including fixtures, shall not ordinarily be regarded as structural repairs. See also requirements for building, plumbing and electrical permits.

(111) STRUCTURE. Any erection or construction such as buildings, mobile homes, towers, masts, poles, booms, signs, wells, decorations, carports, covered decks, machinery, satellite antennas larger than twenty-four (24) inches in width, and equipment which requires a temporary or permanent location on or in the ground.

(112) SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the most current equalized value of the structure, either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either of the following:

(a) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

(b) Any alteration of an historic structure or site to maintain or enhance its historical significance as approved by the City's Historic Preservation Commission;

(c) Ordinary maintenance repairs are not considered structural repairs, modifications or additions. Such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components.

(113) TEMPORARY STRUCTURE. A movable structure not designed for permanent human occupancy for the purpose that would commonly be expected to be relatively short term.

(114) THROUGH LOT. See LOT, THROUGH.

(115) TOWN HOUSE. A residential building or portion thereof, containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings.

(116) TRAILERS. Units, including camp trailers, intended for temporary occupancy.

(117) UTILITIES. Any public or private water supply or waste collection and/or disposal system, including, but not limited to, septic systems, private and public wells and their attendant facilities, public sewage collection systems, wastewater treatment facilities, telephone, cable communications, gas and electric utilities.

(118) WAREHOUSE. A person engaged in the business of storing goods for hire or any building, room, structure, or facility used for the storage of property. (2445 8/23/16)

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

(120) VARIANCES. An authorization granted by the City to construct or alter a building or structure in a manner that deviates from the dimensional standards provided in this chapter in order to alleviate unnecessary hardship. A variance may not permit a use of property that is otherwise prohibited by this chapter.

(121) VETERINARY CLINIC - SMALL ANIMAL. A building, or portion thereof, used for the medical treatment of only small domesticated animals where there is no outside animal run(s) and no overnight boarding of animals except for medical reasons. This use shall not include on-site treatment of large animals such as cattle, horses, swine, sheep or similar animals and livestock.

(122) VISION CLEARANCE. A triangular-shaped portion of land established at street intersections, in which nothing over twenty-four (24) inches is to be erected, placed, planted, or allowed to be grown in such a manner as to limit or obstruct the sight of motorists, bicycles, and pedestrians entering or leaving the intersection. See §17.39.

17.09 <u>JURISDICTION</u>. The jurisdiction of this chapter shall include all lands and waters within the boundaries of the City of Baraboo, Wisconsin.

17.10 <u>COMPLIANCE</u>. No structure, land or water shall hereafter be used, and no structure, or part thereof, shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered with-out full compliance with the provisions of this chapter and all other applicable City, county, state, and federal ordinances, codes and regulations.

17.11 <u>ZONING CHANGES AND AMENDMENTS</u>.

(1) PETITION REQUIREMENTS. A written petition for a zoning change or a special zoning exception shall be filed with the City Clerk on a form prescribed by the City. Upon receipt of the information, fee and materials required by this chapter, the City Clerk shall forward the petition to the Plan Commission and the City Council. Where applicable, each petition shall include the following:

(a) A statement with supporting evidence showing that the proposed zoning change or special zoning exception shall conform to the purpose, intent, spirit and regulations of The Codes.

(b) The names and addresses of each petitioner and each record owner of the site.

(c) The names and addresses of all the owners of the lands immediately adjacent to the boundaries of the site extending 200 feet therefrom and all the owners of the land directly opposite from the site extending 200 feet from the street frontage of such opposite land. (2131 12/09/03)

(d) A full and accurate legal description of the site, the address of the site, the tax parcel number of the site, the present

zoning classification of the site, the proposed zoning change or special zoning exception, a description or photograph of each structure presently on the site, and a description of the present use of the site and structures thereon.

(e) The proposed operation or use of the land constituting the site and each structure on the site, and the number of persons to be employed on the site, if any.

(f) Each petition shall be accompanied by a survey map or other map or drawing to scale approved by the Zoning Administrator showing the location, property boundaries, dimensions, uses and size of the following: site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing access restrictions; existing and proposed street, side and rear yards; a detailed plan of proposed surface water drainage, topographic data or pertinent grade elevations where necessary for proper interpretation of the plans and a locational diagram showing the property in relation to the surrounding area.

(g) The petition shall be accompanied by the payment of the required fee.

(2) ADDITIONAL INFORMATION REQUIRED. The Plan Commission, City Council and officers of the City shall be empowered and authorized to request the petitioners to provide such additional information as deemed necessary in order to consider any request for a zoning change or special zoning exception. Such additional information may include, but shall not be limited to: an accurate survey map prepared by a registered land surveyor, or an accurate map or drawing to scale of the site and its structures; a plan showing contours, soil types, high water mark, groundwater conditions, bed rock, slope and vegetation cover; elevations of the site and elevations of the lands immediately adjacent to the boundaries of the site; specifications for areas of proposed filling, grading and lagooning or dredging; location of buildings, structures, parking areas, traffic access, drive-ways, walkways, open spaces, landscaping and lighting; fire lanes, fire hydrants and fire protection plans; plans for buildings; sewerage disposal facilities; water supply systems; disposal of solid waste and recycling; and overall arrangement of operations on the site.

(3) SEWERAGE AND WATER SERVICE REQUIREMENTS. If either municipal sewerage service or municipal water is not available to the site, the petitioners shall provide plans prepared by an appropriate, professionally licensed authority certifying, in writing, that satisfactory, adequate and safe sewage disposal will be available on the site in accordance with applicable City, County and State regulations, and that an adequate and safe supply of water will also be available at the site. For all other required improvements see the Sub-division Code and other sections of the Zoning Code.

(4) ZONING CODE AMENDMENTS. The City Council may, from time to time, on its own motion or on petition, after first submitting the proposal to the Plan Commission for report and recommendation, amend, supplement, or change the district boundaries or the regulations of this zoning code, upon giving notice as required by §62.23(7)(d), Wis. Statutes of the hearing regarding the proposed amendment, supplement or change, and an opportunity to any person interested to be heard. Notice of the time, place and purpose of such hearing shall be given by publication as required by §62.23(7)(d). If the zoning amendment or change involves a change in the Official Zoning District Map as provided in Section 17.18 of this code, notice of the time, place and purpose of the public hearing required by this section shall also be sent to the applicant and to the property owners of record as shown on the current City of Baraboo Property Tax Assessment Roll, who are the owners of the parcel(s) included in the proposed amendment or change and to the property owners who are the owners of each tax parcel(s) situated in whole or in part within 200 feet of the boundaries of the subject parcel(s). This notice shall be mailed by first class mail at least ten (10) days prior to the date of such public hearing to the address of the property owner as shown on the current City of Baraboo Property Tax Assessment Roll for each such tax parcel. Failure to comply with these notice provisions or the failure of a person or property owner to receive notice shall not, however, invalidate any previous or subsequent action on the proposed zoning amendment or change nor shall such failure to give notice invalidate any proceedings under this chapter providing such failure is unintentional. Such mailed notice shall not be required where the amendment or change is of such a comprehensive nature that such notice would involve unreasonable administrative effort and expense. (2131 12/09/03)

(5) ZONING PROTEST. In case of protest against a zoning change or amendment duly signed and acknowledged by the owners of 20 percent (20%) or more either of the areas of land included in such proposed amendment, supplement or change, or by the owners of land immediately adjacent extending 100 feet there-from, or by the owners of 20 percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment, supplement or change shall not become effective except by a favorable vote of three-fourths (3/4) of the members of the City Council.

(6) FLOODFRINGE OR FLOODPLAIN AMENDMENTS. Any amendments to or affecting the Flood-fringe and/or the Floodplain Districts shall be approved by the

Wisconsin Department of Natural Resources before action is taken by the City Council or before such regulations become effective. See Subch. II of this Chapter.

17.12 <u>SITE REGULATIONS</u>.

(1) UNSUITABLE LAND CHARACTERISTICS. No land shall be used or structures erected where the land is held unsuitable for such use or structure by the City Council after review and recommendation of the Plan Commission by reason of:

(a) Flooding
(b) Concentrated runoff
(c) Inadequate drainage
(d) Adverse soil or rock formation
(e) Unfavorable topography
(f) Low percolation rate
(g) Low bearing strength
(h) Erosion susceptibility
(i) Or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, historical value, and general welfare of this community.

The Plan Commission, in applying the provisions of this section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he or she so desires. When making recommendations to the City Council, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

(2) LOT MUST ABUT STREET. No zoning reclassification shall be considered for any lot unless the lot abuts a public street which has been dedicated to its full width as required by The Codes.

(3) SEWER AND WATER SERVICE. In any district where a public water supply or public sewerage service is not available, the lot shall comply in all respects with the applicable provisions of the Wisconsin Administrative Code for lands not served by a public water supply and/or a public sewerage system.

(4) STREET FRONTAGE REQUIRED FOR BUILDABLE LOT. To be buildable, a lot shall comply with the frontage setback requirements of the Zoning District in which it is located, but, in all cases, a lot shall abut upon and have a minimum frontage of thirty (30) feet on a public street. Each fan shaped lot shall have a minimum of sixty (60) foot width at the building setback line.

(5) Chimneys, monuments, stacks, water towers, ornamental towers and spires are hereby excepted from the height regulations of this subchapter. (2300 04/14/2009)

(6) Where a lot abuts on two (2) or more streets or alleys having different average established grades, the higher of such grades shall control for a depth of 120 feet from the line of the higher average established grade. (2300 04/14/2009)

(7) Public or semi-public facilities such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices, and stations may be erected to a height of 60 feet provided all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement. (2300 04/14/2009)

(8) Uncovered stairs, landing, and fire escapes may project into any yard, but not to exceed six feet and not closer than three feet to any lot line. (2300 04/14/2009)

(9) Architectural projections such as chimneys, flues, sills, eaves, belt courses, and ornaments may project into any required yard, but such projection shall not exceed two feet (2300 04/14/2009)

(10) Open decks may extend into required side yards and rear yards, but shall not be closer than six feet to property lines. (2300 04/14/2009)

(11) Ground level, concrete or wood platforms may extend to within three feet of a property line, provided that no vertical type construction may be added and that no projected type of roof cover be added. (2300 04/14/2009)

(12) Essential services, utilities, electric power, and communication transmission lines are exempt from the yard and distance requirements of this subchapter. (2300 04/14/2009)

(13) Hedges, trees, shrubs, and other plantings shall not be planted so as to extend closer than three feet to an alley right-of-way line. (2300 04/14/2009)

(14) Screening Regulations - Any use required by this chapter to be screened shall be contained within an opaque fence or wall eight feet high or a visual screen consisting of evergreen or evergreen type hedges or shrubs, spaced at intervals of not more than six feet, located and maintained in good condition within 15 feet of the property line, or in any way out of view of the public. (2300 04/14/2009)

17.13 <u>USE REGULATIONS</u>. The following use restrictions and regulations shall apply:

(1) PRINCIPAL USES. Principal uses specified for a district shall be permitted in that district.

(2) ACCESSORY USES. Accessory uses and structures are permitted in any district, but not

until their principal structure is present or under construction.

(3) LIMITED NUMBER OF BUILDINGS. There shall be no more than one (1) principal dwelling and two (2) accessory structures on each lot in any Residential or Manufactured Home District.

(4) ESSENTIAL SERVICES. Services provided by public and quasi-public utilities necessary for the exercise of the principal use or service of the principal structure shall be permitted in all districts. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, communication systems, and accessories thereto, such as poles, towers, wires, mains, drains, wells, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire stations, police stations, EMS stations, traffic signals, pumps, lift stations, and hydrants, but not including outside storage areas.

(5) TEMPORARY USES AND STRUCTURES. Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Board of Zoning Appeals.

17.13A **SHORT-TERM RENTALS** (2513 03/12/19)

(1) PURPOSE. The purpose of this ordinance is to ensure that the quality of short-term rentals operating within the City is adequate for protecting public health, safety and general welfare, including: establishing minimum standards of space for human occupancy and for adequate level of maintenance; determining the responsibilities of owners, operators and property managers offering these properties for tourists or transient occupants, to protect the character and stability of all areas, especially residential areas, within the City; to provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises; and providing for the administration and enforcement thereof.

(2) **DEFINITIONS** For the purpose of administering and enforcing this Article, the terms or words used herein shall be interpreted as follows:

Clerk means the City Clerk of the City of Baraboo or designee.

Corporate Entity means a corporation, partnership, limited liability company, or sole proprietorship licensed to conduct business in this state.

License means the Short-Term Rental License issued under this Article.

Owner means the owner of a short-term rental.

Owner occupied means the Owner resides in the premise a minimum of 210 days per year.

Person shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word person is used in any Article of this Article prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members hereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such Article.

Property Manager means any person that is not the Owner that is appointed to act as agent and/or provides property management services to one or more short-term rental.

State means the State of Wisconsin Department of Health, or its designee.

(3) **SHORT-TERM RENTAL LICENSE**

(a) All License applications shall be filed with the Clerk on forms provided. Applications must be filed by the Owner. No license shall be issued unless the completed application form is accompanied by payment of the required fee.

(b) Each application shall include the following information and documentation for each short-term rental unit:

i. Owner's name, address and phone number;
ii. Property Manager's name, address and phone number, if applicable (see §17.x(4), below);
iii. A copy of State of Wisconsin License for a Tourist Rooming House License issued under §254.64, Wis. Stat;
iv. A copy of a completed State Lodging Establishment Inspection form dated within one (1) year of the date of issuance or renewal;
v. Proof of insurance (see §17.XX(5)(12), below);
vi. Floor plan and requested maximum occupancy;
vii. Site plan including available onsite parking;
viii. A Room Tax Permit issued pursuant to §3.14, Baraboo Municipal Code;
ix. A Seller's Permit issued by the Wisconsin Department of Revenue;
x. An employer identification number issued by the Internal Revenue Service.

(c) Each permit and license shall run during a calendar year. Any application which does not include all of the information and documentation shall not be considered as complete.

(d) When satisfied that the application is complete, the Clerk shall forward the application to the appropriate City Departments for review. If the Clerk in consulation with City staff determines that the application meet the requirements of this Article, the Clerk shall approve the application. If the Clerk in consultation with City staff determines that the

application does not meet the requirements of this Article, the Clerk shall deny the application.

(e) No License shall be issued or renewed unless there is filed with the Clerk a completed Fire Inspection Report dated not more than one (1) year before the date of issuance or renewal.

(f) No License shall be issued or renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the City, unless arrangements for payment have been approved by the Clerk.

(4) **PROPERTY MANAGER**

(a) A Property Manager is required for any short-term rental that is not owner occupied.

(b) To qualify as a Property Manager, the Property Manager must meet the following requirements:

i.Be a natural person residing in or within twenty-five (25) miles of the City, or a corporate entity with offices located within twenty-five (25) miles of the City.

ii.Not have pending any criminal charge or been convicted of a felony or misdemeanor of any offense involving dishonesty, fraud, deceit, robbery, the use of threatened use of force or violence upon the person of another.

(c) Each Property Manager shall be authorized by the Owner to act as the agent for the Owner for the receipt of service of notice of violation of this Article's provisions and for service of process pursuant to this Article and shall be authorized by the Owner to allow City employees, officers and their designees, to enter the Owner's property for purposes of inspection and enforcement of this Article and/or the City Municipal Code.

(5) **OPERATION OF SHORT-TERM RENTALS.**

(a) No person may maintain, manage, or operate a short-term rental more than six (6) nights in a 365-consectutive day period without a License.

(b) Every short-term rental shall be operated by an Owner or Property Manager.

(c) Each short-term rental shall comply with all of the following:

i. No vehicular traffic shall be generated that is greater than normally expected in the residential neighborhood.

ii. There shall not be excessive noise, fumes, glare, vibrations generated during the use.

iii. Name plates or other signage shall not exceed one square foot. No other signage advertising the short-term rental is permitted on site. Off-site advertising in media channels relating to the availability of the rental may take place only after all City, County and State permits and licenses have been obtained.

iv. The number of occupants in any unit shall not exceed the limits set forth in the State of Wisconsin Uniform Dewelling Code and other applicable County and City housing reulations based upon the number of bedrooms in each unit.

(v) No recreational vehicles (RVs), camper, tent, or other temporary lodging arrangement shall be permitted on site as a means of providing additional accormmodations for paying guests or other invitees.

vi. Any outdoor event held at the short-term rental shall last no longer than one day, occurring between the hours of 8:00 a.m. and 10:00 p.m. Any activities shall be in compliance with other noise regulations of the City.

vii. Compliance with all applicable state, county, and local codes and regulations is required.

viii. Annual general building inspection is required prior to issuance or renewal of the licene, to be conducted by the Building Inspector and Fire Inspector at the sole cost of the Owner.

ix. Short-term rental licenses are issued for one year period and must be renewed annually as provided for in this Article.

x. Each short-term rental shall carry casualty and liability insurance at all times and issued by an insurance company authorized to do business in this state by the Wisconsin Office of the Commissioner of Insurance, with liability limits of not less than $300,000 per individual and $1,000,000 aggregate.

xi. Each short-term rental shall maintain the following written records for each rental of the dwelling unit; the full name and current address of any person renting the property, the time period for that rental, and the monetary amount or consideration paid for that rental.

xii. Each license shall be displayed on the inside of the main entrance door of each short-term rental.

(6) **RENEWAL**

(a) Each application for a renewal License shall include updated information for the documentation on file with the Clerk and payment of the applicable fee. The Clerk shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Article. The Clerk shall request reports from the Police Department and Zoning Administrator regarding any complaints received, calls for service or actions taken regarding the short-term rental properties.

(b) The Clerk shall issue renewal licenses within thirty (30) days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Article and/or the reports from the Police Department and

the Zoning Administrator indicate that there are compliants or actions involving the property that substantially relate to the use of the property as a short term rental. If the Clerk finds that the license or permit should not be renewed, the Clerk shall deny the renewal.

(c) No License shall be renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the City, or is under an order issued by the Building Inspector, Fire Inspector, Zoning Administrator or Police Department to bring the premises into compliance with City ordinances, unless arrangements for payment have been approved by the Finance Director.

(7) **STANDARDS FOR SHORT-TERM RENTALS**

Each short-term rental shall comply with this Article's requirements or any other applicable City ordinance. Each short-term rental shall comply with the following minimum requirements:

(a) One (1) internal full bathroom for every four (4) occupants;

(b) Not less than one hundred fifty (150) square feet of floor space for the first occupant thereof and at least an additional one hundred (100) square feet of floor space for every additional occupant thereof; the floor space shall be calculated on the basis of total habitable room area. Floor space is determined using interior measurements of each room. Floor space does not include kitchens, bathrooms, closets, garage, or rooms not meeting Uniform Dwelling Code requirements for occupancy. The maximum occupancy for any premises without a separate enclosed bedroom is two (2) people;

(c) Not less than one (1) onsite off-street parking spaces for every four (4) occupants based upon maximum occupancy;

(d) At least two safe, unobstructed means of egress from the short-term rental leading to safe, open space at ground level;

(e) Shall have functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Chapter SPS 321 of the Wisconsin Administrative Code;

(f) Shall not have an accessible wood burning fireplace unless the property owner provides a certificate from a properly licensed inspector, dated not more than thirty (30) days prior to submission, certifying that the fireplace and chimney have been inspected and are in compliance with National Fire Prevention Association Fire Code Chapter 211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances;

(g) Shall not have a hibachi, gas-fired grill, charcoal grill, or other similar devices used for cooking or any other purpose on any balcony, deck or under any overhanging structure or within ten (10) feet of any structure;

(h) Shall not have a fire pit or other similar device used for heating or any other purpose on any balcony, deck or under any overhanging structure or within fifteen (15) feet of any structure.

(8) **APPEAL AND LICENSE REVOCATION**

(a) The denial of a License application or renewal under this Article may be appealed by filing a written appeal request with the Clerk within ten (10) calendar days of the City's notice of denial. The appeal shall be governed by Chapter 6 of the Baraboo Municipal Code.

(b) A License may be revoked by the Clerk for one or more of the following reasons:

i. Failure of the Owner to make timely payment on taxes or debt owed to the City;

ii. Failure of the Owner to make timely payment of the room tax;

iii. Determination by the Chief of Police that the property is a Chronic Nuisance Premises, as defined by §10.05A, Baraboo Municipal Code.

iv. Failure to maintain all required local, county, and state licensing requirements;

v. Failure to use the property as a short-term rental within twelve (12) months of obtaining the License;

vi. Any violation of local, county, or state laws that substantially harm or adversely impact the predominantly residential uses and nature of the surrounding neighborhood.

(9) **PENALTIES**

(a) Any person who violates any provision of this Article shall be subject to a penalty as provided in §25.04, Baraboo Municipal Code.

(b) Penalties set forth in this Article shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Article or otherwise.

(10) **FEES**

Initial and renewal Short-Term Rental application fee shall be $200.00. This fee is nonrefundable and due upon application or renewal submission to the Clerk.

(11) **SEVERABILITY**

If any provision of this Article and its ordinances is held invalid or unconstitutional by any court of competent jurisdiction, such a decision shall not affect the validity of any other provision of this Article or its ordinances. It is hereby declared to be the intention of the City of Baraboo that all provisions of this Article and its ordinances therein are separable.

17.14 REDUCTION OR JOINT USE. No lot, yard, parking area, building area or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

17.15 EXISTING NON-CONFORMING USES OF STRUCTURES, LAND AND WATER, AND SUBSTANDARD LOTS.

(1) EXISTING LAWFUL NON-CONFORMING USES. An existing lawful non-conforming use shall include, but not be limited to, the following:

(a) The lawful non-conforming use of land without structures.
(b) The lawful non-conforming use of water.
(c) The lawful non-conforming use in a conforming structure.
(d) The lawful non-conforming use in a non-conforming structure.
(e) The lawful non-conforming use on a conforming lot.
(f) The lawful non-conforming use on a non-conforming lot.
(g) The lawful non-conforming use of land with conforming structures.
(h) The lawful non-conforming use of land with non-conforming structures.

Examples of the above terms can be found in Appendix A at the end of this Subchapter. A lawful non-conforming use which was in existence at the adoption of the Zoning Codes which caused it to be non-conforming may be continued although the use does not conform with the provisions of The Codes; provided, however that such use complies with each of the following provisions:

(a) Only that use which is in open, active and in actual existence at the time of the adoption or applicable amendment of The Zoning Codes such that it can be said that the property owner acquired a vested interest in its continuance may be so continued as a legal non-conforming use, provided further that said use may not in any way be extended, enlarged, substituted, moved, added to or changed, except when authorized by this section; and

(b) No structure or building on lands containing a legal non-conforming use may be extended, enlarged, structurally repaired, structurally altered, totally rebuilt, substituted, moved, remodeled, modified or added to, except when required to do so by law, or until the legal non-conforming use has been made to conform to all of the regulations of the district in which it is located, or when authorized by this section; and

(c) No lot or lands containing a legal non-conforming use, may be reduced in size, modified, increased in size or changed in any manner, except when required to do so by law, or until the legal non-conforming use has been made to conform to all of the regulations of the district in which it is located, or when authorized by this section.

(2) EXISTING CONFORMING USES OR NON-CONFORMING LOTS CONTAINING CONFORMING STRUCTURES.

(a) A conforming structure located on lands which do not conform to the regulations of the district in which said lands are located and which conforming structure existed at the time of the adoption or amendment of The Zoning Code may be continued only as long as all uses on the lands containing the conforming structure are legal conforming uses. Such conforming structure may be extended, enlarged, substituted, moved, remodeled, modified, or added to as long as any such change conforms with the established building set back lines along streets, yards, height, area, parking, loading or distance requirements, access provisions, and all such requirements of the district in which it is located. Such a conforming structure may be totally rebuilt if such reconstruction is identical in size, shape and use to the original conforming structure.

(b) A legal non-conforming structure existing at the time of the adoption of The Zoning Codes which contains a legal conforming use, whether on a conforming or non-conforming lot, may be moved, and if moved, must conform with the established building set back lines along streets, yards, height, area, parking, loading or distance requirements, access regulations, and all such requirements of the district in which it is located. Such a non-conforming structure may be totally rebuilt if such reconstruction is identical in size, shape and use to the original non-conforming structure.

(3) RESTORATION OF NON-CONFORMING STRUCTURE OR USE.

(a) Excepting destruction or damage caused by violent wind, vandalism, fire, flood, ice, snow, mold, infestation, explosion, or earthquake, a non-conforming structure or use which is destroyed or damaged by, other natural disaster, other casualty, or is dismantled for the purpose of reconstruction shall not be repaired, reconstructed, or restored if the cost of

restoration to the condition in which it was immediately before the occurrence exceeds 50 percent (50%) of its equalized value at the time of the occurrence, unless said non-conforming structure or use shall conform to all of the regulations of the district in which it is located. If such damage or destruction is less than 50 percent (50%) of such equalized value, repairs or reconstruction may be made only if such restoration is started within one year from the date of the occurrence and is diligently prosecuted to completion. Structures destroyed or damaged by violent wind, vandalism, fire, flood, ice, snow, mold, infestation, explosion, or earthquake shall be subject to the provisions of §62.23(7)(hc), Wis.Stats. (2269 11/27/07)

(b) The total structural alterations made to a non-conforming structure or use shall not during its life exceed 50 percent (50%) of the equalized value of the non-conforming structure or use as of the date of its becoming a non-conforming structure or use unless said structure and the use therefore shall conform to all of the regulations of the district in which it is located. If the equalized value of the structure or use at the time of its becoming non-conforming cannot be determined by City records, the equalized value as of January 1, 1996, shall be the value used for these purposes.

(c) If a non-conforming use of lands contains more than one structure, each structure which contains a non-conforming use shall be subject to the restoration requirements of this subsection.

(d) In calculating the cost of restoration, the cost of labor and materials shall be determined based upon the market value for the proposed restoration project.

(e) If City, County or State records do not show an equalized value for a structure or use as required by this subsection, then the fair market value of the nonconforming structure or use shall be deter-mined by an appraisal conducted by the City Assessor using the date of the occurrence if the restoration is undertaken under sub (a) above or the date of January 1, 1996, if the value is deter-mined under sub (b) above.

(4) DISCONTINUANCE OF A NON-CONFORMING STRUCTURE OR USE. If a non-conforming structure and/or use is not openly, actively and actually used for a continuous period of at least thirty (30) consecutive days within any calendar year, such non-conforming structure and/or use shall be deemed to be discontinued and terminated and any future use of this structure and/or land shall conform in all respects to the regulations of the district in which it is located.

(5) REVERSION.

(a) The non-conforming use of a structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, shall be utilized only for such non-conforming use and shall not be changed to any use other than a use permitted in the district in which such structure is located.

(b) A non-conforming use of land or a non-conforming use of a structure shall not be changed to another non-conforming use, except to a use permitted in the district in which it is located.

(c) Once a legal nonconforming lot has been changed to conform to the regulations of the district in which it is located, it shall not revert back to any legal non-conforming status. If the Plan Commission permits the substitution of a more restrictive non-conforming use for an existing legal non-conforming use, the substituted use shall lose its status as a legal non-conforming use and the structure or land shall become subject to all the conditions required by the Plan Commission and shall thereafter be treated as a conditional use.

(6) RECORD OF NON-CONFORMING PROPERTIES. The City Zoning Administrator shall prepare and maintain a current file of all lawful and unlawful non-conforming uses, non-conforming structures and non-conforming lots, listing the following:

(a) The current name and address of each property owner.
(b) Address and tax parcel number of parcel.
(c) Description of all uses of each structure, land or water.
(d) A site plan including photographs of the property showing the location and size of all conforming and non-conforming structures on the parcel.
(e) A plat map showing the dimensions of the parcel.
(f) The equalized value of the land and each improvement on the land at the time the legal non-conformity was created or if such determination cannot be made, then as of January 1, 1996.

The City Assessor shall cooperate with the Zoning Administrator in establishing and maintaining this listing such that the City Assessor records can be utilized by the Zoning Administrator to carry out the provisions of this section. The Zoning Administrator shall establish a procedure whereby any person who claims to own a legal non-conforming structure, legal non-conforming use of a structure(s) or land, or a

vacant, legal non-conforming lot shall be required to register such structure, use or lot with the office of the Zoning Administrator and to obtain a non-conforming certificate.

(7) BURDEN OF PROOF. The property owner has the burden showing that a use, structure or lot is legally non-conforming or a legal non-conforming use, structure or lot. The determination shall be made by the City Zoning Administrator, and the decision of the Zoning Administrator may be appealed to the Plan Commission.

(8) SUBSTANDARD LOTS. In any residential district, a one-family detached dwelling and its accessory structures may be erected on any lot or parcel legally filed and of record in the office of the Sauk County Register of Deeds before the original effective date of the City Zoning Code as long as such lot or parcel is in separate ownership from abutting lands. If abutting lands are owned by the same owner and any of the same are legal non-conforming, whether or not any or all of the lots are improved, none of the lots shall be sold or used without all being in full compliance with the regulation of The Codes. Any lot or parcel created pursuant to the City Subdivision and Platting Code and legally recorded with the office of the Sauk County Register of Deeds shall be exempted from the separate ownership provisions of this section.

(9) NON-CONFORMING ONE- OR TWO-FAMILY RESIDENTIAL DWELLING AND/OR LOT. Upon application, the City Zoning Administrator may grant a non-conforming one- and two- family conditional use permit for an existing legal non-conforming single family or duplex residential dwelling and/or an existing legal non-conforming one- and two- family zoned residential lot provided that the property owner proves, to a reasonable certainty, that the dwelling and/or lot satisfies each of the following conditions: (2164 10/12/04)

(a) The non-conforming structure is a single family or duplex residential dwelling that is non-conforming only as to applicable zoning codes pertaining to front, side, and/or rear yard setback requirements.

(b) The non-conforming residential structure was in open, active, and actual existence at the time of the adoption or applicable amendment of the Zoning Codes such that it can be said that the property owner acquired a vested interest in its continuance.

(c) The non-conforming structure is located on land that is currently zoned for single family or one- and two- family residential use.

(d) The non-conforming structure shall be in a reasonably good state of repair and fit for residential, human occupancy.

(e) If the lot is non-conforming, the non-conforming nature of the lot shall be based solely upon its substandard size and provided that the lot was legally filed and of record in the office of the Sauk County Register of Deeds before the original effective date of the City's Zoning Code and pro-vided that the lot is in separate ownership from abutting lands. If abutting lands are vacant and owned by the same owner as the non-conforming lot, the provisions of §17.15(8) shall apply.

(f) The non-conforming structure and/or non-conforming lot shall be reasonably similar in their non-conformance to other properties in the neighborhood.

If the Zoning Administrator determines that the foregoing conditions have been proven, he/she may grant a Non-Conforming Residential Conditional Use Permit. The determination of the Zoning Administrator may be appealed to the Plan Commission by applying for a Conditional Use Permit under §10. The Plan Commission shall consider the application the same as a new matter (de novo). The Zoning Administrator shall establish a procedure for applying for the granting of a Non-Conforming Residential Conditional Use Permit as provided in this section.

(10) CONDITIONAL USE PERMIT. Except as provided in Subs. (9) above, and subject to the provisions of §17.37, conditional use status may be granted by the Plan Commission for existing legal non-conforming uses, legal non-conforming structures, and legal non-conforming lots, on petition of the owner to the Plan Commission, where such use, structure, or lot is determined to not be adverse to any of the following**:** (2164 10/12/04)
(a) Public health, safety, or welfare.
(b) Would not conflict with the spirit or intent of the Codes, or
(c) Would not be otherwise detrimental to the community and particularly the surrounding area.

(11) All residential structures and uses existing as of December 1, 1970, are granted legal conforming status in their present zoning district (2250 04/10/07, 2269 11/27/07)

17.16 <u>ZONING REGULATIONS</u>. No person shall use land or any building or structure or erect, construct, reconstruct, move, or structurally alter a building, structure, or part thereof except in conformance with this chapter and City Codes. Permitted uses in each zoning district shall be mutually exclusive except as otherwise indicated.

17.17 <u>GENERAL PROVISIONS</u>.

(1) HOME OCCUPATIONS AND PROFESSIONAL OFFICES IN DWELLINGS. See §17.08 of this chapter.

(2) VALIDITY OF CERTAIN BUILDING PERMITS. Nothing herein contained shall require any change in plans, construction, size, or designated use of any building or part thereof for which a building permit has been issued before the effective amendment date of this chapter and construction of which shall have been started within six (6) months from the date of the permit.

(3) OFF-STREET LOADING REQUIREMENT EXCEPTION. §17.40 of this chapter.

(4) OFF-STREET PARKING REQUIREMENTS. See §17.41 of this chapter.

(5) BORDER YARD REQUIREMENTS. Any side yard, rear yard, or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts that abut the district boundary line.

(6) FRONTAGE ON CORNER LOTS. A corner lot shall provide the minimum front yard setback on each street in accordance with this Chapter.

17.18 <u>ESTABLISHMENT OF DISTRICTS AND INCORPORATION OF ZONING DISTRICT MAP</u> (1681 02/26/93, 2396 06/11/13; 2516 04/09/19, 07/23/19, 2602 11/15/2022).

(1) ESTABLISHMENT OF DISTRICTS. For the purposes of this chapter, the City is divided into districts as follows:

A-1 Agricultural Transitional District
A-2 Agricultural Holding District
B-1 Central Business District
B-2 Neighborhood Business District
B-3 Highway Oriented Business District
C-1 Conservancy District
HIA Highway Interchange Area District (Overlay District)
I-1 Industrial District, Enclosed Storage
I-2 Industrial District, Open Storage
I-3 Industrial/Business District
I-4 Industrial/Business District
MH Manufactured-Home (TYPE 1) Residential District
MHP Manufactured Home Park District
R-1 Single Family Residential District
R-2 Two-Family Residential District (2250 04/10/07)
R-3 Three and Four Family Residential District (2250 04/10/07)
R-4 Five through Twelve Family Residential District
R-5 Thirteen-Family and Up Residential District

(2) INCORPORATION OF MAP. The boundaries of the aforesaid districts are hereby established as shown on the map entitled "Zoning District Map, Baraboo, Wisconsin" dated February 23, 1993, which is on file in the office of the City Engineer and is incorporated herein by reference. All notations and references shown on the Zoning District Map are as much a part of this chapter as though specifically described herein, including all amendments to the Zoning District Map made in compliance with the law.

(3) DISTRICT BOUNDARIES.

(a) The district boundaries are either streets or alleys unless otherwise shown and, where the Zoning District Map indicates various districts are approximately bounded by a street or alley line, such street or alley centerline shall be construed to be the district boundary line.

(b) Where the district boundaries are not otherwise divided into blocks and lots, the district boundaries shall be construed to be lot lines and, where the designations on the Zoning District Map are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of the district.

(c) In un-subdivided property, the district boundary lines shown on the Zoning District Map shall be determined by use of the scale shown on such map.

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

(4) DISTRICT BOUNDARIES AND MAP AMENDMENTS. Since the adoption of the Zoning District Map, on February 3, 1993, amendments to district boundaries and corresponding amendments to said map have been made as follows:

(a) <u>Ordinance Changing Zoning Classification</u>. Ord. # 1696, 1705, 1717, 1757, 1766, 1771, 1775, 1779, 1780, 1782, 1783, 1810, 1811, 1815, 1820, 1823, 1824, 1826, 1830, 1832, 1850, 1855, 1866, 1874, 1887, 1898, 1900, 1902, 1903, 1908, 1919, 1920, 1924, 1957, 1960, 1975, 1981, 1986, 2025, 2044, 2050, 2055, 2070, 2073, 2074, 2093, 2098, 2120, 2141, 2154, 2155, 2175, 2198, 2211, 2227, 2236, 2249, 2251, 2265, 2269, 2315, 2326, 2413, 2414, 2419, 2420, 2427, 2476, 2481, 2499, 2501, 2505, 2516, 2523, 2559, 2574, 2591.

(b) <u>Annexation Ordinances</u>. Ord. #1697, 1744, 1745, 1752, 1753, 1770, 1776, 1777,

1781, 1791, 1792, 1801, 1816, 1817, 1822, 1829, 1882, 1888, 1892, 1899, 1912, 1953, 1954, 1966, 1967, 1973, 1974, 1979, 2038, 2041, 2042, 2043, 2054, 2084, 2122, 2124, 2126, 2167, 2174, 2176, 2195, 2197, 2229, 2249, 2259, 2263, 2267, 2271, 2293, 2297, 2368, 2397, 2453, 2461, 2573, 2606.

(c) Detachment Ordinances. Ord. #1683

(d) Planned Unit Developments. The following Planned Unit Developments are approved and incorporated into the zoning map: 2266 (Swifthaven/Gilran PUD 2007-1), 2275 (Gilbert FTW/Stratford Place PUD 2008-1), 2325 (Kwik Trip PUD 2009-1), 2330 (St. Clare Meadows PUD 2009-2), 2352 (Scott Sullivan 2010-1), 2363 (Mary L. Schaible 2011-1)2386 (Oak Park Property 2012-01) 2391 (SSM Health Care Corporation 2013-02) 2392 (Children's Day Center 2013-01), 2396 (Laymon Properties, LLC 2013-03) 2411 (UW-Baraboo/Sauk County Campus 2014-01), 2426 (201 8th St/1004 Ash St 2014-02), 2430 (March Hare, LLC 2015-01), 2433 (232 Water St 2015-02), 2435 (125 9th St 2015-03), 2441 (500 7th St 2016-01) 2456, 2493(609 8th Ave) 2017-01 2457 (101 2nd Ave) 2017-02 2463 (626 14th St 2017-03) 2469(Oak Park Property2017-04) 2480(PUD 2018-01) 2482(PUD 2018-02) 2479(PUD 2018-03) 2495, 2496(PUD/SIP 2018-04), 2510 (PUD/SIP 2019-01), 2530 (PUD/SIP 2019-02), 2542 (PUD 2019-02), 2552 (PUD 2020-01), 2553 (PUD 2020-02), 2558 (PUD 2020-03), 2560 (PUD 2020-04), 2569 (PUD 2021-01) 2571 (PUD 2021-02), 2583 (PUD 2021-03), 2585 (PUD 2021-04), 2586 (PUD 2021-05), 2589 (PUD 2022-01), 2592 (PUD 2022-02), 2593 (PUD 2202-03), 2596 (PUD 2202-04), 2602, 2604 (PUD 2022-05)

(5) INCORPORATION OF OFFICIAL CITY MAP. The Official City Map is hereby established as shown on the map entitled "Official City Map, Baraboo, Wisconsin", dated September 28, l993, which Map is on file in the Office of the City Engineer and is incorporated herein by reference. All notations and references shown on the Official City Map are as much a part of the Municipal Code of Baraboo as those specifically described in this Code, including all amendments to the Official City Map made in compliance with the law. The City Clerk shall file with the Sauk County Register of Deeds a certificate showing that the City has established an Official Map. Since the adoption of the Official City Map on September 28, 1993, amendments to said Map have been made as follows: (See also Ch. 8.01) (1760 08/09/94)

(a) ORDINANCES CHANGING MAP. (1761 08/19/94, 1995 01/11/2000))

17.19 COMMUNITY LIVING ARRANGEMENTS; FAMILY DAY-CARE HOMES.

(1) STATE LAWS ADOPTED. The provisions of §62.23(7)(i) and §66.304, Wis.Stats., are hereby adopted by reference and shall supersede all permitted and conditional uses as stated in this chapter. No Community Living Arrangement may be established within two thousand five hundred (2,500) feet of any other such facility unless a special exception is granted by the Council, after first submitting the proposed exception to the Plan Commission for recommendation and report. The 2,500-foot requirement shall be measured from lot line to lot line following the most directly traveled route along city streets. (1530 01/24/89)

[City Attorney Note: This ordinance may be pre-empted by FHA and ADA. See *Oconomowoc Residential Programs v. City of Greenfield* 23 F. Supp.2d 941 and *Oconomowoc Residential Programs, Inc. v Milwaukee*, 300 F.3d 775 (7th Cir 2002), FHA and ADA may apply.]

In granting or denying a special exception permit, the following standards shall be applied:

(a) Whether the new facility will impose an undue cost, expense or other burden on the City; or

(b) Whether the new facility will result in an unacceptable number of similar facilities existing in a limited geographical area thereby causing a concentration of de-institutionalized person or persons with disabilities.

(2) PERMITTED USES; RESTRICTIONS.

Community Living Arrangement (CLA); Family Day Care Homes	Districts Permitted	Statutory Restrictions
(a) Foster family home up to 4 children	All residential districts	§48.62, Wis. Stats.-licensed domicile
(b) Other foster homes	All residential districts	§62.23(7)(i)(1),(2), & (9) WI Statutes
(c) CLA, up to 8 persons	All residential districts	§62.23(7)(i)(1),(2), & (9) WI Statutes

(d) CLA, 9 to 20 persons	Multi-family R-3, R-4, R-5 MHP districts, CLA must satisfy all regulations of district where located, such as setbacks, lot coverage, and building height.	§62.23(7)(i)(1),(2), & (9) WI Statutes
(e) Family day care center licensed under §48.65 Wis. Stats., up to 8 children	All residential districts	§66.304 Wis. Stats.

(3) CONDITIONAL USES. All Community Living Arrangements and Family Day-Care Homes not permitted under Sub. above. See §17.37 of this chapter.

(4) SPECIAL ZONING EXCEPTION GRANTED FOR CLA AT 525 15TH STREET. (1622 08/13/91)

(a) A special zoning exception allowing the operation of a Community Living Arrangement, with a capacity of up to fifteen (15) residents, is hereby granted to the following described lands in the City of Baraboo:

Part of the SW¼ SW¼ of Section 25, T12N, R6E, commencing at a point 33 feet north and 33 feet west of the southeast corner of said ¼-¼ section, thence west 224 feet, thence north 149 feet, thence east 224 feet, thence south 149 feet to point of beginning, being the property at 525 15th Street, Baraboo, Wisconsin (The Property).

(b) The granting of the special zoning exception shall be conditioned upon the following:

1. The Property shall be licensed by the State of Wisconsin as a Community Based Residential Facility (CBRF).

2. The Property may accommodate not more than fifteen (15) residents as defined by HSS 3.05(28) 1988.

3. The occupancy of The Property shall be limited solely to a "target group" who have "disabilities associated with the infirmities of aging" as defined by the Wisconsin Administrative Code. The City Council has determined that by allowing the increased density in the facility, the "target group" occupying the facility must be limited to residents who are classified solely as those persons with disabilities associated with the infirmities of aging. The Council has determined that any other "target group" would not be appropriate in the R-2 residential district where the facility is located due to traffic congestion, safety, density and the proximity of other R-2 properties to the facility. The granting of this special exception is conditioned upon no other "target group" persons residing on The Property.

4. The Property may not be used as a boarding house for any person who is not classified by the State of Wisconsin as an adult qualifying for occupancy as provided in the special zoning exception granted herein, except that the owner or manager and an adult spouse or friend may also occupy the property as a residence.

5. This special zoning exception and conditions shall run with the title to The Property. Failure to comply with any of the above conditions shall automatically cause the special exception granted by this ordinance to be declared null and void and canceled, and The Property shall then revert back to a limitation of no more than eight (8) residents.

6. The foregoing special zoning exceptions shall apply only to the main residence on The Property. No residents may reside in any other building on The Property.

(5) SPECIAL ZONING EXCEPTION GRANTED FOR COMMUNITY BASED RESIDENTIAL FACILITY AT 1200 WASHINGTON AVENUE, BARABOO. (1851 01/23/96, 1963 12/22/98)

(a) A special zoning exception allowing the operation of a community based residential facility with a capacity of up

to twenty (20) residents is hereby granted to the following described lands in the City of Baraboo:

Lot One and Lot Two Certified Survey Map No. 2852 and further commencing at the Southwest corner of Lot One, Certified Survey Map No. 2852, thence S 89□ 59' 01" West 99 feet, thence North 170.88 feet, thence North 89□ 58' 30" East 100.11 feet, thence South 169.15 feet to the point of beginning, City of Baraboo, Sauk County, Wisconsin, being the property at 1200 Washington Avenue, Baraboo, Wisconsin (The Property).

(b) The granting of the special zoning exception shall be conditioned upon the following:

1. The Property shall be licensed by the State of Wisconsin as a community based residential facility.

2. The Property may accommodate no more than twenty (20) residents as defined by §HSS 3.05(28), Wisconsin Administrative Code (August, 1994).

3. The occupancy of The Property shall be limited solely to a "target group" who have "disabilities associated with the infirmities of aging" as defined by the Wisconsin Administrative Code. The City Council has determined that by allowing the increased density in the facility, the "target group" occupying the facility must be limited to residents who are classified solely as those persons with disabilities associated with the infirmities of aging. The City Council has deter-mined that any other "target group" would not be appropriate in the R-2 residential district where the facility is located due to traffic congestion, safety, density and the proximity of other R-2 properties to the facility. The granting of this special exception is conditioned upon no other "target group" persons residing on The Property.

4. The Property may not be used as a boarding house for any person who is not classified by the State of Wisconsin as an adult qualifying for occupancy as provided in the special zoning exception granted pursuant to this subsection, except the manager or owner of the facility and his/her immediate family may occupy The Property as a residence.

5. This special zoning exception and the foregoing conditions shall run with the title to The Property. Failure to comply with any of the above conditions shall automatically cause the special exception granted herein to be declared null and void and canceled, and The Property shall then revert back into compliance with the provisions applicable to the zoning for The Property.

(6) SPECIAL ZONING EXCEPTION GRANTED FOR FACILITY AT JEFFERSON AND 15TH STREETS, BARABOO, WISCONSIN. (2019 08/08/2000, 2188 03/08/05)

(a) A special zoning exception allowing the operation of a community-based residential facility providing assisted living for the frail elderly with a capacity of up to 24 units and a community based residential facility providing assisted living for the memory-impaired elderly (an Alzheimer's facility) with a capacity of up to 17 units, out-patient medical and counseling professional clinic offices and related facilities, and an out-patient dialysis facility is hereby granted to the following described lands in the City of Baraboo:

A parcel of land located in the NW ¼ - NE ¼ of §36, T12N, R6E, City of Baraboo, Sauk County, Wisconsin, described as follows:

Commencing at the north one-quarter corner of said Section 36; thence S00°36'11"E, 33.00 feet along the north-south one-quarter line of said Section 36 to a point on the south right-of-way line of 15th Street; thence N89°08'45"E, 186.00 feet along the south right-of-way line of 15th Street to the point of beginning; thence continuing N89°08'45"E, 483.73 feet along the south right-of-way line of 15th Street; thence S00°09'17"E, 425.63 feet to a point on the north right-of-way line of 14th Street; thence S89°08'45"W, 480.40 feet along the north right-of-way line of 14th Street to a point on the east right-of-way line of Jefferson Street; thence N00°36'11" W, 425.60 feet along the east right-of-way line of Jefferson Street to the point of beginning, together with the lands attached to the above described parcel by virtue of the

vacation of that portion of 14th Street lying east of Jefferson Street. (The Property)

(b) The granting of the special exception shall be conditioned upon the following:

1. The Property shall be licensed by the State of Wisconsin as a community-based residential facility for use as an assisted living facility for the frail elderly and for use as an assisted living facility for the memory impaired elderly (an Alzheimer's facility), provided, however, the occupancy of The Property shall be limited solely to a "target group" who have "disabilities associated with the infirmities of aging" as defined by the Wisconsin Administrative Code. The City Council has determined that by allowing the increased density in the facility, the "target group" occupying the facility must be limited to residents who are classified solely as those persons with disabilities associated with the infirmities of aging. The City Council has determined that any other "target group" would not be appropriate in the Residential 2 (R-2) District where the facility is located due to traffic congestion, safety, density, and the proximity of other 1 and 2 family residential properties to the facility. The granting of this special exception is conditioned upon no other "target group" persons residing on The Property.

2. The Property may accommodate up to a 24-unit assisted living facility for the frail elderly and up to a 17-unit assisted living facility for the memory impaired elderly (an Alzheimer's facility).

3. The Property may not be used as a boarding house for any person who is not classified by the State of Wisconsin as an adult qualifying for occupancy as provided in the special zoning exception granted pursuant to this section, except that the owner or manager and an adult spouse or friend may also occupy The Property as a resident.

4. Except as otherwise stated below, the development of The Property shall contain the following special conditions to be constructed and maintained in accordance with the final site plan approved by the City Engineer and on file in the office of the City Engineer:
   a. Private walkways per site plan.
   b. Off-street parking. All off-street parking designated on the site plan shall be treated as combined shared parking for all operations conducted on The Property provided the total number of parking spaces meets the City Code requirements for off-street parking for all operations conducted on The Property.
   c. On-site lighting shall be as shown on site plan and shall be self-contained on the site.
   d. Fire lanes and hydrants shall be per site plan subject to the approval of the Fire Chief.
   e. A driveway on the site shall be accessed from the existing driveway on Jefferson Street.
   f. Sanitary sewer main service shall be constructed in accordance with City Codes.
   g. Special signs shall be allowed as shown on the site plan providing all signs meet the City's Sign Code.
   h. Landscaping shall be constructed, planted, and maintained as shown on the final site plan and in accordance with the City Code.
   i. Storm water management shall be per City Code in accordance with the plan approved by the City Engineer.

5. This special zoning exception and the foregoing conditions shall run with the title to The Property. Failure to comply with any of the above conditions shall automatically cause the special exception granted herein to be declared null and void and cancelled and The Property shall then revert back into compliance with the provisions applicable to the zoning of The Property.

(7) SPECIAL ZONING EXCEPTION GRANTED FOR COMMUNITY BASED RESIDENTIAL FACILITY AT LOT #9,

PARKSIDE SUBDIVISION, BARABOO, WISCONSIN. (2066 08/14/2001)

(a) A special zoning exception allowing for the operation of a Community Based Residential Facility up to fifteen (15) units is hereby granted to the following described lands in the City of Baraboo, WI:

Lot #9, Parkside Subdivision, City of Baraboo, Sauk County, Wisconsin, parcel #2745-0900.

(b) The granting of this special zoning exception shall be conditioned upon the following:

1. The Property shall be licensed by the State of Wisconsin as a community-based residential facility.

2. The Property may accommodate up to a 15 unit assisted living facility for the frail elderly.

3. The occupancy of The Property shall be limited solely to a "target group" who has "disabilities associated with the infirmities of aging" as defined by the Wisconsin Administrative Code. The City Council has determined that any other "target group" would not be appropriate in the Residential-5 District (R-5) where the facility is located due to traffic congestion, safety, density, and the proximity of another Community Based Residential Facility and one and two family residential properties to the facility. The granting of this special exception is conditioned upon no other "target group" persons residing on The Property.

4. The Property may not be used as a boarding house for any person who is not classified by the State of Wisconsin as an adult qualifying for occupancy as provided in the special zoning exception granted pursuant to this section, except that the owner or manager and an adult spouse or friend of a qualified occupant may also occupy The Property as a resident.

5. The development of The Property shall be in accordance with the site plan on file in the office of the City Engineer and the development shall control stormwater runoff by discharging roof drains to pervious surfaces to the extent practical and by sloping driveways to adjacent lawns to the extent practical and by granting to the City, an additional eight (8) foot drainage easement added to the current drainage easement running along the hypotenuse of the triangular shaped lot, said additional easement shall be deemed dedicated to the City upon the granting of a building permit for the proposed development. Property owner shall also execute a written easement agreement. Due to the unusual shape of Lot #9, Parkside Subdivision, a twenty-foot setback from the hypotenuse of the triangular shaped lot is hereby approved. The Property shall also comply with the City Landscaping Code and Off-Street Parking Code for such a facility.

6. This special zoning exception and the foregoing conditions shall run with the title to The Property. Failure to comply with any of the above conditions shall automatically cause the special exception granted herein to be declared null and void and cancelled and The Property shall then revert back into compliance with the provisions applicable to the zoning of The Property.

17.20 <u>R-1 SINGLE FAMILY RESIDENTIAL DISTRICT</u>. (1652 09/14/92, 2446 08/23/16)

(1) PURPOSE. The R-1 Single Family Residential District is established to protect the integrity of the residential areas by prohibiting incursion of incompatible residential and nonresidential uses, maintain compact residential development around existing urban-residential areas, and locate only sewered, one-family residences. This district is for low-density residential use.

(2) PRINCIPAL PERMITTED USES. One family dwellings with sanitary sewer.

(3) ACCESSORY USES. Essential services.

(4) CONDITIONAL USES.(2509 02/26/19)

(a) Churches.
(b) Community Living Arrangements.
(c) Home Occupations
(d) Nursery, elementary and secondary schools; whether public, private or parochial.
(e) Parks or playgrounds.
(f) Professional Home Offices
(g) Swimming pools with accessory structure.

(h) A non-profit charitable or civic organization clubhouse. (1910 07/08/97)
(i) Adult Day Care Center. (1913 07/22/97)
(j) Short-term rental dwelling. (2446 08/23/16)

(5) LOT SIZE REQUIREMENTS.
(a) Minimum Lot Area: 12,500 square feet.
(b) Minimum Lot Width: Minimum 100 feet.

(6) MINIMUM YARD DIMENSIONS (SETBACK).
(a) Principal Building:
1. Street - 35 feet
2. Side Yard - 10 feet.
3. Rear Yard - 25 feet.

(b) Accessory Building:
1. Side Yard - 10 feet.
2. Rear Yard - 10 feet, except that 3 feet shall be the minimum dimension abutting an alley.

(7) MAXIMUM LOT COVERAGE.
(a) Principal Building: 25 percent (25%).
(b) Accessory Building: 6 percent (6%).

(8) MAXIMUM BUILDING HEIGHT.
(a) Principal Building Height: Three stories, but not over 35 feet.
(b) Accessory Building Height: One story, but not over 15 feet.

17.20A R-1A SINGLE FAMILY RESIDENTIAL DISTRICT. (2148 04/13/04, 2446 08/23/16)

(1) PURPOSE. The R-1A Single family Residential District is established to protect the integrity of the residential areas by prohibiting incursion of incompatible residential and nonresidential uses, to maintain compact residential development around the existing urban-residential areas, to locate this zone in areas without a severe soil limitation, and to locate only sewered residences of one (1) family. This district is for low-density residential use.

(2) PRINCIPAL PERMITTED USE
(a) Single family dwellings.
(b) Two-Flat Dwellings and Two-Family Dwellings to be constructed on property that existed as vacant land as of November 30, 2007, provided that a building permit is issued for construction of the dwelling on or before December 31, 2010. (2269 11/27/07)

(3) ACCESSORY USES.
(a) Carports.
(b) Detached private garages.
(c) Essential services.
(d) Gazebos. (2355 03/22/11)

(4) CONDITIONAL USES.(2509 02/26/19)
(a) Churches.
(b) Community Living Arrangements.
(c) Home occupations.
(d) Nursery, elementary and secondary schools; whether public, private or parochial.
(e) Parks or playgrounds.
(f) Professional home offices.
(g) Swimming pools with accessory structure.
(h) A non-profit charitable or civic organization clubhouse.
(i) Adult Day Care Center.
(j) Two-Flat Dwellings and Two-Family Dwellings, except as provided in (2)(b), above). (2269 11/27/07)
(k) Side-by-side single family attached dwellings. [See §17.37(9)] (2257 05/22/07)
(l) Schools – public, private, or parochial; including, but not limited to, nursery, elementary, middle, and high schools; technical schools; colleges, and universities. (2305 05/26/2009, 2355 03/22/2011)
(m) Swimming pools with accessory structure. (2355 03/22/2011)
(n) A non-profit charitable or civic organization clubhouse. (2355 03/22/2011)
(o) Adult Day Care Center. (2355 03/22/2011)
(p) Two-flat dwellings and two-family dwellings, except as provided in (2)(b), above). (2355 03/22/2011)
(q) Side-by-side single family attached dwellings. [See §17.37(9)] (2355 03/22/2011)
(r) Short-term rental dwelling. (2446 08/23/16)

(5) LOT SIZE REQUIREMENTS.
(a) Minimum Lot Area: 8,500 square feet.
(b) Minimum Lot Width: 75 feet.

(6) MINIMUM YARD DIMENSIONS.

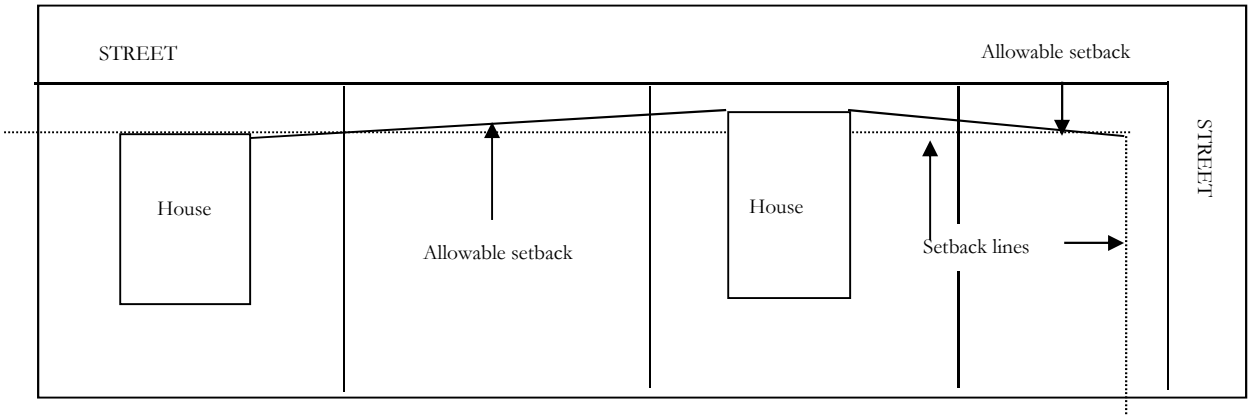
(a) Principal Building.

1. Street - 25 feet, except as follows:

a. A setback of less than twenty-five feet shall be allowed when a principal building on an adjacent

lot exists within the setback. In that case, the setback line shall be established at the center of the property on the line drawn between the front inside corners (the corner nearest the street and nearest the property at issue) of the buildings on either side of the property. In the event that the property is a corner lot, the line shall be drawn from the front inside corner of the adjacent principal building to the corner setback of the property. In no event shall a calculation under this section require a setback greater than twenty-five feet. This section shall apply equally to new construction and to remodeling or additions to existing property. (2296 11/25/2008)

EXAMPLE



b. On corner lots less than seventy (70) feet wide and on record at the time of the passage of this chapter, where reversed frontage exists, the setback on the side street shall be not less than 50 percent (50%) of the setback required on the lot in the rear, and no accessory building shall project beyond the setback line of the lots in the rear, provided, further, that in no case shall the buildable width of such corner lot be reduced to less than twenty four (24) feet.

c. When any portion of a street platted or dedicated for street purposes is thereafter vacated or alerted so as to narrow the street boundaries and where any of the frontage abutting said altered street is occupied with buildings prior to said alteration, the required setback for buildings constructed after the alteration of the street shall be measured from the old street line as it existed prior to such alteration.

2. Side Yard. A minimum of 8 feet on any one side, with a minimum total of 20 feet, provided, however, that on a single lot with a lot width of less than 66 feet and on record on December 1, 1970, the sum of the width of the side yards shall not be less than the equivalent of 3 inches per foot of lot width, and, provided further, that the buildable width of any such lot shall in no case be reduced to less than 24 feet, nor shall the width of any single side yard be less than 40% of the side yard width.

3. Rear Yard - 25 feet.
   (b) Accessory Building.
      1. Side Yard - 3 feet.
      2. Rear Yard - 10 feet, except that 3 feet shall be the minimum dimension abutting an alley.

(7) MAXIMUM LOT COVERAGE.
   (a) Principal Building: One Family: 27 percent (27%).
   (b) Accessory Building: One Family: 8 percent (8%).

(8) MAXIMUM BUILDING HEIGHT.
   (a) Principal Building Height: One family three stories but not over 35 feet.
   (b) Accessory Building Height: One story, but not over 15 feet.

17.21 R-2 TWO FAMILY RESIDENTIAL DISTRICT. (1652 01/15/92, 2250 04/10/07, 2446 08/23/16)

(1) PURPOSE. The R-2 One and Two Family Residential District is established to protect the integrity of the residential areas by prohibiting incursion of incompatible residential and nonresidential uses, to maintain compact residential development around the existing urban-residential areas, to locate this zone in areas without a severe soil limitation, and to locate only sewered residences of one (1) or two (2) families. This district is for low density residential use.

(2) PRINCIPAL PERMITTED USES.
   (a) Single family dwellings.
   (b) Two-Flat Dwellings and Two-Family dwellings. (2269 11/27/07)

(3) ACCESSORY USES.
   (a) Carports.
   (b) Detached private garages.
   (c) Essential services.

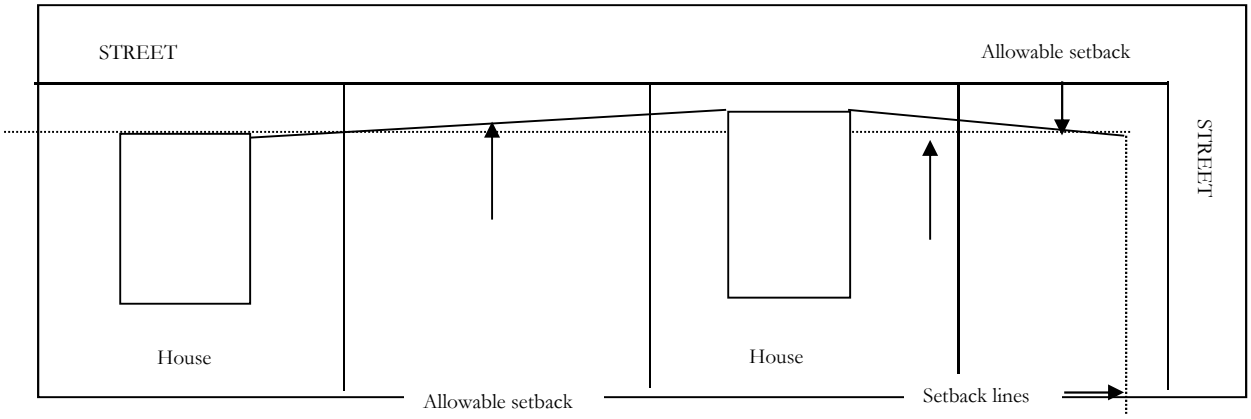
(4) CONDITIONAL USES.(2509 02/26/19)
   (a) Bed-and-breakfast establishments.
   (b) Churches.
   (c) Community Living Arrangements.
   (d) Home occupations.
   (e) Parks or playgrounds.
   (f) Professional home offices.
   (g) Side-by-side single family attached dwellings. [See §17.37(9)] (2257 05/22/07)
   (h) Short-term rental dwelling. (2446 08/23/16)

(5) LOT SIZE REQUIREMENTS.
   (a) Minimum Lot Area: 8,500 square feet.
   (b) Minimum Lot Width: 75 feet.

(6) MINIMUM LOT DIMENSIONS.
   (a) Principal Building.
      1. Street – 25 feet, except as follows:
         a. A setback of less than twenty-five feet shall be allowed when a principal building on an adjacent lot exists within the setback. In that case, the setback line shall be established at the center of the property on the line drawn

between the front inside corners (the corner nearest the street and nearest the property at issue) of the buildings on either side of the property. In the event that the property is a corner lot, the line shall be drawn from the front inside corner of the adjacent principal building to the corner setback of the property. In no event shall a calculation under this section require a setback greater than twenty-five feet. This section shall apply equally to new construction and to remodeling or additions to existing property. (2296 11/25/2008)

EXAMPLE:



b. On corner lots less than seventy (70) feet wide and on record at the time of the passage of this chapter, where reversed frontage exists, the setback on the side street shall be not less than 50 percent (50%) of the setback required on the lot in the rear, and no accessory building shall project beyond the setback line of the lots in the rear, provided, further, that in no case shall the buildable width of such corner lot be reduced to less than twenty four (24) feet.

c. When any portion of a street platted or dedicated for street purposes is thereafter vacated or alerted so as to narrow the street boundaries and where any of the frontage abutting said altered street is occupied with buildings prior to said alteration, the required setback for buildings constructed after the alteration of the street shall be measured from the old street line as it existed prior to such alteration.

2. Side Yard. A minimum of 8 feet on any one side, with a minimum total of 20 feet, provided, however, that on a single lot with a lot width of less than 66 feet and on record on December 1, 1970, the sum of the width of the side yards shall not be less than the equivalent of 3 inches per foot of lot width, and, provided further, that the buildable width of any such lot shall in no case be reduced to less than 24 feet, nor shall the width of any single side yard be less than 40% of the side yard width. (1911 07/08/97).

3. Rear Yard - 25 feet.

(b) Accessory Building.

1. Side Yard - 3 feet.
2. Rear Yard - 10 feet, except that 3 feet shall be the minimum dimension abutting an alley.

(7) MAXIMUM LOT COVERAGE.
(a) Principal Building: One or two family, 27 percent (27%).
(b) Accessory Building: One or two family, 8 percent (8%).

(8) MAXIMUM BUILDING HEIGHT.
(a) Principal Building Height: One or two family three stories but not over 35feet.
(b) Accessory Building Height: One story, but not over 15 feet.

17.22 R-3 THREE- AND FOUR- FAMILY RESIDENTIAL DISTRICT. (1652 09/14/92, 2250 04/10/07, 2446 08/23/16)

(1) PURPOSE. The R-3 One through Four Family Residential District is established to protect the integrity of the residential areas by prohibiting incursion of incompatible nonresidential uses, to maintain compact residential development around the existing urban-residential areas, to locate this zone in areas without a severe soil limitation for urban development with public sewers, and to locate residences of one through four families. This district is for medium-density residential use. It is appropriate to use this district as a transitional land use between low- and high-density residential districts, and residential and commercial districts.

(2) PRINCIPAL PERMITTED USES. One through four family dwellings subject to the requirements for certain multi-family residential real estate developments set forth in §17.51 of the Zoning Code. (1985 07/27/99)

(3) ACCESSORY USES.
(a) Carports.
(b) Detached private garages.
(c) Essential services.

(4) CONDITIONAL USES.(2509 02/26/19)
(a) Bed-and-breakfast establishments.
(b) Cemeteries, crematoriums, and funeral homes.
(c) Churches.
(d) Clinics.
(e) Colleges or universities.
(f) Community centers.
(g) Community Living Arrangements.
(h) Golf Courses
(i) Home occupations.
(j) Hospitals and nursing homes.
(k) Libraries.
(l) Licensed day care services for 9 to 20 children. (1880 08/13/96)
(m) Museums.
(n) Nursery, elementary and secondary schools, whether public, private or parochial.
(o) Parks or playgrounds.
(p) Professional home offices.
(q) Schools.
(r) Swimming pools with accessory structure.
(s) A non-profit charitable or civic organization clubhouse. (1910 07/08/97)
(t) Adult Day Care Center. (1913 07/22/97)
(u) Parking lot serving a permitted use on an adjoining property. (2087 07/23/02)
(v) Side-by-Side single family attached dwellings. [See §17.37(9)] (2257 05/22/07)
(w) Short-term rental dwelling. (2446 08/23/16)

(5) LOT SIZE REQUIREMENTS.
(a) Minimum Lot Area: 8,500 square feet for one- and two-family homes, and 3,500 square feet per dwelling unit for three- and four-family homes. (2278 04/22/08)
(b) Minimum Lot Width: 90 feet.

(6) MINIMUM YARD DIMENSIONS.
(a) Principal Building:
1. Street - 25 feet.
2. Side Yard - 10 feet.
3. Rear Yard - 25 feet.

(b) Accessory Building:
1. Side Yard - 3 feet.
2. Rear Yard - 10 feet, except that 3 feet shall be the minimum dimension abutting an alley.

(7) MAXIMUM LOT COVERAGE.
(a) Principal Building: 27 percent (27%).
(b) Accessory Building: 8 percent (8%).

(8) MAXIMUM BUILDING HEIGHT.
(a) Principal Building Height: Three stories but not over 35 feet.
(b) Accessory Building Height: One story not over 20 feet.

(9) SPECIAL ZONING EXCEPTION FOR 709 BROADWAY. A special zoning exception is hereby granted only for the existing residential building located on the property at 709 Broadway thereby allowing a portion of the existing residential building to be used for residential purposes and a portion to be used solely as an office for the Smith Oil Company. (2149 04/13/04)

17.23 R-4 FOUR- THROUGH TWELVE-FAMILY RESIDENTIAL DISTRICT. (1652 09/14/92, 1868 05/14/96, 1980 07/27/99, 2446 08/23/16)

(1) PURPOSE. The R-4 Four through Twelve Family Residential District is established to provide for high-density residential areas by providing for higher dwelling-unit-per-acre development. This district is also provided to serve as a buffer between residential and commercial and/or light industrial land uses. This district should be located in areas without a severe soil limitation for urban development with public sewers, and to locate residential developments of four through twelve family residential dwelling units.

(2) PRINCIPAL PERMITTED USES. Four through twelve multi-family dwelling units, subject to the requirements for certain multi-family residential real estate developments set forth in §17.51 of the Zoning Code. (1985 07/27/99)

(3) ACCESSORY USES.
- (a) Carports.
- (b) Detached private garages.
- (c) Essential services.

(4) CONDITIONAL USES.(2509 02/26/19)

- (a) Bed-and-breakfast establishments.
- (b) Cemeteries, crematoriums, and funeral homes.
- (c) Churches.
- (d) Clinics.
- (e) Colleges or universities.
- (f) Community centers.
- (g) Community Living Arrangements.
- (h) Fraternities and sororities.
- (i) Governmental buildings.
- (j) Home occupations.
- (k) Hospitals, nursing homes.
- (l) Libraries.
- (m) Licensed day care services for 9 to 15 children.
- (n) Lodging houses.
- (o) Museums.
- (p) Nursery, elementary and secondary schools, whether public, private or parochial.
- (q) Parks or playgrounds.
- (r) Professional home offices.
- (s) Schools.
- (t) Swimming pools with accessory structure.
- (u) A non-profit charitable or civic organization clubhouse. (1910 07/08/97)
- (v) Adult Day Care Center. (1913 07/22/97)
- (w) Short-term rental dwelling. (2446 08/23/16)

(5) LOT SIZE REQUIREMENTS.
- (a) Minimum Lot Area: 2,500 square feet per dwelling unit.
- (b) Minimum Lot Width: 100 feet.

(6) MINIMUM YARD DIMENSIONS.

- (a) Principal Building:
  1. Street 30 feet.
  2. Side Yard - The total shall be the lesser of ½ the height or ½ the depth of the building, but in no case less than 20 feet.
  3. Rear Yard - The distance shall be the lesser of ½ the height or ½ the width of the building, but in no case less than 25 feet.

- (b) Accessory Building:
  1. Side Yard - 3 feet.
  2. Rear Yard - 10 feet, except that 3 feet shall be the minimum dimension abutting an alley.

(7) MAXIMUM LOT COVERAGE.

- (a) Principal Building: 40 percent (40%).
- (b) Accessory Building: 10 percent (10%).
- (c) The building's lot coverage may not hinder the access and maneuverability of emergency vehicles, especially when parking areas are occupied.

(8) MAXIMUM BUILDING HEIGHT.
- (a) Principal Building Height. If the topography allows for appropriate emergency vehicle access and fire protection, the height limitation of two (2) stories not to exceed thirty-five (35) feet may be waived by the Plan Commission.
- (b) Accessory Building Height: One story, but not over 20 feet.

(9) SPECIAL ZONING EXCEPTION. A special zoning exception is granted for Lots 44-51, inclusive, Second Addition to St. Clare Subdivision, designating the minimum yard dimensions for a principal building pursuant to sub. (6)(a), supra, to be 10 feet for each side yard setback. All other requirements of this section shall apply. (2283 05/27/08)

17.24 R-5 THIRTEEN-FAMILY AND UP RESIDENTIAL DISTRICT. (1652 09/14/92, 2446 08/23/16)

(1) PURPOSE. The R-5 Thirteen Family and Up Residential District is established to provide for high-density residential areas by providing

for higher dwelling-unit- per-acre development. This district is also provided to serve as a buffer between lower density residential and commercial and/or light industrial land uses. This district should be located in areas without a severe soil limitation for urban development with public sewers, and to locate residential building developments of thirteen or more residential dwelling units.

(2) PRINCIPAL PERMITTED USES. Thirteen or more multi-family residential dwelling units, subject to the requirements for certain multi-family residential real estate developments set forth in §17.51 of the Zoning Code. (1985 07/27/99)

(3) ACCESSORY USES.
- (a) Carports.
- (b) Detached private garages.
- (c) Essential services.

(4) CONDITIONAL USES(2509 02/26/19)
- (a) Bed-and-breakfast establishments.
- (b) Cemeteries, crematoriums, and funeral homes.
- (c) Churches.
- (d) Clinics.
- (e) Colleges or universities.
- (f) Community centers.
- (g) Community Living Arrangements.
- (h) Fraternities and sororities.
- (i) Governmental buildings.
- (j) Home occupations.
- (k) Hospitals, nursing homes.
- (l) Libraries.
- (m) Licensed day care services for 9 to 15 children.
- (n) Lodging houses.
- (o) Museums.
- (p) Nursery, elementary and secondary schools; whether public, private or parochial.
- (q) Parks or playgrounds.
- (r) Professional home offices.
- (s) Schools.
- (t) Swimming pools with accessory structure.
- (u) A non-profit charitable or civic organization clubhouse. (1910 07/08/97)
- (v) Adult Day Care Center. (1913 07/22/97)
- (w) Short-term rental dwelling.

(5) LOT SIZE REQUIREMENTS.

- (a) Minimum Lot Area: 2,500 square feet per dwelling unit and a minimum lot area of one acre.
- (b) Minimum Lot Width: 200 feet.

(6) MINIMUM YARD DIMENSIONS.

- (a) Principal Building.
  1. Street - 20 feet.
  2. Side Yard - The total shall be the lesser of ½ the height or ½ the depth of the building, but in no case less than 20 feet.
  3. Rear Yard - The distance shall be the lesser of ½ the height or ½ the width of the building, but in no case less than 25 feet.

- (b) Accessory Building.
  1. Side Yard - 3 feet.
  2. Rear Yard - 10 feet, except that 3 feet shall be the minimum dimension abutting an alley.

- (c) Buffer Strip. Where an R-5 (thirteen and above) family residential district touches or abuts an R-1 (single family) or R-2 (one and two family) residential district boundary, there shall be provided along any rear, side or front line coincidental with or abutting any R-5 Residential District boundary, a buffer strip within the R-5 District of not less than forty (40) feet in width as measured at right angles to said lot line. Plant materials of such variety and growth habits as to provide a year round, effective visual screen when viewed from the R-1 and/or R-2 Residential District, may be planted in the buffer strip. If the planting screen is set back from the boundary, the portion of the buffer strip facing the R-1 and/or R-2 Residential District shall be attractively maintained. Fencing may be used in lieu of planting materials to provide said screening providing that the fencing shall be of such materials as to effectively screen the R-5 Residential District. The buffer strip shall not be devoted to parking of motor vehicles, storage of any material, or accessory buildings or uses. No portion of the required buffer area may be used for storage of refuse or disposal equipment, such as dumpsters or garbage cans, nor can it be designated as a street or driveway, except to the extent that it is necessary to gain direct access to the R-5 Residential District from an abutting public streets. (1742 05/31/94)

(7) MAXIMUM LOT COVERAGE.
- (a) Principal Building: 40 percent (40%).
- (b) Accessory Building: 10 percent (10%).

(8) MAXIMUM BUILDING HEIGHT.
- (a) Principal Building Height: Three stories, but not over 35 feet. Variances

may be given by the Plan Commission.

(b) Accessory Building Height: One story, but not over 20 feet.

17.24A NRO, NEIGHBORHOOD RESIDENTIAL/OFFICE DISTRICT. (2036 11/28/2000)

PURPOSE. This district is intended to permit high quality office and institutional land uses at an intensity com-parable with the older portions of the City predominately developed with homes that are desirable to maintain, where traffic volumes and adjacent land uses dictate the transition of these areas to certain nonresidential uses. The desired neighborhood character of the development is attained through landscaping requirements and by restricting the maximum building size of all buildings within each instance of this District. A range of dwelling unit types may be allowed. Significant areas of landscaping are required in this district to ensure that this effect is achieved. In order to ensure a minimum of disruption to adjacent residential development, no development within this district shall take direct access to a local residential street or a residential collector street. This district is used to provide for the permanent protection of an area that preserves the original residential appearance, yet permits office and institutional land uses, and that ensures that the neighborhood character is maintained as long as the NRO District designation is retained, regardless of how much development occurs within that area.

(1) PRINCIPAL PERMITTED USES.
- (a) Single Family Dwellings.
- (b) Two Family Dwellings.

(2) ACCESSORY USES.
- (a) Detached private garages.
- (b) Essential services.

(3) CONDITIONAL USES.(2509 02/26/19)
- (a) Office.
- (b) Personal and Professional Services.
- (c) Passive Outdoor Public Recreation.
- (d) Active Outdoor Public Recreation.
- (e) Indoor Institutional.
- (f) Public Services and Utilities.
- (g) Bed and Breakfast Establishments.
- (h) Funeral Homes.
- (i) Churches.
- (j) Clinics.
- (k) Colleges or Universities.
- (l) Community Living Arrangements.
- (m) Home Occupations.
- (n) Hospitals and Nursing Homes.
- (o) Libraries.
- (p) Museums.
- (q) Nursery, Elementary, & Secondary Schools, whether public, private or parochial.
- (r) Parks or Playgrounds.
- (s) Professional Home Offices.
- (t) Schools.
- (u) Swimming Pools with Accessory Structure.
- (v) Non-Profit Charitable or Civic Organization Clubhouse.
- (w) Adult Daycare Center.

(4) LOT SIZE REQUIREMENTS. Same as for one and two family residential district, except as provided in Subs. (8) below.

(5) MINIMUM YARD DIMENSIONS. Same as for one and two family residential district, except as provided in Subs. (8) below.

(6) MAXIMUM LOT COVERAGE. Same as for one and two family residential district.

(7) MAXIMUM BUILDING HEIGHT. Two stories.

(8) MINIMUM ARCHITECTURAL, LANDSCAPING, AND SITE REQUIREMENTS FOR OFFICE CONDITIONAL USES.
- (a) Landscaping Code requirements established for Other Land Uses within a one- and two-family residential district shall apply.
- (b) Maximum zoning district area: 2 acres.
- (c) Maximum building size: 5,000 square feet (1 story), 10,000 square feet (2 story).
- (d) No parking in required setbacks for principal building.
- (e) Architectural requirements shall include:
  1. Foundation Plantings.
  2. Pitched Roof.
  3. 15% Window Coverings.
  4. Natural Materials, Brick, Wood, Stone.
  5. Residential building appearance.
- (f) Operation Hours shall be no earlier than 6 a.m., or later than 10 p.m.
- (g) Off-Street Parking Requirements. Per code.
- (h) Minimum Paved Surface Setback. Five feet from side and rear and ten feet from street.
- (i) Maximum Building Coverage: 40% principal building and 10% accessory building.
- (j) Minimum Lot Size: 9,000 square feet Minimum Lot Width: 90 feet
- (k) Maximum Floor Area Ratio: 0.25

(l) Such other conditions established by the Plan Commission.

(9) Rezoning. All new Neighborhood Residential/Office Districts shall be established through the conditional rezoning process. Under this approach, the Neighborhood Residential/Office District shall not be vested until the approved project has been completed. The project shall provide a neighborhood oriented amenity per conditional use requirements established by the Plan Commission.

(10) Special Zoning Exception. A special zoning exception is granted for property located at 302 8th Street (Tax Parcel 206-2750) for the operation of a floral shop with an attached greenhouse, provided that the greenhouse is of permanent construction, is attached to the other structure on the property, and does not utilize lighting after sunset.

17.25 MHP MANUFACTURED HOME (TYPE 1) PARK DISTRICT. (1652 09/14/92, 1734 05/16/94)

(1) PURPOSE. To provide for a licensed Manufactured Home Park for the placement of Manufactured Homes (TYPE 1) as a conditional use. This district is designed for medium density residential use. All sites shall be connected to the City's public sewer and water systems.

(2) PERMITTED USES. None.

(3) ACCESSORY USES.
- (a) Awnings.
- (b) Carports.
- (c) Detachable wooden decks not to exceed 170 square feet.
- (d) Entryways not to exceed 36 square feet unless added to a detachable wooden deck as described above.
- (e) Essential services.
- (f) Non-foundational storage sheds not to exceed 120 square feet.
- (g) Windbreaks.

(4) CONDITIONAL USES.
- (a) Licensed Manufactured Home Parks of not less than five (5) acres for placement of Manufactured Homes (TYPE 1) and that satisfy the requirements of Subsection (5) to (10) hereof and the requirements of this Chapter regarding the regulation and licensing of Manufactured Home Parks.
- (b) Licensed Day Care Home for nine or more persons.
- (c) Non-commercial community buildings for social gatherings, emergency shelters laundry or similar common usage for the entire district.

(5) LOT SIZE REQUIREMENTS.
- (a) Minimum Lot Area: 5,000 square feet.
- (b) Minimum Lot Width: 50 feet.

(6) MINIMUM YARD DIMENSIONS.
- (a) Principal Building.
  1. Minimum 10 feet setback from private streets.
  2. Minimum 25 feet setback from public streets.
  3. Minimum 40 feet at all front, side and rear lot lines from any district boundary.
  4. Minimum 10 feet from side yard.
  5. Minimum 25 feet from rear yard.
- (b) Accessory Building.
  1. Minimum 10 feet setback from private streets.
  2. Minimum 25 feet setback from public streets.
  3. Minimum 40 feet at all front, side and rear lot lines from any district boundary.
  4. Minimum 5 feet from side yard.
  5. Minimum 10 feet from rear yard.

(7) MAXIMUM DENSITY. Six (6) units per gross acre.

(8) MAXIMUM BUILDING HEIGHT.
- (a) Principal Building Height: 15 feet.
- (b) Accessory Building Height: 10 feet.

(9) MAXIMUM LOT COVERAGE. 45 percent (45%).

(10) OTHER REQUIREMENTS.
- (a) Minimum Habitable Floor Area: 864 square feet.
- (b) Minimum Width of Manufactured Home: 14 feet.
- (c) Maximum Allowed Age of Manufactured Home: Ten years at time of placement.
- (d) Number of Tiedowns Required for Manufactured Home: Six factory installed hurricane straps or one tiedown per side every 15 feet if installed on-site.
- (e) On-Street Parking Required: Yes.

(f) Number of Off-Street Parking Spaces per Lot: Two.
(g) Minimum Width of Paved Streets: 36 feet.
(h) Curb and Gutter Required: Curb and gutter will be installed only as necessary as part of the drainage plan, otherwise not required.
(i) Sidewalk Required: Yes, one side with a 4-foot tree bank between paved street and sidewalk.
(j) Minimum Sidewalk Width: Four feet.
(k) Street Lighting Required: Yes.
(l) Minimum Street Right-of-Way: 44 feet.
(m) Minimum Buffer Area between Park and Adjoining Districts: 25 feet.
(n) Storm Shelter Required: No.
(o) Percent of Area for Playground: 10 percent (10%).
(p) Home Numbering Required: Yes.
(q) City Sewer Required: Yes.
(r) City Water Required: Yes.
(s) Minimum Spacing Between Fire Hydrants: 500 ft.
(t) Garbage Collection Provided by Operator: Yes.
(u) Approved Drainage Plan Required: Yes.
(v) Approved Planting and Landscaping Plan Required: Yes.

17.26 MH MANUFACTURED HOME (TYPE 1) SINGLE FAMILY RESIDENTIAL DISTRICT. (1735 05/17/94)

(1) PURPOSE. The MH Manufactured Home (TYPE 1) Single family Residential District is established to protect the integrity of the residential areas by prohibiting incursion of incompatible residential and non-residential uses, to maintain compact residential development around the existing urban-residential areas, to locate this zone in areas without a severe soil limitation, to allow TYPE 1 Manufactured Homes that meet this chapter's definition of a dwelling, and to locate only sewered one-family residences. Parcels of land in this District shall be platted for subdivision development in accordance with Chapter 18 of this Code with a design and intention of lots being conveyed by deed to individual owners for residential occupancy primarily for TYPE 1 Manufactured Homes.

(2) PRINCIPAL PERMITTED USES. Single family manufactured home (Type 1) dwelling unit, Single family dwelling unit satisfying the requirements of the Uniform Dwelling Code (Chapter 14), or Single family dwelling unit satisfying the building code requirements for Type II Manufactured Homes. (2156 06/22/04)

(3) ACCESSORY USES. Essential services.

(4) CONDITIONAL USES. (2509 02/26/19)
(a) Churches.
(b) Community living arrangements.
(c) Nursery, elementary and secondary schools, whether public, private or parochial.
(d) Parks or playgrounds.
(e) Swimming pools with accessory structure.

(5) LOT SIZE REQUIREMENTS.

(a) Minimum lot area: 8,000 square feet.
(b) Minimum lot width: 75 feet.

(6) MINIMUM YARD DIMENSIONS.

(a) Principal Building:
1. Street - 25 feet.
2. Side yard - minimum 8 feet on any one side, minimum total of 20 feet.
3. Rear yard - 25 feet.

(b) Accessory Building:
1. Side yard - 6 feet.
2. Rear yard - 10 feet.

(7) MAXIMUM LOT COVERAGE.
(a) Principal Building:
1. Single family dwelling: 25 percent (25%).
2. Accessory building: 8 percent (8%).

(8) MAXIMUM BUILDING HEIGHT.
(a) Principal Building Height: 3 stories, but not over 35 feet.
(b) Accessory Building Height: 1 story, but not over 15 feet.

17.27 B-1 CENTRAL BUSINESS DISTRICT. (1652 09/14/92; 2405 12/10/13; 2514 03/12/19)

(1) PURPOSE. The B-1 Central Business District is established to provide for sewered commercial activities only and to delineate areas appropriate for commercial uses which are oriented toward the Central Business District.

(2) PRINCIPAL PERMITTED USES.
(a) Advertising services.
(b) Antique and collector stores.
(b1) Pet Grooming.
(c) Appliance stores.
(d) Automotive parts stores
(e) Bar or cocktail lounges.
(f) Bakeries.
(g) Banks, savings and loan associations and other financial institutions.
(h) Beauty shops.

(i) Bicycle shops, sales and repair.
(j) Barber shops.
(k) Book and stationery stores.
(l) Bowling alleys.
(m) Building maintenance services.
(n) Business offices and services.
(o) Civic, social and fraternal association houses or lodges.
(p) Clinics.
(q) Clothing stores.
(r) Clubs or lodges.
(s) Community centers.
(t) Confectioneries.
(u) Convenience stores without gasoline. *(This Section sunsets on 12/09/2013 or upon adoption of Smart Growth Zoning changes, whichever occurs first.)* (2132 12/09/03)
(v) Copy shops.
(w) Credit reporting and collection.
(x) Dance halls.
(y) Delicatessens.
(z) Department stores.
(aa) Drug stores.
(ab) Dry goods and variety stores.
(ac) Eating and drinking places (TYPE 1 and TYPE 2, see Definition Section).
(ad) Electrical supply and repair shops.
(ae) Fabrics, sewing, needlework stores.
(af) Financial institutions.
(ag) Fish markets.
(ah) Florists.
(ai) Food stores.
(aj) Fruit stores.
(ak) Furniture stores.
(al) Furriers and fur apparel stores.
(am) Gift shops.
(an) Governmental offices.
(ao) Grocery stores.
(ap) Hardware stores.
(aq) Hobby shops.
(ar) Home furnishing stores.
(as) Hotels or motels.
(at) Household appliance stores.
(au) Janitorial supply stores.
(av) Jewelry stores.
(aw) Laundry or dry cleaning facilities.
(ax) Leather goods stores.
(ay) Libraries.
(az) Locksmiths.
(ba) Meat markets.
(bb) Museums.
(bc) Music stores.
(bd) Newspaper offices and press rooms.
(be) Nightclubs.
(bf) Office equipment and supply stores.
(bg) Optical stores.
(bh) Package liquor stores.
(bi) Paint, glass, and wallpaper stores.
(bj) Parking lots, off-street.
(bk) Pawn shops.
(bkk) Pet Grooming.
(bl) Photographic equipment and supply stores.
(bm) Photographic studios.
(bn) Physical fitness facilities.
(bo) Places of worship.
(bp) Plumbing, fixtures, and supply stores.
(bq) Pool halls.
(br) Professional offices.
(bs) Public administration facilities.
(bt) Radio or television repair shops.
(bu) Real estate offices.
(bv) Residential units over B-1 businesses.
(bw) Restaurants.
(bx) Schools: professional, business or technical.
(by) Shoe repair shops.
(bz) Shoe sales.
(ca) Shopping centers.
(cb) Soda fountains.
(cc) Specialty Shops.
(cd) Sporting or athletic goods.
(ce) Stationary stores.
(cf) Supermarkets.
(cg) Tailors or dressmakers.
(ch) Tanning salons.
(ci) Taverns.
(cj) Theaters.
(ck) Tobacco shops.
(cl) Travel agencies.
(cm) Used merchandise stores.
(cn) U.S. Post Offices.
(co) Variety stores.
(cp) Video rental stores.

(3) ACCESSORY USES.
(a) Essential services.
(b) Parking garages or parking areas.

(4) CONDITIONAL USES (2509 02/26/19)
(a) Car wash establishments.
(b) Catering shops.
(c) Colleges or universities.
(d) Community centers.
(e) Dry cleaning stores.
(f) Dwelling for up to two families on the first floor provided that: (1) there is an existing building which was originally designed for residential use; and (2) the building is located only in the following areas in the City of Baraboo, formerly Adams:

1. Block fourteen, Lots 7 through 12, (1722 03/01/94)
2. Block twenty-two, Lots 2 through 4, (1722 03/01/94)
3. Block twenty-eight, Lots 3 through 8, (1722 03/01/94)
4. Block twenty-five, Lots 5 through 8, (1722 03/01/94)

5. Block thirty-six, Lots 5 through 9, (1722 03/01/94)
6. The west sixty feet of Lot 5, Block 21 (227 Fifth Avenue) (1831 09/12/95)

(g) Funeral homes.
(h) Group development. (1983 07/27/99)
(i) Manufacturing and processing (in enclosed buildings) of jewelry, musical instruments, photo-graphic printing, lithography, typesetting, and crafts.
(j) Public garages.
(k) Public passenger transportation terminals, except airports.
(l) Service stations.
(m) Tourism oriented, on-site manufacturing businesses (such as cheese, candy, glass, and gifts).
(n) Wholesale establishments.
(o) Residential dwelling units on the first floor of an existing building located within an area bounded by the Baraboo River on the north, Lynn Street on the south, Walnut Street on the west, and the alley to the east of Walnut Street on the east provided that there shall be a minimum of two off-street parking spaces per dwelling unit located on the same property where the building is located and the spaces shall be constructed to meet the off-street parking requirements of the Baraboo Code. (1743 05/3/94).
(p) A storage building that serves an existing permitted use. (2023 08/22/2000)
(q) Gas Stations (2046 01/09/2001)
(r) Day care centers. (2202 08/23/05)
(s) Eating and drinking places, Type I and Type II, see (See §17.08 for Definition)
(t) Hotels or motels
(u) Laundry or dry cleaning facilities
(v) Nightclubs
(w) Pawnshops
(x) Places of worship
(y) Pool halls
(z) Schools: professional, business, or technical
(aa) Taverns
(ab) Theaters
(ac) Video rental stores

(5) LOT SIZE REQUIREMENTS. None.

(6) MINIMUM YARD DIMENSIONS.
(a) Principal Building:
1. Street - None.
2. Side Yard - None.
3. Rear Yard - None.

(b) Accessory Building:
1. Street - None.
2. Side and Rear Yards - None.

(7) MAXIMUM BUILDING HEIGHT.
(a) Principal Building Height: 60', except 45' where adjacent to a Residential District.
(b) Accessory Building Height: two stories, but not over 15 feet where adjacent to a Residential District.

(8) SPECIAL ZONING EXCEPTION FOR SAUK COUNTY'S TELECOMMUNICATIONS TOWER. A special zoning exception is hereby granted to the County of Sauk, Wisconsin, for the replacement of the existing telecommunications tower on the roof of the Sauk County Courthouse Annex at 501 Broadway upon the following terms and conditions: (2150 04/13/04) *(NOTE: See Ordinance 2150 for specific findings.)*

(a) The replacement tower shall be of the same approximate size, height, and style as the existing tower.
(b) Sauk County may license or lease a space on the tower to a private or quasi-public telecommunications carrier for the installation of a telecommunications antenna on the tower.
(c) Sauk County may license or lease a portion of the tower to the Baraboo Ambulance District for the installation of a telecommunications antenna.
(d) Except as provided in Subs. (b) and (c), no other outside person, firm, corporation or other entity, other than the County of Sauk, shall be allowed to install any additional antennas on the tower without the express authorization of the City of Baraboo.
(e) The communications tower shall be constructed and installed in compliance with all applicable state and national codes.

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17.28 B-2 NEIGHBORHOOD BUSINESS DISTRICT. (2514 03/12/19, 2538 11/26/2019)

(1) PURPOSE. The B-2 Neighborhood Business District is established to provide for sewered commercial activities having minimal visual and physical impacts on neighboring residences. These impacts include off-street parking, traffic flow and hazards, odors, hours of operation, and quality of life.

(2) PRINCIPAL PERMITTED USES.
(a) Bed and Breakfast establishments.
(am) Pet Grooming.
(b) Cemeteries, crematoriums, and funeral homes.
(c) Churches.
(d) Colleges or universities.
(e) Community living arrangements.

(f) Eating establishments (TYPE 1).
(g) Florists.
(h) Funeral homes.
(i) Hospitals, nursing homes.
(j) Libraries.
(k) Museums.
(l) Neighborhood community centers.
(m) Nursery, elementary and secondary schools, whether public, private or parochial.
(n) Parks or playgrounds.
(o) Professional Offices.
(p) Residential units above B-2 businesses.
(q) Clinics.
(r) Beauty shops, barber shops and accessory uses such as manicuring and tanning beds.
(s) Tanning salons.
(t) Paint, glass, wallpaper stores.
(u) Electrical supply and repair shops.
(v) Cabinet shops.
(w) Glass shops.
(x) Travel Agencies.
(y) Bakeries.
(z) Bicycle shops (sales and repairs).
(aa) Gift shops.
(ab) Hobby shops.
(ac) Photographic equipment/supply stores.
(ad) Pet Grooming.
(ae) Plumbing, fixture and supply stores, not including outdoor storage.
(af) Business offices and services.
(ag) Photographic studios.
(ah) Real estate offices.
(ai) Caterers.

(3) ACCESSORY USES.
(a) Essential services.
(b) Gazebos.
(c) Parking areas directly related to the business.
(d) Satellite dish antennas.
(e) Swimming pools with accessory structure.

(4) CONDITIONAL USES.(2509 02/26/19)
(a) Club houses or lodges.
(b) Commercial greenhouses.
(c) Copy shop.
(d) Gift shops.
(e) Group development, limited to Offices and Condominum developments only (1983 07/27/99, 2538 11/26/2019)
(f) Home occupations.
(g) Locksmiths.
(h) Professional offices.
(i) Shoe repair shops.
(j) Tailors and dressmakers.
(k) Eating establishments - TYPE 1 with drive-thru and/or pickup services.
(l) Credit agencies.
(m) Credit reporting and collection establishments.
(n) Financial institutions.
(o) Public administration facilities.
(p) Tax return preparation establishments.
(q) U.S. Postal Offices.
(r) Antique and collector stores.
(s) Janitorial supplies.
(t) Locksmiths.
(u) Music stores.
(v) Office equipment and supply stores.
(w) Radio/TV repair shops.
(x) Sporting and athletic good stores.
(y) Video rental stores.
(z) Optical stores.
(aa) Delicatessens.
(ab) Civic, social and fraternal associations.
(ac) Schools (professional, business, technical).
(ad) Reserved.

(5) LOT SIZE REQUIREMENTS. None.

(6) MINIMUM YARD DIMENSIONS.

(a) Principal Building:
1. Street - 25 feet.
2. Side Yard - the total shall be the lesser of ½ the height or ½ the depth of the building, but in no case less than 20 feet.
3. Rear Yard - the distance shall be the lesser of ½ the height or ½ the width of the building, but in no case less than 25 feet.

(b) Accessory Building:
1. Street - 25 feet.
2. Side Yard - 10 feet where adjacent to a Residential Zoning District, otherwise 3 feet.
3. Rear Yard - 10 feet where adjacent to a Residential Zoning District, otherwise 3 feet.

(7) MAXIMUM LOT COVERAGE.
(a) Principal Building: 40 percent (40%).
(b) Accessory Building: 10 percent (10%).

(8) MAXIMUM BUILDING HEIGHT.

(a) Principal Building Height: Three stories, but not over 35 feet.
(b) Accessory Building Height: One story, not over 15 feet.

17.29 B-3 HIGHWAY-ORIENTED BUSINESS DISTRICT. (2376 04/10/2012; 2514 03/12/19)

(1) PURPOSE. The B-3 Highway-Oriented Business District is established to provide for sewered commercial activities oriented toward regional markets requiring highway exposure to

the highway user or intended to service vehicles. The commercial activities require large lots for the buildings, off-street parking and future expansion. The location of B-3 districts shall be in areas without a severe soil limitation.

(2) PRINCIPAL PERMITTED USES.

(a) Advertising services.
(b) Air conditioning, refrigerated equipment, and supplies not including outdoor storage.
(c) Antique and collector stores.
(d) Athletic clubs.
(e) Appliance stores.
(f) Automobile sales and service establishments.
(g) Automotive parts stores.
(h) Bar or cocktail lounges.
(i) Bakeries.
(j) Banks, savings and loan associations and other financial institutions.
(k) Beauty shops.
(l) Beer, wine, and distilled alcoholic beverages.
(m) Bicycle shops, sales and repair.
(n) Barber shops.
(o) Boat sales or rental establishments.
(p) Book and stationery stores.
(q) Bowling alleys.
(r) Building maintenance services.
(s) Bus depots.
(t) Business offices and services.
(u) Car washes.
(v) Catering shops.
(w) Civic, social and fraternal association houses or lodges.
(x) Clinics.
(y) Clothing stores.
(z) Clubs or lodges.
(aa) Commercial and industrial machinery, equipment, and supplies not including outdoor storage.
(ab) Community centers.
(ac) Confectioneries.
(ad) Convenience stores.
(ae) Copy shops.
(af) Credit reporting and collection.
(ag) Dance halls.
(ah) Delicatessens.
(ai) Department stores.
(aj) Drug stores.
(ak) Dry goods and variety stores.
(al) Eating and drinking establishments (TYPE 1 and TYPE 2, See §17.08).
(am) Electrical supply and repair shops.
(an) Equipment rental establishments.
(ao) Fabrics, sewing, needlework stores.
(ap) Farm equipment, machinery sales and service establishments.
(aq) Financial institutions.
(ar) Fish markets.
(as) Flea markets.
(at) Florists.
(au) Food storage lockers.
(av) Food stores.
(aw) Fruit stores.
(ax) Funeral homes.
(ay) Furniture stores.
(az) Furriers and fur apparel stores.
(ba) Gas stations.
(bb) Gift shops.
(bc) Golf courses.
(bd) Governmental offices.
(be) Green houses.
(bf) Grocery stores.
(bg) Hardware stores.
(bh) Hobby shops.
(bi) Home furnishing stores.
(bj) Hospitals.
(bk) Hotels or motels.
(bl) Household appliance stores.
(bm) Janitorial supply stores.
(bn) Jewelry stores.
(bo) Laundry or dry cleaning facilities.
(bp) Leather goods stores.
(bq) Libraries.
(br) Locksmiths.
(bs) Lumber and other building supply stores.
(bt) Meat and meat products manufacturers; not including slaughtering or outdoor confinement facilities.
(bu) Meat markets.
(bv) Motorcycle dealers.
(bw) Museums.
(bx) Music stores.
(by) Newspaper offices and press rooms.
(bz) Nightclubs.
(ca) Office equipment and supply stores.
(cb) Optical stores.
(cc) Outdoor theaters.
(cd) Package liquor stores.
(ce) Paint, glass, and wallpaper stores.
(cf) Parking lots, off-street.
(cg) Pawn shops.
(cgg) Pet Grooming.
(ch) Photographic equipment and supply stores.
(ci) Photographic studios.
(cj) Physical fitness facilities.
(ck) Places of worship.
(cl) Plumbing, fixtures, and supply stores.
(cm) Pool halls.
(cn) Professional offices.
(co) Public administration facilities.
(cp) Public garages.
(cq) Radio and television stations including their towers.
(cr) Radio or television repair shops.
(cs) Real estate offices.
(ct) Recreation and utility trailer dealers.
(cu) Regional retail stores.
(cv) Restaurants.
(cw) Schools: professional, business or technical.
(cx) Service stations.

(cx1) Sexually oriented business as defined in §12.15.
(cy) Reserved for future use. (2247 02/13/2007)
(cz) Shoe repair shops.
(da) Shoe sales.
(db) Shopping centers.
(dc) Soda fountains.
(dd) Specialty shops
(de) Sporting or athletic good stores.
(df) Stationary stores.
(dg) Supermarkets.
(dh) Tailors or dressmakers.
(di) Tanning salons.
(dj) Taverns.
(dk) Telephone offices.
(dl) Theaters.
(dm) Tobacco shops.
(dn) Trailer sales or rental establishments.
(do) Travel agencies.
(dp) Used merchandise stores.
(dq) U.S. Post Offices.
(dr) Variety stores.
(ds) Video rental stores.

(3) ACCESSORY USES.
(a) Essential services.
(b) Parking areas directly related to the business.

(4) CONDITIONAL USES. All uses, whether permitted or conditional, shall be considered conditional uses with the overlay zoning district as established in §17.36C of this Code of Ordinances. (2132 12/09/03, 2252 04/10/07, 2376 04/10/2012, 2445 08/23/16, 2509 02/26/19)
(a) Colleges or universities.
(b) Group development. (1983 07/27/99)
(c) Public passenger transportation terminals, except airports and bus depots.
(d) Small Animal Veterinary Clinics. Provided such use shall not include on-site large animal work, or have outside animal runs, or have overnight boarding of animals except for medical reasons. (1804 04/11/95) See also § 17.08.
(e) <u>An overlay zoning district located within the following boundaries is hereby created</u>: (2132 12/09/03) *(This Section sunsets on 12/09/2013 or upon adoption of Smart Growth Zoning changes, whichever occurs first.)*

Properties south of the Baraboo River and westerly of a line described as follows:

Beginning at a point at the intersection of the centerline of the Baraboo River and the West line of the SE¼ of the SE¼ of Section 34, Town 12N, Range 6E, Sauk County, Wisconsin; thence South along said ¼ ¼ line to the Southwest corner of City of Baraboo Tax Parcel No. 206-0039-44030; thence Easterly along the South line of said Tax Parcel to the extended Easterly line of City of Baraboo Tax Parcel No. 206-0039-44020; thence South along said extended line of said parcel to the centerline of Carpenter Street; thence West along said centerline to the East right-of-way line of Industrial Court; thence South along said right-of-way line to the centerline of Sauk Avenue; thence East along said centerline to the centerline of Moore Street; thence South along said centerline to the centerline of Sauk Avenue; thence East along said centerline to the centerline of Hitchcock Street; thence South along said centerline to the centerline of South Boulevard; thence Easterly along said centerline to the centerline of Waldo Street; thence South along said centerline to the North line of the SW¼ of Section 2, Town 11N, Range 6E, Sauk County, Wisconsin; thence West along said line to the West line of the SW¼ of said Section 2; thence South along said line and all Sections to the South within the City. (A map showing the boundaries of this overlay district is on file in the City Engineer's office and is incorporated by reference.)

The following uses in this overlay district shall be treated as a conditional use whenever such use is newly constructed or whenever proposed exterior renovations or additions to existing buildings or premises, excluding routine maintenance, exceeds $10,000 in value in a calendar year:

1. Automobile sales and service establishments
2. Automotive parts stores
3. Bar or cocktail lounges
4. Beer, wine, and distilled alcoholic beverages
5. Bicycle shops, sales and repair
6. Boat sales or rental establishments
7. Bowling alleys
8. Carwashes
9. Civic, social, and fraternal association houses or lodges
10. Clubs or lodges
11. Community centers
12. Dancehalls

13. Eating and drinking establishments, Type I and Type II, (See §17.08 for Definition)
14. Equipment rental establishments
15. Farm equipment, machinery sales and service establishments
16. Flea markets
17. Gas stations
18. Hotels or motels
19. Lumber and other building supply stores
20. Museums
21. Nightclubs
22. Outdoor theaters
23. Package liquor stores
24. Pawn shops
25. Places of worship
26. Pool halls
27. Public garages
28. Recreation and utility trailer dealers
29. Restaurants
30. Service stations
31. Self-storage rental sheds
32. Taverns
33. Theaters
34. Tobacco shops
35. Trailer sales or rental establishments
36. Video rental stores

(5) LOT SIZE REQUIREMENTS. None.

(6) MINIMUM YARD DIMENSIONS.

(a) Principal Building:

1. Street – 25 feet. – Except whenever Wisconsin Department of Transportation Administrative Code Trans 233 applies to a land division within the City, the Common Council shall be authorized to establish the same setback area for City zoning purposes as the setback area approved by the Wisconsin Department of Transportation, where, in the judgment of the Common Council, after report and recommendation by the Plan Commission, the setback established by the State DOT will not be contrary to the public interest and where such allowed setback is in harmony with the general purposes and intent of the City's Zoning Code. Any setback allowed by the Council under this section may be subject to such conditions and restrictions as determined by the Council to be in the public interest. The plat or map shall clearly show the boundary of the setback line. (2017 06/27/2000)

2. Side Yard - 10 feet where adjacent to a Residential or Agricultural District; other Districts, none.

3. Rear Yard - 25 feet where adjacent to a Residential or Agricultural District only which may include alley width; other Districts, none.

(b) Accessory Building:

1. Street – 25 feet. – Except whenever Wisconsin Department of Transportation Administrative Code Trans 233 applies to a land division within the City, the Common Council shall be authorized to establish the same setback area for City zoning purposes as the setback area approved by the Wisconsin Department of Transportation, where, in the judgment of the Common Council, after report and recommendation by the Plan Commission, the setback established by the State DOT will not be contrary to the public interest and where such allowed setback is in harmony with the general purposes and intent of the City's Zoning Code. Any setback allowed by the Council under this section may be subject to such conditions and restrictions as determined by the Council to be in the public interest. The plat or map shall clearly show the boundary of the setback line. (2017 06/27/2000)

2. Side and Rear Yards -10 where adjacent to a Residential or Agricultural District; other districts, none.

(7) MAXIMUM LOT COVERAGE. None.

(8) MAXIMUM BUILDING HEIGHT.
(a) Principal Building Height: 45 feet.
(b) Accessory Building Height: two stories, but not over 15 feet.

17.30 I-1 INDUSTRIAL DISTRICT, ENCLOSED STORAGE. (1652 09/14/95)

(1) PURPOSE. The I-1 Industrial District, enclosed storage, is established to delineate areas to be used for industrial development and to delineate areas to be used for enclosed storage.

(2) PRINCIPAL USES.
- (a) Assembly of previously prepared material establishments.
- (b) Blacksmith or machine shops.
- (c) Laboratories.
- (d) Manufacturing, processing, repairing or warehouse uses.
- (e) Wholesale establishments.

(3) ACCESSORY USES.
- (a) Dock facilities.
- (b) Essential services.
- (c) Garage storage of vehicles used in conjunction with the operation of a permitted use.
- (d) Rail tracks and spur lines.
- (e) Security facilities.
- (f) Service buildings normally accessory to the permitted use.

(4) CONDITIONAL USES. All uses, whether permitted or conditional, shall be considered conditional uses with the overlay zoning district as established in §17.36C of this Code of Ordinances. (2237 09/26/06, 2252 04/10/07, 2509 02/26/19)

- (a) Any development within one thousand five hundred (1,500) feet of the existing or proposed inter-change or turning lane rights of way of an existing or proposed freeway or expressway.
- (b) Animal hospitals and kennels with a 100-foot buffer zone to any other district.
- (c) Community centers.
- (d) Governmental buildings.
- (e) Group development. (1983 07/27/99)
- (f) Libraries.
- (g) Museums.
- (h) Public passenger transportation terminals, except airports.
- (i) Retail business directly related to the primary permitted industrial use. The retail space can be two percent (2%) total gross floor area but shall not exceed one thousand (1,000) square feet.
- (j) Travel agencies.
- (k) Any business or industry involving the above ground bulk storage of liquid petroleum or propane gas for on site use, or for sale or delivery. (1921 10/28/97)
- (l) Automobile service and repair facilities. (2237 09/26/2006)

(5) PROHIBITED USES.
- (a) Any use which does not comply with the Performance Standards specified in this chapter.
- (b) Any use not specifically designated a permitted or conditional use.

(6) ENCLOSURE REQUIREMENTS. All uses, including storage, shall be entirely within enclosed buildings, except as outdoor storage may be permitted by a conditional use permit a set forth in §17.37(2)(f), Ordinances. (2243 11/28/2006)

(7) LOT SIZE REQUIREMENTS.
- (a) Minimum Lot Area: 7,500 square feet.
- (b) Minimum Lot Width: none.

(8) MINIMUM YARD DIMENSIONS.
- (a) Principal Building:
  - 1. Street - 25 feet.
  - 2. Side and Rear Yards. 10 feet, excluding rail track or public alley, except where adjacent to a Residential District, in which case the yard shall not be less than 25 feet excluding rail tracks, public alley or street width.

(9) MAXIMUM BUILDING HEIGHT REQUIREMENTS.
- (a) Principal Building Height: None.
- (b) Accessory Building Height: None.

17.31 I-2 INDUSTRIAL DISTRICT. (1652 09/14/92, 22524/10/2007)

(1) PURPOSE. The I-2 Industrial District is established to delineate areas to be used for industrial development of the uses prescribed. (2243 11/28/2006)

(2) PRINCIPAL PERMITTED USES.
- (a) Assembly of previously prepared material establishments.
- (b) Blacksmith or machine shops.
- (c) Laboratories.
- (d) Manufacturing, processing, repairing or warehouse uses.
- (e) Wholesale establishments.

(3) ACCESSORY USES.
- (a) Dock facilities.
- (b) Essential services.
- (c) Garage storage of vehicles used in conjunction with the operation of a permitted use.
- (d) Rail tracks and spur lines.
- (e) Security facilities.

(f) Service buildings normally accessory to the permitted use.

(4) CONDITIONAL USES. All uses, whether permitted or conditional, shall be considered conditional uses with the overlay zoning district as established in §17.36C of this Code of Ordinances. (2252 04/10/07, 2509 02/26/19)
(a) Community centers.
(b) Governmental buildings
(c) Group development. (1983 07/27/99)
(d) Libraries.
(e) Museums.
(f) Salvage yards.
(g) Any business or industry involving the above ground bulk storage of liquid petroleum or propane gas for on-site use or for sale or delivery. (1921 10/28/97)

(5) PROHIBITED USES.
(a) Any use which does not comply with the Performance Standards specified in this Chapter.
(b) Any use not specifically designated a permitted or conditional use.

(6) ENCLOSURE REQUIREMENTS. All uses, including storage, shall be entirely within the enclosed buildings, except as outdoor storage may be permitted by a conditional use permit as set forth in §17.37(5)(a1), Ordinances. (2243 11/28/2006)

(7) LOT SIZE REQUIREMENTS.
(a) Minimum Lot Area: 7,500 square feet.
(b) Minimum Lot Width: None.

(8) MINIMUM YARD DIMENSIONS.
(a) Principal Building.
1. Street - 25 feet.
2. Side and Rear Yards. 10 feet, excluding rail track or public alley, except where adjacent to a Residential District, in which case the yard shall not be less than 25 feet excluding rail tracks, public alley or street width.

(9) MAXIMUM LOT COVERAGE. None.

(10) MAXIMUM BUILDING HEIGHT REQUIREMENTS.
(a) Principal Building Height: None.
(b) Accessory Building Height: None.

17.32 I-3 INDUSTRIAL/BUSINESS DISTRICT. (1772 10/25/94, 2445 8/23/16)

(1) PURPOSE. The I-3 Industrial/Business District is established to delineate those areas to be used for contemporary, professional and office like settings and contemporary industrial development, including light manufacturing, warehousing and other similar industrial uses.

(2) PRINCIPAL PERMITTED USES.
(a) Offices, Business and Professional uses, including:
1. Accounting,
2. Auditing,
3. Bookkeeping offices,
4. Advertising offices,
5. Banks and financial institutions,
6. Business associates,
7. Business and management consultant offices,
8. Chiropractic offices,
9. Contractors' offices,
10. Dental offices,
11. Educational and scientific research offices,
12. Employment agency offices,
13. Engineering and architectural offices,
14. Finance offices,
15. Insurance offices,
16. Investment service offices,
17. Labor unions,
18. Laboratories, with accessory research and testing,
19. Legal offices,
20. Medical clinics and offices, and
21. Real estate offices.

(b) Manufacturing, processing, repairing or warehouse uses for manufacturing activities including:
1. Bicycles,
2. Cabinets,
3. Cameras,
4. Candy,
5. Clothing,
6. Computers,
7. Electrical appliances,
8. Electronics components,
9. Furniture,
10. Generators,
11. Glass products,
12. Machine shops,
13. Machine tools,
14. Medical equipment,
15. Motors,
16. Musical instruments,
17. Photographic equipment,
18. Plastic products,
19. Printing shops,
20. Printing and publishing establishments,

21. Sporting and athletic equipment,
22. Telephone transmission buildings,
23. Televisions,
24. Toys, and
25. Transformers.

(c) Wholesale establishments.
(d) Laboratories.
(e) Assembly of previously prepared material.
(f) Golf Courses. (1901 04/08/97)
(g) Fabrication of canvass and industrial fabrics, covers, awnings, tents, frames, signs, and related products, and related rentals, and retail sales of these products. (1956 10/27/98)
(h) A water treatment distribution center, including related products and related rentals and retail sales of water treatment products. (2189 03/22/05)

(3) ACCESSORY USES.
(a) Dock facilities,
(b) Essential services,
(c) Garage storage of vehicles used in conjunction with the operation of a permitted use,
(d) Rail tracks and spur lines,
(e) Service buildings normally accessory to the permitted use, and
(f) Security facilities.

(4) CONDITIONAL USES.(2509 02/26/19)
(a) Animal hospitals and kennels with a 100-foot buffer zone to any other district,
(b) Community centers,
(c) Governmental buildings,
(d) Group development, (1983 07/27/99)
(e) Libraries,
(f) Museums,
(g) Penal and correctional institutions,
(h) Public passenger transportation terminals, except airports,
(i) Retail businesses, selling products manufactured, produced or distributed from the principal industrial use, not exceeding 10 percent (10%) of total floor area of the permitted use,
(j) Self-service facility
(k) Self Service storage facility

(5) PROHIBITED USES.
(a) Any use which does not comply with the Performance Standards specified in this chapter,
(b) Any use not specifically designated as a permitted or conditional use, and
(c) The following uses are expressly prohibited: abattoirs, acid manufacture, cement, lime, gypsum or plaster of paris manufacture, drop force, explosive/hazardous materials, manufacture or storage, fat rendering, fertilizer manufacture, junk yards, smelting of metals, stockyards, and tannery.

(6) ENCLOSURE REQUIREMENTS. All uses, including storage, shall be entirely within the enclosed buildings, except as outdoor storage may be permitted by a conditional use permit as set forth in S17.37(5)a1), Ordinances. (2243 11/28/2006)

(7) MINIMUM LOT SIZE: One acre.

(8) MINIMUM YARD DIMENSIONS.
(a) Principal Building.
1. Front yard: 30 feet.
2. Side yard: 20 feet.
3. Rear yard: 25 feet.

(9) MAXIMUM BUILDING HEIGHT REQUIREMENTS.
(a) Principal building height: None.
(b) Accessory building height: None.

17.32A I-4 PLANNED INDUSTRIAL/BUSINESS DISTRICT (1980 07/27/99, 2132 12/09/03, 2252 04/10/07; 2514 03/12/19)

(1) PURPOSE. The I-4 Planned Industrial/Business District is established to delineate those areas to be used for contemporary, professional, and office-like settings, and contemporary industrial development, including light manufacturing, warehousing, and other similar industrial uses, and further including support commercial service uses for industry and businesses.

(2) PRINCIPAL PERMITTED USES – All principal permitted uses allowed in the Industrial/Business District (I-3) and in the Highway Oriented Business District (B-3) as follows: (2132 12/09/03)

(a) Industrial/Business Offices, Business and Professional uses:
1. Accounting
2. Auditing
3. Bookkeeping offices
4. Advertising offices
5. Banks and financial institutions
6. Business associates
7. Business and management consultant offices
8. Chiropractic offices
9. Contractors' offices

10. Dental offices
11. Educational and scientific research offices
12. Employment agency offices
13. Engineering and architectural offices
14. Finance offices
15. Insurance offices
16. Investment service offices
17. Labor unions
18. Laboratories, with accessory research and testing
19. Legal offices
20. Medical clinics and offices
21. Real estate offices

(b) Industrial/Business manufacturing, processing, repairing or warehouse uses for manufacturing activities:
1. Bicycles
2. Cabinets
3. Cameras
4. Candy
5. Clothing
6. Computers
7. Electrical appliances
8. Electronics components
9. Furniture
10. Generators
11. Glass products
12. Machine shops
13. Machine tools
14. Medical equipment
15. Motors
16. Musical instruments
17. Photographic equipment
18. Plastic products
19. Printing shops
20. Printing and publishing establishments
21. Sporting and athletic equipment
22. Telephone transmission buildings
23. Televisions
24. Toys
25. Transformers

(c) Other Industrial/Business uses:
1. Wholesale establishments
2. Laboratories
3. Assembly of previously prepared material
4. Golf Courses (1901 04/08/97)
1. Fabrication of canvass and industrial fabrics, covers, awnings, tents, frames, signs, and related products, and related rentals, and retail sales of these products (1956 10/27/98)

(d) Highway Oriented Business uses:
1. Advertising services
2. Air conditioning, refrigerated equipment, and supplies not including outdoor storage
3. Antique and collector stores
4. Athletic clubs
5. Appliance stores
6. Automobile sales and service establishments
7. Automotive parts stores
8. Bar or cocktail lounges
9. Bakeries
10. Banks, savings and loan associations and other financial institutions
11. Beauty shops
12. Beer, wine, and distilled alcoholic beverages
13. Bicycle shops, sales and repair
14. Barber shops
15. Boat sales or rental establishments
16. Book and stationery stores
17. Bowling alleys
18. Building maintenance services
19. Bus depots
20. Business offices and services
21. Car washes.
22. Catering shops
23. Civic, social and fraternal association houses or lodges
24. Clinics
25. Clothing stores
26. Clubs or lodges
27. Commercial and industrial machinery, equipment, and supplies not including outdoor storage
28. Community centers
29. Confectioneries
30. Convenience stores
31. Copy shops
32. Credit reporting and collection
33. Dance halls
34. Delicatessens
35. Department stores
36. Drug stores
37. Dry goods and variety stores
38. Eating and drinking establishments, Type 1 and Type 2 (See §17.08 for Definition)
39. Electrical supply and repair shops
40. Equipment rental establishments
41. Fabrics, sewing, needlework stores
42. Farm equipment, machinery sales and service establishments

43. Financial institutions
44. Fish markets
45. Flea markets
46. Florists
47. Food storage lockers
48. Food stores
49. Fruit stores
50. Funeral homes
51. Furniture stores
52. Furriers and fur apparel stores
53. Gas stations
54. Gift shops
55. Golf courses
56. Governmental offices
57. Green houses
58. Grocery stores
59. Hardware stores
60. Hobby shops
61. Home furnishing stores
62. Hospitals
63. Hotels or motels
64. Household appliance stores
65. Janitorial supply stores
66. Jewelry stores
67. Laundry or dry cleaning facilities
68. Leather goods stores
69. Libraries
70. Locksmiths
71. Lumber and other building supply stores
72. Meat and meat products manufacturers; not including slaughtering or outdoor confinement facilities
73. Meat markets
74. Motorcycle dealers
75. Museums
76. Music stores
77. Newspaper offices and press rooms
78. Nightclubs
79. Office equipment and supply stores
80. Optical stores
81. Outdoor theaters
82. Package liquor stores
83. Paint, glass, and wallpaper stores
84. Parking lots, off-street
85. Pawn shops
85a. Pet Grooming
86. Photographic equipment and supply stores
87. Photographic studios
88. Physical fitness facilities
89. Places of worship
90. Plumbing, fixtures, and supply stores
91. Pool halls
92. Professional offices
93. Public administration facilities
94. Public garages
95. Radio and television stations including their towers
96. Radio or television repair shops
97. Real estate offices
98. Recreation and utility trailer dealers
99. Regional retail stores
100. Restaurants
101. Schools: professional, business or technical
102. Service stations
103. Sexually oriented business as defined in §12.15 (2376 04/10/2012)
104. Shoe repair shops
105. Shoe sales
106. Shopping centers
107. Soda fountains
108. Specialty shops
109. Sporting or athletic good stores
110. Stationary stores
111. Supermarkets
112. Tailors or dressmakers
113. Tanning salons
114. Taverns
115. Telephone offices
116. Theaters
117. Tobacco shops
118. Trailer sales or rental establishments
119. Travel agencies
120. Used merchandise stores
121. U.S. Post Offices
122. Variety stores
123. Video rental stores

(3) ACCESSORY USES
- (a) Dock facilities
- (b) Essential services
- (c) Garage storage of vehicles used in conjunction with the operation of a permitted use
- (d) Rail tracks and spur lines
- (e) Service buildings normally accessory to the permitted use
- (f) Security facilities

(4) CONDITIONAL USES (2132 12/09/03; 2445 08/23/16, 2509 02/26/19)
- (a) Community centers
- (b) Government office buildings
- (c) Group development (1983 07/27/99)
- (d) Libraries
- (e) Museums
- (f) Retail businesses selling products manufactured, produced, or distributed from the principal industrial use not exceeding 10% of the total floor area of the permitted use

(g) Any business or industry involving the above ground bulk storage of liquid petroleum or propane gas for on-sight use or for sale or delivery
(h) Group Development
(i) Self-service storage facility (2247 02/13/2007; 2445 08/23/16)

(5) PROHIBITED USES (2509 02/26/19)
(a) Agricultural chemical manufacturing or processing plants, distribution facilities handling predominantly agricultural chemicals, storage facilities handling predominantly agricultural chemicals or bulk sale facilities
(b) Asphalt products manufacturing or processing plants
(c) Automobile car washes
(d) Automobile service stations
(e) Sauk building products manufacturing or processing plants involving bio-hazardous components
(f) Cemeteries
(g) Hazardous chemical manufacturing or processing plants, distribution facilities handling predominantly hazardous chemicals, storage facilities handling predominantly hazardous chemicals or bulk sale facilities
(h) Dry cleaning establishments
(i) Electronic circuit assembly plants
(j) Electroplating plants
(k) Exterminating shops
(l) Feed lots
(m) Foundries and forge plants
(n) Garages -- for repair and servicing of motor vehicles, including body repair, painting or engine rebuilding
(o) Highway salt storage areas
(p) Industrial liquid waste storage areas
(q) Junkyards and auto graveyards
(r) Landfills or facilities for the treatment, storage or disposal of waste
(s) Metal reduction and refinement plants
(t) Mining operations (gravel pits)
(u) Motor and machinery service and assembly shops
(v) Paint products manufacturing
(w) Petroleum products storage or processing
(x) Plastics manufacturing, other than molding operations and assembly operations
(y) Printing and publishing establishments which use non-biodegradable inks and/or volatile organic compounds
(z) Pulp and paper manufacturing
(aa) Trucking terminals other than those used as on-site distribution centers
(ab) Animal shelters
(ac) Agricultural services
(ad) Amusement and recreation services
(ae) Automotive, implement and recreation vehicle sales
(af) Building supplies
(ag) Garden supplies
(ah) All non-taxable or tax-exempt properties (i.e. churches, schools, day care centers, etc.)
(ai) Single family
(aj) Two-family
(ak) Multi-family
(al) Boarding houses
(am) Mobile home dealers
(an) Contractors-building construction
(ao) Any other use prohibited in the I-3 Industrial/Business District

(6) ENCLOSURE REQUIREMENTS. All uses, including storage, shall be entirely within the enclosed buildings, except as outdoor storage may be permitted by a conditional use permit as set forth in § 17.37(5)(a1), Ordinances. (2243 11/28/2006)

(7) MINIMUM LOT SIZE. One acre in area for industrial or business uses and 27,000 square feet for industrial support commercial service uses.

(8) MINIMUM YARD DIMENSIONS.
(a) <u>Principal Building for Industrial/Business Uses.</u>
1. Front Yard: 30 feet
2. Side Yard: 20 feet
3. Rear Yard: 25 feet

(b) <u>Principal Building for Industrial Support Commercial Uses.</u>
1. Front Yard: 35 feet
2. Side Yard: 20 feet
3. Rear Yard: 25 feet
4. Minimum space between building pads: 30 feet

(9) MAXIMUM BUILDING HEIGHT REQUIREMENTS.
(a) <u>Principal Building Height for Industrial/Business Uses</u>: None
(b) <u>Principal Building for Industrial Support Commercial Uses</u>: 45 feet
(c) <u>Accessory Building Height for Industrial/Business Uses</u>: None
(d) <u>Accessory Building Height for Industrial Support Commercial Use</u>: 2 stories, but not over 15 feet

17.33 <u>A-1 AGRICULTURAL TRANSITIONAL DISTRICT</u>. (1502 04/12/88, 2509 02/26/19)

(1) PURPOSE. The A-1 Agricultural Transitional District is established to permit certain designated agricultural uses for an interim period of time until urban expansion causes the land to be developed into other uses.

(2) PRINCIPAL PERMITTED USES.

(a) Cemeteries.
(b) Crop raising, forestry, greenhouses, horticulture, orchards, truck farming.
(c) Essential services.
(d) Fairgrounds.
(e) Golf courses.
(f) Museums.
(g) One and two family dwellings. *(City Atty. Note: See 18.02(8) for minimum lot size requirements for lots not served by public sewer.)*
(h) Parks.
(i) Places of worship.
(j) Schools.

(3) LOT SIZE REQUIREMENTS. Minimum three acres. *(City Atty. Note: See §18.02(8) for minimum lot size requirements for lots not served by public sewer.)*

(4) MINIMUM YARD DIMENSIONS.
(a) Principal Building:
1. Street - 150 feet.
2. Rear Yard - 25 feet.
3. Side yard - minimum 8 feet on any one side, minimum total of 20 feet.

(b) Accessory Building:
1. Side Yard - 1/2 the height of the building.
2. Rear Yard - 1/2 the height of the building, including the right-of-way of the alley, but not less than three (3) feet from abutting an alley.

(5) MAXIMUM LOT COVERAGE. None.

(6) MAXIMUM BUILDING HEIGHT. Agricultural structures such as barns, silos and windmills shall not exceed in height three (3) times their distance from the nearest lot line. (2300 04/14/2009)

17.34 A-2 AGRICULTURAL HOLDING DISTRICT. (1502 04/12/88)

(1) PURPOSE. The A-2 Agricultural Holding District is established to control urban sprawl by retaining agricultural land to provide for a minimum lot size of five (5) acres, and to locate low-density residential developments in areas without severe soil limitations for non-sewered residential development. *(City Atty. Note: See 18.02(8) for minimum lot size requirements for lots not served by public sewer.)*

(2) PRINCIPAL PERMITTED USES.
(a) Agricultural uses, including: dairying, general farming, greenhouses, hatcheries, livestock raising, poultry raising and paddocks.
(b) Airports.
(c) Cemeteries, crematoriums or funeral homes.
(d) Civic, social and fraternal association houses or lodges.
(e) Colleges and universities.
(f) Crop raising, forestry, greenhouses, horticulture, orchards, and truck farming.
(g) Essential services.
(h) Golf courses.
(i) Hospitals and sanitariums.
(j) Museums.
(k) One- and two-family dwellings. *(City Atty. Note: See §18.02(8) for minimum lot size requirements for lots not served by public sewer.)*
(l) Parks.
(m) Places of worship.
(n) Religious and charitable institutions.
(o) Schools.

(3) ACCESSORY USES. Essential services.

(4) CONDITIONAL USES.(2509 02/26/19, 2509 02/26/19)
(a) Animal hospitals and kennels with a 100-foot buffer from any residential district.
(b) Archery ranges.
(c) Bed-and-breakfast establishments.
(d) Commercial greenhouses.
(e) Driving ranges.
(f) Golf courses.
(g) Open air markets.
(h) Orchards.

(5) LOT SIZE REQUIREMENTS. Minimum of five (5) acres. *(City Atty. Note: See §18.02(8) for minimum lot size requirements for lots not served by public sewer.)*

(6) MINIMUM YARD DIMENSIONS.
(a) Principal Building:
1. Street - 150 feet.
2. Rear Yard - 25 feet.
3. Side yard - minimum 8 feet on any one side, minimum total of 20 feet.

(b) Accessory Building:
1. Side Yard - 1/2 the height of the building.
2. Rear Yard - 1/2 the height of the building, including the right-of-way of the alley, but not less than three (3) feet from abutting an alley.

(7) MAXIMUM BUILDING HEIGHT. Agricultural structures such as barns, silos,

and windmills shall not exceed in height three (3) times their distance from the nearest lot line. (2300 04/14/2009)

17.35 C-1 CONSERVANCY DISTRICT. (1502 04/12/88, 1652 09/14/92, 2509 02/26/19)

(1) PURPOSE. The C-1 Conservancy District is established to preserve designated lands for conservation purposes.

(2) PRINCIPAL PERMITTED USES.
- (a) Cemeteries.
- (b) Floodways.
- (c) Golf courses.
- (d) Groundwater recharge areas.
- (e) Museums.
- (f) Nature preserves.
- (g) Parks.
- (h) Schools.
- (i) Utility land and easements.
- (j) Wetlands.
- (k) Woodlands.

17.36 HIA HIGHWAY INTERCHANGE AREA DISTRICT (OVERLAY DISTRICT).

(1) PURPOSE. The Highway Interchange Area District is to supplement the controls of the underlying zoning districts by providing special regulations as required by the unique characteristics of land development and traffic generation and movement in interchange areas.

(2) APPLICATION. The general standards set forth hereunder will apply to all lands within the delineated areas surrounding any existing or planned highway interchange, and shall be overlaid upon the under-lying zoning districts already applied to the same lands. In the event of conflicting standards between the under-lying zoning and the interchange overlay regulations, the more restrictive will apply.

(3) ACCESS AND ROAD REQUIREMENTS. The following requirements shall apply for an area of one-half (1/2) mile outside the interchange right-of-way or for a distance of one-half (1/2) mile along either side of an intersecting highway from the most remote end of the interchange ramp taper, whichever is greater.

(a) Access Control on Intersecting Highway.
1. On a dual-lane highway, there shall be no access within 1,000 feet of the most remote end of any ramp taper.
2. On other intersecting highways, there shall be no access within 700 feet of the most remote end of taper.
3. There shall be no access point closer than 700 feet to another access point.
4. Access points on opposite sides of the highway shall be directly opposite each other, or opposite a median crossover, or separated by at least 300 feet of lateral distance.
5. Frontage roads or interior access roads shall be utilized to minimize the number of direct access points to the intersecting highway.
6. Every property owner developing land within this district shall dedicate land for either a frontage road minimum width of 50 feet or an interior street of a minimum width of 66 feet.

(b) Setback. The setback from an intersecting highway shall be 160 feet from the centerline or 100 feet from the right-of-way line, whichever is greater, 50 feet from the right-of-way of the frontage road.

17.36A SPECIAL ZONING EXCEPTIONS

(1) A special zoning exception is hereby granted for a motel addition on the property at 1013 8th Street thereby allowing a total motel complex with up to 73 rooms for overnight occupancy, a meeting room, game room, swimming pool, an exercise room, along with other auxiliary rooms. This special exception shall allow the construction of an addition that consists of a 2 car garage on the lower level and a residential apartment unit on the upper level on the north side (9th Street) of the existing motel property with a 12 foot setback from the 9th Street right-of-way line. This property is more particularly described as: (2083 05/28/2002, 2094 09/10/02, 2398 08/13/13) (See original ordinance for reasoning of Common Council):

> Lot One (1), Certified Survey Number 1400 as recorded in Volume 6 of Certified Surveys, on page 1400 in the office of the Register of Deeds for Sauk County, Wisconsin. (Located in SW ¼ NE ¼, Section 36-12-6, City of Baraboo.) Tax Parcel No. 206 0323-00000

(2) Property at 202 East Street formerly known as Industrial Coils Building (Historic Circus Barns). A special zoning exception is hereby granted for a mixed use planned development for the property at 202 East Street, Baraboo, Wisconsin, formerly known as the Industrial Coils property and thereby allowing residential apartments, commercial offices, and a yoga and/or physical fitness facility on the second

floor and retail shops, yoga and/or physical fitness facility, commercial offices, light manufacturing and assembly, Type 1 Eating Establishment(s) and banquet/meeting room, a neighborhood community center, and warehousing on the first floor conditioned upon the following: (2137 01/27/04, 2190 03/22/05) *(NOTE: See Ordinance 2137 for specific findings.)*

(a) Four (4) residential dwelling units may be constructed on the second floor conditioned upon the following:
   1. Two parking spaces for tenants shall be provided on the site for each unit as required by §17.41(1) of the City Code.
   2. The entrances for the apartments shall be on East Street.

(b) 1,386 square feet on the second floor may be used for retail, yoga and/or physical fitness facility, business or professional offices provided that these shall be provided one off-street parking stall on the site for every 300 square feet of floor area devoted to such office use.

(c) The first floor may be divided between business and professional offices, commercial retail stores and shops, yoga and/or physical fitness facility, light manufacturing, Type 1 Eating Establishment(s) and banquet/meeting room, a neighborhood community center, and warehousing for existing uses on the property, all conditioned on the following: (2190 03/22/05)

   1. This use shall comply with the off-street parking requirements as set forth in §17.41 of the City Code.
   2. Light manufacturing shall be limited, by way of example, to such businesses as pottery shop, light assembly, packaging.
   3. Warehousing shall be allowed in the garage building at the rear of the property and also in the main building provided that the warehoused goods shall not house material identified as hazardous material.

(d) Other special conditions to be constructed and/or maintained are as follows:

   1. Additional Off-Street Parking. The City reserves the right to require the owner of the subject property to provide additional off-street parking based upon the traffic volume generated by future uses of the property. Consideration of the need for additional off-street parking shall first be submitted to the Plan Commission for a recommendation with the final determination to be made by the City Council. If additional off-street parking is required by the City, property owner may use the Circus World Museum parking lot at the corner of Rosaline and Water Streets and the St. Joseph's Catholic Church parking lot at the corner of 1st and East in order to comply with any additional off-street parking required by the City provided, however, that the property owner shall present the City with a written enforceable agreement with the owner of each of these parcels allowing property owner to use these areas for additional off-street parking in order to comply with the City's off-street parking requirements, provided that the written agreement is approved as to form by the Baraboo City Attorney.

   2. On-Site Lighting. On-site lighting shall be consistent with the historic character of the building and the lighting shall not go beyond the boundaries of the subject property except where necessary for tenant safety.

   3. Special Signs. Special signs shall be allowed provided the signs are consistent with the historic character of the building and the area and are in compliance with the City of Baraboo Sign Code.

   4. Dumpster and Recycling. A dumpster and recycling area may be maintained on the north side of the building in the enclave portion such that the dumpster is not visible from a public street.

   5. Outdoor Display and Storage. Outdoor display and storage shall not be permitted.

(e) The building shall comply with all applicable City and State Codes.

(f) The historic character of the exterior of the building shall be maintained and the property shall be registered on the State of Wisconsin's National Register for Historic Places.

(g) This special zoning exception shall terminate on December 31, 2004, if

construction toward implementing the uses allowed in this special zoning exception has not been commenced on the property by said date.

(3) A special zoning exception is hereby granted within the B-1 Central Business zoning district for light industrial and electronics assembly commercial uses located within 200 feet of the intersection of Walnut Street and Lynn Street, and which have existed and continuously operated in their present locations since or prior to 1990. (2250 04/10/07)

17.36B PLANNED DEVELOPMENT OVERLAY ZONING DISTRICTS. (2246 (01/23/2007)

(1) PURPOSE.

(a) The purpose of this Section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed Planned Developments, and to provide for the possible relaxation of certain development standards pertaining to the underlying standard zoning district and City design standards.

Planned Developments are intended to provide more incentives for development and redevelopment in areas of the community which are experiencing a lack of significant investment. Furthermore, Planned Developments are designed to forward both the aesthetic and economic development objectives of the City by controlling the site design and the appearance, density or intensity of development in terms of more flexible requirements for land uses, density, intensity, bulk,, landscaping parking requirements and design standards. In exchange for such flexibility, the Planned Development shall provide a much higher level of site design, architectural control and other aspects of aesthetic and functional excellence than normally required for other developments.

(b) Planned Developments have the potential to create undesirable impacts on nearby properties if allowed to develop simply under the general requirements of this Chapter. In addition to such potential, Planned Developments also have the potential to create undesirable impacts on nearby properties which potentially cannot be determined except with a binding site plan, landscape plan and architectural plan, and on a case by case basis. In order to prevent this from occurring, all Planned Developments are required to meet certain procedural requirements applicable only to Planned Developments, in addition to the general requirements of this Chapter. A public hearing process is required to review a request for a Planned Development. This process shall essentially combine the process for a zoning map amendment (for the General Development Plan (GDP) Step) with that required for a conditional use (for the Specific Implementation Plan (SIP) Step), with several additional requirements.

(2) PERMITTED LOCATIONS AND PERMITTED USES.

(a) Permitted Locations. Planned Developments shall be permitted with the approval of a Planned Development Overlay Zoning District, specific to the approved Planned Development, within all zoning districts except the Agricultural Transition District, Agricultural Holding District and Conservancy District.

(b) Permitted Uses. All land uses listed as permitted uses in the Residential, Business and Industrial Zoning Districts may be permitted within a Planned Development. All land uses listed as Conditional Uses in the Residential, Business and Industrial Zoning Districts may be permitted within a Planned Development. No use is permitted as a matter of right in the Planned Development Overlay District except as may be provided in an approved General Development Plan.

(c) Requirements to Depict All Aspects of Development. Only development which is explicitly depicted on the required site plan approved by the City Council as part of the approved Planned Development shall be permitted, even if such development is otherwise listed as permitted. Requested exemptions from these standards shall be made explicit by the Applicant in the application, and shall be recommended by the Plan Commission and approved explicitly by the City Council. If not so requested and approved, such exemptions shall not be permitted.

(3) INITIATION OF REQUEST FOR APPROVAL OF A PLANNED DEVELOPMENT. Proceedings for approval of a Planned Development shall be initiated by:

(a) An application of the owner(s) of the subject property;

(b) A recommendation of the Plan Commission; or

(c) By action of the City Council.

(4) All applications for proposed Planned Developments, regardless of the party of their initiation per (3) above, shall be approved as complete by the zoning administrator, or other staff as designated by the City Administrator, a minimum of two weeks prior to the initiation of this procedure. The zoning administrator, or other staff, shall forward copies of the complete application to the office of the City Clerk. The application shall apply to each of the process steps in paragraphs (5) through (8) as set forth below.

(5) PLANNED DEVELOPMENT Process Step 1: Pre-Application Conference.

(a) The Applicant shall contact the zoning administrator, or other staff as designated by the City Administrator, to place an informal discussion item for the planned development on the Plan Commission agenda.

(b) No details beyond the name of the Applicant and the identification of the discussion item as a planned development is required to be given in the agenda.

(c) At the Plan Commission meeting, the Applicant shall engage in an informal discussion with the Plan Commission regarding the potential planned development. Appropriate topics for discussion may include the location of the Planned Development, general project themes and images, the general mix of dwelling unit types and/or land uses being considered, approximate residential densities and non-residential intensities, the general treatment of natural features, the general relationship to nearby properties and public streets, and the relationship to the City's comprehensive plan.

(d) Points of discussion and conclusions reached in this stage of the process shall be in no way be binding upon the Applicant or the City, but should be considered as the informal, non-binding basis for proceeding to the next step.

(6) PLANNED DEVELOPMENT PROCESS STEP 2, CONCEPT PLAN. The Applicant shall provide the Zoning Administrator with a draft Planned Development Concept Plan Submittal Packet for a determination of completeness prior to placing the proposed planned Development on the Plan Commission agenda for Concept Plan review. This submittal packet shall contain all of the following items, prior to its acceptance by the Zoning Administrator and placement of the item on a Plan Commission agenda for Concept Plan review:

(a) A location map of the subject property and its vicinity at 11" x 17" as depicted on a copy of the City of Baraboo Land Use Plan Map.

(b) A general written description of the proposed Planned Development including:

1. General project themes and images,
2. The general mix of dwelling unit types and/or land uses,
3. Approximate residential densities and non-residential intensities as described by dwelling units per acres, floor area ratio and impervious surface area ratio,
4. The general treatment of natural features,
5. The general relationship to nearby properties and public streets,
6. An initial draft list of zoning standards which will not be met by the proposed Planned Development and the location(s) in which they apply and, a complete list of zoning standards which will be more than met by the proposed Planned Development and the location(s) in which they apply, as compared to the underlying zoning district(s). Essentially, the purpose of this listing shall be to provide the Plan Commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility.

(c) A written description of potentially requested exemptions from the requirements of the underlying zoning district and/or City design standards.

(d) A conceptual plan drawing (at 11" x 17") of the general land use layout and the general location of major public streets and/or private drives. The

Applicant may submit copies of a larger version of the "bubble plan" in addition to the 11" x 17" reduction.

(e) Within ten working days of receiving the draft Planned Development Concept Plan Submittal Packet, the Zoning Administrator shall determine whether the submittal is complete. Once the Zoning Administrator has received a complete packet, the proposed Planned Development Concept Plan shall be placed on the Plan Commission agenda.

(f) At the Plan Commission meeting, the Applicant shall engage in an informal discussion with the Plan Commission regarding the conceptual Planned Development. Appropriate topics for discussion may include any of the information provided in the Planned Development Concept Plan Submittal Packet, or other items as determined by the Plan Commission.

(g) Points of discussion and conclusions reached in this stage of the process shall be in no way be binding upon the Applicant or the City, but should be considered as the informal, non-binding basis for proceeding to the next step. The preferred procedure is for one or more iterations of Plan Commission review of the Concept Plan to occur prior to introduction of the formal petition for rezoning which accompanies the GDP application.

(7) PLANNED DEVELOPMENT PROCESS STEP 3, GENERAL DEVELOPMENT PLAN (GDP). The Applicant shall provide the Zoning Administrator, or other assigned staff, with a draft GDP Plan Submittal Packet for a determination of completeness prior to placing the proposed GDP on the Plan Commission agenda for GDP review. This submittal packet shall contain all of the following items, prior to its acceptance by the Zoning Administrator and placement of the item on a Plan Commission agenda for GDP review:

(a) A location map of the subject property and its vicinity at 11" x 17" as depicted on a copy of the City of Baraboo Land Use Plan Map,

(b) A map of the subject property showing all lands for which the planned development is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Sauk County (as provided by the City of Baraboo). The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 200 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;

(c) A general written description of proposed Planned Development include:

1. General project themes and images,
2. The general mix of dwelling unit types and/or land uses,
3. Approximate residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio,
4. The general treatment of natural features,
5. The general relationship to nearby properties and public streets,
6. The general relationship of the project to the City's comprehensive plan,
7. A Statement of Rationale as to why Planned Development zoning is proposed. This shall identify barriers that the Applicant perceives in the form of requirements of the underlying zoning district(s) and opportunities for community betterment the Applicant suggests are available through the proposed Planned Development zoning,
8. A complete list of zoning standards which will not be met by the proposed Planned Develop-ent and the location(s) in which they apply and a complete list of zoning standards which will be more than met by the proposed Planned Development and the location(s) in which they apply

shall be identified, as compared with the underlying zoning district(s). Essentially, the purpose of this listing shall be to provide the Plan Commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility, and

9. A written description of potentially requested exemption from the requirements of the underlying zoning district and/or City design standards.

(d) A General Development Plan Drawing at a minimum scale of 1"=100' (11" x 17" reduction shall also be provided by Applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:

1. A conceptual plan drawing (at 11" x 17") of the general land use layout and the general location of major public streets and/or private drives. The Applicant may submit copies of a larger version of the "bubble plan" in addition to the 11" x 17" reduction,

2. 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;

3. Statistical data on minimum lot sizes in the development, the approximate areas of large development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the Plan Commission or City Council; and

4. Notations relating the written information provided in (7)(c)1-7, above, to specific areas on the GDP Drawing.

(e) A general conceptual landscaping plan for subject property, noting approximate locations of foundation, street, yard and paving, landscaping, and the compliance of development with all landscaping requirements of this Ordinance (except as noted in the listing of exceptions) and the use of extra landscaping and buffer yards.

(f) A general signage plan for the project, including all project identification signs and concepts for public fixtures and signs (such as street light fixtures and/or poles or street sign faces and/or poles) which are proposed to vary from City standards or common practices.

(g) Written justification for the proposed Planned Development. (The Applicant shall use the requirements of the zoning map amendment procedure (§17.11) to develop said written justification.)

(8) The process for review and approval of the GDP shall be identical to that for Zoning Map Amendments per §17.11 of the Code of Ordinances and (if land is to be divided) to that for preliminary and final plats of subdivision in accordance with the Code of Ordinances.

(9) All portions of an approved Planned Development GDP not fully developed within five years of final City Council approval shall expire, and no additional Planned Development-based development shall be permitted. The City Council may extend this five years period by up to five additional years via a majority vote following a public hearing.

(10) Planned Development Process Step 4: Specific Implementation Plan (SIP). After the effective date of the rezoning to Planned Development/GDP, the Applicant may file an application for a proposed Specific Implementation Plan (SIP) with the Plan Commission. This submittal packet shall contain all of the following items, prior to its acceptance by the Zoning Administrator and placement of the item on a Plan Commission agenda for Planned Development review:

(a) A location map of the subject property and its vicinity at 11" x 17" as depicted on a copy of the City of Baraboo Land Use Plan Map;

(b) A map of the subject property showing all lands for which the planned development is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and addresses of the owners

of all lands on said map as the same appear on the current records of the Register of Deeds of Sauk County (as provided by the City of Baraboo). The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction(s) which maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 200 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;

(c) A specific written description of the proposed SIP including:

1. Specific project themes and images;
2. The specific mix of dwelling unit types and/or land uses;
3. Specific residential densities and non-residential intensities as described by dwelling units per acre, floor area ratio and impervious surface area ratio;
4. The specific treatment of natural features;
5. The specific relationship to nearby properties and public streets,
6. A Statement of Rationale as to why Planned Development zoning is proposed. This shall identify barriers that the Applicant perceives in the form of requirements of standard zoning districts and opportunities for community betterment the Applicant suggests are available through the proposed Planned Development zoning,
7. A complete list of zoning standards which will not be met by the proposed SIP and the location(s) in which they apply and a complete list of zoning standards which will be more than met by the proposed SIP and the location(s) in which they apply shall be identified as compared to the underlying zoning district(s). Essentially, the purpose of this listing shall be to provide the Plan Commission with information necessary to determine the relative merits of the project in regard to private benefit versus public benefit, and in regard to the mitigation of potential adverse impacts created by design flexibility.

(d) A Specific Implementation Plan Drawing at a minimum scale of 1"=100' (11" x 17" reduction shall also be provided by Applicant) of the proposed project showing at least the following information in sufficient detail to make an evaluation against criteria for approval:

1. A SIP site plan conforming to all the requirements of §17.47, Ordinances,
2. 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,
3. Statistical data on minimum lot sizes in the development, the precise areas of all development lots and pads, density/intensity of various parts of the development, floor area ratio, impervious surface area ratio and landscape surface area ratio of various land uses, expected staging, and any other plans required by the Plan Commission or City Council, and
4. Notations relating the written information provided in (10)(3)1-7, above to specific areas on the GDP Drawing.

(e) A landscaping plan for subject property, specifying the location, species, and installed size of all trees and shrubs. This plan shall also include a chart which provides a cumulative total for each species, type and required location (foundation, yard, street, paved area or buffer yard) of all trees and shrubs.

(f) A series of building elevations for the entire exterior of all buildings in the proposed SIP, including detailed notes as to the materials and colors proposed.

(g) A specific signage plan for the project, including all project identification signs, concepts for public fixtures and signs (such as street light fixtures and/or poles or street sign faces and/or poles), and group development signage themes which are proposed to vary from City standards or common practices.

(h) A formal draft of the intended organizational structure for a property

owners association, if any; deed restrictions and provisions for private provision of common services, if any.

(i) A written description which demonstrates the full consistency of the proposed SIP with the approved GDP.

(j) All variations between the requirements of the approved PLANNED Development/GDP zoning district and the proposed SIP development.

(k) The Applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development.

(l) The area included in a Specific Implementation Plan may be only a portion of the area included in a previously approved General Implementation Plan.

(m) The Plan Commission or City Council may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the SIP, as such may be relevant to review.

(11) The process for review of and approval of the Planned Development shall be identical to that for site plans in accordance with §17.47, Code of Ordinances, and (if land is to be divided) to that for preliminary and final plats of subdivisions in accordance with the Code.

(12) All portions of an approved Planned Development/SIP not fully developed within five years of final City Council approval shall expire, and no additional Planned Development based development shall be permitted. The City Council may extend this five-year period by up to five additional years by a majority vote following a public hearing.

17.36C CONDITIONAL USE OVERLAY DISTRICT. (2252 04/10/07, 2506 11/27/18) A conditional use overlay district, within which all permitted and conditional uses for the underlying zoning district become conditional uses, is created with the following boundaries:

Beginning at the intersection of Hitchcock Street and the south line of Block 2 of the Victory Heights Subdivision; thence east along said south line to the southeast corner of Lot 13, Block 2 of said Subdivision; thence south to the northerly right-of-way line of South Boulevard; thence northeasterly along said right-of-way line to the southeast corner of City of Baraboo Tax Parcel No. 206-0975-0000; thence west along south line of said tax parcel to the southwest corner of said parcel; thence continuing westerly to the southwest corner of City of Baraboo Tax Parcel No. 206-0974-0000, thence northerly a distance of 31.5 feet to the southeast corner of City of Baraboo Tax Parcel No. 206-0972-0000; thence west along south line of said parcel to the southwest corner of said parcel; thence north along the west line of said parcel to the south right-of-way line of Lynn Avenue; thence easterly along said south right-of-way line to the west line of South Boulevard; thence northeasterly along said west right-of-way line to the southeast corner of City of Baraboo Tax Parcel No. 206-0953-0000; thence northwesterly along the south line of said parcel to the southwest corner of said parcel; thence northeasterly a distance of 38.91 feet; thence easterly a distance of 105.00 feet; thence north a distance of 70.82 feet; thence easterly a distance of 250.00 feet; the north a distance of 505.08 feet to a point in the center of the Baraboo River; thence southeasterly along said river centerline to the east right-of-way line of Broadway; thence northeasterly along said east line to the south right-of-way line of First Avenue; thence east along said south line of First Avenue and then First Street to the west right-of-way line of East Street; thence southeasterly across East Street to the northwest corner of CSM No. 3362; thence east along north line of said CSM to the west right-of-way line of Rosaline Street; thence south along said west right-of-way line to the north right-of-way line of Water Street; thence southwesterly across Water Street to the northwest corner of CSM No. 3350; thence South along west line of said CSM to the Baraboo River; thence Southwesterly to a point that is on the South bank of the Baraboo River and is the Northwest corner of Plat of Survey Number 7634; thence South along west line of said Plat of Survey to the centerline of Lynn Street; thence Easterly along said centerline to the East Line extended of Lot 6, Block 1 of H.H. Potter's Subdivision; thence South along said East Line to the centerline of the alley of said Block 1; thence East to the East Line extended of Lot 9, Block 1 of H.H. Potter's Subdivision; thence South along said East Line to the centerline of Clark Street; thence Easterly along said centerline to a point that is 33 feet North and 26 feet East of the West Line of Lot 2 of Block 2 of H.H. Potter's Subdivision; thence South to the centerline of Potter Street; thence East along said centerline to the Northwest corner of Lot 1 of CSM 3387; thence South along the West Line of said CSM to the SW corner of said

CSM; thence Easterly along the South Line of said CSM to the SW corner of Lot 2 of CSM 3387; thence East along the South Line of said CSM to its SE corner; thence South along the East Line of Tax Parcel #206-0889-00000 to the North Line of Tax Parcel #206-0897-00000; thence Easterly and Southerly along said property Lines to the Northeast corner of Tax Parcel #206-0891-00000; thence South along the East Line of said Tax Parcel to the Northeast corner of Tax Parcel #206-0894-00000; thence South along the East Line of said Tax Parcel to the SE corner of said parcel; thence West along the South Line of said parcel to its intersection with the Easterly Line of Lot 1 of CSM 4551; thence Southerly, Westerly and Northerly along said CSM to the North Line of the SW¼ of Section 1, T11N, R6E; thence West along said North Line to the West Line of Tax parcel #206-0896-00000; thence Northerly along said West Line to the Southwest corner of Tax Parcel #206-0879-00000; thence Northerly along the West Line of said parcel to the Southeast corner of CSM 2599; thence Northwesterly along the North Line of said CSM to the North right-of-way of Lake Street; thence Southwesterly perpendicular to the North right-of-way Line of Lake Street to the centerline of Lake Street; thence Northerly and Westerly along said centerline to its intersection with the centerline of Maple Street; thence West along said centerline to the centerline of Quarry Street; thence Northerly to the intersection with the south right-of-way of Lynn Avenue; thence West along said south line to the northeast corner of Plat of Survey No. 2102; thence southerly along east line of said plat of survey to the southeast corner of said survey; thence westerly to the east line of CSM 433; thence southerly along said east line to the northeast corner of CSM 4239; thence south along east line of said CSM to the northeast corner of Plat of Survey 3603; thence south along east line of said Plat of Survey to the easterly right-of-way of Parkway; thence southerly to the intersection of the westerly right-of-way of Parkway and the north right-of-way of Quarry Street; thence westerly along said north right-of-way line to the centerline of Waldo Street; thence north along said centerline to the centerline of South Boulevard; thence west along said centerline to the centerline of Hitchcock Street; thence north along said centerline to the point of beginning.

And all properties south of the Baraboo River and westerly of a line described as follows:

Beginning at a point at the intersection of the centerline of the Baraboo River and the West line of the SE¼ of the SE¼ of Section 34, Town 12N, Range 6E, Sauk County, Wisconsin; thence South along said ¼ ¼ line to the Southwest corner of City of Baraboo Tax Parcel No. 206-0039-44030; thence Easterly along the South line of said Tax Parcel to the extended Easterly line of City of Baraboo Tax Parcel No. 206-0039-44020; thence South along said extended line of said parcel to the centerline of Carpenter Street; thence West along said centerline to the East right-of-way line of Industrial Court; thence South along said right-of-way line to the centerline of Sauk Avenue; thence East along said centerline to the centerline of Moore Street; thence South along said centerline to the centerline of Sauk Avenue; thence East along said centerline to the centerline of Hitchcock Street; thence South along said centerline to the centerline of South Boulevard; thence Easterly along said centerline to the centerline of Waldo Street; thence South along said centerline to the North line of the SW¼ of Section 2, Town 11N, Range 6E, Sauk County, Wisconsin; thence West along said line to the West line of the SW¼ of said Section 2; thence South along said line and all Sections to the South within the City. (A map showing the boundaries of this overlay district is on file in the City Engineer's office and is incorporated by reference.)

(1) **PROHIBITED USES** (regardless of underlying zoning classification):

(a) Agricultural chemical manufacturing or processing plants, distribution facilities handling predominantly agricultural chemicals, storage facilities handling predominantly agricultural chemicals or bulk sale facilities.
(b) Agricultural services.
(c) Amusement and recreation services.
(d) Animal shelters.
(e) Asphalt products manufacturing or processing plants.
(f) Automobile car washes.
(g) Automobile sales establishments.
(h) Automobile service stations.
(i) Automotive, implement and recreation vehicle sales.
(j) Blacksmith shops which, for the purposes of this section, is defined as the forging and shaping of iron.
(k) Boarding houses.
(l) Building supplies.

(m) Bulk building products manufacturing or processing plants involving bio-hazardous components.
(n) Bus depots.
(o) Campgrounds.
(p) Cemeteries.
(q) Communication towers, except as otherwise allowed by State or Federal law or for personal or business use.
(r) Cultivation.
(s) Contractors, with the exception of offices and/orshowrooms and where no building or other materials are stored or constructed on the premises.
(t) Dry cleaning establishments.
(u) Electronic circuit assembly plants.
(v) Electroplating plants.
(w) Exterminating shops.
(x) Feed lots.
(y) Foundaries and forge plants.
(z) Fraternities and sororities.
(aa) Garages, which, for the purposes of this section means an establishment where the repair and/or servicing of motorized vehicles, including body repair, painting and engine rebuilding, occurs.
(bb) Garden supplies, with the exception of supplies that are stored outside.
(cc) Grazing of livestock
(dd) Hazardous chemical manufacturing or processing plants, distribution facilities handling predominately hazardous chemicals, storage facilities handling predominately hazardous chemicals or bulk sale facilities.
(ee) Highway salt storage areas.
(ff) Indoor institutional, except as otherwise permitted by state or federal law.
(gg) Industrial liquid waste storage areas.
(hh) Junkyards and auto graveyards.
(ii) Landfills or facilities for the treatment, storage or disposal of waste.
(jj) Licensed Manufactured Home Parks.
(kk) Meat and meat products manufacturers.
(ll) Metal reduction and refinement plants.
(mm) Mining operations (gravel pits)
(nn) Mobile home dealers.
(oo) Motor and machinery service and assembly shops.
(pp) Non-Commercial community buildings for social gatherings, emergency shelters, laundry or similar common usage for a Manufacture Home Park community.
(qq) Paint products manufacturing.
(rr) Parking lots not accessory to a principal structure.
(ss) Penal and correctional institutions, except as otherwise permitted by state or federal law.
(tt) Petroleum products storage or processing.
(uu) Photography studios, including the developing of film and pictures.
(vv) Plastics manufacturing, other than molding operations and assembly operations.
(ww) Printing and publishing establishments that use non-biodegradable inks and/or volatile organic compounds.
(xx) Press Rooms.
(yy) Pulp and paper manufacturing.
(zz) Recreation and utility trailer dealers.
(aaa) Salvage yards
(bbb) Self-service storage facility
(ccc) Self-storage rental sheds.
(ddd) Service buildings normally accessory to the permitted use.
(eee) Sexually oriented businesses, as defined in Section 12.15.
(fff) Storage buildings that serve an existing permitted use.
(ggg) Trailer sales or rental establishments
(hhh) Waste transfer stations
(iii) Wholesale establishments
(jjj) Any business or industry involved in the above ground bulk storage of LP or propane gas
(kkk) All metal clad or cinder block buildings.
(lll) All non-taxable or tax-exempt properties including, but not limited to, churches, schools, day care centers, except as otherwise allowed by state or federal law.

17.37 <u>CONDITIONAL USE REVIEW AND APPROVAL</u>. (1982 07/27/99; 2376 04/10/2012)

(1) PURPOSE.

(a) The purpose of this Section is to provide regulations that govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses.

(b) Certain uses in situations which are of such a special nature, or are so dependent upon actual contemporary circumstances, as to make impractical the predetermination of permissibility, or the detailing in this Code of specific standards, regulation, or conditions which would permit such determination in each individual situation, may be permitted as conditional uses.

(c) Under this Code, a proposed conditional use shall be denied unless the Applicant can demonstrate, to the satisfaction of the City, that the proposed Conditional Use will not create undesirable impacts on nearby properties, the environment, nor the community as a whole.

(d) <u>Limited Conditional Uses</u>: Limited conditional uses are the same as regular conditional uses except that in the considered findings of the City Council and the granting thereof, because of any of the following: Their particularly specialized nature, their particular locations within a district, their peculiar unique relationships or needed compatibility of uses to involved individuals, or any other reason(s) the City Council deems specially relevant and material to delimit the scope

thereof, should be of lesser permanence than regular conditional uses and the duration of term of existence may be established until time certain or be limited to a future happening or event at which time the same shall terminate.

(e) The requirements of this section for conditional use review and approval shall not apply to sexually oriented businesses as defined in §12.15, Ordinances. No conditional use permit shall be required by any sexually oriented business.

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

(a) Application Requirements. All applications for proposed conditional uses shall be approved as complete by the Zoning Administrator prior to the initiation of this procedure. The submittal of an application to the City Clerk to initiate this procedure shall not occur until the Zoning Administrator has certified acceptance of the complete application to the City Clerk. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred, except that an item may be placed on any agenda as a discussion only item without an application, with the permission of the Zoning Administrator, without an application. Applications shall be filed with the Zoning Administrator. The Zoning Administrator shall specify the number of application copies required based upon the needs of the Plan Commission, City Council, and for staff review. A complete application shall be comprised of all of the following: (2268 10/23/07)

A map of the subject property showing all lands for which the conditional use is proposed and all other lands within 100 feet of the boundaries of the subject property, together with the names and addresses of the owners of lands on said map as the same appear on the current records of the Sauk County Real Property Lister or on the current records of the Register of Deeds of Sauk County. The map shall clearly indicate the current zoning of the subject property and its environs, and the jurisdiction that maintains that control. The map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier and shall be at a scale which is not less than 1 inch equals 300 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;

1. A map, such as the land use plan map, of the generalized location of the subject property in relation to the City as a whole;

2. A written description of the proposed conditional use describing the type of activities, buildings and structures proposed for the subject property and their general location. A full legal description of the site, the address and the parcel number of the site, a description of each structure on the site, the proposed operation or use of the land constituting the site and each structure on the site, the number of persons to be employed on the site and the current zoning of the site.

3. A site plan of the subject property as proposed for the development. Said site plan shall con-form to any and all requirements of §17.37(2)(b), below. If the proposed conditional use is a group development, a proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan.

4. Conditions such as: landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Plan Commission upon its findings that these are necessary to fulfill the purpose and intent of this

Chapter. The foregoing conditions are listed for illustration purposes, and not for limitation purposes.

5. A statement by the applicant providing written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidence by compliance with the standards set forth in §17.37(2)(b)2 below.

6. Prepayment of the required fee.

(b) Review by the Zoning Administrator. The proposed conditional use shall be reviewed by the Zoning Administrator as follows:

1. The Zoning Administrator shall determine whether the application is completed and fulfills the requirements of this Code. If the Zoning Administrator determines that the application is not complete or does not fulfill the requirements of this Code, he/she shall return the application to the applicant. If the Zoning Administrator determines that the application is complete, he/she shall so notify the applicant.

2. Upon notifying the applicant that the application is complete, the Zoning Administrator shall review the application and evaluate and comment on the written justification for the proposed conditional use provided in the application as provided in §17.37(2) above. The Zoning Administrator shall also evaluate the application to determine whether the request is in harmony with the recommendation of the City's Master Plan, particularly evidenced by compliance with the following standards:

a. The proposed conditional use (the use in general, independent of its location) is in harmony with the purposes, goals, objectives, policies and standards of the City of Baraboo's Comprehensive Plan, this Code, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City.

b. The proposed conditional use, in its proposed location and as depicted on the required site plan (per §17.37(2)(a) above), does not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Code, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.

c. The proposed conditional use maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.

d. The proposed conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.

e. The potential public benefits of the proposed conditional use outweigh all potential adverse impacts of the proposed conditional use (as identified in Subsections a. through d., above), after taking into consideration the applicant's proposal and any requirements recommended

by the applicant to ameliorate such impacts.

f. Additional standards to be applied are as follows:

[1] Whether the establishment, maintenance or operation of the conditional use will be detrimental to, or endanger the public health, safety, morals, comfort or general welfare, or conflict with the spirit or intent of The Codes.

[2] Whether the uses, values and enjoyment of other property in the neighborhood of the site which is being used for permitted zoning purposes will be substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

[3] Whether the proposed conditional use is compatible with the use of adjacent properties.

[4] Whether the establishment of the conditional use will impede the normal and orderly development and improvement for uses permitted in the zoning district.

[5] Whether adequate utilities, drainage, open spaces, landscaping, lighting and other necessary site improvements have been or are being provided.

[6] Whether adequate driveways, walkways, traffic access and parking areas have been or will be designed as to minimize traffic congestion in the public streets and to provide for the safety of pedestrians.

[7] Whether adequate provisions have been or are being provided for the removal and depositing of snow.

[8] Whether the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.

[9] Whether the conditional use will violate flood plain regulations governing the site.

[10] If new construction of a building or an addition to an existing building is contemplated as part of the conditional use, whether the proposed building or addition conflicts with the purposes and objectives of the zoning district where the site is located.

[11] Whether the proposed use will have an adverse affect upon any of the following:

[a] The maintenance of safe and healthful conditions.
[b] The prevention and control of water pollution, including sedimentation.
[c] Existing topographic and drainage features and vegetative cover on the site.
[d] The location of the site with respect to floodplains and floodways of rivers and streams.
[e] The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
[f] The location of the site with respect to existing or future access roads.
[g] The need of the proposed use for a shoreland location.

[h] Its compatibility with uses on adjacent lands.

[i] The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

(3) PLAN COMMISSION PUBLIC HEARING, REVIEW & DETERMINATION.

(a) The Plan Commission shall schedule a reasonable time and place for a public hearing to consider the application within 60 days after the filing with the City Clerk of an application approved by the Zoning Administrator. The applicant may appear in person, by agent, and/or by attorney. Notice of the time, place and purpose of such hearing shall be given by publication as a Class 1 Notice under the Wisconsin Statutes in the official City newspaper at least one week before the date of the hearing. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant and to the property owners of record, as shown on the current City of Baraboo Property Tax Assessment Roll, who are the owners of each tax parcel situated in whole or in part within 200 feet of the boundaries of the site. This notice shall be mailed by first class mail at least 10 days prior to the date of such public hearing to the address of the owner as shown on the current City of Baraboo Property Tax Assessment Roll for each affected tax parcel. Failure to comply with the foregoing publication and/or notice provisions or the failure of a person to receive notice shall not, however, invalidate any previous or subsequent action on the conditional use application nor shall such failure to give notice invalidate proceedings under this section providing that such failure in unintentional. (2131 12/09/03)

(b) Within 60 days after the public hearing or within any extension of said period requested in writing by the applicant and granted by the Plan Commission, the Plan Commission shall take final action on the application and the Plan Commission may approve the conditional use as originally pro-posed, may approve the proposed conditional use with modifications, or may deny approval of the proposed conditional use.

(c) If the Plan Commission recommends approval (or denial) of an application, it shall state in the minutes or in a subsequently issued written decision, its conclusion and any finding of facts supporting its conclusion as to the following:

1. That the potential public benefits of the proposed conditional use outweigh (or do not outweigh) any and all potential adverse impacts of the proposed conditional use, as identified in §17.37(2)(b)2 above, after taking into consideration the proposal by the applicant.

(4) APPEALS. (1998 01-11-2000)

(a) Any action of the Plan Commission in granting or denying a conditional use permit may be appealed to the City Council if a written request for an appeal together with the required appeal fee is filed with the City Clerk within 10 days after the date of the Plan Commission's action in granting or denying the permit. The appeal shall be stated in writing and shall state in detail the grounds for reversal or modification of the Plan Commission action and shall be signed by the conditional use applicant, or by the Zoning Administrator, or by the owners of at least twenty percent (20%) of the land area immediately adjacent extending 100 feet from the subject site, or by the owners of twenty percent (20%) or more of the land directly opposite the subject site extending 100 feet from the street frontage of such opposite land.

(b) Any action of the Plan Commission in granting or denying a conditional use permit may also be reviewed by the City Council if a written request for such review is filed with the City Clerk by a City Council member within ten (10) days after the date of the Plan Commission's action in granting or denying the permit. No fee shall be required for a request to review filed by a City Council member under this subsection.

(c) Upon receipt of an appeal together with the required fee filed pursuant to subs.(a) above, or of a request for a review filed pursuant to subs.(b) above, the City Clerk shall submit the appeal or review request to the City Council. The City Council shall set a date and time for a public hearing thereon. Notice of the time, place and purpose of the public hearing shall be given by publication of a Class 1 notice under the Wisconsin Statutes in the official City newspaper at least one (1) week before the date of the hearing. Notice of the time, place and purpose of the public hearing shall also

be sent by first class mail to the conditional use applicant, to the person(s) appealing the decision of the Plan Com-mission and to the property owners of record as determined under §17.37(2)(a) above, said notice to be mailed at least ten (10) days prior to the date of the public hearing. Failure to comply with the foregoing publication and/or notice provisions, or the failure of any person to receive notice shall not invalidate the proceedings or any previous or subsequent action of the City Council on the conditional use appeal. The City Council may either affirm, affirm with modifications, or reverse, in whole or in part, the action of the Plan Commission and may finally grant or deny the application for a conditional use permit. The City Council may also remand the application to the Plan Commission for further review and determination.

(5) CONDITIONS AND GUARANTEES. The following provisions shall apply to all conditional uses:

(a) Conditions. Prior to the granting of any conditional use, the Plan Commission or the City Council on appeal, may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operations of the conditional use as deemed necessary to promote the public health, safety, and general welfare of the community, and to secure compliance with the standards and requirements specified in §17.37(2) above. In all cases in which conditional uses are granted, the Plan Commission and the City Council shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being, and will be, complied with. Such conditions may include, but shall not be limited to, the following:

1. Landscaping as required by Subch. IV. (1999 01/11/00)
2. Type of construction.
3. Construction commencement and completion dates.
4. Sureties.
5. Lighting.
6. Fencing and noise barrier.
7. Operational control.
8. Hours of operation.
9. Traffic circulation.
10. Deed restrictions.
11. Access restrictions.
12. Setbacks and yards.
13. Type of shore cover.
14. Specified sewer disposal and water supply system.
15. Storm water control.
16. Planting screens.
17. Piers and docks.
18. Parking areas.
19. Walkways.
20. Snow removal and snow storage.
21. Any other requirements necessary to fulfill the purpose and intent of this chapter.

(a1) Outdoor Storage in Industrial Zoning Districts. (2243 11/28/06) The outdoor storage of materials shall be a conditional use in the Industrial Zoning Districts.

In considering an application for an outdoor storage conditional use, the following factors shall be considered: the proximity of the proposed storage area to residential use areas, whether the proposed storage area is visible from public streets and whether such streets are principal public thoroughfares, and what conditions are necessary to maintain the health, safety and welfare of the public and property in the area.

Conditions to be imposed upon the outdoor storage of materials may include, but shall not be limited to, the following:

1. The storage must be incidental to the primary permitted use of the property.
2. The storage area must be designed to properly drain off excess water.
3. Petroleum and chemical products may be required to have secure retaining walls to contain spills.
4. Outdoor storage containers must be kept in good condition.
5. The stacking of materials must be done in a safe manner.
6. Outside storage areas must be shielded from the road(s) or from residential areas by berms, landscaping, fencing or any combination of such in order to limit view of the stored materials from the street or highway or neighboring residential properties.
7. Grass, weeds and other vegetation in the storage area must be kept under control at all times.
8. The storage area can not be used to store junk or debris unless this

material is planned for removal within 30 days.

9. The outside storage area can not be used for junked, wrecked or pieces of motor vehicles unless specifically allowed in the permit.
10. Garbage and recycling containers must be kept in good condition without any leakage. No offensive wastes shall be discharged into any stream, storm drainage system or sanitary sewer.
11. The outside storage area can not be used for sales or display of new merchandise.

(b) Site Review. In making its decision, the Plan Commission or, upon appeal, the City Council shall evaluate each application and may request assistance from any source that can provide technical assistance. The Plan commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation/use.

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

(d) Conditional Uses to Comply with Other Requirements. Conditional uses shall comply with all other provisions of this chapter such as lot width and area, yards, height, parking and loading. No conditional use permit shall be granted where the proposed use is deemed to be inconsistent or conflicting with neighboring uses for reasons of smoke, dust, odors, noise, vibration, lighting, health hazards, or possibility of accident.

(e) Conditional use permits to be in writing. Each conditional use permit shall be in writing and shall specify the legal description, address and tax parcel number for the site. The permit shall describe the nature of the permission granted and the conditions and guarantees applicable to the permit. Each permit shall be signed by the chairperson of the Plan Commission, or Zoning Administrator or City Administrator, except for conditional use approvals for temporary uses. The Zoning Administrator shall assure that each permit is promptly recorded in the office of the Sauk County Register of Deeds, unless otherwise directed by the Plan Commission or City Council.

(f) No Precedent Established. The City's approval of a requested conditional use shall be considered the approval of a unique request and shall not be construed as precedent for any other proposed conditional use.

(g) Effect of Denial. No application which has been denied (either wholly or in part) shall be resubmitted for a period of 12 months from the date of said order of Denial, except upon proof of new material evidence, or a material change in circumstances.

(h) Termination of an Approved Conditional Use. Upon approval by the Plan Commission or, upon appeal, by the City Council, the applicant must demonstrate that the proposed conditional use meets all general and specific conditional use requirements in the site plan required for initiation of development activity on the subject property. Once a conditional use is granted, no Erosion Control Permit, Site Plan approval, Certificate of Occupancy, or Building Permit shall be issued for any development that does not comply with all requirements of this Ordinance. Any conditional use found not to be in compliance with the terms of this Zoning Code shall be considered in violation of this Zoning Code and shall be subject to all applicable procedures and penalties. A conditional use may be revoked for such a violation by majority vote of the Plan Commission, or upon appeal by the City Council following the procedures outlined in §17.37(8).

(i) Time Limits on the Development of Conditional Use. The start of

construction of any and all conditional uses shall be initiated within 365 days of their approval by Plan Commission, or, upon appeal, by the City Council and shall be operational within 730 days of said approval. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this Section, "operational" shall be defined as the granting of a Certificate of Occupancy for the conditional use. Prior to such a revocation, the applicant may request an extension of this period. Said request shall require formal approval by City Council and shall be based upon a showing of acceptable justification (as determined by City Council).

(j) Discontinuing an Approved Conditional Use. Any and all conditional uses which have been discontinued for a period exceeding 365 days shall have their conditional use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject conditional use was operational during this period.

(k) Change of Ownership. All requirements of the approved conditional use shall be continued regardless of ownership of the subject property, except where limited explicitly by the Plan Commission or City Council. Modification, alteration, or expansion of any conditional use in violation of the permit as approved without advance approval by the Plan Commission or, upon appeal, by the City Council, shall be grounds for revocation of said conditional use approval. For Bed and Breakfast land uses the granting of a conditional Use Permit shall be valid while said property is owned by the owner at time of conditional use approval.

(l) Notice to the DNR. The City Clerk shall transmit a copy of each application for a conditional use for conservancy regulations in the Shoreland-Wetland, Floodway, Floodplain, or Floodfringe to the Wisconsin Department of Natural Resources (DNR) for review and comment at least 10 days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all decisions relating to conditional uses for shoreland-wetland conservancy regulations or to floodland regulations shall be transmitted to the DNR within 10 days of the date of such decision.

(m) Uses Now Regulated as Conditional Uses which were Approved as Legal Land Uses – Permitted by Right or as Conditional Uses – Prior to the Effective Date of this Ordinance. A use now regulated as a conditional use which was approved as a legal land use – either permitted by right or as a conditional use – prior to the Effective Date of this Ordinance shall be considered as a legal conforming conditional land use so long as the previously approved conditions of use and site plan are followed. Any modification of the previously approved conditions of use or site plan shall require application and City consideration under this section.

(n) Any non-conforming sign, whether lawful or unlawful, located on lands for which a conditional use permit is proposed shall be discontinued and removed or shall be brought into compliance with the City Sign Code, Subch. III, as a condition of granting a conditional use permit except that a special zoning exception shall be granted for the pylon sign located at 101 South Boulevard thereby excepting this sign from the provisions of this ordinance until the completion of the reconstruction of the Broadway Street Bridge. This special zoning exception shall sunset six months after the date of the completion of the Broadway Street Bridge reconstruction and the future treatment of this sign after the sunset date shall be determined by the Common Council, after review and recommendation of the Plan Commission. (2005 02/22/00, 2115 04/08/03)

(o) Reimbursement for Professional Consultants (2108 03/09/04) – If the City retains the services of professional consultants, including, but not limited to, planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and/or other experts to assist the City in its review of a proposed conditional use permit or special zoning exception coming before the Plan Commission and/or the Common Council, the applicant/developer may be required to reimburse the City for the costs incurred by the City to retain the services of such professional consultants and such reimbursement shall be in addition to the filing or permit fees, publication expenses, recording fees, and

other fees paid by the applicant/developer. The applicant/developer shall reimburse the City for said costs promptly upon being invoiced for the same and the City may withhold issuance of a permit or delay final approval of a permit until the said costs and fees are reimbursed to the City in full. If the costs and fees are not reimbursed to the City within thirty (30) days of the date of billing, an additional administrative collection charge of 10% of the charge shall be added to the amount due, plus interest shall accrue thereon at the rate of 1% per month until paid and such charge shall be extended upon the current or next tax roll as a charge against the subject property for current services as provided in § 66.0627, Wis. Stats. The City may require the applicant/developer to enter into an agreement pro-viding for the reimbursement to the City for said costs and the said agreement may require the applicant/developer to file with the City an Irrevocable Letter of Credit or other appropriate sureties meeting the approval of the City Attorney equal to the estimated cost of said services. Any applicant/developer upon whom a charge has been imposed under this subsection may appeal the amount thereof by filing a Notice of Appeal with the City Clerk within thirty (30) days of the date of the determination appealed from. The Notice of Appeal shall state in detail the relief sought and any legal or factual basis for the relief requested and shall include all sup-porting documentation upon which the applicant/developer relies upon in making the appeal. The burden shall be on the applicant/developer to establish the impropriety of the charge upon which the appeal has been taken. If, at the time of the filing of the Notice of Appeal the charge appealed from has been paid in full, or if the Notice of Appeal is accompanied by a bond or other sufficient surety satisfactory to the City and Attorney in an amount equal to the charge due and all other requirements have been satisfied, the permit for the development may be issued. The filing of an appeal shall not stay the collection of the charge due unless a bond or other sufficient surety has been filed. The appeal shall be submitted to the Finance Committee for its review and recommendation to the City Council and within sixty (60) days of the date of the filing of the appeal with the City Clerk, the City Council shall provide the applicant/developer with an opportunity to address the Council on the issue on appeal and the City Council shall deliberate upon the matter and shall decide the appeal. The decision of the City Council may be appealed by the applicant/developer by commencing an action by certiorari in the Sauk County Circuit Court within thirty (30) days after the date on which the Council adopted a resolution with respect to the appeal.

(6) DETAILED LAND USE DEFINITIONS AND CONDITIONAL USE REQUIREMENTS. The following land use definitions and detailed conditional use requirements shall be applicable to all new and modified developments that contain conditional uses. Where instances of disputed land use definitions or detailed requirements arise within the context of this Zoning Code, the provisions of this Subsection shall prevail.

(a) Group Developments. Description: A group development is any development containing:

1. Two or more structures containing principal permitted land uses on the same lot, and/or
2. **Any single structure devoted to institutional, office or commercial land uses containing more than 40,000 gross square feet of floor area.**

Common examples of group developments include condominium complexes, strip centers, shopping centers, and office centers. One tenant office or commercial buildings containing less than 40,000 square feet of gross floor area are not group developments even though such developments may contain parcels under common ownership.

1. Permitted by Right: Not applicable.
2. Conditional Use Regulations (All Zoning Districts): Any land use that is permitted as a Permitted by Right land use or as a conditional land use within the applicable zoning district(s) is permitted to locate within a group development. The detailed land use regulations of this Subsection that pertain to individual land uses shall also apply to individual land uses within a Group Development, as well as all other applicable provisions of this Zoning Code. Therefore, land uses permitted by right in the Zoning District shall be permitted by right within an approved Group Development (unless otherwise restricted by the conditions of approval imposed during the conditional use approval for the Group Development as a whole), and land uses permitted as a

conditional use in the Zoning District shall be permitted within the Group Development only with conditional use approval for the specific use. In all cases, the following conditional use conditions shall be applied to the Group Development as a whole, and to individual uses within the Group Development:

a. All required off-street parking spaces and access drives shall be located entirely within the boundaries of the group development. No Group Development shall take access to a local residential street.

b. The development shall contain a sufficient number of waste bins to accommodate all trash and waste generated by the land uses in a convenient manner.

c. All development located within a group development shall be located so as to comply with the intent of this Chapter regarding setbacks of structures and buildings from lot lines. As such, individual principal and accessory structures and buildings located within group developments shall be situated within building envelopes that serve to demonstrate complete compliance with said intent. Said building envelopes shall be depicted on the site plan required for review of group developments. The use of this approach to designing group developments will also ensure the facilitation of subdividing group developments in the future, (if such action is so desired).

d. The following standards shall apply to all new institutional, commercial, and office buildings in excess of 40,000 gross square feet and to all multi-building Group Developments in which the combined total of all structures on a site, regardless of diverse owner-ship, use or tenancy, combine to exceed 40,000 square feet. These conditions shall also be applied to the entire building and site in instances where building additions bring the total building size to over 40,000 gross square feet. Such conditions shall apply to both the building additions and to older portions of the building and the site that were constructed prior to the adoption of this Section. This 40,000 square foot limit shall apply to individual free-standing buildings and to Group Developments in which the combined total of all structures on a site, regardless of diverse use or tenancy, combine to more than 40,000 gross square feet:

[1] Building exterior materials shall be of high quality on all sides of the structure including glass, brick, stone, decorative concrete block, architectural concrete panels, or stucco. Decorative architectural metal with concealed fasteners may be approved with special permission from the City.

[2] Building exterior design shall be unified in design and materials throughout the structure, and shall be complementary to other structures in the vicinity. How-ever, the development shall employ varying building setbacks, height, roof, treatments, door and window openings, and other structural and decorative elements to reduce the apparent size and scale of the structure. A minimum of 20 percent of the combined facades of the structure shall employ actual façade protrusions or recesses. A minimum of 20 percent of the combined linear roof eave or parapet lines of

the structure shall employ differences in height of eight feet or more. Roofs with particular slopes may be required by the City to complement existing buildings or otherwise establish a particular aesthetic objective.

[3] Mechanical equipment, refuse containers and any permitted outdoor storage shall be fully concealed from on-site and off-site ground level views, with materials identical to those used on the building exterior.

[4] Standard Corporate Trademark building designs, materials, architectural elements, and colors all shall be acceptable, as determined by the City, only as subtlety integrated into the more generic design of the building as a whole. Color schemes of all architectural elements shall be muted, neutral, non-reflective and non-use nor tenant specific.

[5] Public entryways shall be prominently indicated from the building's exterior design, and shall be emphasized by on-site traffic flow patterns. All sides of the building that directly face or abut a public street shall have public entrances.

[6] Loading areas shall be completely screened from surrounding roads, residential, office, and commercial properties. Said screening may be through internal loading areas, screen wall which will match the building exterior in materials and design, full opaque landscaping at time of planting, or combinations of the above. Gates and fencing may be used for security purposes, but not for screening, and shall be of high aesthetic quality.

[7] Vehicle access from public streets shall be designed to accommodate peak annual 20th hour traffic volumes without disrupting traffic on public streets from inadequate throat length access drive width or design or inadequate driveway location. The impact of traffic generated by the proposed development shall be demonstrated by; a traffic impact analysis performed by the applicant's traffic engineer to not adversely impact off site public roads, intersections, interchanges during the peak annual 20th hour. Where the project shall adversely impact off-site traffic, the City may deny the application, may require a size reduction in the proposed development, or may require off-site improvements.

[8] Parking lot design shall employ interior landscaped islands with a minimum of 400 square feet at all parking isle ends, and in addition shall provide a minimum of one landscaped island of a minimum of 400 square feet in each parking isle for every 20 cars in that aisle. Aisle-end islands shall count toward meeting this requirement. Landscaped medians shall be used to break large parking areas into distinct pods, with a maximum of 100 spaces in any one pod.

[9] A minimum of one two-hundred square foot cart return area shall be provided for every parking area pod. There shall be no exterior cart return nor cart storage areas located within twenty-five feet of the building in areas located between the building and a public street.

[10] The applicant shall demonstrate full compliance with City standards for storm water, utilities, erosion control and public safety.

[11] A conceptual plan for exterior signage shall be provided at time of Detailed Site Plan or GDP that provides for coordinated and complimentary exterior sign location, configurations, and colors throughout the planned development. All freestanding signage within the development shall compliment the on-building signage. Free-standing sign materials and design shall compliment building exterior, and may not exceed the maximum height requirement of the zoning ordinance.

[12] The entire development shall provide for full and safe pedestrian and bicycle access within the development, and shall provide appropriate connections to the existing and planned pedestrian and bicycle facilities in the community and in surrounding neighborhoods, including sidewalk connections to all building entrances from all public streets. The development shall provide secure bicycle parking and pedestrian furniture in appropriate quantities and locations.

[13] Where such developments are proposed to provide a new location for a business already located within the community, a required condition of approval for the new development shall be a prohibition on conditions of sale, lease, or use of the previously occupied building or site which provide limits beyond the range of applicable local, state or federal regulations. If such limits are required, the applicant may seek City approval to demolish the previously occupied structure and prepare the site for some future development.

[14] The applicant shall provide adequate evidence that the proposed development and uses cannot be adequately sited within or on existing developed properties or buildings within the community.

[15] If the City retains the services of professional consultants, including, but not limited to, planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and/or other experts to assist the City in its review of a proposed land use development application coming before the Plan Commission and/or the Common Council, the applicant/developer may be required to reimburse the City for the costs incurred by the City to retain the services of

such professional consultants and such reimbursement shall be in addition to the filing or permit fees, publication expenses, recording fees, and other fees paid by the applicant/ developer. The applicant/developer shall reimburse the City for said costs promptly upon being invoiced for the same and the City may withhold issuance of a permit or delay final approval of a permit until the said costs and fees are reimbursed to the City in full. If the costs and fees are not reimbursed to the City within thirty (30) days of the date of billing, an additional administrative collection charge of 10% of the charge shall be added to the amount due, plus interest shall accrue thereon at the rate of 1% per month until paid and such charge shall be extended upon the current or next tax roll as a charge against the subject property for current services as provided in §66.0627, Wis. Stats. The City may require the applicant/developer to enter into an agreement providing for the reimbursement to the City for said costs and the said agreement may require the applicant/developer to file with the City an Irrevocable Letter of Credit or other appropriate sureties meeting the approval of the City Attorney equal to the estimated cost of said services. (1961 12/22/98).

[16] Storm Water Drainage Facilities – The Development Plan shall include a storm drainage system to accommodate all water flowing through and within the development. Where the development is traversed by a watercourse, stream, drainageway, channel, or natural water course, an adequate drainageway or easement shall be required subject to the approval of the City Engineer and/or City consultants, and parallel streets or parkways may also be required in connection therewith. The development shall be designed and constructed to include storm water drainage facilities which may include curbs and gutters, catch basins, and inlets, storm sewers, road ditches, retention basins, drainageways and open channels, as may be required. All such facilities shall be of adequate size and grade to hydraulically accommodate maximum potential volumes of flow of all water flowing through and within the development and the type of facility required, the design criteria and the size and grades shall be determined by the City Engineer and/or City consultants. Storm drainage facilities shall be so designed so as to pre-sent no hazard to life or property and the size, type, and installation of all storm water drains and sewers proposed to be constructed shall be in accordance with the plans and standards specifications approved by the city Engineer and/or City consultants.

[17] On site landscaping shall be provided in accordance with Subch. IV, Landscaping and Bufferyard Regulations, except that building

foundation landscaping and paved area landscaping shall be provided at 1.5 times the required landscaping for development in the underlying zoning district. (2000 01/11/00)

[18] Any non-conforming sign, whether lawful or unlawful, located on lands for which a conditional use permit is proposed shall be discontinued and removed or shall be brought into compliance with the City Sign Code, Subch. III, as a condition of granting a conditional use permit. (2005 02/22/00)

(7) DISCRIMINATION AGAINST CONDOMINIUM FORMS OF OWNERSHIP. It is not the intent of this Subsection, nor any other provision of this Zone Code, to discriminate against condominium forms of ownership in any manner which conflicts with Wis. Stats. 703.27. As such, the provisions of this Section are designed to ensure that condominium forms of ownership are subject to the same standards and procedures of review and development as other physically identical forms of development.

(8) COMPLAINTS REGARDING CONDITIONAL USES. The Plan Commission shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuation of any unauthorized alterations of an approved conditional use, and/or the elimination, removal or discontinuation of any violation of a condition imposed prior to or after approval or of any violation of any other provision of City Codes.

Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in this section, a condition of approval, or other requirement imposed here-under. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in §17.37(3)(a).

Any person may appear at such hearing and testify in person or be represented by an agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in this section or with the conditions previously imposed by the Plan Commission, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use.

Additionally, the offending party may be subjected to enforcement provisions of §17.54 of the Zoning Code. In the event that no reasonable modification of such conditional use can be made in order to assure that standards set forth in this section will be met, the Plan Commission may revoke the subject conditional approval and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use.

Following any such hearing, the decision of the Plan Commission shall be furnished to the current owner of the conditional use, in writing, stating the reasons therefore. An appeal from a decision of the Plan Commission under this subsection may be taken to the City Council as provided in Subs. (4)

(9) SIDE-BY-SIDE SINGLE FAMILY ATTACHED DWELLINGS. When permitted in a zoning district, side-by-side single family attached dwellings shall be a conditional use. Such dwellings shall be attached structures not exceeding two single family dwelling units with one common wall and lot line. (2250 04/10/07, 2257 05/22/07)

(a) No conditional use shall be granted for such dwellings unless all of the following pre-conditions are met:

1. Each unit maintains a minimum lot of 33 feet in width throughout the required lot area.

2. All building code, fire prevention, minimum lot size (for the combined lots), and lot line setbacks shall apply.

3. The lots for the side-by-side single family attached dwellings shall be created by a certified survey map.

4. The dwellings are separated by a one-hour firewall extending

from the basement to the roof of the dwellings.

5. **The dwelling contains not more than two single family dwelling units and share a single common wall and lot line.**
6. **At a minimum, the following terms and restrictive covenants are incorporated so as to apply to the property and be a part of the chain of title to the property:**

Article 1 – Definitions - For the purpose of this Declaration, the following terms shall have the meanings here ascribed to them:

1. "Living Unit" shall mean and refer to any portion of a residence building situated upon the Properties designed and intended for use and occupancy as a residence by a single family.
2. **"Lot" shall mean and refer to any portion of land in the Properties upon which a Living Unit is situated, whether or not the same is a platted lot.**
3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers and vendees, but excluding those having such interest merely as security for the performance of an obligation, and excluding those having a lien upon the property by provision or operation of law.
4. "Properties" shall mean and refer to the real property hereinbefore described.
5. "Zero (0) Lot Line" means side by side single family attached dwelling.

Article II – Shared Walls

1. General Rules of Law to Apply. Each wall which is built as part of the general construction of any Living Unit upon the Properties and placed on the dividing line between two Living Units shall constitute a party wall and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto. Whenever improvements abut on the common boundary line between adjoining units there shall be a one-hour firewall running from the lowest floor level, including the basement if it is the common wall, to the underside of the roof sheathing. Such basement wall, if any, shall be waterproofed masonry.
2. Shares of Repair and Maintenance. The cost of reasonable repair and maintenance of each party wall shall be shared by the Owners in equal share.
3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty or by physical deterioration, any Owner who has used the wall may restore it, and shall have an easement over the adjoining Living Unit for purposes of making such restoration, and if other Owners thereafter make use of the wall they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from other Owners under any rule of law regarding liability for negligent or willful acts or omissions.
4. Weatherproofing. Notwithstanding any other provision of this Article, any Owner who by his negligent or willful act, causes any party wall to be exposed to the elements or excessive heat or cold shall bear the whole cost of furnishing the necessary protection against such elements or heat or cold, and of repairing the party wall from damages caused by such exposure.
5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Lot and shall pass to such Owner's successors in title.
6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provision of this Article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and

conclusive of the question involved. If either party refuses or fails to promptly appoint an arbitrator, the same may be appointed by any Circuit Judge of Sauk County, Wisconsin. Arbitration shall be in accordance with the rules of the American Arbitration Association.

7. Encroachment. If any portions of a Living Unit or any Lot shall actually encroach upon any other Lot, or if any such encroachment shall hereafter arise because of settling or shifting of the building or other cause, there shall be deemed to be an easement in favor of the Owner of the encroaching Living Unit to the extent of such encroachment so long as the same shall exist.

8. Construction Liens. Each Owner of a Living Unit ("Defaulting Owner") agrees to indemnify and hold harmless the Owner of an adjoining Living Unit for any construction liens arising from work done or material supplied to make repairs or replacements for which the Defaulting Owner is responsible.

Article III – Other Provisions Governing Relationship Among Owners of Adjoining Living Units

1. Insurance – Replacement/Construction. Each Owner shall maintain fire and extended coverage insurance on his Living Unit in the full replacement/construction cost thereof, and shall, in the event of damage to or destruction of his Living Unit, restore it to the condition in which it was prior to the damage or destruction.

2. Maintenance. Each Owner of a Living Unit shall maintain his Lot and the exterior of his Living Unit in good condition and repair and in a clean and neat condition.

3. Architectural Control.
   (a) The Owner of a Living Unit may replace exterior components of his Living Units with similar components of the same design and color, and may paint the exterior of his Living Unit with paint of the existing color of the exterior, but he may not, either in the course of ordinary replacement or remodeling or restoration after damage or destruction, employ different siding or roofing material or a different color scheme, without the consent of the Owner of the adjoining Unit.

   b. In the event of any dispute arising concerning a change in siding or roofing material or color scheme, each party shall choose an arbitrator and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved. The arbitrator's decision shall be based on their decision of whether the proposed siding or roofing material or color scheme is in harmony with the design of the adjoining Living Unit. If either party refuses or fails to promptly appoint an arbitrator, the same may be appointed by any Circuit Judge for Sauk County, Wisconsin. Arbitration shall be in accordance with the rules of the American Arbitration Association.

4. Easements for Utilities. Each Owner shall have an easement over the property of the other Owner for purposes of maintaining water, sewer, natural gas, telephone, cable TV, and other utilities that may enter the side by side single family attached dwelling from a single source and then branch into each individual family dwelling.

Article IV – General Provisions

1. Enforcement. The Owner of any Living Unit involved shall have the right to enforce, by any proceeding at law of in equity, or both, all of the terms and provisions of this Declaration. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

2. Severability. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

3. Amendments. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them in perpetuity unless an instrument signed by a majority of the

then Owners of the Lots and the City of Baraboo has been recorded, agreeing to change said covenants in whole or in part.

4. City. Even though this document was made a condition of a conditional use approval to the undersigned, their assignees, or heirs, absolve the City of any and all liability. Further, the undersigned understand the City of Baraboo is not an enforcing agency to any portion of this document.

(b) When considering whether to grant a conditional use, the Plan Commission shall examine the following factors:

1. The present density of the surrounding neighborhood.

2. Whether the uses, values and enjoyment of other property in the neighborhood will be substantially impaired or diminished.

3. Whether the establishment of the conditional use will impede the normal and orderly development and improvement for uses permitted in the neighborhood.

(10) In considering whether to issue a conditional use permit for a Two-Family Dwelling or a Two-Flat Dwelling, in addition to the other facts as set forth in this Section, the Plan Commission shall consider the following: (2258 05/22/07, 2269 11/27/07)

(a) The present density of the surrounding neighborhood. (2269 11/27/07)

(b) Whether the uses, values, and enjoyment of other property in the neighborhood will be substantially impaired or diminished. (2269 11/27/07)

(c) Whether the establishment of the conditional use will impede the normal and orderly development and improvement for uses permitted in the neighborhood. (2269 11/27/07)

(d) Whether the proposed conditional use permit is for new construction or the conversion of an existing dwelling, and if a conversion, the ease, utility, and cost of reconverting the property back to a single family residence. (2269 11/27/07)

17.38 <u>SATELLITE DISHES</u>.

(1) DEFINITIONS.

(a) <u>Dish-Type Satellite Signal Receiving Antennas</u>. Also referred to as "satellite dishes," "earth stations," or "ground stations" shall mean one or a combination of two or more of the following:

1. A signal-receiving device (antenna, dish antenna, or dish-type antenna), the purpose of which is to receive communications or other signals from satellites in earth orbit and other extraterrestrial sources.
2. A low-noise amplifier (LNA) which is situated at the focal point of the receiving component, the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.
3. A coaxial cable, the purpose of which is to carry or transmit electronic or light signals to a receiver.

(b) <u>Receiver</u>. A television set or radio receiver.

(c) <u>Dish</u>. The part of a satellite-signal-receiving antenna characteristically shaped like a saucer or dish. A dish shall be considered a structure when it exceeds twenty-four (24) inches in diameter.

(d) <u>Grounding Rod</u>. A metal pole permanently positioned in the earth to serve as an electrical conductor through which electrical current may safely pass and dissipate.

(e) <u>Exterior communication devices</u> include any antennas used for communication reception (e.g. satellite dishes, ham radio towers, T.V. antennas). (2260 06/12/07)

(2) PERMIT REQUIRED. No person shall construct a satellite dish with a diameter greater than 2 feet without a permit, nor shall construction commence before a permit is issued pursuant to this section.

(3) APPLICATION FOR PERMIT. Application for the construction of a satellite dish with a diameter greater than 2 feet shall be submitted to the Building Inspector. Forms supplied by the Building Inspector shall be completed by the owner of the lot or parcel, or by the occupant thereof, with the owner's written consent.

(4) FEE. See the City's Official Fee Schedule.

(5) GENERAL REQUIREMENTS FOR SATELLITE DISHES AND EXTERIOR COMMUNICATIONS DEVICES. Any satellite dish with a diameter greater than 2 feet and all exterior communications devices shall comply with the following requirements: (2260 06/12/07)

(a) No satellite dish shall be constructed in any street or side yard in any Residential District.

(b) Satellite dishes shall comply with the side and rear lot-line dimensions and setback requirements for accessory structures as specified in the district where the dish is located.

(c) No satellite dish shall be linked, physically or electronically, to a receiver which is not located on the same lot, premises, or parcel of land as is the dish.

(d) No satellite dish shall exceed 12 feet in diameter.

(e) All satellite dishes must be bonded to a grounding rod.

(f) All satellite dishes and exterior communications devices shall comply with the height requirements specified in the district where the dish is located, and must be sited an equal or greater number of feet from the property lines as their maximum height and may not be located in any front yard. (2260 06/12/07)

(g) All satellite dishes shall be erected and designed so as to reduce visual impact from surrounding property at street level and from public streets.

(h) No sign or other advertisement shall be placed upon or near the satellite dish unless the sign complies with this Chapter and the City Codes.

(i) The applicant must demonstrate that all reasonable mechanisms have been used to mitigate safety hazards and the visual inputs of the device. (2260 06/12/07)

(6) TEMPORARY PLACEMENT PERMITTED. Satellite dishes with a diameter greater than 2 feet may be temporarily located on a lot or parcel for the purpose of testing reception for a period not to exceed ten (10) days in any calendar year without a permit, provided that the dish is in compliance with the provisions of subsection (5) above.

(7) COMMUNICATION TOWERS. (2260 06/12/07) Definition: Communication towers include all free-standing broadcasting, receiving, or relay structures, and similar principal land uses; and any office, studio or other land uses directly related to the function of the tower.

(a) Regulations:

1. Tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse shall be completely contained on the property.

2. Towers shall meet all setback and location requirements for accessory structures for the specific zoning district in which they are located.

3. In all districts, ground-mounted towers may not exceed 20 feet in height or the minimum height necessary to adequately receive communications, whichever is greater.

4. Co-location: To minimize the number of tower sites, towers are required to be placed or constructed so that they may be utilized for the co-location of antenna arrays unless the applicant demonstrates to the satisfaction of the Plan Commission that the following standards are met:

a. No existing communication tower is located within the area in which the applicant's equipment must be located is of sufficient height to meet the applicant's requirements and the deficiency in height cannot be remediated at a reasonable cost.

b. No existing communication tower within the area in which the applicant's equipment must be located has sufficient structural strength to support the applicant's equipment and the deficiency cannot be remedied at a reasonable cost.

c. The applicant's equipment would cause electromagnetic interference with equipment on all existing communication towers within the areas in which the applicant's tower must be located, or the equipment on the existing communication tower would cause interference with the applicant's equipment and the

interference from whichever source cannot be eliminated at a reasonable cost.

d. The fees, costs, or contractual provisions required by the owners of all otherwise feasible towers in order to co-locate on an existing communication tower are unreason-able relative to industry norms.

e. There are other factors which render existing communication towers unsuitable or unavailable and the public interest is best served by the placement or construction of a new communication tower.

(b) Conditional Use Permit Required. A conditional use permit shall be required for communication towers, and the process and procedures of §17.37, Ordinances, shall be utilized.

17.38A WIND ENERGY SYSTEM ORDINANCE (2334 02/23/2010)

(1) TITLE. This ordinance may be referred to as the City of Baraboo Wind Energy System Ordinance.

(2) AUTHORITY. This ordinance is adopted pursuant to authority granted by Wis. Stat. §66.0401.

(3) PURPOSE - PUBLIC HEALTH AND SAFETY. The purpose of this ordinance is to:

(a) Oversee the permitting of wind energy systems; and

(b) Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system in accordance with Wis. Stat. § 66.0401.

(4) NO WIND ACCESS PERMITS. This ordinance does not create or provide for the issuance of any wind access permits with the meaning of section 66.0403, Wis. Stats.

(5) DEFINITIONS. Unless specifically defined below, words or phrases used in this subchapter shall be interpreted so as to give them the same meaning as they have at common law.

(a) Administrator means the City of Baraboo Zoning Administrator.

(b) Plan Commission means the Plan Commission of the City of Baraboo.

(c) Meteorological Tower (MET tower) is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

(d) Owner means the individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance when first placed in operation.

(e) Rotor Diameter means the cross sectional dimension of the circle swept by the rotating blades.

(f) Small Wind Energy System means a wind energy system that:

1. Is used to generate electricity;
2. Has a nameplate capacity of 100 kilowatts or less; and
3. Has a total height of 170 feet or less.

(g) Tower means the monopole, freestanding, or guyed structure that supports a wind generator.

(h) Wind Energy System means equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by Wis. Stat. §66.0403(1)(m)). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

(i) Wind Generator means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(6) STANDARDS.

(a) Accessory Structure. A wind energy system shall constitute an accessory structure. Only one system is allowed per lot.

(b) Permitted Use. A wind energy system shall be a permitted use in all zoning districts providing that the conditions of this ordinance are met.

(c) Setbacks.

1. A ground mounted wind tower for a wind system shall be set back a distance equal to its height as measured from the base walking surface to the tip of the rotor blade when the blade is at its highest point from the following:

a. Any public road right of way, unless written

permission is granted by the governmental entity with jurisdiction over the road;

b. Any overhead utility lines (including cable television, telephone, and fiber optic cable) within such right-of-way, unless written permission is granted by the affected utility; and

c. All property lines of the owner's lot, unless written permission is granted from the other affected land owners.

2. A roof mounted wind tower for a wind system shall be set back a distance equal to the height as measured from the unit's base to the tip of the rotor blade when the blade is at its highest point from the following:

a. Any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;

b. Any overhead utility lines (including cable television, telephone, and fiber optic cable) within such right of way, unless written permission is granted by the affected utility; and

c. All property lines of the owner's lot, unless written permission is granted from the other affected land owners.

(d) Mounting. Only small wind energy systems may be roof-mounted.

(e) Access.

1. All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.

2. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.

(f) Electrical Wires. All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.

(g) Minimum Height. The height of the lowest part of the blade shall be a minimum of eight feet above its base.

(h) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

(i) Sound Levels and Measurement.

1. Audible sound due to wind energy system operations shall not exceed fifty (50) dBA for any period of time, when measured at the property line of any residence, school, hospital, church or public library existing on the date of approval of any wind energy system zoning permit.

2. In the event audible sound due to wind energy system operations contains a steady pure tone, such as a whine, screech, or hum, audible sound due to wind energy system operations shall not exceed forty-five (45) dBA for any period of time, when measured at the property line of any residence, school, hospital, church or public library existing on the date of approval of any wind energy system zoning permit A steady pure tone is defined to exist if the sound level of any one-third octave exceeds the sound levels of the two (2) contiguous one-third (1/3) octave bands by five (5) or more dB for any period of time.

3. If the ambient sound level (exclusive of the wind energy system) exceeds the applicable standards given above, the applicable standards shall be adjusted to equal the ambient sound level. The ambient sound level shall equal the L10 sound level for full spectrum sound, expressed in dBA. For steady pure tones, the ambient sound level shall equal the L10 sound levels of the one-third (1/) octave band that exceeds the sound levels of the two (2) contiguous one-third (1/3) octave bands by five (5) or more dB for any period of time, expressed in dB.

4. Ambient sound levels and audible sound due to wind energy system operations shall be measured at the property line of affected existing residences, schools, hospitals, churches and public libraries. Sound level measurement techniques shall employ all practical means of reducing the effect of wind generated sound at the microphone.

5. In the event audible sound due to wind energy system operations exceed the audible sound standards listed above, a waiver of said standards may be granted by the Plan Commission provided that the following has been accomplished:
   a. Written consent from the affected property owners has been obtained stating that they are aware of the wind energy system and the audible sound standards imposed by this Ordinance, and that they consent to allow sound levels to exceed the audible sound standards otherwise allowed; and

   b. If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent sound impact easement shall be recorded in the Office of the Register of Deeds which describes the benefited and burdened properties that sound levels in excess of audible sound standards permitted by this Ordinance may exist on or at the burdened property.

(j) Appearance, Color, and Finish. The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless otherwise approved in the zoning permit.

(k) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road are prohibited.

(l) Code Compliance. A small wind energy system including tower shall comply with all applicable state construction and electrical codes, and the National Electrical Code.

(m) Utility Notification and Interconnection. Small wind energy systems that connect to the electric utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities."

(n) MET towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.

(o) Zoning Districts. Residential Zoning Districts (including R-1, R-1A, R-2, R-3, R-4, R-5, MH-1, and MH-2) and Commercial Districts (including B-1, B-2, B-3, and I-4) shall be limited to Small Wind Energy Systems. All other Zoning Districts may be approved for either Small Wind Energy Systems or Wind Energy Systems.

(7) USE PERMIT REQUIREMENTS.

(a) USE PERMIT. A use permit shall be required for the installation of a small wind energy system.

(b) DOCUMENTS. The use permit application shall be accompanied by a plot plan which includes the following:
1. Property lines and physical dimensions of the property.
2. Location, dimensions, and types of existing major structures on the property.
3. Location of the proposed wind system tower.
4. The right-of-way of any public road that is contiguous with the property.
5. Any overhead utility lines.
6. Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed).
7. Tower foundation blueprints or drawings.
8. Tower blueprint or drawing.

(c) COMPLETED APPLICATION DETERMINATION. The Zoning Administrator shall determine whether the application for a small wind energy system is complete no later than 45 days after the application is filed, and shall notify the applicant about the

determination in writing by first class mail. As soon as possible after receiving the application for approval, the City shall publish a Class 1 notice, under Ch. 985 Stats., stating that an application for approval has been filed with the City. If the zoning administrator determines that the application is incomplete, the notice shall state the reason for the determination. An applicant may supplement and re-file an application that the zoning administrator has determined to be incomplete. There is no limit on the number of times that an applicant may re-file an application for approval. If the zoning administrator fails to determine whether an application for approval is complete within 45 days after the application is filed, the application shall be considered to be complete. A political subdivision may not consider an applicant's minor modification to the application to constitute a new application for the purposes of this subsection.

(d) NOTICE TO ADJOINING LAND OWNERS. On the same day that an applicant makes an application for approval under subd. 1. for a wind energy system, the applicant shall mail or deliver written notice of the application to the owners of land adjoining the site of the wind energy system, and shall certify under oath that notice has been mailed or delivered, including the names and addresses of those receiving notice.

(e) FEES. The application for a use permit for a wind energy system must be accompanied by the fee required for a zoning permit for a Permitted Accessory Use. The fee shall be the same as for a Conditional Use Permit.

(8) HEARING ON APPLICATION.

(a) The Plan Commission shall meet to approve or disapprove an application for approval of a wind energy permit no later than 90 days after the day on which the Zoning Administrator notifies the applicant that the application for approval is complete. If the Plan Commission fails to act within the 90 days, or within any extended time period established under sub. (2), the application is considered approved.

(b) The Plan Commission may extend the time period in par. (a) if, within that 90−day period, the Plan Commission authorizes the extension in writing. Any combination of the following extensions may be granted, except that the total amount of time for all extensions granted under this paragraph may not exceed 90 days:

1. An extension of up to 45 days if the Plan Commission needs additional information to determine whether to approve or deny the application for approval.

2. An extension of up to 90 days if the applicant makes a material modification to the application for approval.

3. An extension of up to 90 days for other good cause specified in writing by the political subdivision.

(c) The Plan Commission shall make a record of its decision making on an application for approval, including a recording of any public hearing, copies of documents submitted at any public hearing, and copies of any other documents provided to the City of Baraboo in connection with the application for approval. The Plan Commission's record shall conform to the Public Service Commission's rules promulgated under §196.378(4g)(c)2, Wisc. Stats. The Plan Commission shall base its decision on an application for approval on written findings of fact that are supported by the evidence in the record. The Plan Commission's procedure for reviewing an application for approval shall conform to the Public Service Commission's rules promulgated under §196.378(4g)(c)3, Wisc. Stats.

(9) EXPIRATION. A permit issued pursuant to this ordinance shall expire if:

(a) The small wind energy system is not installed and functioning within 24 months from the date the permit is issued; or,

(b) The small wind energy system is out of service or otherwise unused for a continuous 12-month period.

(10) ABANDONMENT.

(a) A wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Administrator may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within 30 days from

Notice receipt date. The Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.

(b) If the wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the Owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Administrator may pursue a legal action to have the wind generator removed at the Owner's expense.

(11) VIOLATIONS. It is unlawful for any person to construct, install, or operate a wind energy system without a use permit or that is not in compliance with this ordinance or with any condition contained in a zoning permit issued pursuant to this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt and are deemed legal, nonconforming structures to the extent they are lawful under the zoning ordinance prior to adoption of this ordinance and are not in compliance with the terms of this ordinance.

(12) ADMINISTRATION AND ENFORCEMENT.

(a) This ordinance shall be administered by the Zoning Administrator or other official as designated.

(b) The Zoning Administrator may enter any property for which a wind energy permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.

(c) The Administrator may issue orders to abate any violation of this ordinance.

(d) The Administrator may issue a citation for any violation of this ordinance.

(e) The Administrator may refer any violation of this ordinance to legal counsel for enforcement.

(13) PENALTIES.

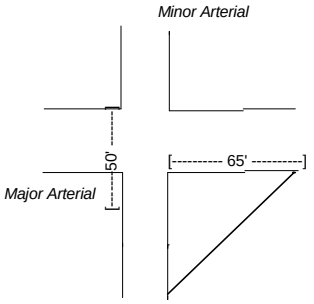
(a) Any person who fails to comply with any provision of this ordinance or a zoning permit issued pursuant to this ordinance shall be subject to enforcement and penalties as set forth in section 25.04, Code of Ordinances.

(b) Nothing in this section shall be construed to prevent the City of Baraboo from using any other lawful means to enforce this ordinance.

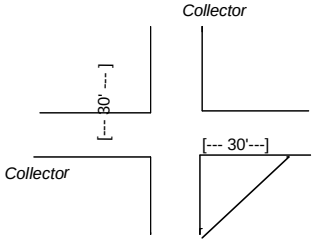
(14) SEVERABILITY. The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

17.39 <u>VISION CLEARANCE</u>

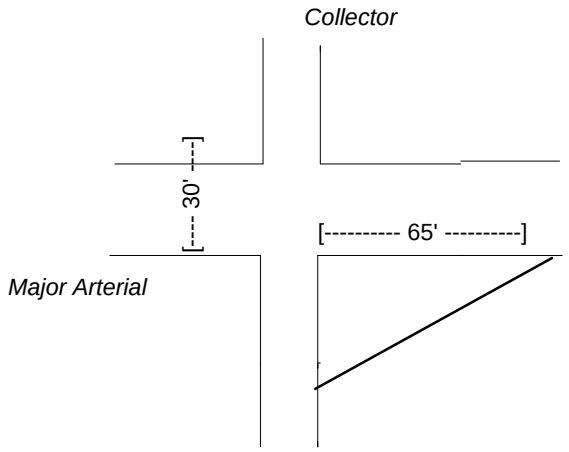
(1) VISION CLEARANCE TRIANGLE DEFINED. A triangular-shaped parcel of land established at street intersections wherein no object over twenty-four (24) inches in height shall be erected, placed, planted, or allowed to exist in such a manner as to limit or obstruct the site distance of motorists, bicycles, and/or pedestrians entering or leaving the intersection. The following diagrams show the area required for vision clearance triangle at different types of intersections.



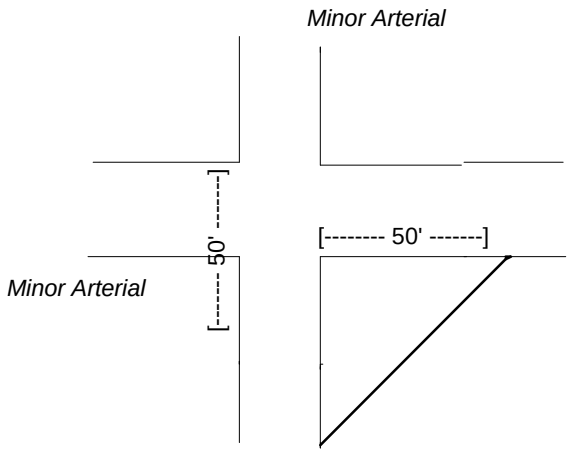
Minor to Major Intersection



Collector to Collector Intersection

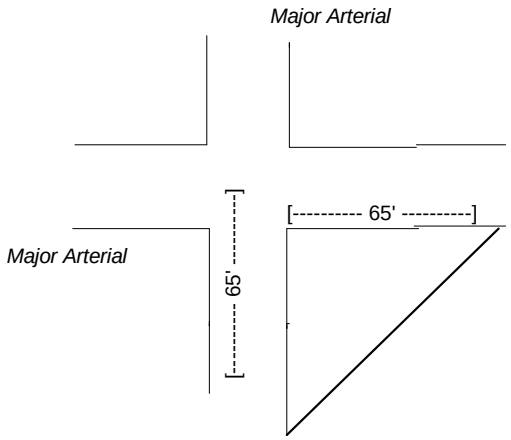


Major to Collector Intersection



Minor to Minor Intersection

Major to Major Intersection



(2) OBSTRUCTION OF VIEW AT INTERSECTIONS PROHIBITED. After July 1, 1986, no person shall erect, place, plant, grow or allow to exist any tree, shrub, plant, or other tangible object greater than twenty-four (24) inches in height within any vision clearance triangle, as defined herein, or which object may obstruct the view of the operator of a motor vehicle or bicycle, or the view of a pedestrian, entering, exiting or approaching an intersection. The Zoning Administrator may order the removal of any tree, shrub, plant or any other tangible object located within any vision clearance triangle or which, in his or her judgment, may obstruct the view of the operator of a motor vehicle or bicycle, or the view of a pedestrian, entering, exiting or approaching any intersection, at any time of the year, within the City. This subsection shall not apply to traffic signs authorized in the City Code for regulating traffic or to snow banks deposited by the City.

17.40 <u>LOADING REQUIREMENTS</u>. In all districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

(1) SIZE AND LOCATION. Each loading space shall be graded and surfaced with asphalt or concrete, not less than 12 feet in width, 35 in length. It shall have a minimum vertical clearance of 14 feet and may occupy part of any required yard.

(2) OFF-STREET LOADING SPACES REQUIRED.

Uses	***Floor Area (Sq. Ft.)***	***Off-Street Loading Spaces***
(a) Funeral Home	N/A	One (1) space
(b) Hospital	Under 10,000	None
	10,000 to 30,000	One (1) space
	Each additional 30,000 or major fraction thereof	One (1) additional space
(c) Office, hotel, retail, service, wholesale, warehouse manufac-turing, processing or repairing uses	Under 10,000	None
	10,000 to 25,000	One (1) space
	25,001 to 40,000	Two (2) spaces
	40,001 to 60,000	Three (3) spaces
	60,001 to 100,000	Four (4) spaces
	Each addtl 50,000 or major fraction thereof	One (1) additional space
(d) School, governmental	N/C	

(3) SNOW REMOVAL REQUIRED. Each loading space shall be cleared of snow within 24 hours after snow has accumulated so as to be accessible.

17.41 <u>OFF-STREET PARKING REQUIREMENTS</u>.

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

(a) Adequate access to a public street shall be provided for each parking space.

(b) The size of each parking space shall be not less than l80 square feet exclusive of the space required for ingress and egress.

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

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

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

(f) Security fences are permitted on property lines in all districts, except residential districts, but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing. (2300 04/14/2009)

(2) OFF-STREET PARKING STALLS REQUIRED. In all districts, except the Central Business District (B-1), the parking stalls required are as follows:

Uses	***Minimum Parking Required***
(a) Bed-and-breakfast establishments.	One (1) off-street stall for each guest room.
(b) Bowling alleys.	Five (5) stalls for each alley.
(c) Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly.	One (1) stall for every five (5) seats.
(d) Clinics.	Three (3) stalls for each doctor.
(e) Colleges, universities, secondary & elementary schools.	One (1) stall for every two (2) employees, plus one (1) stall for every ten (10) students 16 years of age or over.
(f) Financial institutions, and business, government, and professional offices.	One (1) stall for every 300 square feet of floor area.
(g) Funeral homes.	One (1) stall for every four (4) seats.
(h) Hospitals, sororities, dormitories, lodging and boarding houses.	One (1) stall for every two (2) beds, plus one (1) stall for every three (3) employees.
(i) Hotels and motels.	One (1) stall for each guest room, plus one (1) stall for every three (3) employees.
(j) Manufacturing and processing plants, laboratories, and warehouses.	One (1) stall for every two (2) employees.
(k) All residential dwellings.	Two (2) stalls for each dwelling unit.*
(l) Restaurants, clubs, lodges, bars, places of entertainment, repair shops, and retail and service stores.	One (1) stall for every one hundred fifty (150) square feet of retail floor space.
(m) Sanitariums, institutions, rest homes and nursing homes.	One (1) stall for every five (5) beds, plus one (1) stall for every three (3) employees.
(n) For uses not listed above, the provisions for a use which is similar shall apply.	
(o) The total number of stalls required for each individual use shall apply for combinations of any of the uses listed above.	

* The Zoning Board of Appeals shall be authorized to grant a variance to the off-street parking requirements by allowing 1.5 parking stalls for each dwelling unit in multi-family dwellings occupied solely by elderly or disabled persons. This variance shall be considered pursuant to the provisions of §17.44 except that the petitioner shall not be required to prove unnecessary hardship in order to be eligible for reduced off-street parking requirements as provided herein.

17.42 Reserved. (2300 04/14/2009)

17.43 <u>PERFORMANCE STANDARDS</u>. The chapter permits specific uses in specific districts, and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. No structure, land or water shall hereafter be used except in compliance with their district regulations and with the following performance standards:

(1) SOUND. The volume of sound inherently and recurrently generated shall not exceed the following standards at any point along the boundaries of the district in which the use is located.

(a) Objectionable sounds of an intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.

(b) Maximum sound pressure levels shall be measured with a sound-level meter and associated octave-band analyzer conforming to standards prescribed by the American Standards

Association, and shall not exceed the values for octave bands lying within the several frequency limits given in the following table after the application of appropriate corrections:

1. B-1, B-2, B-3, I-1, I-3, and I-4 Districts. (2015 05/09/2000)

Frequency Ranges Containing Standard Octave Bands in Cycles per Second	***Octave Band Sound Pressure Level in Decibels***
0 - 74	72
75 - 149	67
150 - 299	59
300 - 599	52
600 – 1199	46
1200 – 2399	40
2400 – 4800	34
Above 4800	3
Type of Operation or Noise	***Correction in Decibels***
Daytime Operation Only	+ 5
Noise of Impulsive Character (e.g., Hammering)	- 5
Noise of Periodic Character (e.g., Hum, Screech)	+/-5

2. I-2 District.

Frequency Ranges Containing Standard Octave Bands in Cycles Per Second	***Octave Band Sound Pressure Level in Decibels***
0 - 74	79
75 - 149	74
150 - 299	66
300 - 599	59
600 – 1199	53
1200 – 2399	47
2400 – 4800	41
Above 4800	39
Type of Operation or Noise	***Correction in Decibels***
Daytime Operation Only	+ 5
Noise of Impulsive Character (e.g., Hammering)	5
Noise of Periodic Character (e.g., Hum, Screech)	5

(c) NOISE. Sirens, whistles and bells that are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this Chapter. (2300 04/14/2009)

(2) VIBRATION. An operation that creates vibrations that can be measured without instruments; e.g., heavy drop forges or heavy hydraulic surges shall be set back as follows:

(a) I-1, B-1, B-2 and B-3 Districts. A distance of not less than 500 feet from all lot lines, except where a lot line abuts an I-2 District, in which case no setback is required.

(b) I-2 District. A distance of not less than 500 feet from the district boundaries.

(3) RADIOACTIVITY. No operation shall be permitted in any district boundary which causes radioactivity in violation of Title 10, Ch. 1, Part 20, Code of Federal Regulations "Standards for Protection Against Radiation," dated June 16, 1957, or any subsequent revisions or amendments.

(4) ODOR.

(a) I-1, I-3, I-4, A-1, A-2, B-1, B-2 and B-3 Districts. In these Districts, no emission of odorous gas or other odorous matter, in such quantity as to be readily detectable at any point along lot lines without the use of instruments, shall be permitted. (2015 05/09/2000)

(b) I-2 District. In this District, no emission of odorous gas or other odorous matter, in such quantity as to be readily detectable at any point long the district boundaries without the use of

instruments and in such quantity as to produce a public nuisance or hazard beyond lot lines, shall be permitted.

(5) TOXIC OR NOXIOUS MATTER. No discharge beyond lot lines of any toxic or noxious matter, in such quantity as to be detrimental to or endanger the public health, safety, comfort, welfare, or cause injury or damage to property or business, shall be permitted in any district boundary.

(6) GLARE. No hazardous direct or reflected glare from any district shall be detectable from any district boundary.

(7) HEAT. No hazardous direct or reflected heat from any district shall be detectable from any district boundary.

(8) DUST. No solid or liquid particles emitted in concentrations exceeding the Wisconsin Department of Natural Resources' limitations shall be detectable from any district boundary.

(9) FLY ASH. No emission of fly ash from any district shall be in excess of the quantity specified in the following table:

Heat in Fuel Burned (BTUs per hour)	***Fly Ash: Rate of Emission (lbs)***
1,000,000	1
100,000,000	100
400,000,000	330
1,000,000,000	750
2,000,000,000	1,365
3,000,000,000	1,850
4,000,000,000	2,260
5,000,000,000	2,640
6,000,000,000	2,950
7,000,000,000	3,200
8,000,000,000	3,410
10,000,000,000	3,750

For heat content between any two consecutive heat contents given in the above, the fly-ash limitation shall be as determined by interpolation.

(10) SMOKE. No emission of smoke from any source, as measured on the Ringelmann Chart, published by the U.S. Bureau of Mines, shall be permitted in excess of the following:

(a) R-4, R-5, I-1, I-3, I-4, B-1, B-2 and B-3 Districts. A density described as Ringelmann No. 2, provided that a density equal to Ringelmann No. 3 may be emitted for not more than three (3) minutes in any fifteen (15) consecutive minutes. (2015 05/09/2000)

(b) I-2 District. A density described as Ringelmann No. 3.

In all cases, state regulations shall be met and the stricter requirements shall govern.

17.44 BOARD OF ZONING APPEALS.

(1) MEMBERSHIP, APPOINTMENT, AND OFFICERS. See Ch. 1 of this City Codes.

(2) ADOPTION OF RULES. The Board of Zoning Appeals shall adopt rules for its government and procedure. Meetings shall be held at the call of the Chair and at such other times as the Board of Zoning Appeals shall determine. The Chair, or in his/her absence, the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The City Clerk or his/her designee, shall be the secretary of the Board.

(3) RECORDS. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be a public record.

(4) APPEALS. Except as otherwise provided in the City Codes or in the State Statutes, appeals to the Board of Zoning Appeals may be made by any person aggrieved by the enforcement of The Zoning Code, the Building, Plumbing, Electrical or Fire Codes, or by an officer, department or board of the City affected by any decision under these codes. An appeal must be filed within thirty (30) days of receipt by the appealing party of the determination from which the appeal is taken. An appeal shall be commenced by filing a Notice of Appeal with the officer, department, board or

commission from whom the appeal is taken and with the City Clerk who shall promptly forward the Notice of Appeal to the Board of Zoning Appeals. The Notice of Appeal shall specify the grounds thereof and shall be made upon forms furnished by the Board of Zoning Appeals and shall be accompanied by all information requested on the appeal form and any additional information requested by the Board of Zoning Appeals. All appeals shall be accompanied by the prepayment of the required fees. Failure to pay the required fee or supply such information as shall be requested by the Board of Zoning Appeals shall be grounds for dismissal of an appeal. The officer, department, board or commission from whom the appeal is taken shall transmit to the Board of Zoning Appeals all papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall fix a reasonable time for the hearing of each appeal and give public notice thereof as well as notice to the parties in interest as provided in Subs. 5 below.

(5) APPEAL HEARING PROCEDURE.

(a) The Board of Zoning Appeals shall fix the date, time and place for the hearing of an appeal within a reasonable time after the Notice of Appeal is properly filed. The Board of Zoning Appeals shall give public notice of the time, place and purpose of such hearing by publication as a Class 1 Notice under the Wisconsin Statutes in the official City newspaper at least one week before the date of the hearing.

Notice of the date, time, place, and purpose of each hearing shall also be mailed at least ten (10) days before the hearing by first class mail to the appealing party and to the property owners of record as listed in the office of the City Assessor who are owners of tax parcels of land situated, in whole or in
Part, within 100 feet of the boundaries of the property subject to the hearing. Failure to comply with the notice requirements under this subsection a, or the failure of a person to receive notice shall not, however, invalidate any previous or subsequent action of the Board of Zoning Appeals. Notice shall be sent to the Wisconsin Department of Natural Resources when such notice is required by the State Statutes.

(b) The concurring vote of four (4) members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant or appellant on any matter on which it is required to pass, or to affect any variation in the requirements of the Zoning Code or the Building, Plumbing, Electrical and/or Fire Codes.

(c) The Board of Zoning Appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board of Zoning Appeals' decision to the appellant or applicant and to the officer, board or commission from whom the appeal was taken. Conditions may be placed upon any variance or permit ordered or authorized by the Board of Zoning Appeals. Variances or permits granted by the Board of Zoning Appeals shall become null and void automatically within twelve (12) months after the date of the Board of Zoning Appeal's decision unless substantial work has commenced pursuant to such grant or authorization.

(d) The unexcused failure of the appealing party to appear personally, or by a representative, before the Board of Zoning Appeals at the time of a properly noticed hearing shall be sufficient grounds for the Board of Zoning Appeals to deny and dismiss the appeal.

(6) POWERS OF THE BOARD OF ZONING APPEALS. The Board of Zoning Appeals shall have the following powers:

(a) Except as to those matters delegated to the Plan Commission, to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator, Building Inspector in the enforcement of the Zoning Code or the Building, Plumbing, Electrical or Fire Codes.

(b) The Board of Zoning Appeals shall not be authorized to grant use variances or variances from the Subdivision Code or variances for lot size, land divisions, or the platting of lands. The Board may vary the area zoning regulations of the ordinance or statute from which the variance is requested only in specific instances where the Board determines that owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship such that the spirit of the codes is observed, public safety and welfare secured, and substantial justice done. In determining whether individual injustice might occur if a variance is not granted, The Board shall consider whether compliance with the strict letter of the restrictions governing area, setback, frontage, height, bulk or density would unreasonably prevent the owner from using the subject property for a permitted purpose or would render conformity with

such restrictions unnecessarily burdensome. The party appealing for relief shall carry the burden to prove to a reasonable degree of certainty to the satisfaction of the Board that the required standards have been established. In its consideration of an appeal, the Board shall first determine the purpose of the ordinance from which the variance is requested and the Board shall not vary the area regulations of a zoning ordinance unless it shall make findings of fact based upon the evidence that the following conditions are present: (2179 01/25/05)

1. That the particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.

2. That in the reasonably foreseeable future, the uses, values, purposes and enjoyment of other property in the neighborhood shall not be substantially impaired or diminished by the variance.

3. That the variance will not impede the normal and orderly development and improvement of the surrounding property for permitted uses.

4. That the alleged hardship or difficulty is peculiar to the parcel under consideration and different from that of other parcels and not one which generally affects all parcels similarly.

5. That the alleged difficulty or hardship is caused by the ordinance and has not been created by any person presently having an interest in the property.

6. That the purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner.

7. That the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

8. That the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger or be detrimental to the public safety, or substantially diminish or impair property values within the neighborhood.

9. In the case of floodplain areas, the granting of the variance will not result in any change in established flood elevations or profiles, permit a lower degree of flood protection in a floodplain than the flood elevation, allow any floor, basement, or crawlway below the regional flood elevation, allow actions without the required amendments, nor have the affect of allowing or extending a use or building which is prohibited in the zoning district.

The Board is granted the discretionary authority to grant a variance where, based upon the purpose of the ordinance under consideration, adequate protection of the neighborhood can be appeased without imposing stringent limitations on a property. In exercising its discretion, the Board shall balance the public interests requiring compliance with City ordinance regulations against the private interests of the individual property owner of being relieved from the strict enforcement of the Codes under consideration, particularly where individual injustice might otherwise occur if the variance is denied. The Board may impose such conditions and restrictions upon the property benefited by a variance as may be necessary to comply with the foregoing standards in order to reduce or minimize the injurious affect of such variance upon other property in the neighborhood, or to better carry out the general intent of this section.

(c) To hear and grant appeals to allow in a zoning district an unclassified and unspecified use, after the Plan Commission has made a review and recommendation thereof to the Board of Zoning Appeals, and where a clear determination cannot be made by the Zoning Administrator, provided that such use is similar in character and not disruptive or inconsistent with the principal uses per-mitted in the district. In making this determination, the Board of Zoning Appeals shall apply the standards applicable to conditional uses as set forth in this Chapter.

(d) To hear and decide applications in appropriate cases, and subject to appropriate conditions and safe-guards in harmony with the general purpose and intent of the Zoning Code and Building,

Plumbing, Electrical and Fire Codes, regarding the erection of a building or premises to be used for such public utility purposes in any location which is reasonably necessary for the public convenience and welfare.

(e) To hear and grant applications for a permit for a temporary building for business or industry in a residential district which is incidental to the residential development, such permit to be issued for a period of not more than one (1) year.

(f) In the exercise of its powers, the Board of Zoning Appeals may, when granting a permit, application or appeal, stipulate appropriate conditions and safeguards in harmony with the general purpose and intent of the Zoning Code and the Building, Plumbing, Electrical and Fire Codes, and other applicable provisions of this Code and/or Wisconsin Statutes and Wisconsin Administrative Code provisions. Any failure to carry out such stipulation shall be deemed a violation of the Zoning Code and/or other applicable codes.

(g) Except as specifically provided, the Board of Zoning Appeals shall not be empowered to grant conditional use permits, special zoning exceptions, substitutions of more restrictive non-conforming
uses for existing non-conforming uses, nor shall the Board of Zoning Appeals be empowered to exercise other regulatory actions over non-conforming uses.

(h) Except as specifically provided, no action of the Board of Zoning Appeals shall have the effect of permitting in any district uses prohibited in that district, or permit lower degree of flood protection than the flood protection elevation for a particular area, or permit flood standards lower than those required by State law.

(i) In addition to the foregoing powers and duties, the Board of Zoning Appeals shall have the sole and exclusive power to hear any appeal from the denial by the Building Inspector of a permit to move a building. An appeal of denial of such permit shall be denied by the Board of Zoning Appeals unless, by a concurring vote of four (4) members, the Board of Zoning Appeals finds that the nature and type of building to be moved is substantially similar to the buildings in the proposed relocation area and will not be detrimental thereto.

(j) The Board of Zoning Appeals may reverse or affirm wholly or in part, or may modify any order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Administrator and the Building, Plumbing, Electrical and Fire Inspectors.

(k) The Board of Zoning Appeals shall have the power to call on any City officer, official or department for assistance in the performance of its duties and it shall be the duty of such officer, official or department to render such assistance as may be reasonably required.

(l) No variance or appeal shall be granted unless the Board of Zoning Appeals finds the appealing party has proven all the necessary facts and conditions to a reasonable degree of certainty, by credible evidence that is satisfactory to the Board of Zoning Appeals.

(7) REVIEW BY THE COURT OF RECORD. Any person or persons aggrieved by any decision of the Board of Zoning Appeals may appeal such decision to the Circuit Court as provided by Chapter 62 of the State Statutes.

17.45 <u>CERTIFICATE OF OCCUPANCY</u>.

(1) No vacant land shall be occupied or used, and no building hereafter erected, altered or moved, shall be occupied, and no use of an existing building changed until a certificate of occupancy shall have been issued by the Building Inspector. Such certificate shall show that the building and/or land, or part there-of, and the proposed use are in conformity with the provisions of this Chapter and other applicable City Codes. Such certificate shall be issued only when the building and/or land, and the proposed use thereof conform with all of the requirements of The Codes.

(2) Under such rules and regulations as may be established by the City Council, the Building Inspector may issue a temporary certificate of occupancy for all or part of a building for a period not exceeding six (6) months.

(3) Upon written request from the owner, the Building Inspector may issue a certificate of occupancy for any building or premises existing at the time of the adoption of the Zoning Code as provided in the subsection of the Zoning Code covering existing, lawful non-conforming uses of structures, land and water and sub-standard lots.

17.46 ANNEXATION.

(1) Procedure for Direct Annexation by Unanimous Consent. Any party petitioning for direct annexation by unanimous consent shall comply with the procedures set forth in this subsection and with the procedures set forth in §66.0217, Wis. Stats.

(a) The petition for direct annexation by unanimous consent shall follow the format of the petition form available in the office of the City Clerk. The petition shall be signed by all of the electors residing in the territory to be annexed and by all of the owners of such territory. The petition shall contain an accurate legal description of the territory to be annexed, and a copy of a survey map or a scale map showing the boundaries of said territory and their relationship to the City of Baraboo, and shall specify the zoning classification requested by the petitioners upon annexation. The petition shall be filed with the City Clerk.

(b) On the same day that the petition is filed with the City Clerk, an identical petition, also originally signed as set forth in subsection (a) above, must be filed with the Town Clerk of the township in which the territory is presently located.

(c) The petitioner shall further file with the office of the City Clerk an Affidavit of Ownership and Residency in a format approved by the office of the City Clerk and an Affidavit stating that the petition was also filed with the Town Clerk of the township in which the territory to be annexed is presently located. The petitioner shall promptly provide to the City Clerk any additional information regarding the annexation as shall be required by the City Clerk, the State of Wisconsin, Plan Commission, the City Council and City staff.

(d) The required fee shall be paid to the City Clerk at the time of the filing of the annexation petition.

(2) Procedure for Other Methods of Annexation. Petitioners for annexation by other than direct annexation by unanimous consent shall be in accordance with §66.0217, Wis. Stats.

(3) Zoning of Annexed Territory. Unless otherwise provided in the annexation ordinance, all territory annexed to the City shall automatically become a part of the one- and two-family residential district (R-2) until definite boundaries and regulations are recommended by the Plan Commission and adopted by the City Council.

17.47 SITE PLAN REVIEW AND APPROVAL. (2009 04/25/2000)

(1) PURPOSE: The purpose of this Section is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this Section are designed to ensure that all proposed land use and development activity complies with the requirements of this Ordinance. Specifically, this Section requires that the initiation of all development activity (including building permits, zoning certificates, occupancy permits for a change of use of an existing lot or structure where there is contemplated a site plan revision, clear cutting, grading, or filling) require the approval of site, building and operational plans by the City staff before the building, occupancy, and zoning permits can be issued – except, however, that development activity associated with an approved final plat of subdivision or certified survey map for one and two family dwelling units is exempt from this requirement.

(2) PROCEDURE:

(a) Initiation of Request for Approval of a Site Plan: Procedures for approval of a site plan shall be initiated by the owner(s) of the subject property, or their legally authorized representative(s).

(b) Pre-Application Meeting: The petitioner shall first meet with the City Administrator and other applicable City staff to discuss preliminary concepts and plans for the development. Guidance will be provided to the Petitioner on technical requirements and procedures, and a timetable for project review may be discussed.

(c) Application for Site Plan Review and Review by City Administrator: The petitioner shall apply to the City Administrator for the scheduling of an appearance before the City staff. The City Administrator shall notify the petitioner of the date and time of the applicable meeting. The meeting with the City staff shall not be scheduled unless the application is approved as complete by the Zoning Administrator per the requirements of Sub. 3 below. The review of the submitted application shall be completed within ten working days of application submittal. Once the application is approved as complete by the Zoning Administrator, the City Administrator may schedule a meeting with City staff a minimum of two weeks from the date of complete application acceptance. At the time of acceptance and meeting scheduling, the Zoning Administrator shall forward copies of the complete application (as provided by the Petitioner) to all pertinent City staff.

(3) APPLICATION REQUIREMENTS: All applications for proposed site plans shall be approved by the Zoning Administrator prior to the formal initiation of this procedure. The submittal of an application to the Zoning

Administrator to initiate this procedure shall not occur until the Zoning Administrator has certified acceptance of the complete application. No placement of the application on any agenda, as an item to be acted upon, shall occur unless said certification has occurred. Said complete application shall be comprised of all of the following:

(a) Written Description. A written description of the intended use describing in reasonable detail the:

1. Existing zoning district(s) (and proposed zoning district(s) if different);
2. Land use plan map designation(s);
3. Description of existing environmental features;
4. Current land uses present on the subject property;
5. Proposed land uses for the subject property;
6. Projected number of residents, employees, and daily customers;
7. Proposed amount of dwelling units, floor area, impervious surface area, and landscape surface area, and resulting site density, floor area ratio, impervious surface area ratio, and landscape surface area ratio;
8. Operational considerations relating to hours of operation, projected normal and peak water usage, sanitary sewer loadings, and traffic generation;
9. Operational considerations relating to potential nuisance creation pertaining to noncompliance with the performance standards addressed in this Code including street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electro-magnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. If no such nuisances will be created (as indicated by complete and continuous compliance with the provisions of City performance zoning standards), then the statement "The proposed development shall comply with all performance requirements of the Zoning Ordinance" shall be provided;
10. Exterior building and fencing materials;
11. Possible future expansion and related implications for 1-10, above, and;
12. Any other information pertinent to adequate understanding by the Plan Commission of the intended use and its relation to nearby properties.

(b) Small Location Map. A small location map at 11" x 17" showing the subject property, all properties within 300 feet, and illustrating its relationship to the nearest street intersection. (A photocopy of the pertinent section of the City's Official Zoning Map with the subject property clearly indicated shall suffice to meet this requirement.)

(c) Property Site Plan. A property site plan drawing (and reduction at 11" x 17") which includes:

1. A title block which indicates the name, address and phone/fax numbers) of the current property owner and/or agent(s) (developer, architect, engineer, planner) for project;
2. The date of the original plan and the latest date of revision to the plan;
3. A north arrow and a graphic scale. Said scale shall not be smaller than one inch equals 100 feet;
4. A legal description of the subject property;
5. All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
6. All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
7. All required building setback lines;
8. All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, walls, and utility and drainage systems, connections and fixtures;
9. The location and dimension (cross-section and entry throat) of all access points onto public streets;
10. The location and dimension of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus required by this Ordinance;
11. The location and dimension of **all** loading and service areas on the subject property and labels indicating the dimension of such areas;

12. The location of all outdoor storage areas and the design of all screening devices;
13. The location, type height, size, and lighting of all signage on the subject property;
14. The location, height, design/type, illumination power, and orientation of all exterior lighting on the subject property – including the clear demonstration of compliance with a limit of 1.0 footcandles at non-residential property lines and 0.5 footcandles at residential property lines;
15. The location and type of any permanently protected green space areas;
16. The location of existing and proposed drainage facilities; and
17. In the legend, data for the subject property:
    a. Lot area;
    b. Floor area;
    c. Floor area ratio (b/a);
    d. Impervious surface area;
    e. Impervious surface ratio (d/a); and
    f. Building height.

(d) Detailed Landscaping Plan. A detailed landscaping plan of the subject property, at the same scale as the main plan (and reduction at 11" x 17"), showing the location of all required bufferyard and landscaping areas, and existing and proposed Landscape Point fencing and berm options for meeting said requirements. The Landscaping Plan shall demonstrate complete compliance with the requirements of City Landscaping Regulations (NOTE: the individual plant locations and species, fencing types and heights, and berm heights need to be provided.)

(e) Grading and Erosion Control Plan. A grading and erosion control plan at the same scale as the main plan (and reduction at 11" x 17") showing existing and proposed grades, including retention walls and related devices, and erosion control measures.

(f) Elevation Drawings. Elevation drawings of proposed buildings or proposed remodeling of existing buildings showing finished exterior treatment shall also be submitted, with adequate labels provided to clearly depict exterior materials, texture, color and overall appearance. Perspective renderings of the proposed project and/or photos of similar structures may be submitted, but not in lieu of adequate drawings showing the actual intended appearance of the buildings.

(g) Certified Survey. A certified survey may be required by the Zoning Administrator in instances where he/she determines compliance with setback requirements may be difficult. The survey shall be prepared by a registered land surveyor and shall depict property lines, and proposed buildings, structures, and paved areas.

(h) Detailed Site Analysis. A detailed site analysis per the following submission and review process:

1. Purpose: The detailed site analysis required by this Section is designed to provide the clear identification of permanently protected green space areas on a site which is proposed for development. The detailed survey work required to identify these areas accurately on a map is not required prior to the initiation of development concept plans for an area. A detailed site analysis shall be performed in conjunction with required land division documents or development site plans for any and all properties containing permanently protected natural resource areas as defined by required protected areas under State or Federal regulations, plus all environmental corridor components and areas identified by the City's Master Plan.

2. Description: The detailed site analysis shall be shown on a map of the subject property which depicts the location of all protected natural resource areas, as defined by the provisions of this Section and as located by an on-site survey. The detailed site analysis shall meet the following requirements:

    a. Scale – A minimum scale of one inch equals 200 feet shall be used.

    b. Topography – Topographic information is not required for any property that does not contain steep slopes (as designated on the Official Zoning Map). For such properties, topographic information with a minimum contour interval of two feet is required.

c. Specific Natural Resources Areas – All natural resource areas which require protection under State or Federal law, and all components of the Environmental Corridors identified on the City Plan shall be accurately outlined and clearly labeled. Particular care as to clarity shall be taken in areas where different resource types overlap with one another.

d. Development Pads –

[1] All site disruption (including selective cutting) proposed to occur within permanently protected natural resource areas shall be limited to development pads. Development pads shall be depicted on the detailed site analysis map, site plans required for development permits, and the recorded Plat of Subdivision or Certified Survey Map.

[2] Beyond visible damage to natural resources, vegetation, soil, and drainage pat-terns, site disruption activities shall not compact soil covering tree roots, or otherwise damage trees beyond the area from which trees are to be removed. All trees with calipers exceeding 3 inches, whose canopies are located adjacent to disturbed areas, which die within a period of five years following site disruption shall be replaced by the property owner with a 3 inch caliper tree of the same type (canopy or understory). Therefore, care shall be taken to ensure that equipment and actions associated with permitted site disruption activities are limited to the area in which they are permitted. The use of snow fences and other barriers to outline development pads during disruption activity is strongly recommended to limit the extent of inadvertent compaction or other disturbance of earth, and collision damage to vegetation intended for protection. Such barriers should be placed no closer to protected trees than a point on the ground directly under their outer canopy edge.

e. Mitigation Areas – All mitigation areas related to the provisions of this Ordinance shall be depicted on the detailed site analysis map with notations provided which describe the mitigation techniques employed.

3. Required Procedure for Submission and Review of Detailed Site Analysis:

a. Required Timing of Submission – The detailed site analysis map shall be submitted to the Zoning Administrator for initial review prior to, or concurrently with, the submission of the Preliminary Plat of Subdivision or the Certified Survey Map; or if the proposed development does not involve a land division, then submittal is required as an attachment to a required site plan. A concept plan of the proposed development may be submitted prior to the submission of the detailed site analysis map, however, in no way does the acceptance and/or general approval of the concept plan indicate the approval of natural resource feature locations. A detailed site analysis map prepared for the subject property that has been previously approved by City Staff may be submitted for any subsequent development activity on the site. However, modifications to such a previously approved map will be required if the analysis is no longer accurate for the subject property.

b. Review by City Staff – City staff shall review the submitted detailed site analysis map for general compliance with the following data sources:

[1] The Official Zoning Map;

[2] Applicable USGS 7.5 minute topographic maps for the City of

Baraboo and its environs;

[3] Air photos of the subject property;

[4] USGS Quads and other sources of topographic information;

[5] Applicable FEMA and related floodplain maps;

[6] Applicable Federal and State Wetland Inventory Maps;

[7] The City of Baraboo Comprehensive Master Plan; and

[8] Site visits. The Zoning Administrator shall provide the petitioner with a written evaluation of the submitted detailed site analysis map which shall indicate the acceptance by City Staff; or the need for further analysis work, discussion with the petitioner and/or Staff-recognized experts, or a joint site visit.

c. Modification of Detailed Site Analysis Map – If necessary, as determined by City Staff, revised detailed site analysis maps shall be prepared and submitted for review by City Staff, until a version is deemed acceptable. Staff review of the detailed site analysis map may be appealed to the Council of Zoning Appeals as a matter of Ordinance interpretation.

d. Acceptance of Detailed Site Analysis Map – Upon notification of acceptance by City Staff (or in case of appeal, by determination of the Council of Zoning Appeals), the petitioner may proceed with the submittal of necessary development documents.

4. Integration of Detailed Site Analysis Information with Required Development and/or Land Division Documents: Information contained on the detailed site analysis map relating to the boundaries of permanently protected green space areas (including natural resource protection areas, other permanently protected green space areas, and required mitigation areas) shall be clearly depicted on any and all site plans required as a precondition for application for any development permit (such as a Building Permit) and on any proposed Plat of Subdivision or Certified Survey Map.

(4) REVIEW OF COMPLETE SITE PLAN APPLICATION BY THE PLAN COMMISSION.

(a) The Plan Commission, in its consideration of the submitted complete application, shall take into account the basic intent of the Zoning Ordinance to ensure attractive, efficient, and appropriate development of land in the community, and to ensure particularly that every reasonable step has been taken to avoid depreciating effects on surrounding property and the natural environment. Beyond protection of the public health, safety and welfare, this Section shall enable the Plan Commission to consider factors related to community aesthetics, urban design, and architectural consistency within the community. The Plan Commission, in reviewing the application may require such additional measures and/or modifications to any or all elements of the site plan as described in the application submittal required per Subsection (3), as it deems necessary to accomplish this objective. If such additional measures and/or modifications are required, the Plan Commission may withhold approval of the Site Plan until all revisions depicting such additional measures and/or modifications are submitted to the satisfaction of the Plan Commission, or may approve the application subject to the provision of a revised application reflecting the direction of the Plan Commission to the satisfaction of the Zoning Administrator. Such amended plans and conditions applicable to the proposed use shall be made a part of the official record, and development activity on the subject property may not proceed until the revised application has been approved by one of the two above procedures as directed by the Plan Commission.

(b) In reviewing said application the Plan Commission shall make findings on each of the following criteria to determine whether the submitted site

plan shall be approved, approved with modification, or denied:

1. All standards of the Zoning Ordinance and other applicable City, State, and Federal regulations are met;

2. The public health and safety is not endangered;

3. Adequate public facilities and utilities are provided;

4. Adequate control of stormwater and erosion are provided and the disruption of existing topography, drainage patterns, and vegetative cover is maintained insofar as is practical;

5. Appropriate traffic control and parking are provided;

6. Appropriate landscaping and open space areas are provided;

7. The appearance of structures maintains a consistency of design, materials, colors, and arrangement with nearby properties of similar use, which comply with the general architectural guide-lines provided in Subsections a. through e., below:

   a. Exterior construction materials shall be of high quality;
   b. Exterior building design or appearance shall not be of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards;
   c. Exterior building design or appearance shall not be so identical with nearby buildings so as to create excessive monotony or drabness. A minimum of five basic home styles shall be provided in each residential subdivision;
   d. Exterior building design or appearance shall not be constructed or faced with an exterior material which is aesthetically incompatible with other nearby buildings or which presents an unattractive appearance to the public and from surrounding properties; and
   e. Exterior building, sign, and lighting design or appearance shall not be sited on the property in a manner that would unnecessarily destroy or substantially damage the natural beauty of the area.

(5) INITIATION OF LAND USE OR DEVELOPMENT ACTIVITY. Except with the written permission of the Zoning Administrator, absolutely no land use or development activity, including site clearing, grubbing, or grading shall occur on the subject property prior to the approval of the required site plan. Any such activity prior to such approval shall be a violation of this Ordinance and shall be subject to all applicable enforcement mechanisms and penalties.

(6) MODIFICATION OF AN APPROVED SITE PLAN. Any and all variation between development and/or land use activity on the subject property and the approved site plan is a violation of this Ordinance. An approved site plan shall be revised and approved via the procedures of Subs. 3) and (4), above, so as to clearly and completely depict any and all proposed modifications to the previously approved site plan, prior to the initiation of said modifications.

(7) SUNSET CLAUSE. All buildings on an approved site plan not fully developed within two years of final Plan Commission or City Council approval shall expire, and all other portions of a project on an approved site plan not fully developed within a period of five years of final Plan Commission or City Council approval shall expire, and no additional site plan development shall be permitted on undeveloped portions of the subject property. The Plan Commission or City Council may extend this period, as requested per the Applicant, through the conditional use procedures.

(8) FEE. See City's Official Fee Schedule.

17.48 <u>SOLAR ACCESS PERMITS</u>.

(1) PURPOSE. This section is adopted under authority contained in s. 66.032, Wisconsin Statutes, for the purpose of protecting the health, safety and general welfare of the community by:

   (a) Promoting the use of solar energy systems.
   (b) Protecting access to sunlight for solar energy systems.
   (c) Assuring that potentially conflicting interests of individual property owners

are accommodated to the greatest extent possible compatible with the overall goal of this section.

(2) DEFINITIONS. In this section the words and terms used shall be defined as follows:

(a) Applicant. An owner applying for a permit under this section.

(b) Application. An application for a permit under this section.

(c) Collector Surface. Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. "Collector surface" does not include frames, support and mounting hardware.

(d) Collector Use Period. The time each day between 8:00 A.M. to 3:00 P.M., standard time.

(e) Impermissible Interference. A blockage of solar energy from a collector surface or a proposed collector surface for which a permit has been granted under this section during a collector use period if such blockage is by any structure or vegetation on the property an owner of which was notified under subsection (3) of this section. "Impermissible ----interference" does not include the following:

1. Blockage by a narrow protrusion, including, but not limited to, a pole or wire which does not substantially interfere with absorption of solar energy by a solar collector.

2. Blockage by any structure constructed, under construction or for which a building permit has been applied for before the date the last notice is mailed or delivered under subsection (3) of this section.

(f) Owner. At least one owner, as defined under §66.021 Wis. Stats., of a property or the personal representative of at least one owner.

(g) Permit. A solar access permit issued under this section.

(h) Solar Collector. A device or structure or part of a device or structure, a substantial purpose of which is to transform solar energy into thermal, mechanical, chemical or electrical energy.

(i) Solar Energy. Direct radiant energy received from the sun.

(3) PERMIT APPLICATION AND NOTICE.

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

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

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

(d) Application Fee. The required permit fee shall be paid to the Building Inspector at the time the application is filed. See City's Official Fee Schedule.

(e) Review of Application. The Building Inspector shall review the application to determine if it is satisfactorily completed. The Building Inspector shall notify the applicant of this determination within ten (10) days after the application has been filed and the application fee received. If the Building Inspector determines that the application is satisfactorily completed, the Building Inspector shall provide notice forms and receipt forms to the applicant for service and signing under subsection (f) below.

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

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

1. The name and address of the applicant and the address of the land upon which the solar collector is or will be located.
2. That an application has been filed by the applicant.
3. That the permit, if granted, may affect the rights of the notified owner to develop his property and to plant vegetation.
4. That any person who received a notice may request a hearing under subsection (4) below within thirty (30) days after receipt of the notice.
5. The procedure for filing a hearing request and telephone number, address and office hours of the Building Inspector.

(4) HEARING. Within thirty (30) days after receipt of the notice under subsection (3)(f) above, any person who has received a notice, or anyone acting on that person's behalf, may file a request for a hearing on the granting of a permit or the Building Inspector may determine that a hearing is necessary even if no such request is filed. If a request is filed or if the Building Inspector determines that a hearing is necessary, the Building Inspector shall conduct a hearing on the application within ninety (90) days after the last notice is delivered. At least thirty (30) days prior to the hearing date, the Building Inspector shall notify the applicant, any person who has requested a hearing under this subsection, all owners notified under subsection (3)(f) above, and any other person filing a request of the time and place of the hearing. The Building Inspector shall publish a Class I notice, under Ch. 985, Wis. Stats., of the hearing. The required hearing fee shall be paid to the Building Inspector at the filing time of the request for hearing.

(5) GRANT OF PERMIT.

(a) Determination. The Building Inspector shall grant a permit if the Inspector determines that:

1. The granting of a permit will not unreasonably interfere with the orderly land use and development plans of the City.

2. No person has demonstrated that he has present plans to building a structure that would create an impermissible interference by showing that he has applied for a building permit prior to receipt of a notice under sub. (3)(f) above, has expended at least $500 on planning or designing such a structure, or by submitting any other credible evidence that he has made substantial progress toward planning or constructing a structure that would create an impermissible interference.

3. The benefits to the applicant and the public will exceed any burdens.

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

(b) Conditions.

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

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

(6) APPEALS. Any person aggrieved by a decision under this section may appeal to the Board of Zoning Appeals as provided by this Chapter.

(7) RECORD OF PERMIT. If the Building Inspector grants a permit:

(a) The Building Inspector shall specify the property restricted by the permit and shall prepare notice of the granting of the permit. The notice shall include the legal description pursuant to §706.05(2)(c), Wis. Stats., for the property upon which the solar collector is or will be located and for any property restricted by the permit, and shall indicate that the property may not be developed and vegetation may not be planted on the property so as to create an impermissible interference with the solar collector which is the subject of the permit unless the permit affecting the property is terminated or unless a waiver agreement affecting the property is recorded under subsection (9) below.

(b) The applicant shall record with the Register of Deeds of Sauk County the notice under subsection (a) above for each property specified and for the property upon which the solar collector is or will be located.

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

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

(9) WAIVER OF RIGHTS. A permit holder, by written agreement, may waive all or part of any right protected by a permit. The permit holder shall record a copy of the agreement with the Register of Deeds. A copy of the agreement shall also be filed with the Building Inspector.

(10) TERMINATION OF PERMITS.

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

1. Permanently removed or is not used for two (2) consecutive years, excluding time spent on repairs or improvements, or
2. Not installed and functioning within two (2) years after the date of issuance of the permit.

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

(c) If the Building Inspector terminates a permit, the Inspector shall record a notice of termination with the Register of Deeds.

(d) The Building Inspector shall modify the map of solar collectors prepared under subsection (7)(c), above to reflect the termination of a permit.

(11) PRESERVATION OF RIGHTS. The transfer of title to any property shall not change the rights and duties provided by a permit granted under this section.

17.49 <u>FEES FOR ZONING-RELATED PETITIONS</u>. At the time a petition for a zoning related matter is filed, the petitioner shall pay the fee required by the City's Official Fee Schedule, Ch. 1, Subch. IV. (2040 12/19/2000)

No petition, application or appeal shall be processed by the City Clerk or other City official, nor shall the same be considered by any Board, Commission or the City Council until the required fee is paid in full. Only the City Council shall be empowered to waive the payment of a required fee. A double fee may be charged by the Zoning Administrator or City Clerk if a structure is erected, moved, placed, altered, improved or used or land is used in violation of the Zoning Code before a required permit is granted. Such double permit fee shall be for the purpose of reimbursing the City for the additional administrative costs incurred in connection with the issuance of the permit and such double fee shall not release or relieve the applicant from full compliance with the Zoning Code, nor from liability for the payment of a forfeiture for violating the Zoning Code as provided in the Violations and Penalties subsection of the Zoning Code.

17.50 <u>COLLECTION AND USE OF PARK FEES</u>.

(1) PARK FEE COLLECTION. No building permit for the new construction of a residential dwelling shall be issued until the following park fees are paid by the applicant: (1699 08/17/93)

(a) $200.00 per single family dwelling
(b) $300.00 per two-family dwelling
(c) $100.00 per each multi-family dwelling unit

(2) USER OF PARK FEES. Park fees shall only be used by the City for the purchase and/or the development of lands to be used for public and recreational purposes with consideration being first given to parks in the area where the fee is collected, and as determined by the City's Parks and Recreation Commission. This sub-section shall not apply to the extent that the Plan Commission requires a subdivider to dedicate land area to the City for park purposes as provided in §18.07 (10)(b) of the Subdivision and Platting Code.

17.51. <u>REQUIREMENTS FOR CERTAIN MULTI-FAMILY RESIDENTIAL REAL ESTATE DEVELOPMENTS.</u> (1870 05/14/96)

(1) PURPOSE. The purpose of this section is to establish minimum requirements for residential multi-family real estate developments containing three or more dwelling units, other than developments regulated under the Manufactured Home Park Code and developments regulated under the Subdivision and Platting Code. This section will typically apply to apartment complexes, townhouses, cluster developments, planned residential developments, and condominium developments. The requirements set forth in this section shall be in addition to all other requirements of the Municipal Code of Baraboo.

(2) DEFINITIONS. In this section:

(a) <u>Condominium Development</u> means a residential real estate development subject to a condominium declaration pursuant to Ch. 703 Wis. Stats.

(b) <u>Cluster Development</u> means a residential real estate development designed to concentrate buildings in specific areas on a site in order to allow

the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

(c) Developer means persons having any ownership interest in lands improved pursuant to the provisions of this section.

(d) Townhouses means a residential building or portion thereof, containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings.

(e) Apartment means a residential building or portion thereof, containing dwelling units used for occupancy by three or more families living independently of each other and containing three or more residential dwelling units.

(f) Planned Residential Development means the development of land for residential purposes that is under unified control and is planned as a development as a whole through a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements. A planned residential development may include a program for the provision, operation, and maintenance of such areas, facilities and improvements as will be for the common use by some or all of the occupants of the planned development, but which will not be provided, operated or maintained at general public expense. A planned residential development may include apartment complexes, townhouses or cluster developments.

(g) Real Estate Residential Project means a residential real estate development project located on lands within the City and containing three or more dwelling units, such as an apartment, condominium development, cluster development, townhouses, or planned residential development. This term shall not include developments regulated under the Manufactured Home Park Code or developments regulated under the Subdivision and Platting Code.

(3) COMPLIANCE. No person shall undertake any Real Estate Residential Project covered by this section unless the developer submits the site and utility plans and specifications to the Plan Commission for approval and the Plan Commission issues a special use permit approving the development. An application for a special use multi-family real estate development permit shall be treated the same as an application for a conditional use permit under the Zoning Code and, except as expressly set forth in this subsection, all of the provisions in the conditional use section shall be applicable to permits issued under this section. Where, in the judgment of the Plan Commission, it would be inappropriate to apply literally the provisions of this section because exceptional or undue hardship would result, the Plan Commission may waive or modify any requirement to the extent deemed just and proper. No variance to the provisions of this section shall be granted unless the Plan Commission finds that all of the following facts and conditions exist and so indicates in the minutes of its proceedings:

(a) Exceptional Circumstances. There are exceptional, extraordinary or unusual circumstances or conditions where a literal enforcement of the requirements of this section would result in unnecessary hardship. Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that this section should be changed.

(b) Preservation of Property Rights. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.

(c) Absence of Detriment. The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this section or this Chapter or the public interest.

(4) PRIVATE ROADS AND WALKWAYS WITHIN THE DEVELOPMENT. All access roads leading from a public street or highway and serving three or more dwelling units shall meet the following guidelines, standards and requirements:

(a) LAY-OUT. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Merging and turn-out lanes and/or traffic dividers shall be required where existing or anticipate heavy flows indicate need. In general, minor roads shall not be connected with public streets outside the development in such a way as to encourage the use of such minor roads by substantial amounts of thru-traffic.

(b) PEDESTRIANS AND CYCLISTS. Access for pedestrians and cyclists

entering or leaving the development shall be by safe and convenient routes. Such ways need not be adjacent to or limited to the vicinity of vehicular access points. Where there are crossings of such ways and vehicular routes at the edges of a development, such crossings shall be safely located, marked and controlled, and where such ways are exposed to substantial vehicular traffic at the edges of a development, safeguards may be required to prevent crossings except at designated points. Bicycle paths, if provided, shall be so related to the pedestrian way system that road crossings are combined.

(5) LAY OUT OF DEVELOPMENT. The site plan for the development shall provide for safe, efficient, convenient and harmonious groupings of structures, uses, recreational areas, facilities, roads, parking and for appropriate relation of space inside and outside buildings to intended uses and structural features. In particular:

(a) ROADS. Roads, drives and parking and service areas shall provide safe and convenient access to each dwelling unit for service and emergency vehicles, but roads shall not be so laid out so as to encourage outside traffic to traverse the development, nor occupy more land than is required to provide access as indicated, nor create unnecessary fragmentation of the development into small blocks. In general, block size shall be the maximum consistent with use, the shape of the site and the convenience and safety of the occupants. If the development has only one point of ingress or egress to the development for outside traffic, then an emergency entrance and exit may also be required.

(b) OFF-STREET ACCESS. Vehicular access to roads from off-street parking areas may be direct from the parking area if the road or portion of the road serves fifty (50) dwelling units or less. Determination of dwelling units served shall be based on normal routes anticipated for traffic. Along roads or portions of roads serving more than fifty (50) dwelling units or constituting arterial routes to or around central facilities, access from parking and service areas shall be so combined, limited, located, designed and controlled so as to channel traffic conveniently, safely and in a manner that minimizes marginal traffic friction and direct vehicular access from individual dwelling units shall generally be prohibited.

All required off-street parking spaces and access drives shall be located entirely within the boundaries of the development. (1984 07/27/99)

(c) WALKWAYS. Walkways shall form a logical, safe and convenient system for pedestrian access to all dwellings, recreational areas, project facilities and principal off street pedestrian destinations. All walk-ways shall be in conformity with applicable state and federal regulations on accessibility. Maximum walking distance in the open between each dwelling unit and related parking spaces, delivery areas and trash and garbage storage areas intended for use by dwelling occupants shall not exceed one hundred (100) feet. Walkways to be used by children as play areas or routes to school, bus stops, recreational areas, or other destinations shall be so located and safeguarded as to minimize contact with normal automotive traffic. If an internal walkway system is provided, away from roads, bicycle paths may be incorporated in the walkway system. Road crossings shall be held to a minimum on such walkways and shall be located and designated to provide safety, and shall be appropriately marked and otherwise be safeguarded. Ways for pedestrians and cyclists, appropriately located, designed and constructed may be combined with other easements and used by emergency, maintenance or service vehicles, but shall not be used by other automotive traffic.

(6) ADDITIONAL MINIMUM REQUIREMENTS FOR DEVELOPMENTS. All developments shall comply with the following additional minimum requirements:

(a) Building Envelopes. All of a development shall be located so as to comply with the intent of this chapter regarding setbacks of structures and buildings from lot lines. As such, individual, principal, and accessory structures and buildings located within a development shall be situated within building envelopes that serve to demonstrate complete compliance with said intent. Said building envelopes shall be depicted on the site plan required for review of the development. The use of this approach to designing developments will also insure the facilitation of subdividing the development in the future, if such action is desired. (1984 07/27/99)

(b) Building Exterior Materials. Building exterior materials shall be of high quality on all sides of each structure. Building exterior design shall be unified in design and material throughout the structure and shall be complimentary to other

structures in the vicinity. (1984 07/27/99)

(c) City Water and Sanitary Sewage Required. No development shall be laid out, constructed or operated without City water service and sanitary sewer service.

(d) Drainage Plan. Conditions of soil, groundwater level drainage and topography shall not create hazard to the property of occupants of the dwelling units or to be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion of the development subject to unpredictable and/ or sudden flooding or erosion shall be used for any purpose which would expose persons or property within or outside the development to hazards or damage. The ground service in all parts of every development shall be graded and equipped to drain all surface water in a safe, sanitary and efficient manner. Curb and gutter may be required in order to provide a suitable drainage plan. In all cases the drainage plan for the development shall be subject to the approval of the Plan Commission. The Development Plan shall include a storm drainage system to accommodate all water flowing through and within the development. Where the development is traversed by a water course, stream, drainage-way, channel, or natural water course, an adequate drainageway or easement shall be required subject to the approval of the City Engineer and/or City consultants, and parallel streets or parkways may also be required in connection therewith. The development shall be designed and constructed to include storm water drainage facilities that may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, drainageways and open channels, as may be required. All such facilities shall be of adequate size and grade to hydraulically accommodate maximum potential volumes of flow of all water flowing through and within the development and the type of facility required, the design criteria and the size and grades shall be deter-mined by the City Engineer and/or City consultants. Storm drainage facilities shall be so designed so as to present no hazard to life or property and the size, type, and installation of all storm water drains and sewers proposed to be constructed shall be in accordance with the plans and standards specifications approved by the City Engineer and/or City consultants. (1962 12/22/98)

(e) Electrical Service. Each dwelling unit shall be provided with a waterproof electrical over-current protection device, disconnect means and branch service of not less than 100 amperes for 220-volt service located adjacent to the water and sewage outlets.

(f) Five or More Dwelling Units. Developments containing five or more dwelling units shall employ varying building setbacks, height, roof, treatments, door and window openings, and other structural and decorative elements to reduce the apparent size and scale of the structure. Such developments shall comply with the following: (a) A minimum of 20% of the combined facades of the structure shall employ actual façade protrusions or recesses. (b) A minimum of 20% of the combined linear roof eave or parapet lines of the structure shall employ differences in height of 8 feet or more. (c) Roofs with particular slopes may be required by the City to compliment existing buildings or otherwise establish a particular aesthetic objective. (1984 07/27/99)

(g) Ground Cover. Exposed ground surfaces in all parts of every development shall be paved or covered with stone screenings or other solid material or protected with a vegetated growth that is capable of preventing soil erosion and eliminating objectionable dust.

(h) Lighting. All developments shall be furnished with lighting so spaced and equipped with luminaries placed at such heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

1. All parts of each development street, a minimum of 0.1 foot candles.

2. Potentially hazardous locations, such as major roads, major development road intersections and steps or step ramps, individually illuminated with a minimum of 0.3 foot candles.

(i) Liquid Waste. All liquid waste originating at dwelling units, service or other buildings within the development shall be discharged into a sewage system extended to and connecting with the public sewerage system. Such system shall comply with all provisions of the State Code and City Ordinances relating to plumbing and sanitation. Each individual dwelling unit shall be provided with a

minimum of a four inch water-tight sewer connection, protected from damage by heating and thawing, with a continuous grade which is not subject to surface drainage, so constructed that it can be closed when not in use, and trapped in such a manner that it can be kept odor free. Adequate provisions shall be made for the disposal of solid and liquid wastes in a manner approved by the City. Sewer mains from the public street that serves three or more dwelling units, shall meet the requirements of the most current edition of the Standard Specifications for Sewer and Water Construction in Wisconsin.

(j) Mechanical Equipment, Refuse containers, and Permitted Outdoor Storage. Mechanical equipment, refuse containers, and any permitted outdoor storage shall be fully concealed from off-site and on-site ground level views with materials identical to those used on the building exterior. (1984 07/27/99)

(k) Off-Street Parking. Off-street parking spaces shall be provided for each dwelling unit and shall be surfaced with a bituminous or concrete or other approved similar material, capable of carrying a wheel load of four thousand (4,000) pounds. See Ch. 17 of this Code for the number of parking spaces required.

(l) Public Entryways. Public entryways shall be prominently indicated from the building's exterior design and shall be emphasized by on-site traffic flow patterns. All sides of the building that directly face or abut a public street shall have public entrances. (1984 07/27/99)

(m) Road Standards. All dwelling units shall abut upon a road or off-road parking area. All roads within the development shall be provided with a smooth surface, paved with bituminous or concrete or other approved similar material, which shall be well drained under normal use and weather conditions for the area. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Grades of streets shall be sufficient to insure adequate surface drainage, but not more than 8 percent (8%), provided a maximum grade of 12 percent (12%) may be used if approved by the City Engineer as safe and designed to avoid traffic hazards. Roads shall be at approximately right angles within one hundred (100) feet of an intersection. Intersections of more than two roads at one point shall not be allowed. A distance of at least one hundred (150) feet shall be maintained from centerlines of offset intersecting streets. All roads shall be a minimum paved width of 24 feet, pro-vided that such roads are designated, signed, and regulated as fire lanes. The Plan Commission shall be authorized to require additional paved road width up to 36 feet wide on any roads in a development after considering the following standards: (2060 06/26/01)

1. Traffic volumes, routes, access and congestion.
2. Collector roads versus local roads.
3. Number of dwelling units and/or business units served by a road.
4. Emergency and Safety considerations.
5. Any of the standards set forth in §17.37(2)(b) of the Zoning Code.

(n) Sidewalks. All development shall provide pedestrian walks paved with bituminous or concrete or other approved similar material between individual dwelling units, roads, recreational areas and community facilities. Grade and surfacing of walks shall be approved by the City Engineer as safe and comparable to sidewalks in other areas of the City subject to similar usage. All sidewalks shall meet all applicable state and federal regulations regarding accessibility. All sidewalks shall have a minimum width of at least four feet and there shall be a sidewalk on at least one side of all roads with a four foot tree bank between the paved street and sidewalk.

(o) Underground Utilities. All television cable systems, electrical and telephone distribution lines and oil or gas piping serving the development or the dwelling units therein, shall be installed underground. Distribution systems shall be new and all parts and installation shall comply with all applicable federal, state and local codes.

(p) Water Service. Individual valved water service connections shall be provided for direct use of each dwelling unit, and shall be constructed and installed so that it will not be damaged by frost. Water systems shall be adequate to provide pure, potable water supply of six (6) gallons per minute, at a minimum pressure of 20 psi. Water mains from the public street which serves three or more dwelling units shall be provided with an approved fire hydrant or flushing device at the end. All fire hydrants shall meet the requirements of the most current edition of the Standard Specifications for Sewer and Water Construction in Wisconsin, and Subs. (17)

of this Section, and §13.17(3) of the Municipal Code.

(7) AUTHORITY TO INSPECT. The City Health Officer, Building Inspector, Public Works Director, Police Chief, Fire Chief, or other lawful agents or employees of the City are authorized and directed to inspect developments at any reasonable time to determine the health, safety, and welfare of the occupants of the development and inhabitants of the City as affected thereby, and the compliance of the operation, structure, and activities therein with this section and all other applicable laws and regulations of the State and Ordinances of the City.

(8) PLUMBING, ELECTRICAL, BUILDING CODES APPLICABLE. All plumbing, electrical, building, and other work in, on or at any development regulated under this Section shall be in accordance with the Ordinances of the City and the requirements of the State Plumbing, Electrical and Building Codes and the regulations of the State Board of Health.

(9) NUMBERING OF DWELLING UNITS. All dwelling units within a development shall be numbered in the same manner as set forth in Chapter 8 of this Code utilizing a numbering plan approved by the Fire Chief and Police Chief.

(10) FIRE PROTECTION. The development shall be maintained free of litter, rubbish and other flammable materials. Fire lanes and fire hydrants shall be constructed, installed and maintained as required by this chapter.

(11) DISPOSAL OF SOLID WASTE. Every development shall place and maintain fly-tight, watertight, rodent-proof refuse dumpsters of sufficient size and numbers and conveniently located and easily accessible to each dwelling unit. The development shall provide for the sanitary and safe pick up, removal and disposal of all refuse and garbage in a sanitary manner at least weekly. Each garbage pick-up site shall be attractively main-tained and shall be surrounded with fencing of such material which will effectively screen the site and prevent paper and debris from being blown or spread about, and will be reasonably inaccessible to animals. Removal and disposal of garbage and refuse shall be in accordance with the laws of the State of Wisconsin and the ordinances and regulations of the City, including regulations promulgated by the Health Officer, Fire Chief, and Public Works Superintendent.

(12) RECYCLING. Each development shall provide and maintain recycling pick up sites conveniently located, and easily accessible to each dwelling unit within the development. The development shall provide and maintain receptacles of sufficient size and number to allow the collection and separation of recyclables, and to provide for sanitary and safe pick up, removal and disposal of all recyclables at least weekly. Each recycling pick up site shall be attractively maintained and shall be surrounded with fencing of such material which will effectively screen the site and prevent paper and debris from being blown or spread about, and will be reasonably inaccessible to animals. The collection, removal and disposal of recyclables from each development shall be in accordance with the laws and regulations of the State of Wisconsin and the Ordinances of the City, including regulations promulgated by the Public Works Superintendent.

(13) SPECIAL CONDITIONS ESTABLISHED BY PLAN COMMISSION. Any specific conditions established by the Plan Commission pursuant to the granting of a conditional use permit for a development shall be deemed a specific minimum requirement for the operation of the development to which such condition applies.

(14) ZONING DISTRICT REQUIREMENTS. Each development shall comply with all of the requirements applicable to the zoning district in which it is located.

(15) SETBACK. Developments shall meet the following setback requirements.

(a) One or two family dwelling units within a development:

1. Set backs from roads and parking areas shall be 25 feet.
2. Rear yard distance between adjoining dwelling units shall be 50 feet.
3. Side yard distance between adjoining dwelling units shall be 16 feet.
4. Accessory buildings shall maintain a distance of at least 6 feet between accessory buildings on the side, and 20 feet on the rear.

(b) Three or more family dwelling units within a development:

1. Set backs from roads and parking areas shall be 25 feet.
2. Rear yard distance between adjoining dwelling units shall be 50 feet.
3. Side yard distance between adjoining dwelling units shall be 20 feet.
4. Accessory buildings shall maintain a distance of at least 6 feet between accessory buildings on the side, and 20 feet on the rear.

(c) Where a 1 or 2 family dwelling unit adjoins a 3 or more family dwelling unit complex, the requirements under subsection (b) above shall apply.

(16) DEDICATION AND RESERVATION OF LANDS; PAYMENT OF PARK FEE IN LIEU OF DEDICATION. The dedication and reservation of land for parks, recreation areas, and other public purposes, and the payment of the park fee in lieu of dedication required and regulated by Subch. VI, §17.83 of the Zoning Code, shall apply to residential developments subject to this section. (2144 03/09/04)

(17) DEVELOPER'S AGREEMENT. Before final approval of any development and before granting a special use multi-family real estate development permit under this section, the Developer shall enter into an agreement with the City to install the required improvements and shall file with the Developer's Agreement an Irrevocable Letter of Credit or other appropriate sureties meeting the approval of the City Attorney equal to the estimated cost of the improvements. Improvement cost estimates shall be made by the Developer, reviewed by the City Engineer and approved by the Council. The improvements may be installed after approval of the development and issuance of the development and issuance of the permit by the Developer or his/her sub-contractors, but not later than 12 months from the date of the issuance of the permit, or as provided in the Developer's Agreement. The Developer's Agreement shall specify a completion date for all improvements. In addition:

(a) Plans and specifications for all improvements shall be reviewed and approved by the City Engineer, in writing, prior to the commencement of construction. The Developer may submit an interim plan with the improvement plan; however, review an approval of a final Development Plan shall not be initiated until the improvement plans have been reviewed and approved and until the Developer's Agreement has been fully executed.

(b) Contract and contract specifications for the construction of street and utility improvements on dedicated street rights-of-way, as well as the contractors and sub-contractors providing such work shall be subject to the prior written approval of the City Engineer in accordance with City standards and specifications.

(c) Governmental units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.

(d) Before final approval of any development covered by this section, the developer shall install survey monuments placed in accordance with the requirements of Ch. 236, Wis. Stats., and/or as may be required by the City Engineer.

(e) Prior to the final approval of the development, the Developer shall furnish, when required by the City, a consent and waiver of the statutory provisions for special assessments for the installation of sanitary sewer, storm sewer, sewer laterals, water main, water laterals, curb and gutter, sidewalks, street surfacing, underground street services and all other utilities, which shall be in a form approved by the City Engineer, pursuant to §66.0703, Wis. Stats., and shall be recorded in the office of the Register of Deeds in the same manner as a Lis Pendens. Such consent and waiver shall provide that the installation of such improvements shall be made at the discretion of the Council.

(f) If the City retains the services of professional consultants, including, but not limited to, planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and/or other experts to assist the City in its review of a proposed land use development application coming before the Plan Commission and/or the Common Council, the applicant/developer may be required to reimburse the City for the costs incurred by the City to retain the services of such professional consultants and such reimbursement shall be in addition to the filing or permit fees, publication expenses, recording fees, and other fees paid by the applicant/developer. The applicant/developer shall reimburse the City for said costs promptly upon being invoiced for the same and the City may withhold issuance of a permit or delay final approval of a permit until the said costs and fees are reimbursed to the City in full. If the costs and fees are not reimbursed to the City within thirty (30) days of the date of billing, an additional administrative collection charge of 10% of the charge shall be added to the amount due, plus interest shall accrue thereon at the rate of 1% per month until paid and such charge shall be extended upon the current or next tax roll as a charge against the subject property for current services as provided in §66.0703, Wis. Stats. The City may require the applicant/developer to enter into an agreement providing for the reimbursement to the City for said costs and the said agreement may require the applicant/developer to file with the City an Irrevocable Letter of Credit or other appropriate sureties meeting the approval

of the City Attorney equal to the estimated cost of said services. (1961 12/22/98)

17.52 FIRE LANES AND FIRE HYDRANTS. (1870 05/14/96, 2002 02/11/2000) Fire lanes and fire hydrants shall be required in accordance with Ch. 5 of this code on public or private property used for assembly, commercial, educational, industrial, institutional, or multi-family dwelling purposes, and on private property containing residential developments consisting of three or more dwelling units to which access is provided from a public street by a private road or driveway or any dwelling unit if set back more than fifty feet from the paved portion of the public street. Fire lanes may also be designated on those private roads where it is found by the Fire Chief that such access is necessary for fire fighting equipment and apparatus. No building permit shall be issued without compliance with the terms of Ch. 5 if any part of the area being developed contains any of the uses or conditions described in this section.

17.53 HISTORIC PRESERVATION.

(1) PURPOSE AND INTENT. It is hereby declared a matter of public policy that the protection, enhance-ment, perpetuation and use of any place, structure or object of special character or special historic, archaeological, or aesthetic interest or other significant value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. This section is adopted pursuant to §62.23(7)(e)(m) of the State Statutes and the purpose of this section is to:

(a) Affect and accomplish the protection, enhancement, and perpetuation of such places, structures or objects which represent or reflect elements of the City's cultural, archaeological, social, economic, politic and architectural history.

(b) Safeguard the City's historic, archaeological and cultural heritage as embodied and reflected in such historic places, structures or objects.

(c) Foster civic pride in the notable accomplishments of the past.

(d) Stabilize and improve property values.

(e) Protect and enhance the City's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

(f) Improve and enhance the visual and aesthetic character of the City.

(g) Educate the public regarding the need and desirability of the City's historic preservation program and its enhancement of the quality of life.

(2) DEFINITIONS. In this section:

(a) Historic place, structure or object means any site, parcel of land, building, improvement, work of art or other thing which has a special character or special historic interest, or special archaeological interest, or special aesthetic interest or other significant value as part of the development, heritage, archaeological or cultural characteristics of the City of Baraboo, Sauk County, State of Wisconsin, or United States and which has been designated as a historic place, structure or object by the Plan Commission pursuant to the provisions of this section.

(b) Certificate of Appropriateness means the Certificate issued by the Commission approving alteration, rehabilitation, construction, reconstruction or demolition of a historic place, structure or object.

(c) Improvement means any building, structure, place, work of art or other thing constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

(3) HISTORIC PRESERVATION COMMISSION. The City of Baraboo Plan Commission is hereby designated as the Historic Preservation Commission for the City.

(4) DESIGNATION OF HISTORIC PLACES, STRUCTURES OR OBJECTS. The Plan Commission shall have the power to designate historic places, structures or objects only as provided in this section. A designated historic place, structure or object shall be subject to all the provisions of this section.

(a) For purposes of this section, a historic place, structure or object designation may be established for any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archaeological or cultural significance to the City of Baraboo which the Plan Commission determines to be of significant historical, cultural, archaeological or aesthetic value to the City, Sauk County, State of Wisconsin and United States of America and which meets one or more of the following criteria:

1. It is listed on the National Register of Historic Places; or

2. It is listed on the State Register of Historic Places; or
3. All the owners of the proposed historic place, structure or object voluntarily apply for such designation and the proposed historic place, structure or object satisfies one or more of the following criteria:

a. Exemplifies or reflects the broad, cultural, political, economic or social history of the United States of America, State of Wisconsin, Sauk County or City of Baraboo; or,

b. Is identified with historic personages or with important events in national, state or local history; or

c. Embodies the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or

d. Is representative of the notable work of a master builder, designer or architect who influenced his/her age; or

e. Has yielded, or may be likely to yield, information important to prehistory or history.

(b) The Plan Commission shall adopt specific operating guidelines for historic places, structures or object designation providing such are in conformance with the provisions of this section.

(5) REGULATION OF CONSTRUCTION, RECONSTRUCTION, ALTERATION AND DEMOLITION OF DESIGNATED HISTORIC PLACES, STRUCTURES OR OBJECTS.

(a) No owner or person in charge of a designated historic place, structure or object shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Plan Commission. Unless a Certificate of Appropriateness has been granted by the Plan Commission, the Building Inspector shall not issue a permit for any such work.

(b) Upon filing of an application for Certificate of Appropriateness with the Plan Commission, the Plan Commission shall approve the application unless:

1. In the case of a designated historic place, structure or object, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done.

2. In the case of a new improvement upon a historic place, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such historic place;

3. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City of Baraboo, Sauk County, or the State of Wisconsin;

4. The building or structure is of such old and unusual or uncommon design, texture, and/or material that it could not be reproduced without great difficulty and/or expense.

5. In the case of a request for a demolition permit, the denial of the demolition permit would result in the loss of all reasonable and beneficial use of or return from the property; or

6. In the case of a request for the demolition of a deteriorated place, structure or object, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.

(c) If the Plan Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the

character and features or the historic place, structure or object, it shall issue the Certificate of Appropriateness. The Plan Commission shall make this decision within forty-five (45) days of the filing of the application.

(d) The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other City permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.

(e) Compliance with Certificates of Appropriateness shall be started within twelve (12) months after the issuance of a Certificate, and the work shall conform to the provisions of a Certificate. Failure to comply with a Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness shall be a violation of this section. In addition to other penalties and remedies, the Building Inspector shall be empowered to issue a stop work order and all work shall cease on the designated property.

(f) Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involved to repair existing features of a historic place, structure of object or the replacement of elements of a historic place, structure or object with pieces identical in appearance and provided that the work does not change the exterior appearance of the historic place, structure or object and does not require the issuance of a building permit.

(g) If the Plan Commission fails to issue a Certificate of Appropriateness due to the failure of the application to conform to the guidelines set forth in this section, the applicant may appeal such decision to the Zoning Board of Appeals within thirty (30) days. In addition, if the Plan Commission fails to issue a Certificate of Appropriateness, the Plan Commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain the issuance of a Certificate of Appropriateness within the guidelines of this Section.

(h) At such time as a historic place, structure or object has been properly designated, the Plan Commission may, upon approval by the property owner, cause to be prepared and erected on such property at City expense, a suitable plaque declaring that such property is a historic place, structure or district and containing such other information deemed appropriate by the Plan Commission. Such plaque shall be so placed as to easily visible to passing pedestrians.

(6) PROCEDURES.

(a) The Plan Commission may, after notice and public hearing, designate historic places, structure or objects, recommend such designations, or rescind such designation or recommendation, after application of the criteria in Section 4 above. At least ten (10) days prior to such hearing, the Plan Commission shall notify the owners of record as listed in the office of the City Assessor who are owners of the property in whole or in part constituting the proposed designated historic place, structure or object. The owners shall have the right to confer with the Plan Commission prior to final action by the Plan Commission on the design-nation. Notice of such hearing shall be published as a Class 1 Notice under the Wisconsin Statutes. The Plan Commission shall also notify the Department of Public Works, the Baraboo Community Development Authority, the Baraboo Park and Recreation Department, the Fire Chief, the Police Chief, and the Building Inspector and Zoning Administrator. Each such department may respond to the Plan Commission with its comment on a proposed designation or on a proposed rescission of a designation.

(b) The Plan Commission shall conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Plan Commission may conduct an independent investigation into the proposed design-nation or rescission. Within thirty (30) days after the close of the public hearing, the Plan Commission may designate the property as either an historic place, structure or site or rescind such a designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the City Clerk, Building Inspector and City Assessor. The Plan Commission shall cause the designation or rescission to be recorded at City expense in the office of the Sauk County Register of Deeds.

(7) APPOINTMENT OF AD HOC ADVISORY COMMITTEE. The Plan Commission shall be empowered to appoint a five member Ad Hoc Committee to give advice and to make recommendations to the Plan Commission,

upon request, on any matters covered by this section. The members of committee shall be appointed by the Mayor, subject to confirmation by the Plan Commission. Members shall be residents of Sauk County, and shall serve staggered three (3) year terms. Each member shall have, to the highest extent practicable, a known interest in historic preservation.

(8) CONFORMANCE WITH REGULATIONS. Every person in charge of a historic place, structure or object shall maintain same or cause or permit it to be maintained in a condition consistent with the pro-visions of this section. The Building Inspector is hereby authorized and directed to enforce the provisions of this section.

(9) REGULATIONS. The Plan Commission may from time to time promulgate, amend and rescind such regulations as it deems necessary to effectuate the purposes of this section.

(10) EMERGENCY CONDITIONS. In any case where the Building Inspector determines that there are emergency conditions dangerous to life, health or property affecting a historic place, structure or object, the Building Inspector may order the remedying of these conditions without the approval of the Plan Commission. The Building Inspector shall promptly notify the Plan Commission of the action being taken. When the emergency conditions do not require demolition, the Building Inspector shall make every effort to carry out the intent of this section and to use the design guidelines of the Plan Commission when remedying the emergency conditions.

(11) VIOLATIONS AND PENALTY. Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this section shall be subject to a penalty as provided in §17.54 of this Code. In any such action, the fact that a building permit may have been issued shall not constitute a defense. Compliance with the provisions of this section may also be enforced by an action to enjoin any construction, reconstruction, alteration or demolition work on a historic place, structure or object undertaken in violation of the provisions of this section and any such action to abate or enjoin shall be in addition to the penalty as provided in §17.54 of this Code.

17.54 <u>GENERAL ADMINISTRATION AND ENFORCEMENT</u>.

(1) GENERAL. The Zoning Code contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the provisions of the Zoning Code with the aid of the City Police Department, the City Engineer and the City Attorney. The Zoning Administrator and City Police officers shall be authorized and empowered to issue uniform citations or complaints to persons violating the Zoning Code. Certain matters, such as the granting of conditional uses, special zoning exceptions, multi-family development uses, changes in zoning districts and The Zoning District Map and amendments to the text of The Zoning Code require review and recommendation, if any, and/or decisions by the Plan Commission and, in certain matters, ultimate action by the City Council. The Zoning Board of Appeals is provided to assure proper administration of The Zoning Code and the Building, Plumbing, Electrical and Fire Codes and to avoid arbitrariness.

(2) DUTIES OF ZONING ADMINISTRATOR. The City Council shall designate the Zoning Administrator as the Administrative Enforcement Officer for the provisions of the Zoning Code. It shall be the duty of the Zoning Administrator to interpret and administer the Zoning Code and to issue, after on-site inspection, all permits required by the Zoning Code, except variances, conditional use permits, multi- family development permits under §17.51 and special zoning exceptions. The Zoning Administrator shall further:

(a) Maintain records of the issuance of all permits under the Zoning Code including conditional use permits, variances, special zoning exceptions, multi-family development permits and all other permits required by the Zoning Code. The Zoning Administrator shall further assure that all such permits are recorded in the office of the Sauk County Register of Deeds.

(b) Maintain records of all inspections made, work approved and other official actions.

(c) Record the lowest floor elevations of all structures erected, moved, altered, or improved in the floodland districts.

(d) Establish that all necessary permits that are required for floodland uses by state and federal agencies have been secured.

(e) Inspect all structures, lands, and waters as often as necessary to assure compliance with this Zoning Code.

(f) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this Zoning Code to the owner, resident, agent or occupant of the premises and report uncorrected violations to the City Attorney in a manner specified by said Attorney.

(g) Prohibit the use or erection of any structure, land or water until he/she has inspected and approved such use or erection.

(h) Request assistance and cooperation from the City Police Department, City Engineer, City Administrator, City Building Inspector, and City Attorney as deemed necessary.

(i) Prepare and maintain a current listing of all legal and illegal non-conforming uses, non-conforming structures and non-conforming lots in the City as required by this subchapter.

(j) Thoroughly investigate and make reports and recommendations to the Plan Commission, Zoning Board of Appeals, and City Council regarding all requests for annexations, zoning changes, conditional use permits, variances, special zoning exceptions, multi-family development permits, and any other zoning related matter under consideration by the Plan Commission, Zoning Board of Appeals, and/or City Council.

(3) ROLE OF SPECIFIC GOVERNING BODIES AND ZONING ADMINISTRATION.

(a) Plan Commission. The Plan Commission, together with its statutory duties, shall make reports and recommendations relating to the planning and development of the City to the City Council, other City officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote City planning. Under the Zoning Code, its functions are primarily to make recommendations to the City Council, except for issuance of conditional use permits, multi-family development permits, and lot size variances, pursuant to the guidelines set forth in this Chapter as to various matters and, always, being mindful of the intent and purposes of this Chapter. Recommendations shall be in writing and a recording thereof in the Plan Com-mission's minutes shall constitute the required written recommendation. The Plan Commission may decline to make a recommendation on any matter in its report to the City Council. The Plan Commission, in making its report and recommendation, or in deciding the issuance of a permit, may, in its discretion, conduct a public hearing on any pending matter the Plan Commission deems appropriate and the Plan Commission may further direct the issuance of notices of pending matters to the extent it deems appropriate. Unless public notice is mandated by the State Statutes, the failure of any person to receive notice of a public hearing held by the Plan Commission or of the Plan Commission's consideration of a pending matter shall not, however, invalidate any action by the Plan Commission on such matter.

(b) City Council. The City Council has ultimate authority to grant special zoning exceptions, make changes and amendments in zoning districts, the Zoning District Map, and to amend the text and regulations of The Zoning Code. The granting or denial of a conditional use permit by the Plan Commission may also be appealed to the City Council for ultimate decision. To the extent required by the Wisconsin Statutes, the City Council shall first submit pending matters covered by this chapter to the Plan Commission for review, recommendation, if any, and report. The City Council may delegate to the Plan Commission the responsibility to hold some or all public hearings required by The Zoning Code.

(c) Zoning Board of Appeals. A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers boards or com-missions in the enforcement of the Zoning Code and the Building, Plumbing, Electrical or Fire Codes to the extent authorized by this chapter or the State Statutes. See Zoning Board of Appeals section of this Chapter for further details.

(4) VIOLATIONS AND PENALTIES.

(a) Violations. It shall be unlawful to use or improve any structure or land or to use water or air in violation of any of the provisions of the Zoning Code. In case of any violation, the City Council, the Zoning Administrator, the Plan Commission or any property owner who would be specifically damaged by such violation may cause appropriate action or proceedings to be instituted to enjoin a violation of the Zoning Code or cause a structure or building to be vacated or removed.

(b) Remedial Action. In addition to a violation of Sub. (a), whenever an order of the Zoning Administrator has not been fully performed after written notice thereof has been issued to the owner, owner's agent, and/or occupant of the parcel(s) subject to the order, the City Council, the Zoning Administrator, or the City Attorney may institute appropriate action or proceedings to recover a forfeiture and/or proceedings to prevent such unlawful location, construction, reconstruction, change, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or parcel, or to prevent any illegal act, conduct, business, or use in or upon such parcel, and said proceedings may be consolidated in one action or commenced as separate actions concurrently, or at different times. In all cases, the City's remedies shall be cumulative. The written notice of a violation shall state the nature of the violation, the date of such violation, and the corrective measures to be taken, together with the time in which such correction shall be made. The time limit set for correcting violations shall take into consideration a reasonable period of time to correct the violation or deficiency and/or whether prior notice has been issued or given to the violator. The time limit shall be no greater than thirty (30) days nor less than twenty-four (24) hours. Notice of a violation shall be deemed made upon mailing such notice by certified mail, return receipt requested, or

by personal delivery, or by posting the notice on the lot or parcel and mailing the notice to the violator by first class mail, postage pre-paid. When notice is mailed, it shall be sent to the owner or owner's agent of the parcel at the address as shown on the City's current tax assessment roll for the parcel subject to the notice and/or to the occupant of the parcel at the address for the parcel where the violation occurred or exists. (2001 01/11/2000, 2138 01/27/04)

(c) Public Nuisance. Any building or structure erected, moved, improved, used, altered or placed on any land in violation of the Zoning Code or any use of land carried on in violation of the Zoning Code is hereby declared to be a public nuisance under Ch. 10 of The City Codes and the City may, in addition to seeking a forfeiture and/or remedial action as provided in this subsection, commence a Court action for the abatement of the public nuisance as provided in §10.07 of The City Codes. If the City proceeds with the commencement of an abatement action under §10.07, the notice provisions of that section shall apply to the abatement proceeding.

(d) Penalties. Any person who violates, disobeys, neglects, omits or refuses to comply with, or resists the enforcement of any of the provisions of Ch. 17, including each Subchapter thereof, shall be subject to a penalty as provided in §25.04 of this Code. In addition, any person who fails to com-ply with any order of the Zoning Administrator issued under subs. (b) above shall be subject to a penalty as provided in §25.04 of this Code. Each violation and each day a violation continues or occurs shall constitute a separate offense. (2001 01/11/2000)

(5) SEVERABILITY OF CODE PROVISIONS. If any section, subsection, sentence, clause or phrase of this Zoning 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 and to this extent, the provisions of the Zoning Code shall be severable.

17.55 COMPREHENSIVE PLAN (2199 07/12/05, 2575 07/13/2021)

(1) The *City of Baraboo Comprehensive Plan*, dated July, 2005, which is on file in the office of the City Clerk is adopted as the Comprehensive Plan of the City of Baraboo pursuant to Wisconsin Statutes §66.1001, and the proposed Amendment to the Planned Use Map therein, dated June 22, 2021 is incorporated herein by reference.

(2) The City Council shall review the *Comprehensive Plan* annually in July of each year, making such amendments as may be needed based upon a change in circumstances. The Council may delegate review of the *Comprehensive Plan* to the City of Baraboo Plan Commission.

17.56 to 17.65 RESERVED.

APPENDIX "A"

Examples of terms used in Section 17.15 of the Zoning Code regulating existing lawful non-conforming uses

A. A lawful nonconforming use of land without structures. An example of this is the pasturing of cattle (the non-conforming use) on lands zoned residential, or the growing of farm crops on lands zoned residential.

B. A lawful nonconforming use in a conforming structure. An example of this is the operation of an auto repair garage in a building located in a downtown business district where such a use is not permitted but where the building conforms to all the site requirements, such as set back, side yard, etc. of the district.

C. Lawful nonconforming use in a nonconforming structure. This is where the structure is nonconforming as to site restrictions, such as setback, side yard and the use of that structure is also nonconforming. For example, the existence of a motel in a residential district where the motel buildings do not meet setback, side yard or density requirements.

D. Lawful nonconforming use on a conforming lot. This is where a lot meets all of the requirements in the zoning district where it is located (i.e. size, dimension), but where the lot contains a use which is not permitted in the district.

E. Lawful nonconforming use on a nonconforming lot. An example of this would be an undersized lot or a lot that does not meet frontage requirements, where the lot contains a nonconforming use, such as a substandard residential lot that has a commercial use on it.

F. The lawful nonconforming use of land with conforming structures. An example of this would be where land area in a residentially zoned district is used or a farming operation but the buildings conform to the requirements for the district.

G. Lawful nonconforming use of land with nonconforming structures. This is where the structures would be nonconforming as to side yard, setback, minimum square footage or maximum square footage etc., for the district and the use of the land is also nonconforming for the district. An example of this would be a farming operation in a residential district where the buildings do not meet setback, side yard, etc.

SUBCHAPTER II: FLOODPLAIN ZONING ORDINANCE (09/08/15, 2431)

17.66 FLOODPAIN ZONING ORDINANCE

1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

1.1 STATUTORY AUTHORIZATION

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

1.2 FINDING OF FACT

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

1.3 STATEMENT OF PURPOSE

This ordinance 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 floodplain;

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

(7) Discourage the victimization of unwary land and homebuyers;

(8) Prevent increases in flood heights that could increase flood damage and result in conflicts 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.

1.4 TITLE

This ordinance shall be known as the Floodplain Zoning Ordinance for the City of Baraboo, Wisconsin.

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(2) OFFICIAL MAPS & REVISIONS

The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see s. 8.0 *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the City Engineer, City of Baraboo, Wisconsin. If more than one map or revision is referenced, the most restrictive information shall apply.

(a) OFFICIAL MAPS : Based on the FIS: ***(select one or more of the following map citations that apply to your community; contact your DNR office if you have questions, or go to*** http://store.msc.fema.gov ***to access the FEMA Map Store)***

1. **Flood Insurance Rate Map (FIRM), panel numbers 55111C0382F, 55111C0383F, 55111C0384F, 55111C0402F, 55111C0403F, 55111C0404F, dated November 20, 2013; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated October 02, 2015, numbered 55111CV001C and 55111CV002C;**
   Approved by: The DNR and FEMA

(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

The regional floodplain areas are divided into three districts as follows:

(a) 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 and are contained within AE Zones as shown on the FIRM.

(b) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.

(c) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0 *Amendments*. 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 and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) 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 s. 8.0 *Amendments*.

(a) 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.

(b) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(5) REMOVAL OF LANDS FROM FLOODPLAIN

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0 *Amendments*.

(6) COMPLIANCE

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

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

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

(8) ABROGATION AND GREATER RESTRICTIONS

(a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692 or 59.694 for counties; s. 62.23 for cities; s. 61.35 for villages; or s. 87.30, Stats., 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 ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(9) INTERPRETATION

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by

the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not 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 ordinance.

(11) SEVERABILITY

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

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

The Sauk County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality'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 municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. 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 ordinance and all other requirements in s. 7.1(2). 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.

2.1 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 s. 8.0 *Amendments* are met.

2.2 WATERCOURSE ALTERATIONS

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 s. 2.1 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 8.0 *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.

2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT

Development which requires a permit from the Department, under chs. 30 and 31, Stats., 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 ordinance are made according to s. 8.0 *Amendments*.

2.4 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 Health Services;

(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 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 sub. (4) - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations;

(6) Only camping units that are fully licensed, if required, and ready for highway use are allowed;

(7) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;

(8) All camping units 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 camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;

(9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

(10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 3.0, 4.0 or 5.0 for the floodplain district in which the structure is located;

(11) 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; and

(12) 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.

3.0 FLOODWAY DISTRICT (FW)

3.1 APPLICABILITY

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.4.

3.2 PERMITTED USES

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
- they meet the standards in s. 3.3 and 3.4; and
- all permits or certificates have been issued according to s. 7.1.

(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 s. 3.3(4).

(4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.

(5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).

(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 chs. 30 and 31, Stats.

(7) Public utilities, streets and bridges that comply with s. 3.3(3).

3.3 STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY

(1) GENERAL

(a) Any development in the floodway shall comply with s. 2.0 and have a low flood damage potential.

(b) Applicants shall provide the following data to determine the effects of the proposal according to s. 2.1 and 7.1(2)(c):

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

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

(c) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (b) above.

(2) STRUCTURES

Structures accessory to permanent open space uses 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 have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) Must be anchored to resist flotation, collapse, and lateral movement;

(d) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and

(e) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

Public utilities, streets and bridges may be allowed by permit, if:

(a) Adequate floodproofing measures are provided to the flood protection elevation; and

(b) Construction meets the development standards of s. 2.1.

(4) FILLS OR DEPOSITION OF MATERIALS

Fills or deposition of materials may be allowed by permit, if:

(a) The requirements of s. 2.1 are met;

(b) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 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.

3.4 PROHIBITED USES

All uses not listed as permitted uses in s. 3.2 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 ch. SPS 383, Wis. Adm. Code;

(5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(6) Any solid or hazardous waste disposal sites;

(7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; 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.

4.0 FLOODFRINGE DISTRICT (FF)

4.1 APPLICABILITY

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.4.

4.2 PERMITTED USES

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 4.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 7.1 have been issued.

4.3 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE

S. 2.1 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of s. 6.0 *Nonconforming Uses*;

(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 s. 6.0 *Nonconforming Uses*;

(a) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s 4.3 (1)(b) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.

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

(c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).

(d) In developments where existing street or sewer line elevations make compliance with subd. (c) 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.

(2) ACCESSORY STRUCTURES OR USES

Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(3) COMMERCIAL USES

Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(5), 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

Any manufacturing or industrial structure which is erected, 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 s 7.5. Subject to the requirements of s. 4.3(5), 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 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 s. 7.5. 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 of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 7.5.

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

(7) SEWAGE SYSTEMS

All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 7.5(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(8) WELLS

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 7.5(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(10) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this ordinance.

(11) 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 s. 4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 4.3 (11)(b) and (c). A mobile recreational vehicle is ready for highway use if it is 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.

5.0 GENERAL FLOODPLAIN DISTRICT (GFP)

5.1 APPLICABILITY

The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

5.2 PERMITTED USES

Pursuant to s. 5.4, it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (s. 3.2) and Floodfringe (s. 4.2) Districts are allowed within the General Floodplain District, according to the standards of s. 5.3, provided that all permits or certificates required under s. 7.1 have been issued.

5.3 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

S. 3.0 applies to floodway areas, s. 4.0 applies to floodfringe areas. The rest of this ordinance applies to either district.

(1) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:

(a) at or above the flood protection elevation; or

(b) two (2) feet above the highest adjacent grade around the structure; or

(c) the depth as shown on the FIRM

(2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

5.4 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

(1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing 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 s. 7.1(2)(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.

6.0 NONCONFORMING USES

6.1 GENERAL

(1) APPLICABILITY

If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they 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.

(2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

(a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not 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.

(b) 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 ordinance;

(c) 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 those modifications represent;

(d) 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% 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 ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). 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% provisions of this paragraph;

(e) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% 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 ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1)

(f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% 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 ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1).

(g) Except as provided in subd. (h), 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 the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

(h) 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 minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

1. Residential Structures
   a. 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 s. 7.5(2).

   b. 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.

   c. 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.

   d. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.

   e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.3(1).

   f. in AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. Nonresidential Structures
   a. Shall meet the requirements of s. 6.1(2)(h)1a-f.

   b. 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 s. 7.5(1) or (2).

   c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.3(1).

(3) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 3.3(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 6.1(2)(h)1if 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.

6.2 <u>FLOODWAY DISTRICT</u>

(1) 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:

(a) Has been granted a permit or variance which meets all ordinance requirements;

(b) Meets the requirements of s. 6.1;

(c) Shall not increase the obstruction to flood flows or regional flood height;

(d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation; and

(e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

1. The enclosed area shall be designed by a registered architect or engineer 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;

2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;

3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

4. The use must be limited to parking, building access or limited storage.

(2) 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, s. 7.5(3) and ch. SPS 383, Wis. Adm. Code.

(3) 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 all municipal ordinances, s. 7.5(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

6.3 <u>FLOODFRINGE DISTRICT</u>

(1) 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 municipality, and meets the requirements of s. 4.3 except where s. 6.3(2) is applicable.

(2) Where compliance with the provisions of subd. (1) 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 Adjustment/Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of subd. (1) 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:

(a) No floor is allowed below the regional flood elevation for residential or commercial structures;

(b) Human lives are not endangered;

(c) Public facilities, such as water or sewer, shall not be installed;

(d) Flood depths shall not exceed two feet;

(e) Flood velocities shall not exceed two feet per second; and

(f) The structure shall not be used for storage of materials as described in s. 4.3(5).

(3) 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, 7.5(3) and ch. SPS 383, Wis. Adm. Code.

(4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 7.5(3) and ch. NR 811 and NR 812, Wis. Adm. Code.

7.0 <u>ADMINISTRATION</u>

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

7.1 <u>ZONING ADMINISTRATOR</u>

(1) <u>DUTIES AND POWERS</u>

The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

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

(b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.

(c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.

(d) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;
2. Documentation of certified lowest floor and regional flood elevations;
3. Floodproofing certificates.
4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
5. All substantial damage assessment reports for floodplain structures.
6. List of nonconforming structures and uses. .

(e) Submit copies of the following items to the Department Regional office:

1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

2. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.

3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(g) Submit copies of amendments to the FEMA Regional office.

(2) LAND USE PERMIT

A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(a) GENERAL INFORMATION

1. Name and address of the applicant, property owner and contractor;

2. Legal description, proposed use, and whether it is new construction or a modification;

(b) SITE DEVELOPMENT PLAN

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

1. Location, dimensions, area and elevation of the lot;

2. Location of the ordinary highwater mark of any abutting navigable waterways;

3. Location of any structures with distances measured from the lot lines and street center lines;

4. Location of any existing or proposed on-site sewage systems or private water supply systems;

5. Location and elevation of existing or future access roads;

6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

7. 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);

8. 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 s. 3.0 or 4.0 are met; and

9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s. 3.3(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:
   a. Hydrology
      i. The appropriate method 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 ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
      .
      i. 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.
      ii. channel sections must be surveyed.

      iii. minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.

      iv. 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.

      v. the most current version of HEC_RAS shall be used.

      vi. a survey of bridge and culvert openings and the top of road is required at each structure.

      vii. 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.

      viii. 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.

      ix. 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.

      i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.

      ii. 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 ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

b. Hydraulic model

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

i. 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.

ii. 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.

iii. 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.

iv. 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.

v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

vi. 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 topwidths computed by the revised models matching those in the effective models 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:

i. 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.

ii. 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.

iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

iv. 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 Plane Coordinate System in accordance with FEMA mapping specifications.

v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.

vi. 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.

vii. Both the current and proposed floodways shall be shown on the map.

viii. 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 ordinance 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.

(3) CERTIFICATE OF COMPLIANCE
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, except where no permit is required, subject to the following provisions:

(a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;

(b) Application for such certificate shall be concurrent with the application for a permit;

(c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

(d) The applicant shall submit a certification signed by a registered professional engineer, architect or 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 s. 7.5 are met.

(4) 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 s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

7.2 ZONING AGENCY

(1) The City of Baraboo Plan Commission shall:

(a) oversee the functions of the office of the zoning administrator; and

(b) review and advise the governing body on all proposed amendments to this ordinance, maps and text.

(2) The City of Baraboo Plan Commission shall not:

(a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or

(b) amend the text or zoning maps in place of official action by the governing body.

7.3 BOARD OF ADJUSTMENT/APPEALS

The Board of Adjustment/Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

(1) POWERS AND DUTIES
The Board of Adjustment/Appeals shall:

(a) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;

(b) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and

(c) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(2) APPEALS TO THE BOARD

(a) Appeals to the board may be taken by any person aggrieved, or by any officer or

department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice - The board shall:

a. Fix a reasonable time for the hearing;
b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

2. Hearing - Any party may appear in person or by agent. The board shall:

a. Resolve boundary disputes according to s. 7.3(3);
b. Decide variance applications according to s. 7.3(4); and
c. Decide appeals of permit denials according to s. 7.4.

(c) DECISION: The 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 10 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.

(3) BOUNDARY DISPUTES

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

(a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;

(b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and

(c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0 *Amendments*.

(4) VARIANCE

(a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

1. Literal enforcement of the ordinance will cause unnecessary hardship;

2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

3. The variance is not contrary to the public interest; and

4. The variance is consistent with the purpose of this ordinance in s. 1.3.

(b) In addition to the criteria in subd. (a), 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; and

3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(c) A variance shall not:

1. Grant, extend or increase any use 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 ordinance or map(s) required in s. 8.0 *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.

7.4 <u>TO REVIEW APPEALS OF PERMIT DENIALS</u>

(1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:

(a) Permit application data listed in s. 7.1(2);

(b) Floodway/floodfringe determination data in s. 5.4;

(c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator; and

(d) Other data submitted with the application, or submitted to the Board with the appeal.

(2) For appeals of all denied permits the Board shall:

(a) Follow the procedures of s. 7.3;

(b) Consider zoning agency recommendations; and

(c) Either uphold the denial or grant the appeal.

(3) For appeals concerning increases in regional flood elevation the Board shall:

(a) 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 s. 8.0 *Amendments*; and

(b) 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.

7.5 <u>FLOODPROOFING STANDARDS FOR NONCOMFORMING STRUCTURES OR USES</u>

(1) 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 the flood protection elevation and submits a FEMA Floodproofing Certificate.

(2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

(a) certified by a registered professional engineer or architect; or

(b) meets or exceeds the following standards:

1. 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;

2. the bottom of all openings shall be no higher than one foot above grade; and

3. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) Floodproofing measures shall be designed, as appropriate, to:

(a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(b) Protect structures to the flood protection elevation;

(c) Anchor structures to foundations to resist flotation and lateral movement;

(d) Minimize or eliminate infiltration of flood waters; and

(e) Minimize or eliminate discharges into flood waters.

7.6 PUBLIC INFORMATION

(1) Place marks on structures to show the depth of inundation during the regional flood.

(2) All maps, engineering data and regulations shall be available and widely distributed.

(3) Real estate transfers should show what floodplain district any real property is in.

8.0 AMENDMENTS

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1.

(1) 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 ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1. Any such alterations must be reviewed and approved by FEMA and the DNR.

(2) 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 ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 8.1.

8.1 GENERAL

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 8.2 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

(1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

(2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;

(3) Any changes to any other officially adopted floodplain maps listed in 1.5 (2)(b);

(4) 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;

(5) Correction of discrepancies between the water surface profiles and floodplain maps;

(6) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

(7) 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.

8.2 PROCEDURES

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. The petitions shall include all data required by ss. 5.4 and 7.1(2). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

(1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. 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 s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.

(2) No amendments shall become effective until reviewed and approved by the Department.

(3) 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 governing body.

9.0 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than
$10.00 (ten dollars) and not more than $50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

10.0 DEFINITIONS

Unless specifically defined, words and phrases in this ordinance 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 word "may" is permissive, "shall" is mandatory and is not discretionary.

A ZONES – 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.

1. AH ZONE – See "AREA OF SHALLOW FLOODING".

2. AO ZONE – See "AREA OF SHALLOW FLOODING".

3. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

4. ALTERATION – 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.

5. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 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.

6. 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.

7. BASEMENT – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

8. BUILDING – See STRUCTURE.

9. BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

10. CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

11. CAMPING UNIT – 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.

12. CERTIFICATE OF COMPLIANCE – A certification that the 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 ordinance.

13. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

14. CRAWLWAYS or CRAWL SPACE – 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.

15. DECK – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

16. DEPARTMENT – The Wisconsin Department of Natural Resources.

17. DEVELOPMENT – 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.

18. DRYLAND ACCESS – 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.

19. ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.

20. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.

21. FLOOD INSURANCE RATE MAP (FIRM) – 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.

22. FLOOD or FLOODING – 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.

23. FLOOD FREQUENCY – 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.

24. FLOODFRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

25. FLOOD HAZARD BOUNDARY MAP – 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.

26. FLOOD INSURANCE STUDY – 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, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

27. FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

28. FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

29. FLOODPLAIN MANAGEMENT – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

30. FLOOD PROFILE – 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.

31. FLOODPROOFING – 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.

32. FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)

33. FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

34. FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

35. FREEBOARD – 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.

36. HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.

37. HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 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 (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

38. HIGH FLOOD DAMAGE POTENTIAL – 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.

39. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

40. HISTORIC STRUCTURE – Any structure that is either:
    - 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;
    - 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;
    - 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; or
    - 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.

41. INCREASE IN REGIONAL FLOOD HEIGHT – 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.

42. LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

43. LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.

44. LOWEST FLOOR – 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.

45. MAINTENANCE – The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

46. MANUFACTURED HOME – 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."

47. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

48. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – 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 ordinance. 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.

49. MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – 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 if concrete pads.

50. MOBILE RECREATIONAL VEHICLE – 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 a 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."

51. MODEL, CORRECTED EFFECTIVE – 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.

52. MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

53. MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

54. MODEL, EXISTING (PRE-PROJECT) – 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.

55. MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

56. MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

57. NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.

58. NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.

59. NEW CONSTRUCTION – For floodplain management purposes, "new construction" means 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.

60. NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance 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 lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

61. NONCONFORMING USE – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

62. OBSTRUCTION TO FLOW – 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.

63. OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.

64. OPEN SPACE USE – Those uses having a relatively low flood damage potential and not involving structures.

65. ORDINARY HIGHWATER MARK – 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.

66. PERSON – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

67. PRIVATE SEWAGE SYSTEM – 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.

68. PUBLIC UTILITIES – 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.

69. REASONABLY SAFE FROM FLOODING – Means base flood waters 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.

70. REGIONAL FLOOD – A flood determined to be representative of large floods known to have occurred in Wisconsin. 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 – 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 foundations 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.

71. STRUCTURE – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

72. SUBDIVISION – Has the meaning given in s. 236.02(12), Wis. Stats.

73. SUBSTANTIAL DAMAGE – 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.

74. SUBSTANTIAL IMPROVEMENT – 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 improvement 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.

75. UNNECESSARY HARDSHIP – 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 the ordinance.

76. VARIANCE – 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.

77. VIOLATION – 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.

78. WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.

79. WATER SURFACE PROFILE – 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.

80. 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.

17.76 to 17.79 Reserved for future use.

SUBCHAPTER III: SIGN CODE

17.80 <u>REGULATION OF SIGNS</u> (1905 05/13/97, 2424 11/11/2014)

(1) PURPOSE OF SUBCHAPTER.

(a) This Subchapter is adopted under the Zoning authority of the City in furtherance of the more general purposes set forth in the Zoning Code. The purpose of this Sign Regulation Subchapter is to provide the legal framework and minimum standards for regulating and controlling the design, number, size, quality of materials, construction, location, electrification, movement, motion, lighting, installation and maintenance of all signs, awnings and canopies in the City of Baraboo in order to:

1. Balance the right of individuals to identify their businesses and activities and convey their messages, and the right of the public to be protected

against the unrestricted proliferation of signs;
2. Further the objectives of the City Comprehensive Zoning Plan.
3. Protect and safeguard the public health, safety, welfare and to maintain and enhance the aesthetic environment.
4. Improve pedestrian and traffic safety.
5. Facilitate the creation of an attractive and harmonious community.
6. Protect property values.
7. Promote economic development and growth.
8. Preserve the right of free speech exercised to the use of signs containing non-commercial messages.
9. Minimize the possible adverse affects of signs on nearby public and private property.
10. Enable the fair and consistent enforcement of sign restrictions.
11. Establish a permit system to assure that signs are only erected, placed, established, painted, created and maintained in the City in conformance with the standards, procedures, exemptions and other requirements of this Subchapter.

(b) This Subchapter recognizes the need for well-maintained and attractive sign displays within the community and the need for adequate business identification, advertising and communication.

(c) This Subchapter authorizes the use of signs visible from the public right-of-way, provided the signs are:

1. Compatible with the zoning district regulations.
2. Designed, constructed, installed and maintained to not endanger public safety or traffic safety.
3. Legible, readable, visible and well-designed for the circumstances in which they are used; and
4. Respectful of the reasonable rights of other advertisers.

(d) Unless otherwise specified in this Subchapter, the term "sign" shall include a canopy and/or an awning, whether or not a canopy or awning is used for advertising purposes.

(2) ADMINISTRATION OF SUBCHAPTER.

(a) Building Inspector. The City Building Inspector shall record and file all applications for a sign permit with any accompanying plans and documents, make inspections of signs in the City of Baraboo and make such reports as the City may require. The Building Inspector may issue the requested permit if the sign permit application is approved.

(b) Sign Inspection.

1. The Building Inspector shall inspect bi-annually, each sign regulated by this Ordinance for the purpose of ascertaining whether the structure is unsafe, in need of repair, not in conformance with the permit application, or otherwise in violation of the provisions of this Ordinance.

2. If any sign is found to be an unlawful sign, the Building Inspector shall proceed as provided in §(16) Violations and Penalties of this Subchapter.

(3) SIGN PERMIT REQUIREMENTS.

(a) Permit Required. Except as provided in §(11), all signs or devices used to attract attention for advertising or identification purposes, whether defined in this Subchapter or not, require a permit. It shall be unlawful for any person to erect, enlarge, relocate or structurally alter any sign within the City of Baraboo without first obtaining a sign permit from the Building Inspector and making payment of the required fee. All illuminated signs shall, in addition, be subject to the provisions of the Electrical Code and its required permit fees.

(b) Application.

1. A sign permit application shall be filed with the Building Inspector. A sign permit shall become null and void if work authorized under the permit has not been completed within six (6) months of the date of issuance. Only the person who has

submitted the sign application and paid the necessary fee shall be authorized to erect the sign. A permit may be taken out on behalf of the sign owner by a sign contractor; however, this shall not relieve the sign contractor from com-plying with the regulations of this Subchapter.

2. No permit is required for sign work limited to repainting, change of copy, message or face panel, or doing routine maintenance and repair which does not entail structural change.

(c) Required Information. The sign permit application shall contain the following information:

1. Name, address and telephone number of the applicant.
2. Name and address of the building, structure, and property to which or upon which the sign is to be affixed or erected and the tax parcel number of the real estate where the sign is to be erected;
3. Name, address, and telephone number of person, firm, corporation or association erecting sign;
4. Name, address, telephone number, and the written consent of the owner or lessee, if different from the applicant, of the building, structure and real estate to which or upon which the sign is to be affixed or erected;
5. A scale drawing of the proposed sign indicating the dimensions, the materials to be used, lettering, colors and type of illumination, if any, and the method of construction and attachment;
6. A scale site drawing of the proposed sign location, location of lot lines, existing buildings, and existing signs on the same property;
7. A scale site drawing of all adjoining properties to the proposed sign location including lot lines, existing buildings, and existing signs;
8. Information (or type of information, message and/or images) to be displayed on each face of the sign;
9. A description of the mechanical workings of any illuminated information to be displayed;
10. Calculations and other sufficient evidence showing how the structure and design of the sign satisfies the requirements of this Subchapter;
11. Payment of required fees;
12. Such other information as the Building Inspector shall require to show full compliance with this and other laws and ordinances of the City.

(d) Temporary Sign Permit. A temporary sign permit for an on-premise sign less than twelve (12) square feet may be issued by the Building Inspector as provided in §(12) of this Subchapter.

(e) Permit Fees. See City's Official Fee Schedule. A double permit fee may be charged by the Building Inspector if a sign is erected, moved, altered, enlarged or used before a required permit is issued. Such double permit fee shall be for the purpose of reimbursing the City for the additional administrative costs incurred in connection with issuance of the permit and such double fee shall not release or relieve the applicant from full compliance with this Subchapter, nor from liability for the payment of a forfeiture or abatement as provided in Sub. (16) of this Sign Code.

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(f) Assignment of Sign Permit. A current and valid sign permit shall be freely assignable to a successor as owner of the lot or premises or holder of a business license for the same premises, subject only to filing an application with the Building Inspector on such form as the Building Inspector may require and paying any applicable fee. This assignment shall be accomplished by filing such application and paying the applicable fee and shall not require approval.

(4) INDEMNIFICATION FOR SIGN INSTALLATION AND MAINTENANCE. Any person who applies for a sign permit or who undertakes, in whole or in part, the erection, enlargement,

alteration, removal, relocation, or maintenance of a sign and/or related work shall agree in the sign application to defend, hold harm-less and indemnify the City of Baraboo, its officers, agents and employees from any and all claims and/or causes of action for bodily injury, death or property damage arising out of or resulting from such sign or sign work.

(5) LIABILITY AND DISCLAIMER. The issuance of a sign permit and the inspections and the reports and findings issued pursuant to this Subchapter shall not be deemed as an assumption of any liability by the City. The owner of any building, structure or real estate upon which a sign is erected or maintained shall be liable for any damages and injuries that may be caused to persons or properties by reason thereof. The City makes no representation or warranty, express or implied, as to the accuracy or thoroughness of any inspection or findings made pursuant to this Subchapter and the City disclaims any liability or responsibility whatsoever by reason thereof.

(6) GENERAL PHYSICAL REQUIREMENTS AND TYPES OF SIGNS. The following on-premises signs for businesses shall be considered to be signs which are located on or attached to a structure on the premises being served and are subject to the conditions set forth in this Subch. (2035 11/28/2000)

(a) <u>On-premises Freestanding Signs</u>. On-premises freestanding signs shall be limited to a total of one freestanding sign per lot or parcel. The maximum gross surface area of the freestanding sign shall be one square foot of sign area for every linear foot of lot frontage on adjacent public streets, up to a maximum of square footage visible from any single viewing point. The freestanding sign shall be located entirely on the subject property, and may not protrude over any property line or public right-of-way. The exposed base of freestanding signs shall be concealed by evergreen landscaping. Freestanding signs shall not be located in the required vision triangle of an intersection or driveway, or create a traffic hazard for any other reason.

1. Pylon signs shall not be permitted after December 1, 2000.
2. Ground signs shall have a maximum height of 8 feet and a maximum area of 500 square feet.
3. Freestanding canopy signs shall be limited to the canopy fascia and may not extend above, below, or beyond the fascia, and shall have a maximum area of 60 square feet.

(b) <u>On-Premise, On-Building Signs</u>. On-premise, on-building signs shall be limited to building facades facing a public street or which have a distinct customer entrance. Such signs shall not exceed in area 20% of the gross area of the façade upon which they are placed. All on-building signs that project more than 4 inches from the wall face shall provide a minimum vertical clearance of 10 feet between its lowest point and the finished ground area directly below that point, except that fabric awning and building canopy signs that do not cover a vehicle circulation area may reduce this minimum to 8 feet, and no such projecting signs shall be located closer than 3 feet from the inside face of a curb or other street pavement edge. No on-building signs may employ supports resting on a sidewalk or public right-of-way. The following additional requirements shall also apply:

1. Fabric awning signs of canvas, Mylar, vinyl or similar lightweight fabrics and weigh less than 450 pounds inclusive of supports.
2. Building canopy signs or metal, hard plastic, or similar non-fabric materials and weigh less than 450 pounds inclusive of supports.
3. Projecting signs that exceed 450 pounds inclusive of supports shall be located a minimum of 5 feet from rights-of-way or otherwise project over a public driveway, alley, street, or thoroughfare. Such signs shall

require the granting of a conditional use permit.

4. Roof signs shall be prohibited.
5. On-premise wall signs shall be permitted.

(c) On-Premises Informational Signs. On-premises informational signs shall be limited per the following regulations specific to each sign type. The maximum area of any business name, logo, or other information conveying business identification on on-premises informational signs shall be limited to one square foot:

1. On-premises customer parking signs shall be limited to a maximum area of 5 square feet, and shall be mounted with the bottom edge a minimum of six feet from the ground.

2. On-premises directional, message, or operational signs shall be limited to information pertaining to traffic flow, hours of operation, customer entrances and exits, loading area information, telephones, and restrooms, and shall be limited to a maximum area of 8 square feet.

3. On-premises electronic and non-electronic variable message signs shall be regulated as a freestanding sign or an on-building sign as presented in (a) or (b), above, if said sign conveys information pertaining to the subject property. If the sign only conveys information pertaining to time, date, temperature, weather and/or information concerning civic, charitable or other non-commercial activities, the said sign shall be regulated as an on-premises informational sign. Such on-premises variable message signs shall be limited to 12 square feet of gross surface area for each sign, and shall be further limited to a maximum of one such sign per lot for each public street frontage. Such signs may be placed at the right-of-way line of the highway or street, but shall not infringe upon or protrude into the right-of-way. Such signs shall require the granting of a conditional use permit.

4. Development area identification signs that display the name of the residential project, sub-division, or neighborhood, or the name of the office park, shopping center, or industrial park, shall be permitted only with the granting of a conditional use permit in any area or zoning district. Such signs may not display the name of any specific business nor product, but may display the logo of the area, project or development. In residential areas, such signs shall be limited to a maximum height of six feet and a maximum area of 50 square feet.

(7) CONSTRUCTION SPECIFICATIONS.

(a) Wind Pressure and Dead Load Requirements. All signs, canopies and awnings shall be designed and constructed to withstand wind pressure of not less than forty (40) pounds per square foot of area and shall be constructed to receive dead loads as required by the Wisconsin Administrative Code.

(b) Supporting Members or Braces. Supporting members or braces of all projecting or wall signs, awnings or canopies shall be constructed of galvanized iron, properly treated steel, copper, brass or other non-corrosive, non-combustible material. All projecting signs, awnings and canopies, if placed at a right or other angle to the wall or roof of any building, shall be attached by such non-corrosive metal bolts, anchors, cable or other metal attachments as shall insure permanent and safe construction and shall be maintained from rust or other defects. Every means or device used for attaching any sign, awning or canopy shall extend through the walls or roof of the building should the Building Inspector deter-mine that the safe and permanent support of such sign, awning or canopy so requires. A sign, awning or canopy shall also be securely anchored by wall plates to the inside of the walls or to bearings anchored by wall plates to the inside of the walls or to bearings on the underside of two (2) or more roof or ceiling joists in accordance with instructions given by the Building Inspector.

(c) Plans. At the time of permit application, the Building Inspector may require written plans for footings for sign supports, method of sign attachment, and engineering specifications and calculations.

(8) INSTALLATION AND MAINTENANCE.

(a) Safety. All signs shall be installed and maintained in a workmanlike manner using equipment that is adequate and safe for the task. This Subchapter recognizes that the improper or unsafe performance of sign contractors is often caused by their use of inadequate equipment and that such improper performance will endanger the public safety. Therefore, the Building Inspector may deny a sign permit if the sign contractor does not have or does not arrange for use of adequate equipment. It shall be a violation of this Subchapter if the contractor fails to use proper equipment in the erection and maintenance of signs.

(b) Installation Standards. All signs shall be designed, installed and erected in accordance with the following standards:

1. All signs shall comply with the applicable provisions of the City Building Code and Electrical Code at all times.

2. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this Subchapter, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

(c) Maintenance and Repair. Every sign, including, but not limited to, those signs for which permits are not required, shall be maintained in compliance with applicable Building and Electrical Codes and this Subchapter at all times and in a safe, presentable and good structural condition at all times, including replacement of defective parts, burned out lighting elements, painting, repainting, cleaning and other acts required for the maintenance of said sign. If any sign is not timely modified to comply with the standards set forth in this Subchapter, the Building Inspector may require its removal.

(d) Protection of the Public. The temporary occupancy of a sidewalk, street, or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted, if expressly authorized by the Building Inspector, provided the space occupied is roped off, fenced off or otherwise isolated.

(e) Obstruction to Doors, Windows or Fire Escapes. No sign, canopy or awning shall be erected, enlarged, relocated, or maintained so as to prevent free ingress to and egress from any door, window or fire escape. No sign, canopy or awning of any kind shall be attached to a standpipe or fire escape. No sign, canopy or awning shall be erected or maintained so as to hinder or prevent ingress or egress through any door, doorway or window or so as to hinder or prevent the raising or placing of ladders by the Fire Department. Signs, awnings and canopies proposed to be installed over the public right-of-way shall be approved and inspected by the Fire Department prior to installation.

(9) ABANDONED SIGNS. All abandoned signs shall be promptly removed by the owner or lessee of the premises upon which a sign is located. If the owner or lessee fails to remove an abandoned sign, the Building Inspector shall cause such sign to be removed pursuant to sec. (16) of this Subchapter.

(10) PROHIBITED SIGNS. The following signs shall be prohibited within all zoning districts in the City of Baraboo:

(a) Abandoned Signs. See §9 of this Subchapter.

(b) Flashing, Animated, Alternating, Rotating or Swinging Signs. Flashing, scintillating, animated, alternating, blinking, traveling, rotating or swinging signs or devices, whether illuminated or not, visible from the public right-of-way. The electronic message sign is not a prohibited sign under this Sub-section provided such sign complies with the regulations of this Subchapter.

(c) Floodlighted Signs. Floodlighted signs or reflection-illuminated signs whose light source is positioned so that its light source is visible from a public right-of-way by vehicular traffic or whose light source is visible from adjoining property and signs which violate §10(j).

(d) Traffic Hazards. No sign shall:

1. Obstruct free and clear vision at any street intersection.

2. Interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device because of its position, shape or color.

3. Be a hazard or dangerous distraction to vehicular traffic.

4. Make use of the words "STOP," "LOOK," "DRIVE-IN," "DANGER," or any other word, phrase, symbol, or character in a manner that interferes with, misleads, or confuses traffic or imitates, or resembles in shape, size, copy, or color an official traffic sign or signal.

5. Obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering a public street or right-of-way.

6. Be of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist or pedestrian using or entering a public right-of-way.

(e) Off-Premise Signs. Such signs are prohibited, except for temporary signs permitted by §12 of this Subch.:(2035 11/28/2000, 2436 10/13/2015, 2577 08/10/2021)

Rationale and Findings: The City of Baraboo Plan Commission and Common Council find that the purpose and rationale of prohibiting off-premise signs or signs advertising a business, person, activity, goods, products, facilities, or services not located on the lot, or an adjoining lot, upon which the sign is located or directs persons to a different location from where the sign is located, is that this prohibition is necessary in order to further several governmental interests:

1. The general public interest of reducing visual clutter caused by off-premise advertising signage within the City which the City has determined is a significant cause of unsafe traffic conditions; and

2. The public interest served by furthering the implementation of the purposes of this Subchapter and the City of Baraboo Comprehensive Master Plan in terms of limiting or reducing an appearance of strip commercial development - of which advertising signs are a primary contributor; and

3. The general public interest served by enhancing the aesthetics of the Baraboo Valley and the City of Baraboo and the unique beauty of this City caused by the Baraboo Bluffs thereby improving the appearance of this City.

Further, the City of Baraboo advocates that this regulation leaves ample and adequate alternative channels of commercial speech communication for the messages that are to be portrayed on such advertising signs – namely distributed print media, broadcast media, a point-of-purchase display, and is narrowly defined so as to limit said prohibition to commercial speech on exterior signage.

A special exception is granted for the Baraboo School District for sporting stadiums and outdoor athletic facilities for four (4) off-premise advertising signs that are visible from Draper Street. Such off-premises signs shall be allowed with a valid sign permit, without regard to size or percentage of area covered, provided that such signs were installed prior to September 1, 2015. This special exception shall expire June 30, 2020, for off-premises signs, and June 30, 2030, for the signage relating to Flambeau Field. The special exception for the four off-premise signs is extended through June 20, 2026. After these respective dates, all non-conforming and prohibited signs shall be removed.

A special exception is also granted for off-premise advertising that is visible from a public street that appears upon the Baraboo School District's scoreboard. This special exception shall not expire. All signs under this special exception require a valid sign permit.

(f) Inflatable Advertising Devices or Signs. Inflatable advertising devices or signs which are used off premises.

(g) Billboards.

(h) Unsafe Sign. No sign shall constitute a hazard to safety or health by reason of inadequate design, construction, repair or maintenance.

(i) Obscene Signs. No sign shall display any matter that is obscene.

(j) Unclassified Signs.

1. Signs which are a hazard or a nuisance to occupants of any adjoining or nearby property because of intensity, brilliance, glare or other annoying characteristics.
2. Signs which are erected or maintained upon trees or utility poles or painted or drawn upon rocks or other natural features.
3. Except as allowed by §17.80(6) of this code, signs that are more than 100 square feet in gross surface area on any facing side. (2035 11/28/2000)
4. Signs which have more than two faces visible at one time.
5. Signs which are portable or movable signs.
6. Signs which are painted on or attached to a semi-trailer that is continuously parked in

a street yard (as defined by the City Zoning Code) solely for advertising purposes for more than 30 consecutive days in a calendar year.

7. A swinging sign.

(k) Pylon Signs after December 1, 2000. (2035 11/28/2000)

(l) Roof Signs. (2035 11/28/2000)

(11) SIGNS NOT REQUIRING A PERMIT. Signs are permitted in all zoning districts without a sign permit provided they comply with the restrictions and specifications set forth in this section and in §§6, 7, and 8.

(a) Flags. Flags, emblems or insignia of any nation, political subdivision, college or university or corporate flags.

(b) Governmental Signs. Signs for control of traffic and other regulatory purposes, danger signs, warning signs, railroad crossing signs, and signs of public utilities indicating danger, and aids to service or safety which are erected by or on the order of a public officer in the performance of public duty;

(c) Memorial Signs and Plaques. Memorial signs and plaques, names of buildings and date of erection, which are cut into masonry surface or inlaid so as to be part of a building or when constructed of bronze or other non-combustible material not more than four (4) square feet in gross surface area;

(d) No Trespassing and No Dumping Signs. No trespassing and no dumping signs shall be a standard eighteen (18) inches by twenty-four (24) inches;

(e) Public Notices. Official notices posted by public officers or employees in the performance of their duties;

(f) Public Signs. Signs required as specifically authorized for public purpose by any law, statute or ordinance.

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(g) Political Message Signs. Political message signs on behalf of candidates for public office or issues on election ballots provided said signs comply with §12.04 Wis. Stats. and the following regulations:

1. The definitions of the terms "election campaign period," "political message", and "residential property", as set forth in §12.04, Wis. Stats., are hereby adopted by reference and made a part of this subsection.

2. Permission shall first be obtained from the owners or tenants in possession of the property upon which a political message sign is erected. No sign shall be located on public property or in the public right-of-way.

3. Political message signs may be erected during the election campaign period and shall be re-moved within seven (7) days following said election. If the signs are not removed within the seven (7) day period, the Building Inspector shall cause said signs to be removed without the necessity of giving notice.

4. Political message signs shall not be erected or be permitted to remain in any place or manner so as to adversely affect traffic or pedestrian safety or to endanger travel on public right-of-way by causing an obstruction to the view or otherwise and said signs shall have no electrical, mechanical or audio auxiliary.

5. No political message sign shall exceed 32 square feet in gross surface area. Signs affixed to a permanent structure shall not extend beyond the perimeter of the structure and shall not obstruct any window, door, fire escape, ventilation shaft, or other area which is required by the building code to remain unobstructed. All signs exceeding 11 square feet in gross surface area shall be firmly anchored to the ground, or affixed to a permanent structure, so as to ensure that they will not become a hazard to traffic or pedestrians as a result of winds. No freestanding sign shall exceed 6 feet in total height. (2035 11/28/2000)

No political message sign shall contain moving parts, flashing lights, shine light onto any roadway, or obstruct the vision triangle of any intersection. No political message sign may be placed upon any public property or within any right-of-way. (2385 07-24-2012)

(h) Real Estate Signs.

1. One (1) real estate sales sign is allowed per street frontage on any lot or parcel, provided such sign is located entirely within the property to which the sign applies and is not illuminated or located in a public right-of-way.

2. In residential and commercial districts, such signs shall not exceed eight (8) square feet in gross surface area and shall be removed within thirty (30) days after the sale, rental or lease has been closed or occupancy of the property whichever occurs first.

3. Signs larger than eight (8) square feet in gross surface area advertising For Sale, Rental, or Lease require a sign permit.

(i) Temporary Window Signs. In business and industrial districts, the inside surfaces of any window may be used for attachment of temporary signs. Temporary window signs may not cover more than 25% of the area of any single windowpane. Such signs shall not be placed on door

windows or other windows needed to be clear for pedestrian safety. (2035 11/28/2000)

(j) Bulletins. Temporary signs not exceeding four (4) square feet in gross surface area pertaining to events of civic, philanthropic, educational and religious organizations, provided such signs are posted no more than thirty (30) days before said event and removed within ten (10) days after the event.

(k) Professional and Business Name Plate Signs. Professional home occupation and business nameplate signs shall be located on the lot being served and shall be limited to one such sign per business. One professional nameplate sign shall not exceed four square feet in gross surface area.

(l) Garage/Yard/Rummage Sale Signs. See Ch. 12 of the Baraboo Municipal Code.

(m) Contractor/Architect Signs. Temporary signs identifying the architect, engineer, developer or contractor are allowed when placed upon the construction site provided such signs shall not exceed 16 square feet in gross surface area. Such signs shall not be placed on a job site until a building permit is obtained and then not more than one (1) week before work is actively commenced on the site. Such signs shall not be located in the public right-of-way and there shall be only one sign per construction site. Such signs shall be removed no later than 7 days after completion of the project.

(n) House Numbers and Residential Name Plates. House numbers and residential nameplates not exceeding 2 sq ft in gross surface area for each residential building.

(12) REGULATION OF TEMPORARY SIGNS. (1941 07/28/98)

(a) Temporary Signs Located on Private Property. The following temporary signs may be displayed only in a Business Zoning District (B-1, B-2, and B-3) for up to thirty (30) days at a time during no more than two different periods per calendar year, provided such temporary signs shall be located entirely on private property, shall not obstruct building exits and a temporary sign permit is issued by the Building Inspector and the permit fee is paid. Each such thirty (30) day period shall require a new permit and fee.

1. Special Event Sign. A temporary sign less than twelve (12) square feet in gross surface area which advertises a special event for a civic, philanthropic, educational, or religious organization.

2. Banners and Pennants. Banners, flags, pennants, search lights, twirling signs, sandwich board signs, sidewalk or curb signs, balloons or gas filled figures (which are temporary signs or devices of paper, fabric, plastic, or other flexible materials) are allowed for the purpose of promoting a community event, grand opening or advertising items other than community events. Banners shall not exceed the lesser of one hundred (100) square feet in gross surface area or twenty percent (20%) of the area of the wall on which they are placed.

3. Temporary Ground Signs. Temporary ground signs advertising special business promotions or events are allowed, providing such signs shall not exceed ten (10) feet in gross area and four (4) feet in height.

(b) Temporary Signs or Banners on Public Property. No sign or banner shall be located, displayed or encroach in or upon any public street, right-of-way, park or place except as permitted in Sec. 17.80(6) of this Subchapter and as provided in this subsection.

1. Charitable Purpose Sign. The Common Council may, by resolution, authorize the display of a temporary sign or banner at an approved location for a designated time period to promote a special City-wide charitable fund raising event sponsored by an organization described in §501(c)(3) of the Internal Revenue Code, or sponsored by a person or organization who purports to donate all of the net proceeds realized from the event to an organization described in §501(c)(3) of the Internal Revenue Code. The sponsor shall execute a sign encroachment agreement with the City and the sign or banner shall be safely secured and maintained at all times.

2. Circus World Museum Sign. A temporary sign or banner may be displayed across Water Street by the Circus World Museum provided that the Circus World Museum executes a

sign encroachment agreement with the City. This sign may be displayed continuously between April 1st and November 1st of each year.

3. Signs in City Parks. A temporary sign(s) or banner(s) may be displayed in a City park pro-vided that the sign or banner advertises a special event to be held or being held within the park and that the sign or banner further satisfies the following pre-conditions:

   a. A temporary sign permit is granted by the Parks and Recreation Commission, and

   b. Any sign or banner displayed in any City park or ball field advertising a tournament shall only be erected on the day the tournament begins and shall be removed promptly by the tournament sponsor on the day the tournament ends, and

   c. No sign or banner shall exceed one hundred (100) square feet in gross surface area.

   d. The sign or banner must be safely secured and maintained at all times.

(13) TYPES OF SIGNS. See Subsection 17.80(6) of this Code for General Physical Requirements and types of Signs. (2035 11/28/2000)

(14) ZONING DISTRICT REQUIREMENTS. (2035 11/28/2000)

ZONING DISTRICTS	TYPES OF PERMITTED SIGNS (Refer to (6) for Specific Rules) The following on-premises signs shall be permitted:
Residential Districts: R-1, R-2, R-3, R-4, R-5, MH, MHP	• Ground signs for institutional uses • Wall signs for institutional uses • All on-premises informational signs for institutional and multi-family uses • Development area identification signs for all uses • Home occupation per §17.08(52)
Business Districts: B-1	• Ground signs for institutional uses • All on-building signs for all uses • All on-premises informational signs for all uses
Business Districts: B-2, B-3	• All free-standing signs for all uses • All on-building signs for all uses • All on-premises informational signs for all uses
Business Districts: I-1, I-2, I-3, I-4	• All free-standing signs for all uses • All on-building signs for all uses • All on-premises informational signs for all uses
Agricultural Districts: A-1, A-2	• All free-standing signs for all uses • All on-building signs for all uses • All on-premises informational signs for all uses
Conservancy District: C-1	• All on-premises informational signs for all uses

(15) NONCONFORMING SIGNS. (2035 11/28/2000)

(a) Notification of Nonconformance. Not later than December 31, 1997, the Building Inspector shall survey the City of Baraboo and inventory all signs and shall prepare and maintain a current file of all lawful and unlawful non-conforming signs in the City in accordance with the procedures set forth in §17.15(6) of the Zoning Code. Upon determination that a sign is non-conforming, the Building Inspector shall use reasonable efforts to notify, in writing, the owner of the sign and/or the owner of the property on which the sign is located of the following:

1. The non-conformity of the sign.
2. Whether the sign is eligible for characterization as a legal non-conforming sign or is unlawful.

(b) Nonconforming Signs.

1. Any sign legally existing as of May 13, 1997, that does not conform to the provisions of this Subchapter and any Pylon sign legally existing as of December 1, 2000, that does not conform to the provisions of this Subchapter, shall be eligible for characterization as a nonconforming sign and shall be subject to the provision of Subsection (b), below. Non-conforming signs may be maintained. No nonconforming on-premise sign shall be altered or moved to a new location without being brought into compliance with the requirements of this Subchapter. See (c) below.

2. Business signs on the premises of a nonconforming use or building may be continued as provided in §(c) below, but new signs for such uses shall not be allowed, nor expand in number, area, height, or illumination. New signs, not to exceed the maximum allowable aggregate sign area may be erected only upon the complete removal of all other signs existing as of December 1, 2000.

3. Nonconforming signs shall be removed when the principal structure located on the premises undergoes a change of use, or shall be removed as provided in §(c) below. Closing businesses must remove their signs within 60 days of closing.

4. Signage not in compliance with the provisions of this Section shall be subject to the pro-visions of §(c) below.

5. Whenever there is a change in sign use (excluding off-premise signs), the sign owner, or the owner of the property on which the sign is located, the new sign user, owner, or new property owner, shall forthwith notify the Zoning Administrator of the change. No sign permit is required unless there is a modification of the sign face or sign structure.

6. No sign shall be eligible for nonconforming status unless the sign meets the following requirements:

   a. The sign was erected pursuant to the issuance of a proper sign permit.

   b. No permit was required under applicable law for the sign in question and the sign was in all respects in compliance with the applicable law at the time the sign was erected and has since been maintained in compliance with the applicable codes of the city.

(c) Removal of Non-Conforming Signs.

1. Alteration of Signs.
   a. For the purpose of this Subchapter, alteration of a sign is considered to be any change in the exterior appearance of any part of the sign, its frame, its supporting structure, or its lighting, including, but not limited to: changing the message (except for marquee or off - premise advertising signs), symbols, color, material, height, location, or any other alterations as determined by the Zoning Administrator.

   b. Altering a sign does not include maintaining the existing appearance of the sign; replacing the sign face or the supporting structure with identical materials, colors, and messages; changing the message of a marquee sign; or changing the face of an off-premise advertising sign.

   c. For a period extending 10 years from December 1, 2000, a tenant sign which comprises part of a group sign may be replaced to accommodate a new tenant sign without triggering the need to bring the entire group sign, or any of its

parts, into compliance with the provisions of this Subchapter.

2. Damage to Sign. Any sign damaged by any cause to such extent that the cost to repair or reconstruct said sign exceeds 50% of the assessed value of the sign as of the date of damage shall be removed. If City, County, or State records do not show an assessed value for the nonconforming sign, then the assessed value shall be determined by an appraisal conducted by the City Assessor using the date of the damage as the date of valuation.

3. Defective Nonconforming Sign. Any non-conforming sign that fails to conform to the provisions of this Subchapter regarding maintenance and repair or abandonment or any nonconforming sign that is dangerous or defective shall be removed.

4. Discontinuance. If a nonconforming sign is not openly, actively, and actually used for a continuous period of at least 12 consecutive months, such nonconforming sign shall be deemed to be discontinued and terminated and said sign shall be removed.

5. Relocation. A nonconforming sign shall not be relocated within the City.

(d) Maintenance and Repair of Legal Nonconforming Signs. Nothing in this Subchapter shall relieve the owner or user of a nonconforming sign or the owner of the property on which such sign is located from the provisions of this Subchapter regarding abandonment, safety, maintenance, and repair of signs.

(e) Burden of Proof. Any person claiming that a sign is a lawful conforming sign or a legal non-conforming sign shall bear the burden of showing or providing such legal status. The determination shall be made by the Zoning Administrator and the decision may be appealed to the Zoning Board of Appeals.

(16) VIOLATIONS AND PENALTIES.

(a) It shall be unlawful to erect, enlarge, alter, repair, use or move any sign in violation of any of the provisions of this Subchapter. In case of any violation, the City Council, the Building Inspector, or any property owner who would be specifically damaged by such violation may cause appropriate action or proceedings to be instituted to enjoin a violation of this Subchapter or to cause an unlawful sign to be removed.

(b) Except as provided in §§(c) and (d) below, whenever an order of the Building Inspector has not been fully performed after written notice thereof has been issued to the owner of the property on which an unlawful sign is located or to the owner of an unlawful sign or to the sign contractor of an unlawful sign, the City Council, the Building Inspector, or the City Attorney may institute appropriate legal actions or proceedings, including, but not limited to, proceedings to recover a forfeiture and/or proceedings to prohibit or enjoin such owner, permittee or sign contractor from erecting, enlarging, altering, repairing, moving or using a sign covered by the order of the Building Inspector, and said proceedings may be consolidated in one action or commenced as separate actions concurrently, or at different times. In all cases, the City's remedies shall be cumulative. The written notice of a violation shall state the nature of the violation, the date of such violation, and the corrective measures to be taken, together with the time in which such correction shall be made. The time limit set for correcting violations shall take into consideration a reasonable period of time to correct the violation or deficiency and/or whether prior notice has been issued or given to the violator. The time limit shall be no greater than fifteen (15) days nor less than twenty-four (24) hours. Notice of a violation shall be deemed made upon mailing such notice by certified mail, return receipt requested, or by personal delivery, or by posting the notice on the property and mailing the notice to the violator by first class mail. When notice is mailed, it shall be sent to the owner of the property on which the sign is located at the address as shown on the City's current tax assessment roll for the parcel subject to the notice or to the owner of the sign if the name and address of the sign owner is clearly and conspicuously stated on the sign itself. (2139 01/27/04)

(c) Any unlawful sign is hereby declared to be a public nuisance under Chapter 10 of The City Codes and the City may, in addition to seeking a forfeiture and/or remedial action as provided in this subsection, commence a Court action

for the abatement of the public nuisance as provided in §10.07 of The City Codes. If the City proceeds with the commencement of an abatement action under §10.07, the notice provisions of that section shall apply to the abatement proceedings.

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(d) Whenever the Building Inspector shall find a sign that violates the provisions of any of the following sections:

1. Section 17.80(12)(a) Temporary Signs located on private property.
2. Section 17.80(12)(b) Temporary Signs or banners on public property.
3. Section 17.80(10)(e) Off-Premises Signs

He/she shall give notice of such violation as provided in this subsection to the owner and/or occupant of the property where the sign is located and/or to the owner of the unlawful sign. Notice of a violation shall be deemed made upon mailing such notice by certified mail to the address shown on the current City of Baraboo Property Tax Assessment Roll or by personal delivery, or by posting the notice on the property and mailing notice thereof to the violator by first class mail. If the unlawful sign is not permanently removed within five (5) days after notice, the Building Inspector or a Police Officer shall be authorized to issue a citation to the violator. Any person who violates this section shall be entitled to only one five (5) day notice to cure within a calendar year and after providing one such five (5) day notice to cure to a violator, the Building Inspector or a Police Officer shall be authorized to issue a citation to the violator immediately upon discovering any second or subsequent violation of any of the foregoing subsections within a calendar year. Each day that a violation of any of the foregoing subsections continues shall be deemed a separate offense. In addition, an action to abate such an unlawful sign may be commenced as provided in §(c). (2139 01/27/04)

(e) Any person who violates, disobeys, neglects, omits or refuses to comply with or who resists the enforcement of any of the provisions of this Subchapter shall be subject to a penalty as provided in §25.04 of The City Codes. Every owner of the property on which an unlawful sign is located, and every owner of an unlawful sign and every sign contractor who erected, enlarged, moved, improved, altered, repaired or placed an unlawful sign on any land within the City in violation of this Subchapter and every permit holder of an unlawful sign shall be subject to a penalty as pro-vided in §25.04 of this Code. The Building Inspector shall promptly report all such violations to a police officer and a police officer shall issue a citation to the violator. The property owner, sign owner, permit holder and sign contractor may be held jointly and severally liable for any violation of this Subchapter. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(17) APPEALS. Any appeal from the decision, order or determination of the Building Inspector under this Subchapter shall be made to and filed with the Zoning Board of Appeals pursuant to §17.44 of The City Zoning Code. Each of the provisions of §17.44 of the City Zoning Codes shall apply to an appeal under this Subchapter.

(18) SEVERABILITY AND CONFLICT. If any section, subsection, sentence, clause or phrase of this Subchapter 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, sub-section, sentence, clause or phrase or portion thereof and to this extent, the provisions of this Sub-chapter shall be severable. If any provision of this Subchapter is found to be in conflict with any other provision of any zoning, building, fire safety or health ordinance of The City Codes, the provisions which establishes the higher standard shall prevail.

(19) DEFINITIONS. The definitions contained in the City Zoning Code shall apply to this Subchapter, except the following definitions shall apply in this Subchapter.

(a) Abandoned Sign. A sign which no longer advertises a bona fide business, lessor, owner, product or activity conducted or product available on the premises where such sign is displayed; also, a sign which advertises goods, products, services or facilities which are no longer available to the public or which directs persons to a former location where such goods, products, services or facilities are no longer available.

(b) Animated sign. Any sign which uses movement or change in lighting to depict action or to create a special effect or scene.

(c) Awning. Movable or fixed shelter supported entirely from the exterior wall of the building and com-posed of rigid or non-rigid materials or fabrics except for the supporting framework.

(d) Banner. A long, narrow flag hung over a street or entrance; also, a sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National, state, municipal or organizational flags shall not be considered banners.

(e) Beacon. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

(f) Billboard. Outdoor advertising on a board, poster, panel structure or device of any kind used or intended to be used for advertising or display painted thereon, or for the affixment, attachment, or support of printed poster, or other advertising matter and constructed, erected and located on any premises and used for purposes other than advertising the business conducted on such premises or in such building or structure. Usually has a gross surface area larger than one hundred (100) square feet in area.

(g) Building Inspector. That person, including his or her authorized agent, charged with the responsibility to see that the signage in the community is installed and maintained in compliance with this Subchapter, along with any other duties assigned by the City of Baraboo.

(h) Canopy (or Marquee). A permanent roof-like shelter extending from part or all of a building face, constructed of some durable material such as metal, glass, plastic or other structural protective cover over a door, entrance, window or outdoor service area and includes a sign attached to or constructed in or on said canopy or marquee.

(i) Customer Parking Sign. A sign for informational purposes which serves solely to designate the location of parking for customers of a business or government premises.

(j) Dimensional Letter Sign. Any sign consisting solely of freestanding letters that are placed on, anchored or attached to any part of a building that names, advertises or calls attention to a business, product, service or other commercial activity located on the premises where the sign is installed and maintained.

(k) Directional Sign. Any sign which serves to designate the location of any place or area.

(l) Double-Faced Sign. A sign with copy on two (2) parallel faces that are back to back, facing opposite directions.

(m) Electronic Variable Message Sign. A sign that displays messages where the message may be changed electronically, either by using a frame by frame display or by scrolling the message. This sign shall not change the message displayed at intervals of less than two seconds, not shall a scrolling message travel at a rate slower than 16 light columns per second or faster than 32 columns per second. This sign shall only display letters or numbers of no art animations or graphics may be displayed. This sign shall not contain, include or be illuminated by lights or illuminations that flash, scintillate, blink, flicker, vary in intensity, nor shall such signs be illuminated to a degree of brightness that is greater than necessary for adequate visibility, using standards applied by the Wisconsin Department of Transportation.

(n) Erected. This term shall mean attached, altered, built, constructed, reconstructed, enlarged or moved, and shall include the painting of wall signs, but does not include copy changes on any sign.

(o) Flag. A piece of cloth or other flexible material varying in size, shape, color and design, usually attached at one edge to a staff or cord and used as a symbol of a nation, state or organization. This term does not include a pennant or banner.

(p) Externally Illuminated Signs.

(q) Face of Sign. The entire area of a sign on which copy could be placed.

(r) Flags or Pennants. Devices generally made of flexible materials, such as cloth, paper or plastic and displayed on strings or wires.

(s) Flashing Sign. Any sign which contains an intermittent or flashing light source or which includes the illusion of intermittent or flashing light by means of animation or an externally mounted intermittent light source.

(t) Freestanding/Ground Sign. Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

(u) Frontage. The length of the property line of any one (1) premise parallel to and along each public right-of-way it borders.

(v) Governmental Sign. Any sign used for posting legal notices, identification of streets, traffic regulation, notice of danger or other emergencies or the posting of notice of trespassing.

(w) Gross Surface Area. The area of the sign within a perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one (1) section, module or face, all areas shall be totaled. Any irregular-shaped sign area shall be computed using the actual sign face.

(x) Ground Sign. A freestanding sign installed directly on the ground and which is not attached to any building or structure.

(y) Height of the Sign The vertical distance measured from the ground or finished surface at the base of a sign to the highest point of such sign.

(z) Inflatable Sign. Any advertising structure which is filled with a nonflammable gas or air under pressure.

(aa) Internally Illuminated Sign. Any sign in which the source of illumination is an integral part of the sign.

(ab) Legal Non-Conforming Sign. A sign that did meet code regulations when it was originally installed but does not meet current code regulations.

(ac) Lot. A taxable parcel of land as shown in the records of the Sauk County Treasurer and being within official city limits and abutting a public street.

(ad) Memorial Sign and Plaques. Any sign or tablet used for the purpose of identifying the names of buildings and the date of erection and which are cut into any masonry surface or inlaid so as to be part of the building or structure, or which are attached to a building or structure and which are constructed of bronze or other non-combustible materials including wood or plastic.

(ae) Non-conforming Sign. An unlawful sign.

(af) Obscene Sign. Any sign which displays any matter in which the dominant theme of the materials taken as a whole appeals to a prurient interest in sex, or is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters, and is utterly without redeeming social value.

(ag) Off-Premises Sign. A sign which advertises a business, person, activity, goods, products, facilities or services not located on the lot, or on an adjoining lot, upon which the sign is located or directs persons to a different location from where the sign is located.

(ah) On-Premises Sign. Any sign identifying or advertising a business, person, activity, goods, products, facilities or services located on the lot, or on an adjoining lot, upon which the sign is installed.

(ai) Operational Sign. A sign designating an entrance, exit, service area, restroom or other such signs relating

to the functional operation of a building or lot without further elaboration of display.

(aj) Pennant. Any lightweight plastic, fabric, or other material, whether or not contain a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

(ak) Permanent Sign. A sign placed, installed or attached to a building or erected on a lot and which will remain for more that thirty (30) days.

(al) Portable Sign. A sign which is not permanently mounted to the ground or a structure and which is designed to be moved.

(am) Premises A lot.

(an) Professional Name Plate. Any flat sign indicating the occupant name and/or address of a professional office and attached to the building.

(ao) Projecting Sign. A sign, normally double-faced, which is attached perpendicular to and projects from a structure or building fascia more than six inches.

(ap) Pylon Sign. A sign which is supported by one (1) or more freestanding uprights or poles and is not attached to any building.

(aq) Real Estate Sign. Any sign used for the purpose of advertising the sale, rental or lease of the premises upon which said sign is located.

(ar) Residential Name Plate. Any sign indicating the occupant's name and/or address at a residence.

(as) Roof Sign. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

(at) Rotating Sign. See Animated Sign.

(au) Sandwich Board Sign. A hinged or unhinged A-frame portable sign which is temporary and portable in nature. Such a sign is also considered to be a ground sign and a portable sign.

(av) Sign. Any device, fixture, painting, drawing, placard or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

(aw) Sign Contractor. Any person, partnership or corporation engaged, in whole or in part, in the erection or maintenance of signs, excluding the business that the sign advertises.

(ax) Sign Structure. Any device or material that supports, has supported, or is capable of supporting a sign in a stationary position, including decorative covers.

(ay) Subdivision Entrance Sign (or emblem). Any sign whose purpose were exclusively limited to the identification of a platted subdivision or residential area and which names such subdivision without further elaboration, display or advertisement

(az) Swinging Sign. A sign installed on an arm or mast or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.

(ba) Temporary Sign. Any sign that is used only temporarily and is not permanently mounted for the purpose of promoting or announcing a special event or for special informational purposes.

(bb) Unlawful Sign. Any sign, canopy or awning, erected, enlarged, altered, repaired, used or moved in violation of any provision of this Subchapter, or which contravenes this Subchapter, or which the Building Inspector may declare as unlawful if it becomes dangerous to public safety by reason of dilapidation or abandonment or a nonconforming sign for which a permit required under a previous Code was not obtained.

(bc) Wall Sign. Any Sign attached parallel to, but within 6 inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building,

and which displays only one sign surface.

(bd) Window Sign. Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window

(20) SPECIAL EXCEPTIONS. (2272 01/08/08)

(a) A special exception to the requirements of this Sign Code is granted for the placement of an awning on the building located at 522 Oak Street, and presently used as Corner Drugs and the Village Booksmith, meeting the following requirements:

1. The edge of the awning shall not be closer to the edge of the curb than eighteen inches.

2. Not more than two support posts shall be utilized, each to be centered not closer than 24 inches back from the edge of the curb, are allowed upon the sidewalk.

3. The awning framework and valance shall maintain a minimum height of eight feet above the sidewalk.

4. All other requirements of §17.80(6)(b) pertaining to awnings shall be met.

Pages 318-399 Reserved

SUBCHAPTER IV. LANDSCAPING CODE

17.81 LANDSCAPING AND BUFFERYARD REGULATIONS

(1) PURPOSE. The purpose of this section is to indicate the minimum requirements for the landscaping of foundations, developed lots, street frontages, paved areas, permanently protected green space areas, reforestation areas, and bufferyards.

(2) HOW TO USE THIS SUBCHAPTER

(a) This subchapter contains the standards which govern the amount, size, type, installation and maintenance of required landscaping. This subchapter recognizes the important and diverse benefits which landscaping provides in terms of protecting the health, safety, and general welfare of the community, and implementing the Master Plan.

(b) Each section of this subchapter is oriented to a specific category of required landscaping. These include Landscaping Requirements for Foundations (subsection 4), Landscaping Requirements for Developed Lots (subsection 5) Landscaping Requirements for Street Frontages (subsection 6), Landscaping Requirements for Paved Areas (subsection 7), Landscaping Requirements for Permanently Protected Green Space Areas (Subsection 8), Landscaping Requirements for Reforestation (subsection 9), and Landscaping Requirements for Bufferyards (subsection 10).

(c) In each instance, a "landscaping point" concept is used to provide a maximum amount of flexibility in terms of the selection of plant materials. Subsection 3 presents sample landscape point comb-nation alternatives used by this section. At the end of this subchapter, subsection (11) provides a listing of plant species fitting into the "climax tree," "tall deciduous tree," "medium deciduous tree," "low deciduous tree," "tall evergreen tree," "medium evergreen tree," "low evergreen tree," "tall deciduous shrub," "medium deciduous shrub," "low deciduous shrub," "medium evergreen shrub," "low evergreen shrub," and "non-contributory plants" used by this subchapter. Subsection (12) provides requirements for the installation and maintenance of required landscaping, and subsection (13) describes the procedure for calculating landscaping requirements for this subchapter.

(3) **LANDSCAPING POINTS, SAMPLE LANDSCAPING SCHEMES, AND MEASUREMENT FOR LANDSCAPING REQUIREMENTS.**

(a) All landscaping requirements are stated in terms of the number of landscaping points required. The required number of landscaping points is dependent upon the type of land use, the zoning district, and the size of the development. A different number of points is awarded for each plant, depending upon its typical growth rate, its mature height, and whether it is a deciduous or evergreen species. A minimum installation size is required for each of these plant categories. These requirements are as follows:

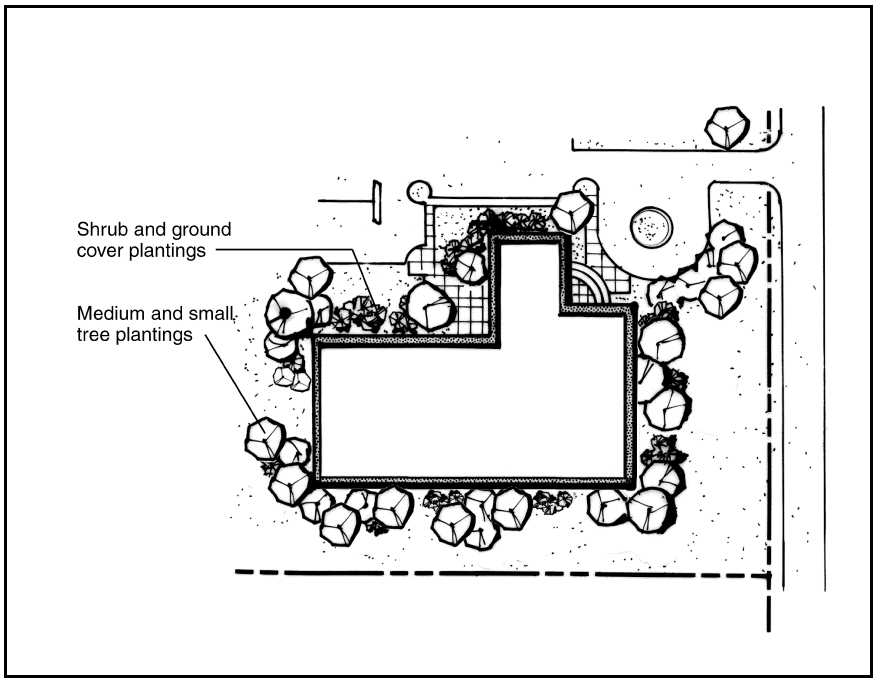
TABLE I: LANDSCAPING POINTS AND MINIMUM INSTALLATION SIZES		
Plant Category	**Landscaping Points Per Plant**	**Minimum Permitted Installation Size**
Climax Tree	75	2" Caliper
Tall Deciduous Tree	30	1□ " Caliper
Medium Deciduous Tree	15	6' Tall
Low Deciduous Tree	10	4' Tall
Tall Evergreen Tree	40	5' Tall
Medium Evergreen Tree	20	4' Tall
Low Evergreen Tree	12	3' Tall
Tall Deciduous Shrub	5	36" Tall
Medium Deciduous Shrub	3	24" Tall
Low Deciduous Shrub	1	18" Tall
Medium Evergreen Shrub	5	18" Tall/Wide
Low Evergreen Shrub	3	12" Tall/Wide
Non-Contributory Plants	0	n/a
Source: A Guide to Selecting Landscape Plants for Wisconsin, E.R. Hasselkus, UW-Extension Publication: A2865.		

(b) The Illustrations shown as Alternatives A to F depict sample landscaping schemes that may be used for building foundations, developed lots, street frontages, paved areas, reforestation, and bufferyards. In general, landscaping schemes similar to Alternative A are best for building foundations, landscaping schemes similar to Alternative B are best for developed lots, landscaping schemes similar to Alternative C are best for street frontages, landscaping schemes similar to Alternative D are best for paved areas (including parking lots, walkways and plazas), landscaping schemes similar to Alternative E are best for reforestation, and landscaping schemes similar to Alternative F are best for buffer-yards. A detailed listing of which plant species fit each plant type is provided in Subsection (11).

Alternative A: Best Suited for Building Foundations

750 Landscaping Points:

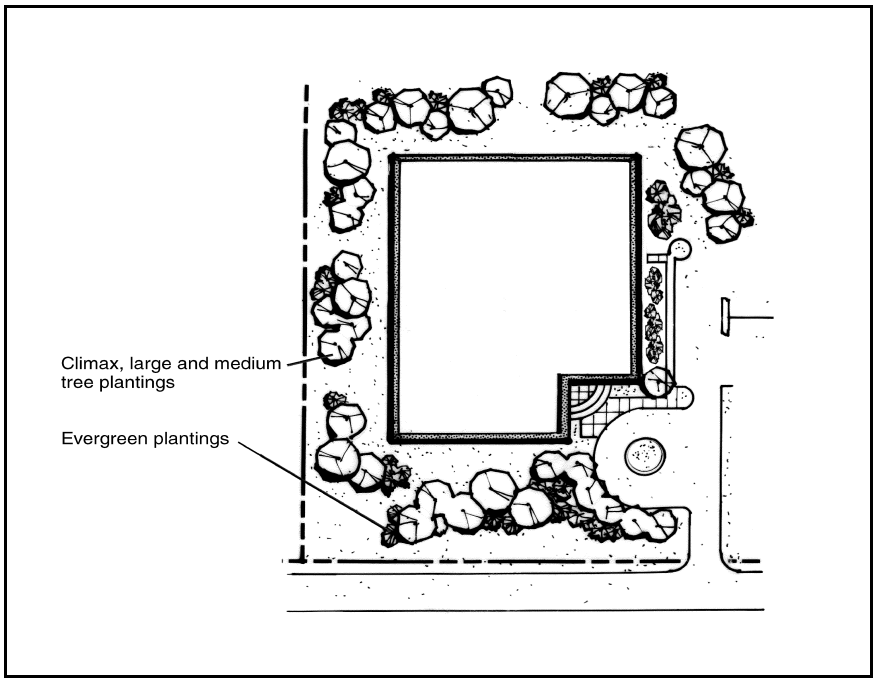
20 medium trees
15 small trees
60 shrubs



Alternative B:
Best Suited for Developed Lots

1250 Landscaping Points:

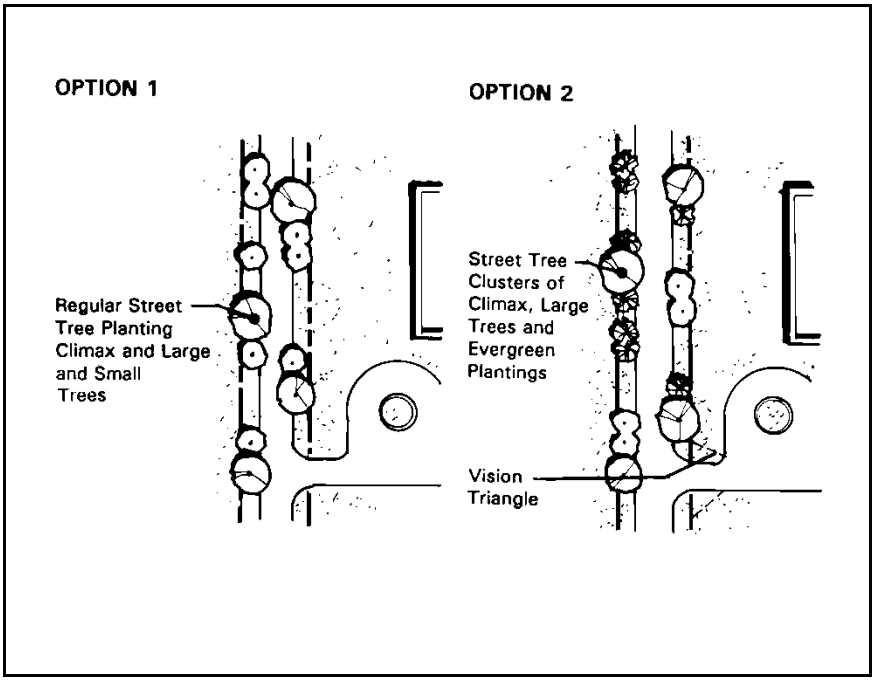
6 climax trees
8 tall trees
20 medium trees
41 evergreen plantings



Alternative C:
Best Suited for Street Frontages

Option 1
280 Landscaping Points:
2 climax trees
2 tall trees
8 small trees

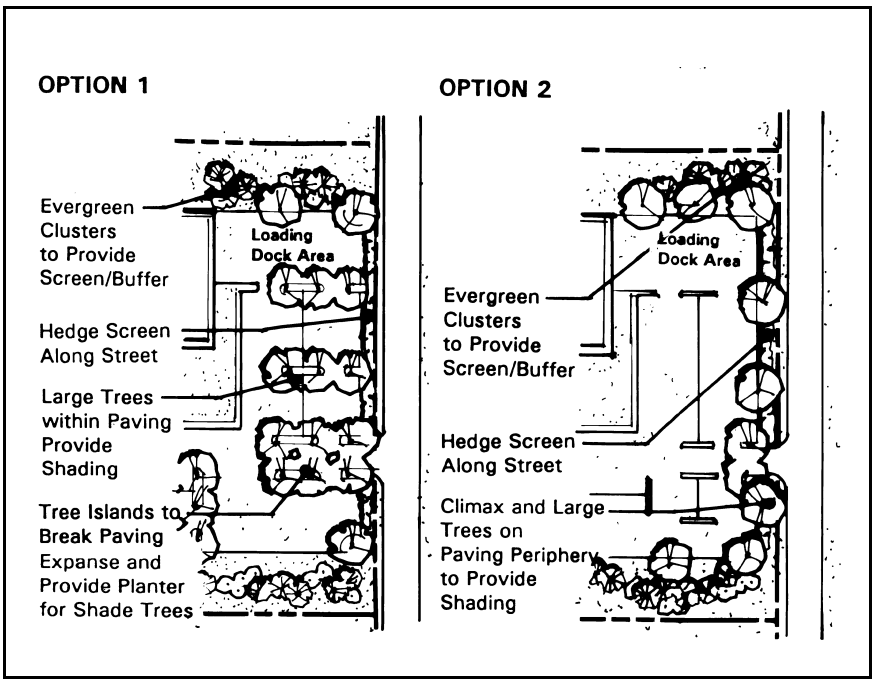
Option 2
280 Landscaping Points:
2 climax trees
2 tall trees
4 small trees
8 evergreen shrubs



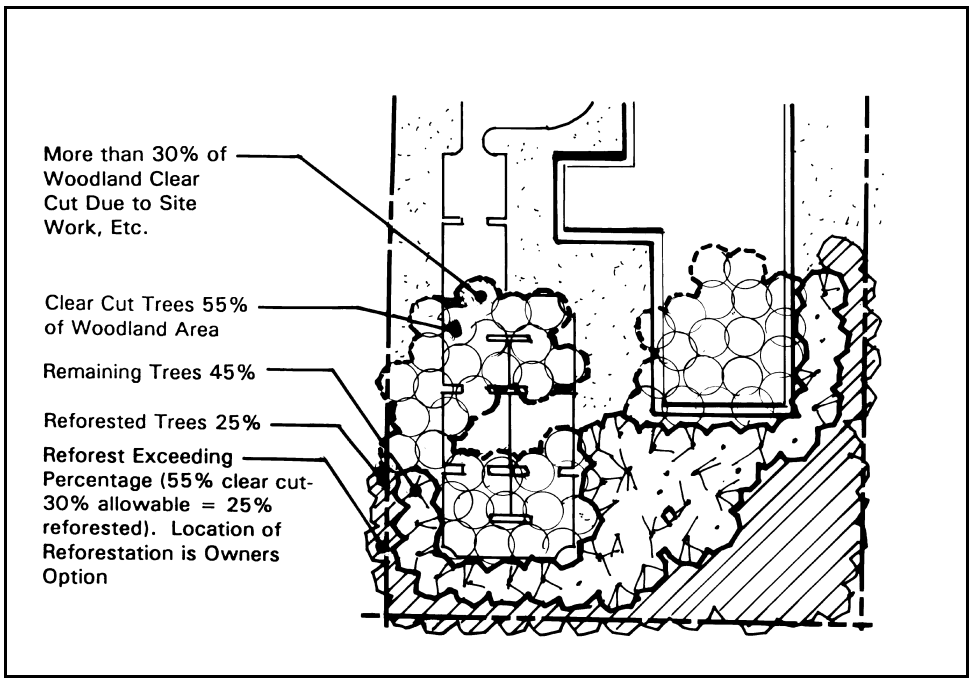
Alternative D: Best Suited for Paved Areas
Option 1

880 Landscaping Points:
2 climax trees
13 tall trees
68 evergreen shrubs

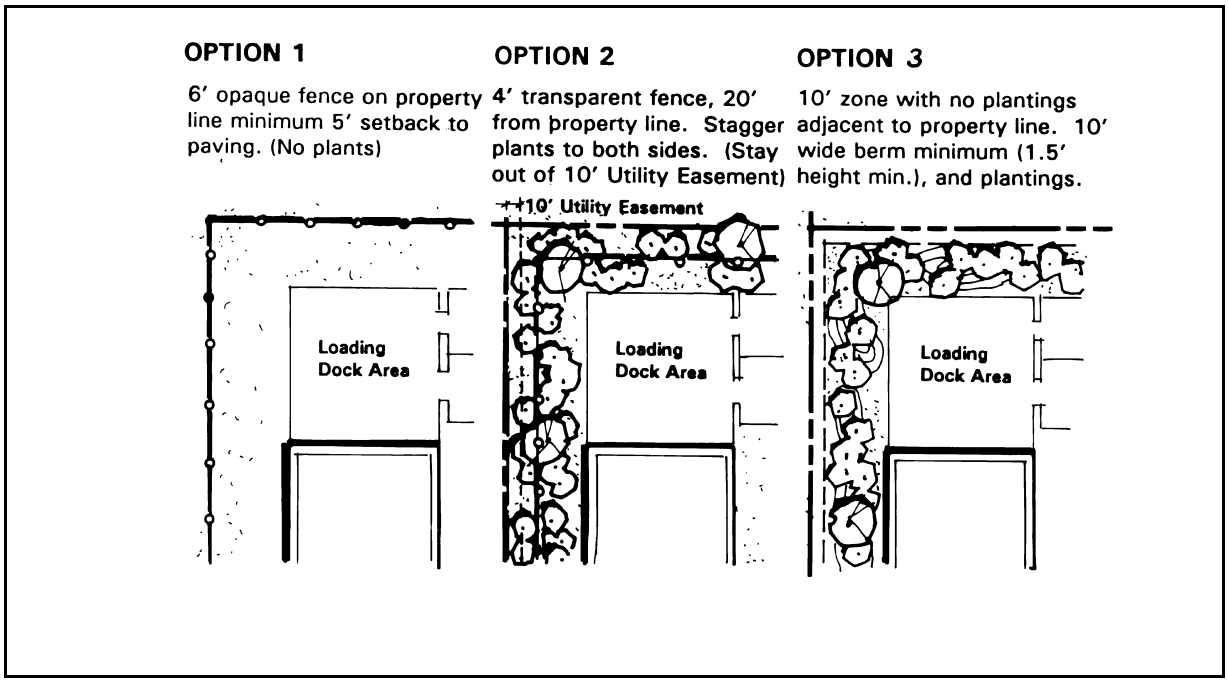
Option 2
880 Landscaping Points:
5 climax trees
6 tall trees
68 evergreen shrubs



Alternative E:
Best Suited for Reforestation



Alternative F: Best Suited for Bufferyards



(3) Measurement for Landscaping Requirements: A minimum amount of landscaping points, based upon the zoning district, is required for the linear feet Building Foundations, the gross floor area of buildings on Developed Lots, the linear feet of Street Frontage, and the total combined area of Paved Areas. The following diagram illustrates the measurement techniques used to determine these requirements:

Landscaping Calculation Equations:

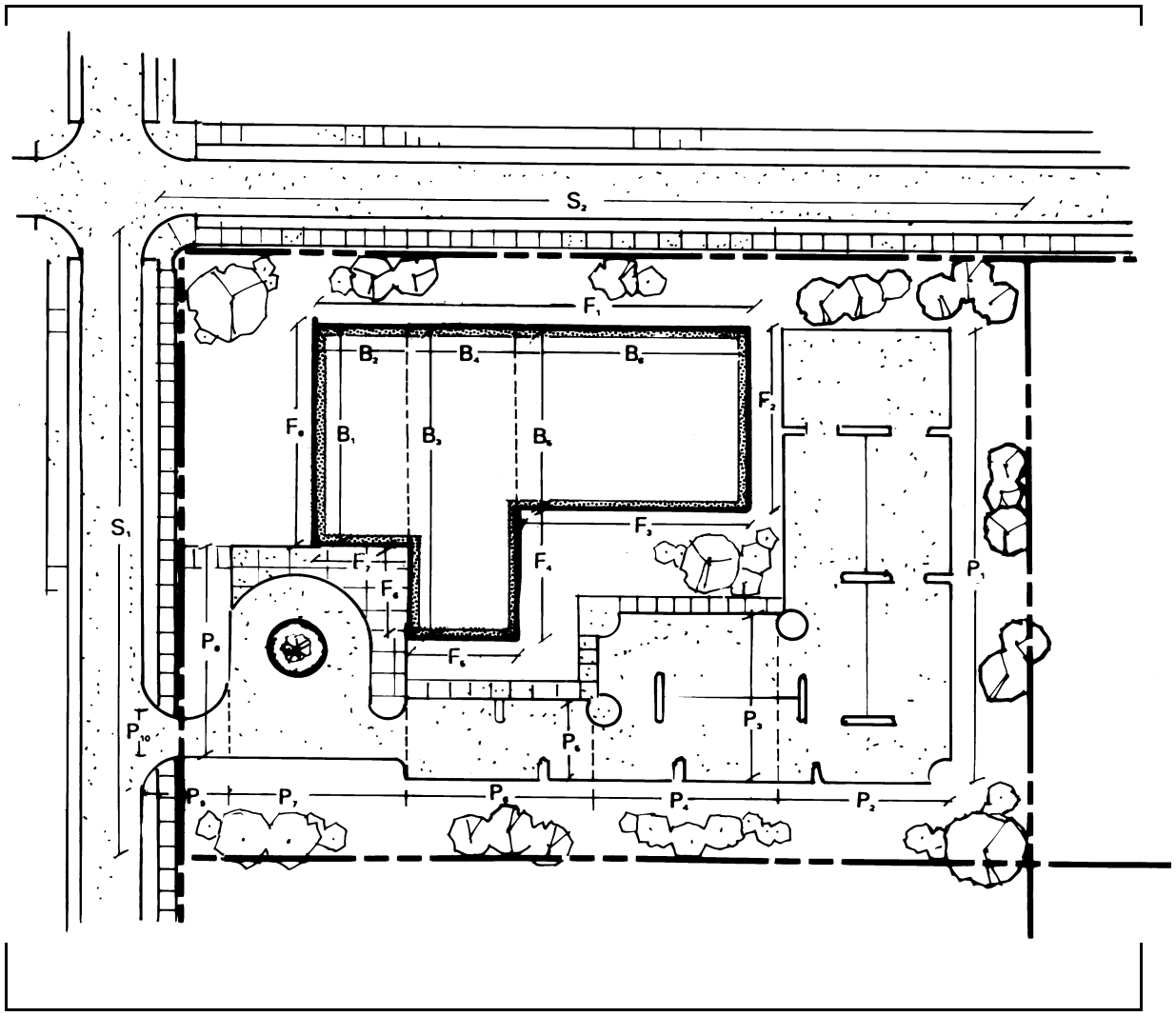
Paved Area = $(P_1 \times P_2) + (P_3 \times P_4) + (P_5 \times P_6) + (P_7 \times P_8) + (P_9 \times P_{10})$

Street Frontage = $S_1 + S_2$

Building Perimeter = $F_1 + F_2 + F_3 + F_4 + F_5 + F_6 + F_7 + F_8$

Building Floor Area = $(B_1 \times B_2) + (B_3 \times B_4) + (B_5 \times B_6)$

number of landscaping points (per



(4) **LANDSCAPING REQUIREMENTS FOR BUILDING FOUNDATIONS.**

(a) This subsection requires that certain buildings, or building additions, constructed after the effective date of this subchapter be accented by a minimum amount of landscaping placed near the building foundation.

(b) Landscaping required by this subsection shall be placed so that at maturity, the plant's drip line is located within 10 feet of the building foundation. Such landscaping shall not be located in those areas required for landscaping as street frontages, paved areas, protected green space areas, reforestation areas, or bufferyards, under §§(5) to (9) of this subchapter.

See Alternative A of §(3)(b) for a suggested scheme.

(c) For each 100 feet of building foundation perimeter, the following §3) shall be provided on a prorated basis, and installed and permanently maintained per the requirements of §(12).

(d) Climax trees and tall trees shall not be used to meet this requirement. The intent of this subsection is to require a visual break in the mass of buildings and to require a visual screen of a minimum of 6 feet in height for all exterior perimeter appurtenances (such as HVAC/utility boxes, standpipes, stormwater discharge pipes and other pipes.)

(e) Where the officially approved site plan depicts a future building extension, the foundation landscaping requirement shall be calculated by measuring the length of the total perimeter. However, foundation plantings need only be installed based on the landscape points calculated from the portions of the

building perimeter that will not be affected by building extension. If this results in point requirements which are not met through the initial planting, then said requirement shall be met within five years of building permit issuance, or as extended in writing by the Plan Commission.

TABLE II: BUILDING FOUNDATION LANDSCAPING REQUIREMENTS **Minimum Required Landscaping Points per 100 linear feet of Building Foundation**		
		Land Use
Zoning District ⇩	**All Other Land Uses**	**One and Two-Family Residential and Agricultural Uses**
Agricultural and Conservancy (A-1, A-2, C-1)	20	0
Single family Residential District One (R-1)	40	0
One and Two Family Residential District Two (R-2)	40	0
One Thru four Family Residential District Three (R-3)	45	0
Five family and up Residential Districts (R-4, R-5)	50	0
Neighborhood Business District (B-2)	40	0
Central Business District (B-1)	0	0
Highway Oriented Business (B-3)	40	0
Business/Industrial (I-3, I-4)	40	0
Industrial District (I-1, I-2)	20	0

(5) LANDSCAPING REQUIREMENTS FOR DEVELOPED LOTS

(a) This subsection requires that certain lots developed after the effective date of this subchapter contain a minimum amount of landscaping.

(b) Landscaping required by this subsection is most effective if located away from those areas required for landscaping as building foundations, street frontages, paved areas, protected green space areas, reforestation areas, or bufferyards, under subsections (5) through (10), of this section. See subsection (3)(b) for alternative landscaping schemes.

(c) The following number of landscaping points (as described in subsection 3) shall be provided on a prorated basis for every 1,000 square feet of gross floor area, and installed and maintained per the requirements of subsection (12).

(d) The intent of this subsection is to provide yard shade and to require a visual screen of a minimum of 6 feet in height for all detached exterior appurtenances (such as HVAC, utility boxes, standpipes, stormwater discharge pipes and other pipes.)

TABLE III: DEVELOPED LOT LANDSCAPING REQUIREMENTS **Minimum Required Landscaping Points per 1,000 square feet of Gross Floor Area**		
		Land Use
Zoning District ⇩	**All Other Land Uses**	**One and Two-Family Residential and Agricultural Uses**
Agricultural and Conservancy (A-1, A-2, C-1)	10	0
Single family Residential District One (R-1)	20	0
One and Two Family Residential District Two (R-2)	20	0
One through Four Family Residential District Three	20	0
Five family and up Residential Districts (R-4, R-5)	20	0
Neighborhood Business District (B-2)	15	0
Central Business District (B-1)	0	0
Highway Oriented Business (B-3)	10	0
Business/Industrial (I-3, I-4)	10	0
Industrial District (I-1, I-2)	5	0

(6) LANDSCAPING REQUIREMENTS FOR STREET FRONTAGES

(a) This subsection requires that street frontages on certain lots developed after the effective date of this chapter contain a minimum amount of landscaping in those areas which abut the right-of-way of a public street.

(b) All landscaping used to meet this requirement shall be located within 10 feet of the public right-of-way. In no instance shall such landscaping be located within a public right-of-way. See §(3)(c) for a suggested landscaping scheme. Landscaping shall not impede vehicle or pedestrian visibility.

(c) For every 100 linear feet of street frontage where a developed lot abuts a public street right-of-way, the following number of landscaping points (as described in §(3)) shall be provided on a prorated basis, and installed and maintained per the requirements of §(12).

(d) Shrubs shall not be used to meet this requirement. A minimum of 50% of all points shall be devoted to climax and/or tall trees and a minimum of 30% of all points shall be devoted to medium trees.

TABLE IV: STREET FRONTAGE LANDSCAPING REQUIREMENTS
Minimum Required Landscaping Points per 100 linear feet of Street Frontage

Zoning District↓	Land Use	
	All Other Land Uses	**One and Two Family Residential and Agricultural Uses**
Agricultural and Conservancy (A-1, A-2, C-1)	20	0
Single family Residential District One (R-1)	40	0
One and Two Family Residential District Two (R-2)	40	0
One through Four Family Residential District Three (R-3)	45	0
Five Family and Up Residential Districts (R-4, R-5)	50	0
Neighborhood Business District (B-2)	40	0
Central Business District (B-1)	0	0
Highway Oriented Business (B-3)	40	0
Business/Industrial (I-3, I-4)	40	0
Industrial District (I-1, I-2)	20	0

(7) LANDSCAPING REQUIREMENTS FOR PAVED AREAS

(a) This subsection requires that paved areas on certain lots developed after the effective date of this section contain a minimum amount of landscaping within, or within 10 feet of, the paved area. The intent is to require a continuous visual screen of parking areas from public rights-of-way at a minimum height of 40 inches.

(b) A minimum of 360 square feet of landscaped area, which shall be located within 10 feet of the paved area, is required for the placement of every 100 landscaping points. Said area does not have to be pro-vided in one contiguous area. Sample configurations are depicted in §(3), above. Plants used to fulfill this requirement shall visually screen parking, loading and circulation areas from view from public streets.

(c) For every 20 off-street parking stalls or 10,000 square feet of pavement (whichever yields the greater landscaping requirement) located in a development, the following number of landscaping points (as described in subsection (3)) shall be provided on a prorated basis, and installed and maintained per the requirements of §(12). A minimum of 30% of all points shall be devoted to climax and/or tall trees and a minimum of 40% of all points shall be devoted to shrubs.

TABLE V: PAVED AREA LANDSCAPING REQUIREMENTS
Minimum Required Landscaping Points per 10,000 square feet of Paved Area or 20 Parking Stalls

Zoning District ↓	Land Use	
	All Other Land Uses	One and Two Family Residential and Agricultural Uses
Agricultural and Conservancy (A-1, A-2, C-1)	40	0
Single family Residential District One (R-1)	80	0
One and Two Family Residential District Two (R-2)	80	0
One through Four Family Residential District Three (R-3)	90	0
Five Family and Up Residential Districts (R-4, R-5)	100	0
Neighborhood Business District (B-2)	80	0
Central Business District (B-1)	20	0
Highway Oriented Business (B-3)	80	0
Business/Industrial (I-3, I-4)	80	0
Industrial District (I-1, I-2)	40	0

(8) LANDSCAPING REQUIREMENTS FOR OTHER PERMANENTLY PROTECTED GREEN SPACES

(a) This subsection requires that each acre of other permanently protected green space after the effective date of this section be planted with a minimum amount of landscaping.

(b) For every one acre of other permanently protected green space in a development, two hundred landscaping points (as described in §3) shall be provided. In addition, adequate ground cover shall be provided to stabilize the soil.

Rationale: The provisions of this subsection are designed to ensure that reforestation efforts required as part of woodland disruption mitigation standards result in the thorough and reasonably rapid replacement of the important and varied environmental functions which woodlands provide.

(9) LANDSCAPING REQUIREMENTS FOR REQUIRED REFORESTATION

(a) This subsection requires that each area required to be reforested, be reforested and maintained in a manner appropriate to site conditions.

(b) A detailed reforestation plan shall be submitted by the property owner and approved by the City prior to clear cutting. This plan shall be reviewed by a reforestation consultant chosen by the City, with funding for consulting services provided by the petitioner to the City.

Rationale: The provisions of this subsection are designed to ensure that reforestation efforts required as part of woodland disruption mitigation standards result in the thorough and reasonably rapid replacement of the important and varied environmental functions which woodlands provide.

(10) LANDSCAPING REQUIREMENTS FOR BUFFERYARDS

(a) Purpose: This subsection provides the landscaping and width requirements for bufferyards on lots developed after the effective date of this Chapter. A bufferyard is a combination of distance and a visual buffer or barrier. It includes an area, together with the combination of plantings, berms and fencing, that are required to eliminate or reduce existing or potential nuisances. These nuisances can often occur between adjacent zoning districts. Such nuisances are dirt, litter, noise, glare of lights, signs, and incompatible land uses, buildings or parking areas.

Rationale: One of zoning's most important functions is the separation of land uses into districts which have similar character and contain compatible uses. The location of districts is supposed to provide protection, but in the City of Baraboo, this is not the case since zoning districts permitting uses as diverse as single- family residential and industrial uses were located next to one another long before the effective date of this Chapter. Bufferyards will operate to minimize the negative impact of any future use on neighboring uses.

(b) Required Locations for Bufferyards: Bufferyards shall be located along (and within) the outer perimeter of a lot

wherever two different zoning districts abut one another. Bufferyards shall not be required in front yards.

(c) Determination of Required Bufferyard: The determination of bufferyard requirements is a two-staged process. First, the required level of bufferyard opacity is determined using Table VI. Opacity is a quantitatively-derived measure which indicates the degree to which a particular bufferyard screens the adjoining property. The required level of opacity indicated by Table VI is directly related to the degree to which the potential character of development differs between different zoning districts. The provisions of this subsection indicate the minimum requirements for bufferyards located along zoning district boundaries.

1. Identification of Required Level of Opacity: Table VI shall be used to determine the minimum level of opacity for the required bufferyard. The required level of opacity is determined by the value given in the cell of the table at which the column heading along the top row of the table (representing the subject property's zoning district) intersects with the row heading along the left hand side of the table (representing the adjacent property's zoning district). The value listed is the required level of opacity for the bufferyard on the subject property.

2. Identification of Detailed Bufferyard Requirements.
   a. If a proposed use adjoins a parcel for which a bufferyard is required by the presence of a zoning district boundary, that use shall provide a bufferyard with the level of the opacity indicated in Table VI.

   b. For each level of opacity listed in Table VI, a wide variety of width, landscaping point, berm, and structure combinations are possible. These are listed in Table VII. The requirements listed in Table VII pertain to the number of landscaping points, the minimum bufferyard width, and the type of berm or fencing required within every 100 feet of required bufferyard. A variety of landscaping point options are available and may be mixed within distinct portions of the same bufferyard. Subsection (3) describes the various available landscaping point alternatives. Subsection (11) provides a listing of tree and shrub species which correspond the landscaping point descriptions.

(d) Tables for Required Bufferyards: See following pages for Tables VI and VII.

Notes for Table VI: For properties zoned in the Agricultural District (A-1, A-2), or Conservancy (C-1) refer to the Master Plan's Land Use Map to determine the proposed zoning district for said property. Bufferyard requirements shall be taken from this proposal.

TABLE VI: REQUIRED BUFFERYARD OPACITY VALUES

↓ Adjacent Property's Zoning District										
↓	↓ Subject Property's Zoning District ↓									
↓	A-1 A-2 C-1	R-1	R-2	R-3	R-4 To R-5	B-2	B-3	B-1	I-3 I-4	I-1 I-2
A-1 A-2 C-1		2	2	2	2	2	2	2	2	2
R-1				.2[1]	.3[1]	.4	.5	.6	.4	.5
R-2				.2[1]	.3[1]	.4	.5	.6	.4	.5
R-3					.2[1]	.3	.4	.5	.3	.4
R-4, R-5						.2	.3	.4	.2	.3

B-4						.1	.2	.3	.1	.2
B-2							.1	.2	.1	.1
B-3								.1		.1
B-1										.1
I-3, I-4										.2
I-1, I-2										

[1]For any non-residential use (such as a church or a school) within this Zoning District, provide an additional 0.1 level of opacity to the minimum required opacity level listed below for any and all borders shared with a residential land use.

[2]For properties zoned in the Agricultural or Conservancy (A-1, A-2, C-1), refer to the Master Plan's Future Land Use Map to determine the proposed zoning district for said property. Bufferyard requirements shall be taken from this proposal.

TABLE VII: DETAILED BUFFERYARD REQUIREMENTS

Opacity	# Landscaping Points/100 feet	Width	Required Structure
	00	10'+	Min. 44" picket fence*
	00	10'+	Min. 4' wood rail fence*
	40	10'	-
	36	15'	-
	33	20'	-
	31	25'	-
	29	30'+	-
	00	10'+	Min. 44" picket fence*
	38	10'+	Min. 4' wood rail fence*
	91	10'	-
	80	15'	-
	73	20'	-
	68	25'	-
	65	30'	-
	62	35'+	-
	00	35'+	Min. 4' berm
	00	10'+	Min. 6' solid fence*
	84	10'+	Min. 44" picket fence*
	133	15'+	Min. 4' wood rail fence*
	198	15'	-
	173	20'	-
	158	25'	-
	149	30'	-

TABLE VII: DETAILED BUFFERYARD REQUIREMENTS			
Opacity	**# Landscaping Points/100 feet**	**Width**	**Required Structure**
	140	35'	-
	10	35'+	Min. 4' berm
	135	40'+	-
	00	40'+	Min. 5' berm

Continued on the next page.

*Fences contributing to landscaping requirements are not permitted along street frontages for nonresidential uses. Where used in combination with plant materials to meet bufferyard requirements, a minimum of 50% of all plant materials shall be located on the exterior side (the side away from the center of the subject property) of the fence. A building wall which does not contain doors (except those used for emergency exit) may be used to satisfy the required fence portions of the bufferyard requirements.
NOTE: Opacity standards provided courtesy of Lane Kendig, Inc.

TABLE VII (continued): DETAILED BUFFERYARD REQUIREMENTS			
Opacity	**# Landscaping Points/100 feet**	**Width**	**Required Structure**
	00	10'+	min. 6' solid fence*
	198	15'+	min. 44" picket fence*
	320	20'	-
	240	20'+	min. 4' wood rail fence*
	276	25'	-
	252	30'	-
	235	35'	-
	104	35'+	min. 4' berm
	223	40'	-
	44	40'+	min. 5' berm
	215	45'	-
	209	50'+	-
	00	50'+	min. 6' berm
	53	10'+	min. 6' solid fence*
	330	20'+	min. 44" picket fence*
	440	25'	-
	362	25'+	min. 4' wood rail fence*
	385	30'	-
	349	35'	-
	208	35'+	min. 4' berm
	327	40'	-
	148	40'+	min 5' berm
	310	45'	-
	299	50'+	-

TABLE VII (continued): DETAILED BUFFERYARD REQUIREMENTS			
Opacity	**# Landscaping Points/100 feet**	**Width**	**Required Structure**
	56	50'+	min. 6' berm

Continued on the next page.

*** Fences contributing to landscaping requirements are not permitted along street frontages for nonresidential uses. Where used in combination with plant materials to meet bufferyard requirements, a minimum of 50% of all plant materials shall be located on the exterior side (the side away from the center of the subject property) of the fence. A building wall which does not contain doors (except those used for emergency exit) may be used to satisfy the required fence portions of the bufferyard requirements.**
NOTE: Opacity standards provided courtesy of Lane Kendig, Inc.

TABLE VII (continued): DETAILED BUFFERYARD REQUIREMENTS			
Opacity	**# Landscaping Points/100 feet**	**Width**	**Required Structure**
	135	15'+	min. 6' solid fence*
	564	30'	-
	405	30'+	min. 44" picket fence*
	492	30'+	min. 4' wood rail fence*
	499	35'	-
	319	35'+	min. 4' berm
	454	40'	-
	261	40'+	min. 5' berm
	422	45'	-
	405	50'	-
	160	50'+	min. 6' berm
	388	55'	-
	374	60'+	-
	221	20'+	min. 6' solid fence*
	433	35'+	min. 4' berm
	541	35'+	min. 44" picket fence*
	630	35'+	min. 4' wood rail fence*
	626	40'	-
	379	40'+	min. 5' berm
	570	45'	-
	525	50'	-
	270	50'+	min. 6' berm
	500	55'	-
	480	60'+	-

Continued on the next page.

*** Fences contributing to landscaping requirements are not permitted along street frontages for nonresidential uses. Where used in combination with plant materials to meet bufferyard requirements, a minimum of 50% of**

TABLE VII (continued): DETAILED BUFFERYARD REQUIREMENTS			
Opacity	**# Landscaping Points/100 feet**	**Width**	**Required Structure**
all plant materials shall be located on the exterior side (the side away from the center of the subject property) of the fence. A building wall which does not contain doors (except those used for emergency exit) may be used to satisfy the required fence portions of the bufferyard requirements. **NOTE:** Opacity standards provided courtesy of Lane Kendig, Inc.			

TABLE VII(continued): DETAILED BUFFERYARD REQUIREMENTS			
Opacity	**# Landscaping Points/100 feet**	**Width**	**Required Structure**
	415	30'+	min. 6' solid fence*
	655	40'+	min. 4' berm
	627	45'+	min. 5' berm
	873	45'+	min. 44" picket fence*
	910	50'	-
	505	50'+	min. 6' berm
	809	50'+	min. 4' wood rail fence*
	804	55'	-
	744	60'	-
	710	65'	-
	677	70'+	-
	636	40'+	min. 6' solid fence*
	732	50'+	min. 6' berm
	751	50'+	min. 5' berm
	867	55'+	min. 4' berm
	1091	60'+	min. 44" picket fence*
	1136	60'+	min. 4' wood rail fence*
	1083	65'	-
	994	70'	-
	934	75'	-
	892	80'+	-
*** Fences contributing to landscaping requirements are not permitted along street frontages for nonresidential uses. Where used in combination with plant materials to meet bufferyard requirements, a minimum of 50% of all plant materials shall be located on the exterior side (the side away from the center of the subject property) of the fence. A building wall which does not contain doors (except those used for emergency exit) may be used to satisfy the required fence portions of the bufferyard requirements.** **NOTE**: Opacity standards provided courtesy of Lane Kendig, Inc.			

(11) CLASSIFICATION OF PLANT SPECIES

(a) For the purpose of this Subchapter, plant materials are classified into thirteen (13) groupings: "climax tree", "tall deciduous tree", "medium deciduous tree", "low deciduous tree", "tall evergreen tree", "medium evergreen tree", "low evergreen tree", "tall deciduous shrub", "medium deciduous shrub", "low deciduous shrub", "medium evergreen shrub", "low evergreen shrub", and non-contributory plants. Species suitable for landscaping use and compatible with Baraboo climate and soil factors are listed in Table VIII, below. The Zoning Administrator shall review proposals for, and the applicability of, species not contained in this list and is authorized to approve appropriate similar species.

TABLE VIII: CLASSIFICATION OF PLANTS

Climax Trees – (75 Landscaping Points)

Botanical Name	Common Name
Acer saccharum	Sugar Maple
Ginkgo biloba	Ginko
Quercus sp.	Oak: Red, White, Pin

Tall Deciduous Trees – (30 Landscaping Points)

Medium Deciduous Trees-(15 Landscaping Points)

Botanical Name	Common Name
Betula sp.	Birch: River, Paper
Prunus sp.	Cherry: Choke, Pin
Salix sp.	Willow

Low Deciduous Trees - (10 Landscaping Points)

Botanical Name	Common Name
Amelanchier sp.	Serviceberry
Crataegus sp.	Hawthorn: Cockspur, Downy, Washington
Malus sp.	Crabapple sp.

Tall Evergreen Trees - (40 Landscaping Points)

Botanical Name	Common Name
Abies concolor	White Fir
Pinus sp.	Pine: Red, White, Scots
Tsuga Canadensis	Canada Hemlock

Medium Evergreen Trees-(20 Landscaping Points)

Botanical Name	Common Name
Thuja occidentalis	American Arborvitae

Low Evergreen Trees-(12 Landscaping Points)

Botanical Name	Common Name
Juniperus sp.	Juniper: Mountbatten, Redcedar
Thuja sp.	Arborvitae: Pyramidal, Techny

Tall Deciduous Shrubs-(5 Landscaping Points)

Botanical Name	Common Name
Acer sp.	Maple: Red, Silver, Norway
Fraxinus sp.	Ash: White, Green
Gleditsia triancanthos	Honeylocust
Populus grandidentata	Bigtooth Aspen
Tilia sp.	Linden: Basswood, Littleleaf, Redmond
Cornus sp.	Dogwood:Grey, Pagoda
Syringa sp.	Lilac: Chinese,Hyacinth
Viburnum sp.	Viburnum: Arrowwood, Wayfaringtree, Nannyberry

Medium Deciduous Shrubs-(3 Landscaping Points)

Botanical Name	Common Name
Corylus americana	American Filbert, Hazelnut
Cotoneaster sp.	Cotoneaster
Forsynthia sp.	Forsythia: Border, Early, Weeping
Rosa sp.	Rose: Virgina, Rugosa

Low Deciduous Shrubs-(1 Landscaping Point)

Botanical Name	Common Name
Berberis thunbergii	Japanese Barberry
Spiraea sp.	Spirea: Froebel, Snowmound

Tall - Medium Evergreen Shrubs-
(5 Landscaping Pts.)

Botanical Name	Common Name
Juniperus chinensis	Juniper: Pfitzer,
Taxus sp.	Yew: Japanese

Low Evergreen Shrubs-(3 Landscaping Points)

Botanical Name	Common Name
Juniperus sp.	Juniper: Sargent, Creeping, Andorra

(12) REQUIREMENTS FOR THE INSTALLATION, MAINTENANCE AND USE OF LANDSCAPED AND BUFFERYARD AREAS

(a) Installation

1. Any and all landscaping and bufferyard material required by the provisions of this Subchapter shall be installed on the subject property, in accordance with the approved site plan (see §17.55) within 730 days of the issuance of an occupancy permit for any building on the subject property.

2. Surety: If the subject property is to be occupied prior to the installation of all required landscaping and bufferyard material, the property owner shall sign an agreement stating the intent to install the landscaping within the 730 day period. This agreement shall also contain a statement indicating that there are fines associated with not complying with this agreement.

3. Existing plant material which meets the requirements of §(3) and which will be preserved on the subject

property following the completion of development, may be counted as contributing to the landscaping requirements.

4. All landscaping and bufferyard areas shall be seeded with lawn or native ground cover unless such vegetation is already fully established.

5. The exact placement of required plants and structures shall be depicted on the required detailed landscaping plan shall be the decision of each property owner within the requirements of this Subchapter, except that the following requirements shall be met:

   a. Evergreen shrubs shall be planted in clusters in order to maximize their chance for survival.

   b. Where a combination of plant materials, and/or berming and/or fencing is used in a bufferyard, the fence and/or berm shall be located toward the interior of the subject property and the plant material shall be located toward the exterior of the subject property.

   c. A property owner may establish through a written agreement, recorded with the Register of Deeds Office, that an adjacent property owner shall agree to provide a partial or full portion of the required bufferyard on an immediately adjacent portion of their land, thereby exempting the developer from providing all or a portion of the required bufferyard on his property.

   d. In no manner shall landscaping or bufferyard materials be selected and/or located in a manner which results in the creation of a safety or visibility hazard. (See §3.)

   e. The restrictions on types of plants listed in §§(4) to (7) shall apply.

(b) Maintenance: The continued and continual maintenance of all required landscaping and bufferyard materials shall be a requirement of this Chapter and shall be the responsibility of the owner of the property on which said materials are required. This requirement shall run with the property and is binding upon all future property owners. Development of any and all property following the effective date of this Chapter shall constitute an agreement by the property owner to comply with the provisions of this Subsection. Upon failure to comply with these provisions, the City may enter upon the property for the purpose of evaluating and maintaining all required landscaping and bufferyard materials, and may specially assess the costs thereof against the property. Failure to comply with this requirement shall be considered a violation of this Chapter, and shall be subject to any and all applicable enforcement procedures and penalties.

(c) Use of Required Bufferyard and Landscaped Areas: Any and all required bufferyards or landscaped areas may be used for passive recreation activities. Said areas may contain pedestrian, bike or equestrian trails provided that: no required material is eliminated; the total width of the required buffer- yard, or the total area of required landscaping, is maintained; and all other regulations of this chapter are met. In no event, however, shall swimming pools, tennis courts, sports fields, golf courses, or other such active recreation used be permitted in such areas. Furthermore, in no instance shall any parking be permitted in such areas, nor shall any outdoor display of storage of materials be per-mitted in such areas. Paving in such areas shall be limited to that required for necessary access to, through, or across the subject property.

(d) Utility Easements: Landscaping materials, fences and berms which are located within a duly recorded utility easement and/or a pedestrian easement shall not count toward meeting a landscaping requirement. However, the width of such areas may be counted as part of a landscaping requirement.

(13) CALCULATING LANDSCAPING AND BUFFERYARD REQUIREMENTS. In calculating the number of required landscaping points under the provisions of this subchapter, all areas and distances on which required calculations are based shall be rounded up to the nearest whole number of square feet or linear feet. Any partial plant derived from the required calculations of this subchapter (for example 23.3 canopy trees) shall be rounded up to the nearest whole plant (24 canopy trees).

(14) DEPICTION ON REQUIRED SITE PLAN. Any and all proposed landscaping on the subject property, required to meet the standards of this Chapter, shall be clearly depicted and labeled as to its location and make-up on the site plan required for the development of the subject property.

(15) APPEALS. Any action of the Plan Commission pursuant to this Subchapter may

be appealed to the City Council pursuant to the procedures set forth in §17.37(4) of the Zoning Code.

(16) VARIANCES. Where, in the judgment of the Plan Commission or the Common Council, it would be inappropriate only to special conditions to apply literally the provisions of this subchapter, the Plan Commission or Common Council may waive or modify any such requirement to the extent deemed just and proper so that substantial justice may be done and the public interest served. The procedures and standards set forth in §18.02(5) shall apply to the granting of a variance under this subchapter.

(17) ENFORCEMENT AND PENALTY. Any person, including every owner and/or occupant of a development or use established after the effective date of this Subchapter who violates, disobeys, neglects, omits or refuses to comply with, or resists the enforcement of any of the provisions of the Subchapter shall be subject to a penalty as provided in §17.54 of this Code. Each violation and each day a violation continues or occurs shall constitute a separate offense.

SUBCHAPTER V. PARK FACILITIES IMPACT FEE REGULATION (2143 03/09/04)

17.82 <u>SUBCHAPTER V: IMPACT FEE REGULATION</u> (2342 08/24/2010)

(1) PURPOSE AND INTENT – This Section is intended to allocate the financial cost of providing public facilities fairly between existing City residents and owners of existing land developments within the City on the one hand and developers of new land developments on the other, and to comply with §66.0617, Wis. Stats., on municipal impact fees. This section is further intended to insure that public facilities are adequate to meet the development needs of the City and that new development pays a proportionate share of new, expanded, or improved facilities required by such development.

(2) DEFINITIONS – The definitions set forth in §66.0617(1), Wis. Stats., and any amendments thereto are hereby incorporated and made a part of this section. In addition, in this section, the following definitions shall apply:

(a) "<u>Building Permit</u>" – means any permit required for new construction and additions to residential dwelling units pursuant to the Baraboo Code of Ordinances. The term "building permit," as used herein, shall not be deemed to include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided no increase in the number of residential dwelling units results therefrom.

(b) "<u>Development</u>"– means the construction or modification of improvements to real property that creates or results in additional residential dwelling units within the City.

(c) "<u>Public Facilities or Public Facilities Project</u>" – means any or all of the following capital improvements that are necessary to support development and that are to be financed by the imposition of an impact fee: parks, playgrounds, other recreational facilities, police, and fire services.

(3) PUBLIC FACILITIES NEEDS ASSESSMENT. In accordance with §66.0617(4), Wis. Stats., the City has prepared a Public Facilities Needs Assessment Report for Park Facilities Improvements and Parkland Fee in-lieu-of Land Dedication, and for Police, and Fire Services. The needs assessments, standards, and methodology used for calculation of the Park Facilities Impact Fees, and for the Police, and Fire Services Fees, together with documentation of the City's compliance with the statutory requirements are contained in the Public Facilities Needs Assessment for Park Improvements and Parkland Fee in Lieu of Land Dedication Report (Park Facilities Needs Assessment Report), and the Emergency Services Impact Fee Needs Assessment Report on file with the City Clerk.

(4) PAYMENT OF IMPACT FEE REQUIRED. Any developer who, after the effective date of this Section, applies for a building permit or an extension of a previously issued building permit for a development shall pay a Park Facilities, Police, and Fire Services Impact Fee as follows:

(a) The amount of the Park Facilities fee shall be $807 per additional single family residential dwelling unit to be constructed and $475 per additional multi-family residential dwelling unit to be constructed.

(b) The amounts for the Police and Fire Services Impact fee are as follows:

1. Police Impact Fee $ 965.00
2. Fire Dept. Impact Fee $ 870.00

(c) Payment of the impact fee shall be made to the City Treasurer prior to the issuance of any building permit for which the fee is applicable, except as provided in §5, below.

(5) IMPACT FEE FOR TYPE I MANUFACTURED HOME PARKS OR LOW COST HOUSING. Any developer who, after the effective date of this section, applies for a license for the development of a Manufacture Home Park (Type I) shall pay a Park Facilities Impact Fee for each residential Type I Manufactured Home sited or placed in the park. The fee shall be paid to the City Treasurer at the time a Manufactured Home is placed for occupancy. The impact fee imposed by this Section may be waived or reduced by the City Council after considering the recommendation of the Parks and Recreation Commission and the Plan Commission on a new development for a Manufacture Home Park (Type I) or for low cost housing, as provided in §66.0617(7), Wis. Stats.

(6) DISPOSITION OF REVENUES; EXPENDITURES. Revenues collected as impact fees under this section shall be placed by the City Treasurer in segregated interest bearing accounts and shall be accounted for separately from other funds of the City. Impact fee revenues and interest earned on impact fee revenues may be expended by the City only for the capital costs for which the impact fees were imposed and shall be expended on a first in/first out basis. Impact fees collected by the City shall be used within 10 years for the purposes for which they were collected.

(7) REFUNDS

(a) The current owner of a property on which an impact fee has been paid may apply for a full or partial refund of such fee if: (a) the City has failed to provide a public facility serving such property within 10 years of the date of payment of the impact fee; or (b) the building permit for which the impact fee has been paid has lapsed for non-commencement of construction; or (c) the project for which a building permit has been issued has been altered in a manner that has resulted in a decrease in the amount of the impact fee due; or (d) as otherwise provided in this section.

(b) A written claim for refund must be filed with the City Clerk within one year of the event giving rise to the claim. Failure to do so as provided herein shall be considered a waiver of the right to claim a refund under this section.

(c) For Park Impact Fees, within ten (10) business days of the filing date of a claim for refund, the City Clerk shall forward a copy of the claim for refund to the Parks and Recreation Director. Within forty-five (45) days of receipt, the Parks and Recreation Director shall submit a written report and recommendation to the City Administrator. The City Administrator shall review this report and make a written recommendation to the Common Council. Within fifty (50) days of the date of the City Administrator's written recommendation, the Common Council shall adopt a written decision denying, approving, or approving in part, the claim for refund.

(d) For Police and Fire Services Impact Fees, within ten (10) business days of the filing date of a claim for refund, the City Clerk shall forward the claim to the Police Chief. Within forty-five (45) days, the Police Chief in consultation with the Fire Chief, shall submit a written report and recommendation to the City Administrator. The City Administrator shall review the report and make written recommendations to the Common Council. Within fifty (50) days of the date of the City Administrator's written recommendation, the Common Council shall adopt a written decision deny, approving, or approving in part, the claim for refund.

(e) If the claimant wishes to appeal the decision of the Common Council, the claimant may commence an action in the Sauk County Circuit Court seeking review of the Council's decision within thirty (30) days after the date on which the Council adopted its decision with respect to the claim for refund.

(8) OTHER MEANS OF FINANCING PUBLIC FACILITY IMPROVEMENTS RESERVED. Pursuant to §66.0617(2)(b), Wis. Stats., the imposition of Public Facilities Impact Fees under this Section does not prohibit or limit the City's authority to finance facilities by other means authorized by law, including, but not limited to, by way of example, the use of fees in lieu of dedication under Ch. 18 of the Baraboo Code of Ordinances which fees are deemed to not be impact fees as that term is used in §66.0617, Wis. Stats.

(9) PERIODIC REVIEW AND MODIFICATION. The City may, in conjunction with the adoption process for the Annual Capital Budget and Capital Improvements Plan periodically review the development potential within the City and the City's Capital Improvements Plan and make such modifications as deemed necessary as a result of:

(a) Development occurring in prior years,
(b) Public facilities actually constructed,
(c) Changing facilities needs,
(d) Inflation,

(e) Revised cost estimate for public facilities,
(f) Changes in the availability of other funding sources applicable to public facility projects, and
(g) Such other factors as may be relevant.

With the exception of annual increases to account for inflation, any impact fee modifications resulting from changes in development potential or capital improvements programs shall require a public hearing as provided by Section 66.0617, Wis. Stats.

(10) IMPACT FEE AS ADDITIONAL AND SUPPLEMENTAL REQUIREMENT – Except as required by §66.0617(6)(d), Wis. Stats., the impact fee imposed under this Section is additional and supplemental to, and not in substitution of, the park land dedication or payment in lieu of land dedication required by the City Code or any other requirements imposed by the City on the development of land or the issuance of building permits.

(11) APPEALS

(a) Notice of Appeal. Any developer upon whom an impact fee has been imposed may contest the amount, collection, or use of the impact fee by filing a Notice of Appeal with the City Clerk. The Notice of Appeal shall be filed with the City Clerk within thirty (30) days of the date of the determination appealed from. The Notice of Appeal shall state in detail the relief sought by the developer and any legal or factual basis for the relief requested and shall include all supporting documentation upon which the developer relies in making the appeal. Any appeal challenging the use of impact fees that are collected shall be solely limited to the question whether the fees are being used for the purposes for which they were collected within the allowable time established under this section. The burden shall be on the Appellant-Developer to establish the illegality or impropriety of the fee from which the appeal has been taken. An appeal as to the use of proceeds shall not be entitled to challenge the City's public facility plans or needs assessments. A non-refundable appeal fee shall be paid at the time of the filing of the appeal.

(b) Payment of Impact Fee or Posting of Appeal Bond. If at the time of the filing of the Notice of Appeal the impact fee appealed from has been paid in full or if the Notice of Appeal is accompanied by a bond or other sufficient surety satisfactory to the City Attorney in an amount equal to the impact fee due, as calculated by the City, and all other requirements have been satisfied, the building permit for the development may be issued or the final plat or minor land division may be approved. The filing of an appeal shall not stay the collection of the impact fee due unless a bond or other sufficient surety has been filed.

(c) Pursuant to §66.0617, Wis. Stats., the only issues appealable under this Section are the following:
1. The amount of impact fee charged to and paid by the Appellant-Developer.
2. The method of collection of the impact fee.
3. The use of the particular impact fee charged to and paid by the Appellant-Developer.

(d) Review by City Council.

1. Within ten (10) business days of the date of filing of the Notice of Appeal, the City Clerk shall forward a copy of the Notice of Appeal to the City Administrator. Within thirty (30) business days of receipt, the City Administrator shall submit a written report and recommendation to the Finance Committee. The Finance Committee shall review this report and make a written recommendation to the City Council.

2. Within sixty (60) days of the date of the Finance Committee's written recommendation, the City Council shall, at a regular Council meeting, provide the Appellant-Developer with an opportunity to address the Council on the issue on appeal. Following this, the Common Council shall deliberate upon the matter and shall decide the appeal. The City Council shall adopt a resolution denying, approving, or approving in part the appeal.

(e) Review by Circuit Court. If the developer wishes to appeal the decision of the City Council, the developer may commence an action by certiorari in the Sauk County Circuit Court seeking review of the City Council's decision within thirty (30) days after the date on which the Council adopted the resolution with respect to the developer's appeal.

(12) SEVERABILITY. If any provision of this Section is declared illegal or invalid for any reason, that illegality or invalidity shall not effect the remaining provisions which shall remain in full force and effect.

SUBCHAPTER VI. DEDICATION AND RESERVATION OF LAND AND PAYMENT OF FEE IN LIEU OF LAND DEDICATION FOR RESIDENTIAL DEVELOPMENTS. (2144 03/09/04)

17.83 DEDICATION AND RESERVATION OF LAND AND PAYMENT OF FEE IN LIEU OF LAND DEDICATION FOR

RESIDENTIAL DEVELOPMENTS. (2144 03/09/04)

(1) PURPOSE. This section is adopted pursuant to §62.23(7)(a), Wis. Stats., in order to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. This section is further intended to insure that adequate open spaces and sites for other public purposes may be properly located and reserved and to insure that the cost of providing public areas, such as, but not limited to, parks, recreation areas, and other public lands, including public schools, may be equitably apportioned on the basis of additional need created by a residential development.

(2) DEFINITIONS. In this section, the following definitions shall apply:

(a) Building Permit means any permit required for new construction and additions to residential dwelling units pursuant to the Baraboo Code of Ordinances. The term "Building Permit" as used herein shall not be deemed to include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided no increase in the number of residential dwelling units results therefrom.

(b) Development means the construction or modification of improvements to real property that creates or results in three or more additional residential dwelling units within the City including, but not limited to, any condominium, cluster, townhouse, apartment, planned residential development, and/or Type 1 Manufactured Home Park.

(c) Developer means a person who constructs or creates a development.

(3) DEDICATION AND RESERVATION OF LAND.

(a) Each developer of land in the City shall, at the discretion and direction of the Plan Commission, either dedicate lands designated on the City's adopted Comprehensive Plan, Official Map, or adopted plan components, or reserve such future public lands where no proposed public lands are directly involved, or pay a park fee in lieu of dedication. The Plan Commission shall, at the time of reviewing a development, select the land dedication option, fees in lieu of land option, or reservation of additional land option, and shall record such selection in the minutes of the meeting at which the development plans are presented for approval.

(b) In the design of a development, provision shall be made for suitable sites for adequate areas for schools, parks, playgrounds, open spaces, drainage ways, and other public purposes. Such sites shall be shown on the development plans and shall comply with the City's Master Plan, Official Map, or component of adopted plan. Consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds, ravines and wood-lands, prairie and wetlands, and plant and animal communities.

(c) All developers shall be required to dedicate developable land to the City for park or other public open space or recreational uses, other than streets or drainage ways, in an amount equal to 5% of the total area proposed to be developed, including public and/or private streets and roadways, rights-of-way, detention basins and drainage ways or, in the alternative, one acre of land for each twenty-five (25) proposed residential dwelling units, whichever is greater. Where a definite commitment has been made by the developer and City on the number of residential dwelling units to be provided in the development, the dedication shall be based on that number. Where no such commitment exists, the dedication shall be based on the maximum number of dwelling units the development will support, exclusive of open space and other public lands. Drainage ways, detention basins, wetlands, watercourses, and areas reserved for streets shall not be considered as satisfying land dedication requirements. Whenever a proposed playground, park, or other public open space or recreation area, other than streets or drainage ways, designated in the Master Plan, Official Map, or Master Plan component of the City is embraced, all or in part, in the tract of land to be developed, these lands shall be made part of the required land dedication. The Plan Commission shall determine the suitability and adequacy of lands proposed for dedication. Lands dedicated for public purposes shall be deeded to the City at the time the development is approved. All dedicated lands shall have frontage on a public street and shall have unrestricted public access. The developer shall install or provide for installation of water and sanitary sewer lines to the property line of the dedicated lands where such services are to be provided to the adjacent properties.

(d) When parklands or other public lands are dedicated, the developer is required to:

1. Properly grade and contour for proper drainage; and

2. Provide a surface contour suitable for anticipated use of the area; and

3. Cover areas to be seeded with a minimum of four (4) inches of quality topsoil, seed as specified by the City Engineer, fertilize with 16-6-6 at the rate of 7 pounds per 1,000 square feet and mulched. The topsoil furnished for the park site shall consist of the natural loam, sandy loam, silt loam, silty clay loam, or clay loam humus bearing soils adapted to the

sustenance of plant life, and such topsoil shall be neither excessively acid nor excessively alkaline. The City may require certification of compliance by the City Engineer.

(e) Where, in the opinion of the Plan Commission, there is no land suitable for parks or other public open space or recreation uses within the proposed development or where the dedication of land would not be compatible with the City's Master Plan or Park Plan, or where the Plan Commission determines that a cash contribution would better serve the public interest, the Plan Commission shall direct that the developer contribute a payment to the City in lieu of land. This payment shall be determined as provided in §17.83(4). Where a lot or parcel for which payment has once been made is further developed, payment shall be required only for the additional residential dwelling units created. The Plan Commission shall determine whether the developer shall be required to dedicate land or pay a fee in lieu of land dedication. Where the land dedicated to the City contributes less than the full amount required by §(c), the park fee provided by §17.83(4) for each residential dwelling unit shall be reduced by a proportionate amount. The Plan Commission shall also determine the location of sites dedicated to such public uses and the types of uses to which such sites shall be put. In making these determinations, consideration shall be given to the needs of the community in general and of the residents of the proposed development. Consideration shall also be given to the feasibility and practicality of requiring the land dedication and whether the dedication is compatible with the City's Master Plan, zoning regulations, and existing and planned public sites and facilities.

(f) Land Abutting Lakes and Streams. Whenever feasible, all public access to the low watermark of navigable lakes and streams required by §236.16(3), Wis. Stats., shall be at least 100 feet wide and contain land characteristics acceptable to the Plan Commission. The land lying between the meander line established in accordance with §236.20(2)(g), Wis. Stats., and the water's edge, and any otherwise undevelopable lands which lie between a proposed development and the water's edge shall be included as part of lots, out-lots or public dedications in any plat abutting a lake or stream. This requirement applies not only to lands proposed to be subdivided, but also to all lands under option to the subdivider or in which he holds any interest and which are contiguous to the lands proposed to be developed and which abut a lake or stream as provided in §236.16(4), Wis. Stats.

(4) PARK FEES IN LIEU OF LAND DEDICATION.

(a) Fees for Developments Situated on Lands Subdivided or Platted Under Ch. 18 Before March 15, 2004. A development wholly situated on lands subdivided or platted where the final plat or Certified Survey Map was approved and recorded under Chapter 18 of this Code prior to March 15, 2004, for residential purposes within any zoning district within the City shall pay a park fee to the City for each residential dwelling unit as follows:

$200.00 per single family dwelling,
$300.00 per two-family dwelling,
$100.00 per multi-family dwelling.

(b) Fees for Plats or Maps approved after March 15, 2004. Pursuant to Public Facilities Needs Assessment Report for Park Facilities Improvements and Park Land Fee In-Lieu of Land Dedication Report prepared by the City, a development wholly situated on lands not subject to §(4)(a) above shall pay a park fee to the City for each residential dwelling unit as follows:

$664.00 for each dwelling unit. For Community-Based Residential Facilities (CBRFs) the fee shall be $664.00 for every three proposed dwelling units within the plat.

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