

CHAPTER 17

ZONING CODE

PAGE NO.

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SUBCHAPTER I: GENERAL ZONING

17.01 AUTHORITY. The provisions of this Chapter are adopted under the authority granted by Section 62.23(7), 87.30 and 281.31 of the Wisconsin Statutes.

17.02 SHORT TITLE. This Chapter shall be known as, referred to or cited as the "Zoning Code, City of West Bend, Wisconsin".

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

17.04 INTENT. It is the intent of this Chapter to regulate and restrict the use of all structures, lands and water; and to: (1) Regulate lot coverage in order to insure the proper size, location and placement of all structures so as to prevent overcrowding, unsafe conditions, traffic congestion and environmental damage, and to provide for adequate sunlight, air, sanitation and storm water drainage;

(2) Regulate population density and distribution so as to avoid undue population concentration in order to facilitate the provisions of transportation, water, sewerage, school, parks and other public requirements;

(3) Regulate vehicular parking, loading and access so as to lessen congestion on City streets and highways, thereby promoting the safe and efficient movement of vehicles and the maintenance of the designed traffic carrying capacity of existing and proposed streets and highways;

(4) Secure safety from fire, flooding, panic and other dangers;

(5) Stabilize and protect existing and potential property values by conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

(6) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;

(7) Further the maintenance of safe and healthful water conditions;

(8) Further the appropriate use of land and conservation of natural resources;

(9) Facilitate the use of solar energy devices and other innovative energy techniques;

(10) Preserve and promote the beauty and historic nature of the City;

(11) Implement the City's comprehensive plan or plan components;

(12) Protect life, health, property and public facilities from the detrimental effects of flooding.

(13) Protect natural wetland areas from the detrimental effects of urban development.

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

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

17.07 SEVERABILITY. If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

17.08 WARNING AND DISCLAIMER OF LIABILITY-FLOODPLAIN. The degree of flood protection provided by this Chapter is considered reasonable for regulatory purposes and is based upon engineering experience and scientific methods of study. On rare occasions, larger floods may occur or the flood height may be increased by man-made or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this Chapter does not imply that areas outside of the delineated floodplain or land uses permitted within the floodplain will be totally free from flooding and the associated flood damages. Nor shall this Chapter create a liability on the part of, or a cause of action against the City of West Bend or any office or employee thereof for any flood damages that may result from reliance on this Chapter.

17.09 GENERAL PROVISIONS. (1) JURISDICTION. The jurisdiction of this Chapter shall include all lands and waters within the corporate limits of the City of West Bend.

(2) COMPLIANCE. No structure, land or water shall hereafter be used and no structure or part thereof shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered except in conformity with the regulations herein specified for the district in which it is located.

(3) MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this Chapter and obtain all required permits. State agencies are required to comply to the extent provided in Section 13.48(13) of the Wisconsin Statutes.

(4) REDUCTION OR JOINT USE. No lot, parking area, building area or other space shall be reduced in area or dimensions 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.

(5) GENERAL USE REGULATIONS. Only the following uses and their essential services may be allowed in any districts. (a) Permitted Uses specified for a district.

(b) Accessory Uses and structures are permitted in any district but not until their principal structure is present or under construction.

(c) Conditional Uses. See Section 17.10 of this Chapter.

(d) Unclassified or Unspecified Uses may be permitted by the City Plan Commission provided they are found to be similar in character to principal or conditional uses permitted in the district.

(e) (Am. Ord. #2709 – 5/12/12). Temporary Uses are permitted in accordance with the following:

1. Temporary Uses such as food sales, nursery and agricultural stock, carnivals and outdoor commercial events are permitted only in the B-1, B-2, B-3 and B-4 zoning district. Each temporary use may be permitted for a period of up to eight (8) weeks per calendar year.

2. Temporary Uses such as Christmas tree sales and real estate field offices may be permitted for a period of up to two (2) months per calendar year. Garage, basement, yard and craft sales may be permitted pursuant to Section 17.37 (2) of this Chapter. Uses under this paragraph may be permitted in residential and commercially zoned districts.

3. Construction field offices may be permitted on a lot in which the construction is occurring and must be removed upon completion of the construction project.

4. The total duration of temporary uses permitted annually within a development area is limited to eight (8) weeks. For the purposes of this section, a development area is defined to include all lots, outlots and parcels under common ownership which make up the recognizable extent of the development site as determined by the Zoning Administrator.

5. Requirement. No temporary use shall be established, developed, altered, constructed, moved, extended, enlarged, continued or changed without obtaining a Temporary Use Permit. A Temporary Use Permit review fee pursuant to Section 17.45 of this Chapter shall be submitted to the Department of Economic and Community Development with the following required materials:

(a) Submittals for temporary use permits with a requested duration of less than two (2) weeks and which do not include temporary structures will include a site sketch showing the extent and location of the proposed use. Submittal requirements may be modified for Temporary Uses which, in the judgment of the Zoning Administrator, are of minimal duration and are of a non-intrusive nature.

(b) Submittals for temporary use permits with a requested duration of greater than two (2) weeks or which include the use of temporary structures will include a site plan in conformance with Section 17.39 of this Chapter.

6. Compliance. Where a use does not comply with the conditions of the permit, the temporary use permit shall be revoked and the use shall be considered a violation of this Chapter.

(h) (Am. Ord. 2714 – 7/21/12) Donation Drop-Off Boxes are prohibited on all public and private property except under the following circumstances:

1. Donation drop-off boxes are allowed on a property where the donation box is an accessory use to the primary use of the property and the box is used exclusively to support the primary use.

2. The drop-off box must be placed within the buildable area of the lot in an interior side or rear yard and must be screened from view of any public right-of-way.

3. All donations must be fully enclosed in a donation drop-off box. Donations that are not fully enclosed in a donation drop-off box are considered a public nuisance and subject to removal by the city at the owner's expense.

(6) GENERAL SITE REGULATIONS. (a) All Lots shall abut upon a public street and each lot shall have a minimum frontage of 60 feet, except lots fronting on the radius of a cul-de-sac which shall have a minimum frontage of 50 feet.

(b) All Principal Structures shall be located on a lot; only one (1) principal structure shall be located, erected or moved onto a lot in the single-family and two-family residential districts.

The Plan Commission may permit more than one (1) structure per lot in any other district where more than one (1) principal structure is needed for the orderly and logical development of the parcel. When additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements, or parking requirements, or may require a minimum separation distance between principal buildings in accordance with Section 17.36.

(c) (Am. Ord. #2701 – 11/23/11) No Zoning Permit shall be issued for any lot until either: 1) a plat of survey and building plans have been approved in accordance with Chapter 14.06 or, 2) a plat of survey in accordance with Section 17.09 (9) or a site plan in accordance with Section 17.39 of this Chapter has been approved

(d) Lots Abutting More Restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The setback on the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.

(7) GENERAL DEVELOPMENT REGULATIONS. (a) Plan Approvals. All development, site, landscape, utility or other plan approvals as required by this Chapter shall be approved for a period of not more than 18 months, unless otherwise agreed upon by the City of West Bend and the developer in accordance with this Section, from the date of final approval by the Board of Appeals, Plan Commission or City Council. Failure to obtain a building permit within the 18 month period as defined above shall necessitate new plan approvals.

(b) Payments, Dedications, Reservations and Improvements. All payments, dedications, reservations and improvements including but not limited to park land dedication or fees in lieu thereof, special assessments, easements, utilities or other municipal improvements for all land development activities as required or regulated by the Code of the City of West Bend, shall be filed in the proper office of the City before issuance of a zoning permit or made a part of a Developer's Agreement in accordance with Section 17.39 (7) (b) of this Chapter or Chapter 18 of the West Bend Municipal Code.

(c) Developable Land. For purposes of calculating allowed density in multi-family residential districts (RM-1, RM-2, RM-3, and RM-4), the area of a lot shall be the total area of the lot or one and one-half (1 1/2) times the area of developable land on the lot, whichever is less.

(8) ZONING ADMINISTRATOR. The Zoning Administrator shall interpret, administer and enforce this Chapter, and issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further: (a) Maintain records of all permits issued, inspections made, work approved and other official actions.

(b) Record the lowest floor elevations of all structures erected, moved, altered or improved in the Floodland districts.

(c) Establish that all necessary permits that are required for Floodland uses by state and federal law have been secured.

(d) Inspect all structures, lands and water as often as necessary to assure compliance with this Chapter.

(e) 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 Chapter to the owner, resident, agent or occupant of the premises, and report uncorrected violations to the City Attorney in a manner specified by him/her.

(f) Assist the City Attorney in the prosecution of Chapter violations.

(g) Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him/her to ensure compliance with this Chapter. If, however, he/she is refused entry after presentation of his/her identification, he/she may procure a special inspection warrant in accordance with Section 66.0119 of the Wisconsin Statutes.

(h) Prohibit the use or erection of any structure, land or water until he/she has inspected and approved such use or erection.

(i) Request assistance and cooperation from the City Police Department and City Attorney as deemed necessary.

(9) ZONING PERMIT REQUIRED. (Am. Ord. #2701 – 11/23/11). No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged or structurally altered until after the owner or his agent has secured a zoning permit from the Zoning Administrator, unless otherwise exempted pursuant to Section 17.09 (10) of this Chapter. Applications for a zoning permit shall be made on forms furnished by the Zoning Administrator and shall include, in addition to the informational requirements of the permit, a plat of survey. The Zoning Administrator may waive the plat of survey requirement for driveways, fences and accessory structures where it is apparent to the Zoning Administrator that the setbacks will be in compliance with the requirements of this Chapter or when approved by exception under Section 17.38(6) (a) or 17.495(7) of this Chapter.

(a) (Am. Ord. #2701 – 11/23/11). The Zoning Administrator may require the following information on the plat of survey: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; and existing and proposed street, side and rear yards.

(b) A zoning permit shall be granted or denied in writing by the Zoning Administrator within 30 days. The permit shall expire within six (6) months unless substantial work has commenced, or within 18 months if the structure for which the permit is issued is not substantially completed. Any permit issued in conflict with the provisions of this Chapter shall be null and void.

(10) USES NOT REQUIRING A ZONING PERMIT. No zoning permit shall be required for any of the following: (a) For building an accessory building less than 100 square feet in area.

(b) For any improvement or alteration to an existing building less than 100 square feet in area which does not effect a change in use.

(c) For repairs that do not alter the size or position of an existing structure on a lot. Such repairs shall not include the replacement or alteration of bearing walls.

(d) However, no structure or development in a floodplain or shoreland-wetland district shall be exempt from obtaining a zoning permit, and any work that does qualify for an exemption under this section shall be required to comply with the applicable setback, yard, height and other requirements set forth in this Chapter.

(11) CERTIFICATE OF OCCUPANCY REQUIRED. (a) No land shall be occupied or used; and no structure or premises shall be erected, altered, moved, or occupied; and no nonconforming use shall be maintained, renewed, changed or extended, until a certificate of occupancy shall have been issued by the City. Such certificate shall show that the structure or premises or part thereof is in compliance with the provisions of this Chapter. Such certificate shall be issued at the time of occupancy of any land and/or structure.

(b) No land within the floodplain districts shall be developed, occupied or used, and no structure hereafter erected, altered or moved shall be occupied until the applicant submits to the Zoning Administrator a certificate by a registered professional engineer or land surveyor that the floodplain regulations set forth in this Chapter have been fully complied with. Such certificate shall include the first floor elevation of any structure erected on the site.

(c) No structure located in a business or industrial zone and used for business or industrial purposes shall be occupied by a new tenant or a new owner or shall have the use changed without the issuance of a new certificate of occupancy by the City. Such certificate shall show that the structure or premises or part thereof is in compliance with the provisions of the Zoning Code, Building Code, Electrical Code, Fire Prevention Code and Plumbing Code of the City of West Bend and State of Wisconsin. Such certificate for the occupation of a previously existing structure by a new tenant or use shall be applied for at the time of any remodeling of the structure or prior to the occupancy for the new use or by the new owner. Application for a certificate of occupancy shall be made in the same manner as for a zoning permit pursuant to Section 17.09 (9).

(12) AMENDMENTS. (a) AUTHORITY. Whenever the public necessity, convenience, general welfare or good zoning practice require, the Council may, by ordinance, change the district boundaries or amend the regulations established by this Chapter. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

(b) INITIATION. A change or amendment may be initiated by the Council, the Plan Commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the City Clerk describing the premises

to be rezoned or the regulations to be amended, a list of reasons justifying the petition specifying the proposed use, and have attached the following:

1. A plot plan to a scale of not smaller than 100 feet to the inch containing the location, boundaries, dimensions, uses and size of the parcel; existing and proposed dimensions and uses of all structures on the parcel; existing and proposed front, side and rear yard of all off-street parking; location of loading areas; areas subject to the floodplain regulations pursuant to this Chapter, if applicable; and areas considered as wetlands by the Department of Natural Resources, if applicable.
2. The plan shall show the location and use of any abutting property and their structures within 100 feet of the subject site.
3. Owners' names and addresses of all properties lying within 200 of the area proposed to be rezoned.
4. Additional information as may be required by the City Plan Commission, the Council or the Zoning Administrator.

(c) **PROCEDURE.** The Plan Commission shall hold a public hearing upon each proposed amendment, giving notice of the time and place and the amendment proposed, by publication of a Class 2 notice under Ch. 985, Wis. Stats. The City Clerk shall give at least 10 days prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed amendment. The City Clerk shall also notify all property owners lying within 200 feet of the area proposed to be rezoned of the proposed amendment. The Plan Commission shall forward its recommendation to the City Council.

(d) **PROTEST.** In the event of a protest against such district amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of 20 percent or more of the areas of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent extending 100 feet there from, or by the owners of the 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of the City Council members voting.

17.10 CONDITIONAL USES. (1) **GENERAL.** Uses listed as permitted by conditional use permit may be authorized in the district in which permitted, upon application to the Plan Commission and subject to the Commission's authorization of a conditional use permit. When an existing use or structure is classified as a Conditional Use at the date of adoption of this Chapter, it shall be considered a legal use without further action of the Plan Commission. Changes to or substitution of Conditional Uses shall be subject to review and approval by the Plan Commission in accordance with this Section.

The Plan Commission shall consider the effect of granting a conditional use permit upon the health, general welfare, safety and economic prosperity of the City and of the immediate area in which such use would be located, including such considerations as

the effect on the established character and quality of the area; its physical attractiveness; the movement of traffic; the demand for related services; the possible hazardous, harmful, noxious, offensive or nuisance effects resulting from noise, dust, smoke or odor and other factors; and the City Master Plan or components thereof.

(2) **PROCEDURE.** A request for a conditional use permit shall be filed with the Zoning Administrator who shall promptly refer the application to the Plan Commission. The Zoning Administrator may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a site plan as specified in Section 17.39 of this Chapter.

The Plan Commission shall review the site plan; existing and proposed structures and architectural plans; parking areas; driveway locations; highway access; traffic generation and circulation; drainage; sanitary sewer and water systems; hours of operation; conditions which affect the maintenance of safe and healthful conditions; prevention and control of water pollution including sedimentation; the location of the site with respect to floodplains; and the compatibility of the proposed use with the use of adjacent land.

Upon consideration of the factors listed above, the Plan Commission may require such conditions in addition to those listed elsewhere in this Chapter as it deems necessary in furthering the purpose of this Chapter. Such conditions may include specifications for, without limitation because of specific enumeration, landscaping, type of construction, construction control, hours of operation, traffic circulation, deed restrictions, access restrictions, increased setbacks and yards, type of shore cover, specified sewage disposal and water supply systems, planting buffers, piers and docks, signs, permit review periods, or any other requirements necessary to fulfill the purpose and intent of this Chapter.

(3) **HEARING.** The Plan Commission shall schedule a public hearing and publish a Class 1 notice as specified in Ch. 985, Wis. Stats., and mail a written notice to all property owners within 200 feet of the proposed conditional use within 30 days after an application is filed, but not less than 10 days before the hearing.

(4) **DETERMINATION.** The Plan Commission may approve, conditionally approve or deny the application and it shall report its decision within 90 days after the filing of the application. The Commission's decision shall be in writing and shall include an accurate description of the use permitted, of the property on which it is permitted and any and all conditions made applicable thereto.

(5) **RECORDING.** When a conditional use is approved, an appropriate record shall be made of the land use and building permits and such decision shall be applicable solely to the structures, use and property so described.

(6) **COMPLIANCE.** Where a use does not comply with the conditions of the permit, the conditional use permit shall be revoked and the use shall be considered a violation of this Chapter.

17.11 MODIFICATIONS. (1) GENERAL. The Zoning Administrator, in reviewing zoning permits, may grant modifications to the terms of this Chapter as provided herein.

(2) HEIGHT. Subject to Chapter 19, the district height limitations set forth elsewhere in this Chapter may be exceeded as follows: (a) Architectural Projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys are exempt from the height limitations of this Chapter.

(b) Special Structures such as elevator penthouses, grain elevators, radio and television antenna, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks are exempt from the height limitations of this Chapter. Radio and television antennas shall be shielded and/or filtered to prevent the emission and/or reflection of electromagnetic radiation that would interfere with radio and television reception on adjacent properties.

(c) Essential Services are exempt from the height limitations of this Chapter.

(d) Communication Structures such as radio and televisions transmission and relay towers, and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line.

(e) Airport Height Limitations in accordance with Chapter 19 of the Municipal Code of West Bend shall supersede any modifications to the height regulations herein allowed.

(3) YARDS. The yard requirements set forth elsewhere in this Chapter may be modified as follows: (a) Uncovered Stairs, landings and fire escapes may project not more than six (6) feet into any yard but shall not be closer than three (3) feet to any lot line.

(b) Architectural Projections such as chimneys, flues, sills, eaves, belt courses and ornaments may project not more than two (2) feet into any required yard.

(c) (Am. Ord. #2617 - 8/20/07). Residential fence requirements may be modified pursuant to the exceptions listed in Section 17.495 of this section. Residential fences on double frontage lots and proposals for atypical fences that do not conform to the requirements of Section 17.495 may be approved if the intent of the zoning code is maintained. Upon receiving a request for an exception, the City shall send exception request notification to the affected adjacent property owners allowing them 10 days from the date of the notice to convey their concerns to the Zoning Administrator regarding the requested exception.

(d) Repealed Ordinance #2617 - 8/20/07.

(e) Security Fences are permitted adjacent to the property lines in all districts except residential districts, but shall not exceed 10 feet in height and shall be open fences when located in the front yard. Security fences shall comply with the traffic visibility

requirements set forth in Section 17.38 of this Chapter.

(f) Accessory Uses and detached accessory structures such as garages, garden or utility sheds are permitted upon issuance of a permit and may be placed or erected in the rear yard provided that all accessory structures in a single-family or two-family residential district shall not exceed 720 square feet in area; accessory structures shall occupy not more than 20 percent of the rear yard area.

(g) Accessory Structures and Vegetation used for landscaping and decorating may be placed in the required front yard and side yards. Permitted structures and vegetation include flagpoles, ornamental light standards, lawn furniture, sundials, birdbaths, trees, shrubs and flowers. Structures and vegetation shall comply with the traffic visibility requirements set forth in Section 17.38 of this Chapter.

(h) Firewood Storage is permitted in any single-family or two-family residential district provided that the firewood is for the personal use of the occupant of the premises and that no more than two (2) cords of firewood is stored.

(i) Satellite Dish Antennas are permitted in accordance with Chapter 14.18 of the West Bend Municipal Code.

(j) Private Swimming Pools are permitted in the rear yard in any district, provided that:

1. No private swimming pool shall be located closer than 6 feet to a lot line;
2. No lighting installed around swimming pools shall throw any light rays onto adjacent properties; and
3. All swimming pool construction and fencing shall be in accordance with Chapter 14.13 of the West Bend Municipal Code.

(k) Private Tennis Courts are permitted in the rear yard in any district, provided that:

1. All tennis courts shall be surrounded by a fence not less than 10 feet in height;
2. No lighting installed around a tennis court shall throw rays onto adjacent properties; and
3. No private tennis court shall be located closer than 5 feet to a lot line.

(l) Essential Services are exempt from the yard and distance requirements of this Chapter.

(4) ADDITIONS. Additions in the front yard of existing structures shall not project beyond the average of the existing front yards on the abutting lots or parcels.

(5) AVERAGE FRONT YARDS. The required front yard or setback may be decreased in any residential district to the average of the existing front yards of the abutting structures on each side, but shall in no case be less than 15 feet.

(6) CORNER LOTS. Structures shall provide a front yard setback as required by this Chapter on the street that the structure faces as established by the Zoning Code. A second front yard setback shall be provided on the side of the structure abutting a public or private street. The second front yard setback shall be the same setback as required in that local district.

(7) DOUBLE FRONTAGE LOTS. Lots abutting two opposite streets shall provide the front yard setback required by the district in which the lot is located from each street upon which the lot abuts.

(8) EXISTING SUBSTANDARD LOTS. (a) A residential lot which does not contain sufficient area to conform to the dimensional requirements of this Chapter, but which is at least 40 feet wide and 4,800 square feet in area, may be used as a single-family building site provided that the use is permitted in the zoning district; provided that the lot is of record in the Washington County Register of Deeds Office prior to April 17, 1989; and further provided that the lot is in separate ownership from abutting lands. If two or more legally recorded substandard lots with continuous frontage have the same ownership as of April 17, 1989, the lots involved shall be considered to be an individual parcel for the purpose of this Chapter.

(b) Nonresidential substandard lots shall be required to meet the setback and other yard requirements of this Chapter. A zoning permit for the improvement of a lot with lesser dimensions and requisites than those established within a nonresidential zoning district shall be issued only upon the recommendation of the Plan Commission and the issuance of a variance by the Board of Appeals.

17.12 ZONING DISTRICTS. (1) ESTABLISHMENT. For the purpose of this Chapter, the City of West Bend is hereby divided into 28 basic use districts and 2 overlay districts designated as follows:

(a) RS-1 Single Family Residential District

(b) RS-2 Single Family Residential District

(c) RS-3 Single Family Residential District

- (d) RS-4 Single Family Residential District
- (e) RD-1 Two Family Residential District
- (f) RD-2 Two Family Residential District
- (g) RM-1 Multi-Family Residential District
- (h) RM-2 Multi-Family Residential District
- (i) RM-3 Multi-Family Residential District
- (j) RM-4 Multi-Family Residential District
- (k) RM-5 Multi-Family Residential District
- (l) B-1 Community Business District
- (m) B-2 Central Business District
- (n) B-3 Neighborhood Business District
- (o) B-4 General Business and Warehousing District
- (p) B-5 Neighborhood Office and Service District
- (q) B-6 Office Park District
- (r) I-1 Institutional and Public Service District
- (s) P-1 Park, Recreation and Open Space District
- (t) M-1 Light Industrial District
- (u) M-2 Heavy Industrial District
- (v) M-3 Planned Business Park District
- (w) FW Floodway District
- (x) FWW Floodway - Wetland District
- (y) FPW Floodplain - Wetland District
- (z) FPS Floodplain - Storage District

- (aa) SW Shoreland - Wetland District
- (bb) NSW Non-Shoreland - Wetland District
- (cc) FFO Floodplain Fringe Overlay District
- (dd) PUD Planned Unit Development Overlay District

(2) Boundaries of these districts are hereby established as shown on the maps entitled Official Zoning Map - City of West Bend, Wisconsin, as amended on January 28, 1991; the Supplementary Floodland Zoning Map - City of West Bend, Wisconsin, dated December 20, 1982, and the Wisconsin Wetland Inventory Map(s), stamped "FINAL" on

September 3, 1985, which accompany and are herewith made a part of this Chapter. Such boundaries shall be construed to follow: corporate limits; U.S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements and railroad rights-of-way or such lines extended. Where district boundary lines do not follow lines of record, boundaries shall be scaled.

(3) Rep. Ord. #2286 - 8/25/97--see 17.51 (3).

(4) WETLAND DISTRICT BOUNDARIES. (a) Boundaries of the SW Shoreland Wetland District as shown on the City Official Zoning Map, were determined from the use of the Wisconsin Wetland Inventory Maps for the City of West Bend dated September 3, 1985, stamped "FINAL," as established in Subchapter III of this Code.

(b) Boundaries of the NSW Non-Shoreland Wetland District as shown on the City Official Zoning Map were determined from the use of the Wisconsin Wetland Inventory Maps for the City of West Bend dated September 3, 1985, and stamped "FINAL." Nonshoreland wetland areas shall be protected and regulated in accordance with the provisions of Subchapter III of this Code, except that urban uses may be permitted by the City Plan Commission providing the purpose of Subchapter III as established in 17.70 (3) is maintained.

(5) Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side or sides to which the vacated land reverts as determined by the location of the former public street or alley centerline where applicable.

(6) OFFICIAL ZONING MAP. (a) The Official Zoning Map, together with the Supplementary Floodland Zoning Map and the Wisconsin Wetland Inventory Map are adopted as part of this Chapter and are available to the public in the office of the Zoning Administrator. Changes to the general zoning districts shall be entered by the City Clerk and attested on the map. Changes in the floodland districts shall not become effective until approved by the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA), and changes in the Shoreland-Wetland districts

shall not become effective until approved by the Wisconsin Department of Natural Resources (DNR).

(b) Uses within the FWW and FPW districts shall conform to the general use regulations of Subchapter II and Subchapter III of this Chapter.

17.13 COMMUNITY LIVING ARRANGEMENTS. FAMILY DAY CARE HOMES. The provisions of Wisconsin Statutes Section 62.23(7)(i), 66.1017 and 50.032, are hereby adopted by reference and shall supersede all permitted and conditional uses as stated in this Chapter.

(1) Permitted Uses.

Community Living Arrangement (CLA);

<u>Family Day Care Homes</u>	<u>Districts Permitted</u>
(a) Foster family home (domicile) licensed under Section 48.62, Wis. Stats., up to 4 children	All residential districts
(b) Other foster homes	All residential districts
(c) Adult family home (domicile) as defined in Section 50.01(1), Wis. Stats., and certified under Section 50.032(1), Wis. State., up to 4 adults, or more if all adults are siblings.	All residential districts
(d) Other adult family homes as defined in Section 50.01(1) Wis. Stats., and certified under Section 50.032(1), Wis. Stats.	All residential districts
(e) CLA, up to 8 persons	All residential districts
(f) CLA, 9 to 15 persons	Multi-family districts
(g) Family day care home licensed under Section 48.65, Wis. Stats., up to 8 children	All one and two family districts and planned residential development districts

(2) Conditional Uses. (a) All community living arrangements and family day care homes not permitted in subsection (1) above.

(b) Facilities for victims of domestic abuse pursuant to Section 46.95 (1) (a), Wis. Stats.

17.14 MOBILE HOME PARKS. (1) Mobile home parks are permitted as conditional uses in the RM-4 Districts provided: (a) The minimum size of a mobile home park shall be 5 acres.

(b) The maximum number of mobile homes shall be 8 per acre.

(c) Minimum dimensions of a mobile home space shall be 50 feet wide by 100 feet long.

(d) All drives, parking areas and walkways shall be hard surfaced.

(e) There shall be a minimum yard setback of 40 feet at all lot lines of the mobile home park.

(f) It shall conform to the requirements of Wis. Adm. Code HSS 177.

(g) No mobile home space shall be rented for less than 30 days.

(h) Each mobile home shall be separated from other mobile homes by not less than 30 feet.

(i) There shall be 2 surfaced automobile parking spaces for each mobile home.

(j) Unless adequately screened by existing vegetation cover, the mobile home park shall be buffered from adjacent uses. A landscape plan pursuant to Section 17.40 of this Chapter shall be submitted and approved by the Plan Commission and said plan shall include vegetative buffers.

(k) Each mobile home park shall provide a minimum of five (5) percent of the gross land area of the park for a recreational playlot. A development plan and improvement schedule for the playlot shall be submitted to and approved by the West Bend Recreation, Parks and Forestry Department.

(2) All mobile home park developments shall comply with Section 17.39 of this Chapter.

17.15 RS-1 SINGLE FAMILY RESIDENTIAL DISTRICT. The RS-1 Single-Family Residential District is intended to provide a suitable living environment for large lot, low density single-family housing. It is further intended to promote an environment free from other incompatible uses and the detrimental affects of those uses. (1) PERMITTED USES. (a) Single-family dwellings.

(b) Customary accessory uses and buildings such as private garages, carports, gardening, tool and storage sheds incidental to the residential use.

(c) Customary signs in connection with residences such as mail box signs, names of occupant, house numbers, subdivision and other housing entrance signs.

(d) Minor home occupations as provided in Section 17.37 (4).

(2) CONDITIONAL USES. (a) Major home occupations as provided in Section 17.37 (3).

(b) Churches with one sign not exceeding 20 square feet in area on the premises of a church for the purpose of displaying the name or program of the church.

(3) DIMENSIONAL REQUIREMENTS. (a) Lot Area and Width

1. Lots shall be a minimum of 15,000 square feet in area and shall be not less than 100 feet in width at all street lot lines. The minimum width of a lot on a cul-de-sac shall be 65 feet.

(b) Building Height and Area.

1. No principal building or parts of a principal building shall exceed 35 feet in height. No accessory building shall exceed 18 feet in height.

2. The minimum floor area of new principal buildings shall be as follows:

	Minimum Total Area (<u>Square Feet</u>)
One Bedroom Dwelling	1400
Two Bedroom Dwelling	1400
Three Bedroom Dwelling	1600
Four or More Bedroom Dwelling	1800

3. The minimum first floor area of any dwelling shall be 1000 square feet.

4. The maximum lot coverage of all principal and accessory buildings shall not exceed 25 percent of the lot area.

(c) Setback and Yards.

1. The minimum building setback for all structures from the street right-of-way of local, collector and arterial streets shall be 35 feet.

2. The minimum side yard on each side of a principal structure shall be 10 feet and the total of both side yards shall be a minimum of 25 feet.

3. The minimum rear yard of a principal structure shall be 35 feet.

4. The minimum side yard and rear yard setback for all accessory structures shall be 5 feet.

17.16 RS-2 SINGLE FAMILY RESIDENTIAL DISTRICT. The RS-2 Single-Family Residential District is intended to provide a suitable living environment for large lot, low density single-family housing. It is further intended to promote an environment free from other incompatible uses and the detrimental affects of those uses. (1) PERMITTED USES. (a) Single-family dwellings.

(b) Customary accessory uses and buildings such as private garages, carports, gardening, tool and storage sheds incidental to the residential use.

(c) Customary signs in connection with residences such as mail box signs, names of occupant, house numbers, subdivision and other housing entrance signs.

(d) Minor home occupations as provided in Section 17.37 (4).

(2) CONDITIONAL USES. (a) Major home occupations as provided in Section 17.37 (3).

(b) Churches with one sign not exceeding 20 square feet in area on the premises of a church for the purpose of displaying the name or program of the church.

(3) DIMENSIONAL REQUIREMENTS. (a) Lot Area and Width.

1. Lots shall be a minimum of 12,600 square feet in area and shall be not less than 90 feet in width at all street lot lines. The minimum width of a lot on a cul-de-sac shall be 60 feet.

(b) Building Height and Area.

1. No principal building or parts of a principal building shall exceed 35 feet in height. No accessory building shall exceed 18 feet in height.

2. The minimum floor area of new principal buildings shall be as follows:

	Minimum Total Area (Square Feet)
One Bedroom Dwelling	1200
Two Bedroom Dwelling	1200
Three Bedroom Dwelling	1400
Four or More Bedroom Dwelling	1600

3. The minimum first floor area of any dwelling shall be 900 square feet.

4. The maximum lot coverage of all principal and accessory buildings shall not exceed 25 percent of the lot area.

(c) Setbacks and Yards.

1. The minimum building setback for all structures from the street right-of-way of local, collector and arterial streets shall be 30 feet.

2. The minimum side yard on each side of a principal structure shall be 8 feet and the total of both side yards shall be a minimum of 20 feet.

3. The minimum rear yard of a principal structure shall be 35 feet.

4. The minimum side yard and rear yard setback for all accessory structures shall be 5 feet.

17.17 RS-3 SINGLE FAMILY RESIDENTIAL DISTRICT. The RS-3 Single-Family Residential District is intended to provide a suitable living environment for medium sized lot, low density single-family housing. It is further intended to promote any environment free from other incompatible uses and the detrimental affects of those uses.

(1) PERMITTED USES. (a) Single-family dwellings.

(b) Customary accessory uses and buildings such as private garages, carports, gardening, tool and storage sheds incidental to the residential use.

(c) Customary signs in connection with residences such as mail box signs, names of occupant, house numbers, subdivision and other housing entrance signs.

(d) Minor home occupations as provided in Section 17.37(4).

(2) CONDITIONAL USES. (a) Major home occupations as provided in Section 17.37(3).

(b) Churches with one sign not exceeding 20 square feet in area on the premises of a church for the purpose of displaying the name or program of the church.

(3) DIMENSIONAL REQUIREMENTS. (a) Lot Area and Width.

1. Lots shall be a minimum of 9,600 square feet in area and shall be not less than 80 feet in width at all street lot lines. The minimum width of a lot on a cul-de-sac shall be 55 feet.

(b) Building Height and Area.

1. No principal building or parts of a principal building shall exceed 35 feet in height. No accessory building shall exceed 18 feet in height.

2. The minimum floor area of new principal buildings shall be as follows:

	Minimum Total Area (Square Feet)
One Bedroom Dwelling	1100
Two Bedroom Dwelling	1100
Three Bedroom Dwelling	1200
Four or More Bedroom Dwelling	1400

3. The minimum first floor area of any dwelling shall be 800 square feet.

4. The maximum lot coverage of all principal and accessory buildings shall not exceed 30 percent of the lot area.

(c) Setbacks and Yards.

1. The minimum building setback for all structures from the street right-of-way of local, collector and arterial streets shall be 30 feet.

2. The minimum side yard on each side of a principal structure shall be 8 feet and the total of both side yards shall be a minimum of 18 feet.

3. The minimum rear yard of a principal structure shall be 30 feet.

4. The minimum side yard and rear yard setback for all accessory structures shall be 5 feet.

17.18 RS-4 SINGLE FAMILY RESIDENTIAL DISTRICT. The RS-4 Single-Family Residential District is intended to provide a suitable living environment for small lot, low density single-family housing. It is further intended to promote an environment free from other incompatible uses and the detrimental affects of those uses. (1) PERMITTED USES. (a) Single-family dwellings.

(b) Customary accessory uses and buildings such as private garages, carports, gardening, tool and storage sheds incidental to the residential use.

(c) Customary signs in connection with residences such as mail box signs, names of occupant, house numbers, subdivision and other housing entrance signs.

(d) Minor home occupations as provided in Section 17.37 (4).

(2) CONDITIONAL USES. (a) Major home occupations as provided in Section 17.37 (3).

(b) Churches with one sign not exceeding 20 square feet in area on the premises of a church for the purpose of displaying the name or program of the church.

(3) DIMENSIONAL REQUIREMENTS. (a) Lot Area and Width.

1. Lots shall be a minimum of 7,200 square feet in area and shall be not less than 60 feet in width at all street lot lines. The minimum width of a lot on a cul-de-sac shall be 50 feet.

(b) Building Height and Area.

1. No principal building or parts of a principal building shall exceed 35 feet in height. No accessory building shall exceed 18 feet in height.

2. The minimum floor area of new principal buildings shall be as follows:

	Minimum Total Area (Square Feet)
One Bedroom Dwelling	1000
Two Bedroom Dwelling	1000
Three Bedroom Dwelling	1000
Four or More Bedroom Dwelling	1200

3. The minimum first floor area of any dwelling shall be 800 square feet.

4. The maximum lot coverage of all principal and accessory buildings shall not exceed 35 percent of the lot area.

(c) Setbacks and Yards.

1. The minimum building setback for all structures from the street right-of-way of local streets shall be 25 feet and from collector and arterial streets shall be 30 feet.
2. The minimum side yard on each side of a principal structure shall be 6 feet and the total of both side yards shall be a minimum of 14 feet.
3. The minimum rear yard of a principal structure shall be 20 feet.
4. The minimum side yard and rear yard setback for all accessory structures shall be 5 feet.

17.19 RD-1 TWO FAMILY RESIDENTIAL DISTRICT. The RD-1 Two-Family Residential District is intended to provide a suitable living environment for large lot, medium density two-family housing. It is further intended to promote an environment free from other incompatible uses and the detrimental affects of those uses.

(1) PERMITTED USES. (a) Two family dwellings.

(b) Customary accessory uses and buildings such as private garages, carports, gardening, tool and storage sheds incidental to the residential use.

(c) Customary signs in connection with residences such as mail box signs, names of occupant, house numbers, subdivision and other housing entrance signs.

(d) Minor home occupations as provided in Section 17.37 (4).

(e) (Cr. Ord. #2413 – 9/24/01) The conversion of a two-family building to a single-family building provided the residential structure was constructed prior to April 17, 1989.

(2) CONDITIONAL USES. (a) Major home occupations as provided in Section 17.37(3).

(b) Churches with one sign not exceeding 20 square feet in area on the premises of a church for the purpose of displaying the name or program of the church.

(c) Single-family dwelling, providing the dwelling is architecturally compatible with surrounding dwellings.

(3) DIMENSIONAL REQUIREMENTS. (a) Lot Area and Width.

1. Lots shall be a minimum of 11,500 square feet in area and shall be not less than 90 feet in width at all street lot lines. The minimum width of a lot on a cul-de-sac shall be 60 feet.

(b) Building Height and Area.

1. No principal building or parts of a principal building shall exceed 35 feet in height. No accessory building shall exceed 18 feet in height.

2. The minimum floor area of new principal buildings shall be as follows:

	Minimum Total Area	
	Per Building	Per Unit
	<u>(Square Feet)</u>	
One Bedroom Dwelling	1600	800
Two Bedroom Dwelling	2000	1000
Three Bedroom Dwelling	2200	1100
Four or More Bedroom Dwelling	2400	1200

3. The minimum first floor area of any dwelling shall be 500 square feet.

4. The maximum lot coverage of all principal and accessory buildings shall not exceed 30 percent of the lot area.

5. The minimum floor area of a single-family dwelling shall be as set down in the RS-3 District.

(c) Setbacks and Yards.

1. The minimum building setback for all structures from the street right-of-way of local, collector and arterial streets shall be 30 feet.

2. The minimum side yard on each side of a principal structure shall be 8 feet and the total of both side yards shall be a minimum of 20 feet.

3. The minimum rear yard of a principal structure shall be 30 feet.

4. The minimum side yard and rear yard setback for all accessory structures shall be 5 feet.

17.20 RD-2 TWO FAMILY RESIDENTIAL DISTRICT. The RD-2 Two-Family Residential District is intended to provide a suitable living environment for small lot, medium density two-family housing. It is further intended to promote an environment free from other incompatible uses and the detrimental affects of those uses. (1) PERMITTED USES. (a) Two family dwellings.

(b) Customary accessory uses and buildings such as private garages, carports, gardening, tool and storage sheds incidental to the residential use.

(c) Customary signs in connection with residences such as mail box signs, names of occupant, house numbers, subdivision and other housing entrance signs.

(d) Minor home occupations as provided in Section 17.37 (4).

(e) (Cr. Ord. #2413 – 9/24/01) The conversion of a two-family building to a single-family building provided the residential structure was constructed prior to April 17, 1989.

(2) CONDITIONAL USES. (a) Major home occupations as provided in Section 17.37 (3).

(b) Churches with one sign not exceeding 20 square feet in area on the premises of a church for the purpose of displaying the name or program of the church.

(c) Single-family dwelling, providing the dwelling is architecturally compatible with surrounding dwellings.

(3) DIMENSIONAL REQUIREMENTS. (a) Lot Area and Width.

1. Lots shall be a minimum of 8,000 square feet in area and shall be not less than 80 feet in width at all street lot lines. The minimum width of a lot on a cul-de-sac shall be 55 feet.

(b) Building Height and Area.

1. No principal building or parts of a principal building shall exceed 35 feet in height. No accessory building shall exceed 18 feet in height.

2. The minimum floor area of new principal buildings shall be as follows:

	Minimum Total Area Per Building Per Unit (Square Feet)	
One Bedroom Dwelling	1600	800
Two Bedroom Dwelling	1600	800
Three Bedroom Dwelling	1800	900
Four or More Bedroom Dwelling	2000	1000

3. The minimum first floor area of any dwelling shall be 500 square feet.

4. The maximum lot coverage of all principal and accessory buildings shall not exceed 35 percent of the lot area.

5. The minimum floor area of a single-family dwelling shall be as set down in the RS-3 District.

(c) Setbacks and Yards.

1. The minimum building setback for all structures from the street right-of-way of local streets shall be 25 feet and from collector and arterial streets shall be 30 feet.

2. The minimum side yard on each side of a principal structure shall be 8 feet and the total of both side yards shall be a minimum of 16 feet.

3. The minimum rear yard of a principal structure shall be 25 feet.

4. The minimum side yard and rear yard setback for all accessory structures shall be 5 feet.

17.21 RM-1 MULTI-FAMILY RESIDENTIAL DISTRICT. The RM-1 Multi-Family Residential District is intended to provide a suitable living environment for medium density multi-family housing. It is further intended to promote an environment free from other incompatible uses and the detrimental affects of those uses. (1) PERMITTED USES. (a) Multi-family dwellings.

(b) Customary accessory uses and buildings such as private garages, carports, gardening, tool and storage sheds incidental to the residential use.

(c) Customary signs in connection with residences such as mail box signs, names of occupant, house numbers, subdivision and other housing entrance signs.

(d) Minor home occupations as provided in Section 17.37 (4).

(2) CONDITIONAL USES. (a) Major home occupations as provided in Section 17.37 (3).

(b) Churches.

(c) Government buildings.

(d) Schools, libraries, museums.

(e) Parks.

(f) Clubs, fraternities and meeting places of a noncommercial nature provided that no structure shall be erected closer than 25 feet to any lot line.

(g) Signage for conditional uses listed in this Section except home occupations pursuant to 17.37 of this Chapter, shall be allowed but limited to no more than

32 square feet in area on the premises of the property for the purpose of displaying the name of that facility.

(3) DIMENSIONAL REQUIREMENTS (a) Lot Width. The minimum lot width shall be 120 feet, except four family dwelling units which shall be 100 feet. The minimum width of a lot on a cul-de-sac shall be 60 feet, except four family dwelling units which shall be 55 feet.

(b) Lot Area.

	Minimum Lot Area Per Dwelling Unit <u>Square Feet</u>
One Bedroom	4545
Two Bedroom	5445
Three Bedroom or more	6145

(c) Building Height and Area.

1. No principal building or parts of a principal building shall exceed 40 feet in height. No accessory building shall exceed 20 feet in height.

2. The minimum floor area of new dwelling units shall be as follows:

	Minimum Total Area <u>(Square Feet)</u>
One Bedroom Dwelling	650
Two Bedroom Dwelling	850
Three Bedroom Dwelling	1050

3. The maximum lot coverage of all principal and accessory buildings shall not exceed 30 percent of the lot area.

(d) Setback and Yards.

1. The minimum building setback for all structures from the street right-of-way of local, collector and arterial streets shall be 30 feet.

2. The minimum side yard on each side of a principal structure shall be 10 feet and the total of both side yards shall be a minimum of 22 feet.

3. The minimum rear yard of a principal structure shall be 20 feet.

4. The minimum side yard and rear yard setback for all accessory structures shall be 5 feet.

17.22 RM-2 MULTI-FAMILY RESIDENTIAL DISTRICT. The RM-2 Multi-Family Residential District is intended to provide a suitable living environment for medium density multi-family housing. It is further intended to promote an environment free from other incompatible uses and the detrimental affects of those uses. (1) PERMITTED USES. (a) Multi-family dwellings.

(b) Customary accessory uses and buildings such as private garages, carports, gardening, tool and storage sheds incidental to the residential use.

(c) Customary signs in connection with residences such as mail box signs, names of occupant, house numbers, subdivision and other housing entrance signs.

(d) Minor home occupations as provided in Section 17.37 (4).

(2) CONDITIONAL USES. (a) Major home occupations as provided in Section 17.37 (3).

(b) Churches.

(c) Government buildings.

(d) Schools, libraries, museums.

(e) Parks.

(f) Clubs, fraternities and meeting places of a noncommercial nature provided that no structure shall be erected closer than 25 feet to any lot line.

(g) Signage for conditional uses listed in this Section except home occupations pursuant to 17.37 of this Chapter, shall be allowed but limited to no more than 32 square feet in area on the premises of the property for the purpose of displaying the name of that facility.

(3) DIMENSIONAL REQUIREMENTS. (a) Lot Width. The minimum lot width shall be 120 feet. The minimum width of a lot on a cul-de-sac shall be 60 feet.

(b) Lot Area.

	Minimum Lot Area Per Dwelling Unit (Square Feet)
One Bedroom	3630
Two Bedroom	4350
Three Bedroom or more	5000

(c) Building Height and Area.

GENERAL ZONING 17.22 (3) (c) (1)

1. No principal building or parts of a principal building shall exceed 40 feet in height. No accessory building shall exceed 20 feet in height.

2. The minimum floor area of new dwelling units shall be as follows:

	Minimum Total Area (Square Feet)
One Bedroom Dwelling	650
Two Bedroom Dwelling	850
Three Bedroom Dwelling	1050

3. The maximum lot coverage of all principal and accessory buildings shall not exceed 35 percent of the lot area.

(d) Setback and Yards.

1. The minimum building setback for all structures from the street right-of-way of local, collector and arterial streets shall be 30 feet.

2. The minimum side yard on each side of a principal structure shall be 10 feet and the total of both side yards shall be a minimum of 22 feet.

3. The minimum rear yard of a principal structure shall be 20 feet.

4. The minimum side yard and rear yard setback for all accessory structures shall be 5 feet.

17.23 RM-3 MULTI-FAMILY RESIDENTIAL DISTRICT. The RM-3 Multi-Family Residential District is intended to provide a suitable living environment for high density multi-family housing. It is further intended to promote an environment free from other incompatible uses and the detrimental affects of those uses. (1) PERMITTED USES. (a) Multi-family dwellings.

(b) Customary accessory uses and buildings such as private garages, carports, gardening, tool and storage sheds incidental to the residential use.

(c) Customary signs in connection with residences such as mail box signs, names of occupant, house numbers, subdivision and other housing entrance signs.

(d) Minor home occupations as provided in Section 17.37(4)

(2) CONDITIONAL USES. (a) Major home occupations as provided in Section 17.37(3).

(b) Churches.

(c) Government buildings.

(d) Schools, libraries, museums.

(e) Parks.

(f) Clubs, fraternities and meeting places of a noncommercial nature provided that no structure shall be erected closer than 25 feet to any lot line.

(g) Signage for conditional uses listed in this Section except home occupations pursuant to 17.37 of this Chapter, shall be allowed but limited to no more than 32 square feet in area on the premises of the property for the purpose of displaying the name of that facility.

(3) DIMENSIONAL REQUIREMENTS. (a) Lot Width. The minimum lot width shall be 120 feet. The minimum width of a lot on a cul-de-sac shall be 60 feet.

(b) Lot Area.

	Minimum Lot Area Per Dwelling Unit (Square Feet)
One Bedroom	3150
Two Bedroom	3630
Three Bedroom or more	4350

(c) Building Height and Area.

1. No principal building or parts of a principal building shall exceed 40 feet in height. No accessory building shall exceed 20 feet in height.

2. The minimum floor area of new dwelling units shall be as follows:

	Minimum Total Area (Square Feet)
One Bedroom Dwelling	650
Two Bedroom Dwelling	850
Three Bedroom Dwelling	1050

3. The maximum lot coverage of all principal and accessory buildings shall not exceed 40 percent of the lot area.

(d) Setback and Yards.

1. The minimum building setback for all structures from the street right-of-way of local, collector and arterial streets shall be 30 feet.
2. The minimum side yard on each side of a principal structure shall be 15 feet and the total of both side yards shall be a minimum of 35 feet.
3. The minimum rear yard of a principal structure shall be 25 feet.
4. The minimum side yard and rear yard setback for all accessory structures shall be 5 feet.

17.24 RM-4 MULTI-FAMILY RESIDENTIAL DISTRICT. The RM-4 Multi-Family Residential District is intended to provide a suitable living environment for high density multi-family housing. It is further intended to promote an environment free from other incompatible uses and the detrimental affects of those uses. (1) PERMITTED USES. (a) Multi-family dwellings.

(b) Customary accessory uses and buildings such as private garages, carports, gardening, tool and storage sheds incidental to the residential use.

(c) Customary signs in connection with residences such as mail box signs, names of occupant, house numbers, subdivision and other housing entrance signs.

(d) Minor home occupations as provided in Section 17.37 (4).

(2) CONDITIONAL USES. (a) Major home occupations as provided in Section 17.37 (3).

(b) Churches.

(c) Government buildings.

(d) Schools, libraries, museums.

(e) Parks.

(f) Clubs, fraternities and meeting places of a noncommercial nature provided that no structure shall be erected closer than 25 feet to any lot line.

(g) Signage for conditional uses listed in this Section except home occupations pursuant to 17.37 of this Chapter, shall be allowed but limited to no more than 32 square feet in area on the premises of the property for the purpose of displaying the name of that facility.

(3) DIMENSIONAL REQUIREMENTS. (a) Lot Width. The minimum lot width shall be 120 feet. The minimum width of a lot on a cul-de-sac shall be 60 feet.

(b) Lot Area.

	Minimum Lot Area Per Dwelling Unit (Square Feet)
One Bedroom	2900
Two Bedroom	2900
Three Bedroom or more	3200

(c) Building Height and Area.

1. No principal building or parts of a principal building shall exceed 40 feet in height. No accessory building shall exceed 20 feet in height.

2. The minimum floor area of new dwelling units shall be as follows:

	Minimum Total Area (Square Feet)
One Bedroom Dwelling	650
Two Bedroom Dwelling	850
Three Bedroom Dwelling	1050

3. The maximum lot coverage of all principal and accessory buildings shall not exceed 40 percent of the lot area.

(d) Setback and Yards.

1. The minimum building setback for all structures from the street right-of-way of local, collector and arterial streets shall be 30 feet.

2. The minimum side yard on each side of a principal structure shall be 20 feet and the total of both side yards shall be a minimum of 40 feet.

3. The minimum rear yard of a principal structure shall be 25 feet.

4. The minimum side yard and rear yard setback for all accessory structures shall be 5 feet.

17.245 (Cr. Ord. #2295 - 12/1/97) RM-5 MULTI-FAMILY RESIDENTIAL DISTRICT. The RM-5 Multi-Family Residential District is intended to provide a suitable living environment for high density multi-family housing in older areas of the City suitable for redevelopment. It is intended to promote an environment free from other incompatible

uses and the detrimental effects of those uses. (1) PERMITTED USES. (a) Multi-Family dwelling units.

(b) Customary accessory uses and signage.

(c) Minor home occupations.

(2) CONDITIONAL USES. (a) Caretaker housing.

(b) Day care facilities.

(c) Clubs, lodges, health care facilities, community centers.

(d) Churches.

(e) Government Buildings.

(3) DIMENSIONAL REQUIREMENTS. (a) Lot Width. The minimum lot width shall be 120 feet.

(b) Lot area. The minimum lot area shall be 2900 square feet for each dwelling unit.

(c) Building Height and Area.

1. No principal building or parts of a principal building shall exceed 45 feet in height.

2. No accessory building shall exceed 20 feet in height.

3. The minimum floor area of dwelling units shall be 550 square feet plus 200 square feet for each bedroom in excess of one.

4. The maximum lot coverage of all principal and accessory buildings shall not exceed 60 percent of the lot area.

5. Except for corner lots and double frontage lots, at least 20% of the lot area shall be open space in the rear yard.

(d) Setback and Yards.

1. The minimum building setback for all structures from the street right-of-way shall be 30 feet.

2. The minimum side yard on each side of a principal structure shall be 10 feet and the total of both side yards shall be a minimum of 30 feet.

3. The minimum rear yard of a principal structure shall be 25 feet.

4. The minimum side yard and rear yard for all accessory structures shall be 5 feet.

(e) The Plan Commission may, consistent with the purposes of this code, reduce dimensional requirements by conditional use permit as follows:

1. (Am. Ord. #2401 - 7/2/01). The minimum lot area may be reduced to not less than 1500 square feet per dwelling unit for elderly housing or not less than 2000 square feet per dwelling unit for any other multi-family dwelling.

2. The minimum side yard may be reduced or eliminated.

3. The minimum rear yard may be reduced or eliminated.

4. The off-street parking requirements of Section 17.38 may be reduced to not less than 1.5 stalls per dwelling unit for elderly housing.

(4) ARCHITECTURAL REVIEW. Before a building permit may be issued for any building in an RM-5 district, the building design must be approved by the Plan Commission as being compatible with the architectural styles of existing neighborhood buildings.

(5) Repealed Ord. No. #2401 - 7/2/01.

17.25 B-1 COMMUNITY BUSINESS DISTRICT. The B-1 Community Business District is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices and service establishments including shopping centers which serve the daily needs of the surrounding local community. The size and location of such districts shall be based upon evidence of justifiable community need, of adequate customer potential, of satisfactory relationship to the traffic circulation system, and other related facilities, and of potential contribution to the economic welfare of the community. (1) PERMITTED USES. (Am., Rep. & Renum. Ord. #2088 - 11/16/92). (a) Animal veterinary clinic, animal veterinary hospital, animal veterinary office, animal pet stores and animal grooming.

(b) Antique and collectors stores.

(c) Appliances stores including incidental repairing.

(d) Art and dance studios.

(e) Automobile service and repair.

(f) Bakeries.

in facilities.

- (g) Banks, credit unions, and savings and loan associations, including drive-
- (h) Barber shops and beauty shops.
- (i) Bars, taverns and saloons.
- (j) Bookstores.
- (k) Bowling alleys.
- (l) Business and professional offices.
- (m) Camera and photographic supply stores.
- (n) Car washes.
- (o) Child day care facilities.
- (p) Churches.
- (q) Clothing stores.
- (r) Cocktail lounges.
- (s) Confectioneries.
- (t) Delicatessen.
- (u) Dental clinics.
- (v) Department stores.
- (w) Drug stores.
- (x) Fish markets.
- (y) Florists.
- (z) Fruit and vegetable stores and stands.
- (aa) Furniture sales.
- (bb) Furriers and fur apparel.
- (cc) Gift stores.

- (dd) Governmental buildings.
- (ee) Grocery stores, retail only.
- (ff) Hardware stores.
- (gg) Hobby and craft stores.
- (hh) Hotels and motels.
- (ii) Jewelry stores.
- (jj) Laundry and dry cleaning establishments.
- (kk) Locksmith shops.
- (ll) Lodges and clubs.
- (mm) Meat markets.
- (nn) Medical clinics.
- (oo) Museums.
- (pp) Music stores.
- (qq) Newspaper and magazine stores.
- (rr) Office supplies and business machine stores.
- (ss) Optical stores.
- (tt) Package beverage stores.
- (uu) Paint, glass and wallpaper stores.
- (vv) Pharmacies.
- (ww) Photography and portrait studios.
- (xx) Plumbing and heating supplies.
- (yy) Printing and reproduction stores.
- (zz) Publishing houses.

- (aaa) Radio and television sales, service and repair shops.
- (bbb) Radio broadcasting studios.
- (ccc) Recreational and health clubs.
- (ddd) Restaurants including drive-in facilities.
- (eee) Shoe stores and leather goods stores.
- (fff) Sporting goods stores.
- (ggg) Stationery stores.
- (hhh) Theaters.
- (iii) Tobacco shops.
- (jjj) Variety stores.

(2) PERMITTED ACCESSORY USES. (a) Garages for storage of vehicles used in conjunction with the operation of the business.

- (b) Off-street parking areas and loading areas.
- (c) Ground-mounted and building-mounted earth station dish antennas.
- (d) Essential services.
- (e) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- (f) Rental apartment on a non-ground level provided there shall be a minimum floor area of 400 square feet for an efficiency apartment, 550 square feet for a one bedroom apartment and 650 square feet for a two bedroom apartment.
- (g) Lighting and signing.

(3) CONDITIONAL USES. (a) Repealed Ord. #2088 – 11/16/92.

- (b) Dance halls.
- (c) Factory outlet stores.
- (d) Gasoline service stations.

(e) Recycling drop off centers.

(f) Utilities.

(g) Boardinghouses.

(h) (Cr. Ord. #2633 – 8/4/08). Tattoo establishments and/or body piercing establishments in compliance with sections 11.15 and 12.085 of this Code.

(i) Mobile food vendors (non-principle use) (Cr. Ord. #2818 – 7/13/18).

(4) LOT AREA AND WIDTH. (a) Lots shall be a minimum of 22,000 square feet in area, except those lots bordering South Main Street from Oak Street to Chestnut Street, and North Main Street from Beech Street to North Silverbrook Drive, and Jefferson Street to a point 700 feet north of Roosevelt Drive, which must contain a minimum of 9,600 square feet.

(b) Lots shall not be less than 80 feet in width as measured at the abutting street right-of-way line.

(5) BUILDING HEIGHT AND AREA. (a) No principal building or parts of a principal building shall exceed two stories or 35 feet in height, whichever is less. No accessory building shall exceed 20 feet in height.

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed 40 percent of the lot area.

(c) There shall be a minimum floor area of 1,000 square feet.

(6) SETBACK AND YARDS. (Am. Ord. # 2796 – 8/12/2017). (a) There shall be a minimum building setback of 42 feet from the right-of-way of all existing or planned streets, except those lots bordering South Main Street from Oak Street to Chestnut Street, and North Main Street from Beech Street to North Silverbrook Drive, and Jefferson Street to a point 700 feet north of Roosevelt Drive, which must have a minimum building setback of 35 feet.

(b) There shall be a minimum side yard of 10 feet on each side and the total of both side yards shall be a minimum of 30 feet.

(c) There shall be a rear yard of not less than 15 feet.

(d) A 5 foot street yard setback for all accessory structures except buildings.

(7) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

(8) NONCONFORMING USES, STRUCTURES AND LOTS. See Section 17.42.

17.26 B-2 CENTRAL BUSINESS DISTRICT. The B-2 Central Business District is intended to provide for orderly and appropriate regulations to ensure the compatibility of the diverse uses typical of the traditional downtown areas in West Bend and the former Village of Barton. These regulations are also intended to promote the historic, commercial, cultural, entertainment and other urban activities associated with the traditional role of the two downtowns. (1) PERMITTED USES. (Am., Rep. & Renum. Ord. #2088 – 11/16/92). (a) Animal veterinary clinic, animal veterinary office, animal pet stores and animal grooming.

- (b) Antique and collectors stores.
- (c) Appliances stores including incidental repairing.
- (d) Art and dance studios.
- (e) Bakeries.
- (f) Banks, credit unions, and savings and loan associations.
- (g) Barber shops and beauty shops.
- (h) Bars, taverns and saloons.
- (i) Bookstores.
- (j) Bowling alleys.
- (k) Business and professional offices.
- (l) Camera and photographic supply stores.
- (m) Child day care facilities.
- (n) Churches.
- (o) Clothing stores.
- (p) Cocktail lounges.
- (q) Delicatessen.
- (r) Dental clinics.
- (s) Department stores.
- (t) Drug stores.
- (u) Fish markets.

- (v) Florists.
- (w) Fruit and vegetable stores and stands.
- (x) Furniture sales.
- (y) Furriers and fur apparel.
- (z) Gift stores.
- (aa) Governmental buildings.
- (bb) Grocery stores, retail only.
- (cc) Hardware stores.
- (dd) Hobby and craft stores.
- (ee) Hotels and motels.
- (ff) Jewelry stores.
- (gg) Laundry and dry cleaning establishments.
- (hh) Locksmith shops.
- (ii) Lodges and clubs.
- (jj) Meat markets.
- (kk) Medical clinics.
- (ll) Museums.
- (mm) Music stores.
- (nn) Newspaper and magazine stores.
- (oo) Office supplies and business machine stores.
- (pp) Optical stores.
- (qq) Package beverage stores.
- (rr) Paint, glass and wallpaper stores.
- (ss) Pharmacies.

- (tt) Photography and portrait studios.
- (uu) Plumbing and heating supplies.
- (vv) Printing and reproduction stores.
- (ww) Publishing houses.
- (xx) Radio and television sales, service and repair shops.
- (yy) Radio broadcasting studios.
- (zz) Recreational and health clubs.
- (aaa) Restaurants.
- (bbb) Shoe stores and leather goods stores.
- (ccc) Sporting goods stores.
- (ddd) Stationery stores.
- (eee) Theaters.
- (fff) Tobacco shops.
- (ggg) Variety stores.

(2) PERMITTED ACCESSORY USES. (a) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.

(b) Off-street parking areas.

(c) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.

(d) Accessory residential housing units limited to rental efficiency and one and two bedroom apartments on a non-ground level. There shall be a minimum floor area of 400 square feet for an efficiency apartment, 550 square feet for a one bedroom apartment and 650 square feet for a two bedroom apartment.

(e) Essential services.

(f) Ground-mounted and building-mounted earth station dish antennas.

(g) Lighting and signing.

(3) CONDITIONAL USES. (a) Adult establishments, provided that no such establishment shall be located within 400 feet from any church, school, day care facility, community living arrangement, nursing home, housing for the elderly and public park or recreational facility.

(b) Bed and breakfast establishments providing adequate off-street parking.

(c) Building supply stores.

(d) Funeral homes.

(e) Gasoline service stations.

(f) Non-accessory residential housing units. The minimum floor area per dwelling unit shall be 400 square feet for efficiency units and 550 square feet for one bedroom units. An additional 100 square feet of living space shall be required for each additional bedroom. Two parking spaces shall be provided for each dwelling unit.

(g) Vending machines.

(h) Radio and television transmitting and receiving stations.

(i) Bus depots, provided all principal structures and uses are not less than 200 feet from any residential district lot line.

(j) Boardinghouses.

(k) (Cr. Ord. #2633 – 8/4/08). Tattoo establishments and/or body piercing establishments in compliance with sections 11.15 and 12.085 of this Code.

(4) LOT AREA AND WIDTH. (a) Lots shall be a minimum of 4,800 square feet in area and shall not be less than 40 feet in width.

(5) BUILDING HEIGHT AND AREA. (a) No principal building or part of a principal building shall exceed 50 feet in height. No accessory building shall exceed 20 feet in height.

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed 90 percent of the lot area.

(c) There shall be a minimum floor area of 900 square feet.

(6) SETBACK AND YARDS. (a) There shall be no minimum building setback from the right-of-way of all streets.

(b) No minimum side yard is required between a structure and the lot line or between adjacent structures, however, where a side yard is provided, it shall be not less than 10 feet in width.

(c) There shall be a rear yard of not less than 10 feet, except double frontage lots in the B-2 District which do not contain a rear yard.

(d) A 5 foot street yard setback for all accessory structures except buildings.

(7) TRAFFIC LOADING, PARKING AND ACCESS. Uses in the B-2 District shall conform to the regulations of Section 17.38 of this Chapter, except those regulations established in Section 17.38 (4) (g) shall not apply.

(8) NONCONFORMING USES, STRUCTURES AND LOTS. See Section 17.42.

17.27 B-3 NEIGHBORHOOD BUSINESS DISTRICT. The B-3 Neighborhood Business District is intended to provide for individual retail and customer service establishments serving primarily the convenience of a local neighborhood, and the character, appearance and operation of which are compatible with the character of the surrounding neighborhood.

(1) PERMITTED USES. (Am. Ord. #2088 – 11/16/92). (a) Retail stores and shops offering convenience goods and personal services, and not exceeding 2,000 square feet of primary floor area.

(b) Business, professional or public service offices not exceeding 2,000 square feet of primary floor area.

(c) Customer service establishments such as shoe repair, animal grooming, barber and beauty shops, studios and similar uses not exceeding 1,500 square feet of primary floor area.

(d) Churches.

(2) PERMITTED ACCESSORY USES. (a) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.

(b) Off-street parking areas.

(c) Residential quarters for the owner, proprietor, commercial tenant, employer or caretaker located in the same building as the business.

(d) Rental apartment on a non-ground level provided there shall be a minimum floor area of 400 square feet for an efficiency apartment, 550 square feet for a one-bedroom apartment and 650 square feet for a two-bedroom apartment.

(e) Essential services.

- (f) Ground-mounted and building-mounted earth station dish antennas.
- (g) Lighting and signing.

(3) CONDITIONAL USES. (a) Medical clinics.

- (b) Dental clinics.
- (c) Utilities.
- (d) Boardinghouses.
- (e) Child day care facilities.

(f) Non-accessory residential housing units (Am. Ord. #2779 – 12/31/2015). The minimum floor area per dwelling unit shall be 400 square feet for efficiency units and 550 square feet for one bedroom units. An additional 100 square feet of living space shall be required for each additional bedroom.

(4) LOT AREA AND WIDTH. (a) Lots in the B-3 Neighborhood Business District shall provide sufficient area for the principal structure and its accessory structures, off-street parking and loading areas required by Section 17.38 of this Chapter, and all required yards. Lots shall have a minimum area of 7,200 square feet and shall not be less than 60 feet in width.

(5) BUILDING HEIGHT AND AREA. (a) No principal building or parts of a principal building shall exceed two stories or 35 feet in height, whichever is less. No accessory building shall exceed 20 feet in height.

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed 40 percent of the lot area.

(c) There shall be a minimum floor area of 1,000 square feet.

(6) SETBACK AND YARDS. (a) There shall be a minimum building setback of 42 feet from the right-of-way of all streets.

(b) There shall be a minimum side yard of 10 feet on each side and the total of both side yards shall be a minimum of 30 feet.

(c) There shall be a rear yard of not less than 25 feet.

(d) A 5 foot street yard setback for all accessory structures, except buildings.

(7) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

(8) NONCONFORMING USES, STRUCTURES AND LOTS. See Section 17.42.

17.28 B-4 GENERAL BUSINESS AND WAREHOUSING DISTRICT. The B-4 General Business and Warehousing District is intended to provide for the orderly grouping at appropriate locations of intensive commercial activities of a more general service, retail and wholesale nature. The size and location of such districts shall be based upon logical relationships to other compatible uses. (1) PERMITTED USES. (Am. Ord. #2088 – 11/16/92). Wholesale, service and/or retail sales and warehousing of the following: (a) Air conditioning, refrigerated equipment and supplies not including outdoor storage.

- (b) Animal veterinary clinic.
- (c) Animal veterinary hospital, providing all activities are conducted indoors.
- (d) Animal veterinary office.
- (e) Animal grooming.
- (f) Apparel and accessories, hosiery and lingerie.
- (g) Automotive sales lots and showrooms including incidental servicing and repair, provided, however, that all vehicles be in operative condition.
- (h) Automotive servicing and repairs, including auto body services.
- (i) Beer, wine and distilled alcoholic beverage distributing.
- (j) Commercial and industrial machinery, equipment and supplies not including outdoor storage.
- (k) Confectionery.
- (l) Construction equipment sales, repair and storage not including outdoor storage of junk parts.
- (m) Dairy products.
- (n) Drugs and druggists sundries.
- (o) Dry goods, piece goods and notions.
- (p) Electrical appliances, television and radio sets.
- (q) Electronic parts and equipment.

- (r) Equipment and supplies for service establishments.
- (s) Farm equipment sales, repair and storage not including outdoor storage of junk parts.
- (t) Fish and seafoods.
- (u) Food lockers.
- (v) Footwear.
- (w) Fruits and vegetables.
- (x) Furniture and home furnishings.
- (y) Groceries.
- (z) Hardware.
- (aa) Household goods.
- (bb) Janitorial equipment and supplies.
- (cc) Lumber and construction materials not including outdoor storage.
- (dd) Meat and meat products not including slaughtering or outdoor confinement.
- (ee) Metals and minerals not including outdoor storage.
- (ff) Monument works.
- (gg) Open sales lots.
- (hh) Paint and varnishes.
- (ii) Paper and paper products not including outdoor storage.
- (jj) Plumbing and heating equipment and supplies not including outdoor storage.
- (kk) Printing and publishing houses and related uses.
- (ll) Professional equipment and supplies.
- (mm) Refrigerated warehousing.

(nn) Tires and tubes not including outdoor storage.

(oo) Tobacco and tobacco products.

(pp) Transportation equipment and supplies not including outdoor storage.

(qq) Upholstery repair shops.

(2) PERMITTED ACCESSORY USES. (a) Essential services.

(b) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.

(c) Off-street parking.

(d) Ground-mounted and building-mounted earth station dish antennas.

(e) Lighting and signing.

(3) CONDITIONAL USES. (a) (Rep. & Am. Ord. #2088 – 11/16/92). Animal veterinary hospital, animal kennel, or animal obedience school.

(b) Construction services including building contractors; carpentering; wood flooring; concrete services; masonry, stonework, tile setting, and plastering services; roofing and sheet metal services; and water well drilling services.

(c) Experimental, testing and research laboratories.

(d) Freight forwarding services; packing and crating services, and petroleum stations and terminals.

(e) Fuel oil, bottled gas and ice dealers.

(f) Locker plants provided that no meat packing and processing shall be conducted.

(g) Cabinet making and lumber yards.

(h) Solid waste collection and recycling centers.

(i) Transmitting towers, receiving towers, relay and micro-wave towers without broadcast facilities or studios.

(j) (Cr. Ord. #2633 – 8/4/08). Tattoo establishments and/or body piercing establishments in compliance with sections 11.15 and 12.085 of this Code.

(k) (Cr. Ord. #2795 – 8/12/17). Recreational and health clubs.

(4) LOT AREA AND WIDTH. (a) Lots shall have a minimum area of 22,000 square feet and shall not be less than 100 feet in width.

(5) BUILDING HEIGHT AND AREA. (a) No principal building or parts of a principal building shall exceed two stories or 35 feet in height, whichever is less. No accessory building shall exceed 20 feet in height.

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed 50 percent of the lot area.

(c) There shall be a minimum floor area of 1,000 square feet.

(6) SETBACK AND YARDS. (a) There shall be a minimum building setback of 42 feet from the right-of-way of all streets.

(b) There shall be a minimum side yard of 15 feet on each side and the total of both side yards shall be a minimum of 40 feet.

(c) There shall be a rear yard of not less than 25 feet.

(d) A 5 foot street yard setback for all accessory structures, except buildings.

(7) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

(8) PERFORMANCE STANDARDS. See Section 17.41.

(9) NONCONFORMING USES, STRUCTURES AND LOTS. See Section 17.42.

17.29 B-5 NEIGHBORHOOD OFFICE AND SERVICE DISTRICT. The B-5 Neighborhood Office and Service District is intended to provide for individual or limited office, professional and special service uses where the office activity would be compatible with residential neighborhood uses and not exhibit the intense activity of other business districts. (1) PERMITTED USES. (Am. Ord. #2088 – 11/16/92). (a) Professional Services:

1. Accounting, auditing and bookkeeping services.
2. (Am. Ord. #2492 – 8/25/03) Animal veterinary office.
3. Architectural services.
4. Chiropractor services.

5. Dental services.
6. Engineering services.
7. Land surveying services.
8. Legal services.
9. Medical clinics.
10. Optometrists.
11. Osteopaths.
12. Physician and surgeon services.
13. Urban planning services.

(b) Business Services:

1. Advertising agency services.
2. Business and management consulting services.
3. Collection and adjustment services.
4. Consumer and mercantile credit reporting services.
5. Duplicating and mailing services.
6. Employment services.
7. Public relations services.
8. Stenographic services.
9. Travel arranging services.

(c) Financial, Insurance and Real Estate Services:

1. Banks or financial institutions (not including drive-in or drive-thru facilities).
2. Business and person credit services (including credit unions).
3. Commodity contracts, brokers and dealers services.

4. Holding and investment services.
5. Insurance agents, brokers and services.
6. Insurance carriers.
7. Real estate agents, brokers and management.
8. Real estate subdividing and developing services.
9. Security brokers, dealers and flotation services.
10. Title abstracting services.

(d) Governmental Offices.

(e) Public Services Offices.

(f) Churches.

(2) PERMITTED ACCESSORY USES. (a) Essential services.

(b) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.

(c) Ground-mounted and building-mounted earth station dish antennas.

(d) Off-street parking areas.

(e) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.

(f) Rental apartments on a non-ground level provided there shall be a minimum floor area of 400 square feet for an efficiency apartment, 550 square feet for a one-bedroom apartment and 650 square feet for a two-bedroom apartment.

(g) Lighting and signing.

(3) CONDITIONAL USES. (a) Athletic clubs.

(b) (Cr. Ord. #2088 – 11/16/92) Animal veterinary clinic, animal veterinary hospital, and animal grooming.

(c) Barber shops and beauty salons.

(d) Bookstores.

- (e) Child day care facility.
 - (f) Delicatessen.
 - (g) Drive-in or drive-thru banks, savings and loan, or other financial institutions.
 - (h) Florists (not including greenhouses).
 - (i) Gift shops.
 - (j) Health clubs.
 - (k) Medical supply sales.
 - (l) Office supply stores.
 - (m) Outdoor vending machines.
 - (n) Pharmacies.
 - (o) Printing and reproduction services.
 - (p) Restaurants (not including drive-in or drive-thru facilities).
 - (q) Repealed Ord. #2088 – 11/16/92.
 - (r) Stationery stores.
 - (s) Studios for photography, painting, music, sculpture, dance or other recognized fine art.
 - (t) (Cr. Ord #2290 - 9/15/97) Public and private schools, colleges, and universities.
 - (u) (Cr. Ord #2743 – 8/24/13) Parking or operation of fleet vehicles, being those vehicles being owned or operated by the property owner or tenant of the property, as an accessory use to the permitted office use.
 - (v) Non-accessory residential housing units (Am. Ord. #2779 – 12/31/2015). The minimum floor area per dwelling unit shall be 400 square feet for efficiency units and 550 square feet for one bedroom units. An additional 100 square feet of living space shall be required for each additional bedroom.
- (4) LOT AREA AND WIDTH. (a) Lots shall have a minimum area of 7,200 square feet and shall not be less than 60 feet in width.

(5) BUILDING HEIGHT AND AREA. (a) No principal building or parts of a principal building shall exceed two stories or 35 feet in height, whichever is less. No accessory building shall exceed 20 feet in height.

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed 60 percent of the lot area. There shall be a minimum floor area of 1,000 square feet.

(6) SETBACK AND YARDS. (a) There shall be a minimum building setback of 15 feet from the right-of-way of all streets in the following areas:

1. In the area bounded by Cedar Street on the north, 9th Avenue on the west, Walnut Street on the south and Main Street on the east;

2. In the area on either side of Barton Avenue, bounded by Roosevelt Drive on the north and Main Street on the south.

(b) There shall be a minimum building setback of 42 feet from the right-of-way of all streets in all other areas of the City which are zoned B-5.

(c) There shall be a minimum side yard of 8 feet on each side and the total of both side yards shall be a minimum of 20 feet.

(d) There shall be a rear yard of not less than 25 feet.

(e) A 5 foot street yard setback for all accessory structures, except buildings.

(7) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

(8) NONCONFORMING USES, STRUCTURES AND LOTS. See Section 17.42.

17.30 B-6 OFFICE PARK DISTRICT. The B-6 Office Park District is intended to provide for the development of an attractive and aesthetic mixed grouping of both office and limited commercial uses and activities in a park-like setting. The district is further intended to promote the provision of ample off-street parking and loading areas; limited ingress and egress; open space; and landscape planting screens in areas adjacent to non-business development or other incompatible land uses. All principal and accessory structures shall be architecturally compatible and consistent with one another. (1) PERMITTED USES. (a) (Am. Ord. #2088 – 11/16/92) Professional Services:

1. Accounting, auditing and bookkeeping services.
2. Animal veterinary office.
3. Architectural services.

4. Chiropractor services.
5. Dental services.
6. Engineering services.
7. Legal services.
8. Medical clinics including pharmacies.
9. Optometrists.
10. Osteopaths.
11. Physician and surgeon services.
12. Urban planning services.

(b) Business Services:

1. Advertising agency services.
2. Business and management consulting services.
3. Collection and adjustment services.
4. Consumer and mercantile credit reporting services.
5. Duplicating and mailing services.
6. Employment services.
7. Manufacturing representatives, agents or corporate headquarters.
8. Public relations services.
9. Stenographic services.
10. Transportation ticket services.
11. Travel arranging services.

(c) Financial, Insurance and Real Estate Services:

1. Banks or financial institutions (including drive-in or drive-thru facilities).

2. Business and person credit services (including credit unions).
3. Commodity contracts, brokers and dealers services.
4. Holding and investment services.
5. Insurance agents, brokers and services.
6. Insurance carriers.
7. Real estate agents, brokers and management services.
8. Security brokers, dealers and flotation services.
9. Title abstracting services.

(d) Governmental Offices.

(e) Public Services Offices.

(f) Laboratory, Scientific and Research Facilities.

(2) PERMITTED ACCESSORY USES. (a) Self-contained services including food service, recreation and leisure time activities, meeting facilities and personal services.

(b) Garages for storage of vehicles used in conjunction with the operation of an office or industry.

(c) Ground-mounted and building-mounted earth station dish antennas.

(d) Child day care facilities.

(e) Off-street parking areas.

(f) Storage, power supply and other uses normally auxiliary to the principal operation or use.

(g) Lighting and signing.

(3) CONDITIONAL USES. (Am. Ord. #2088 – 11/16/92). (a) Animal veterinary clinic.

(b) Athletic clubs.

(c) Child day care facilities which are independent businesses located in separate buildings.

- (d) Gift shops.
- (e) Business guest lodging.
- (f) Separate conference/meeting facilities.
- (g) Separate personal services.
- (h) Residential condominiums.

(4) ZONING DISTRICT SIZE. (a) The B-6 Office Park District shall be a minimum size of twenty (20) contiguous acres.

(5) LOT AREA AND WIDTH. (a) Lots shall have a minimum of one (1) acre in area.

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed 20 percent of the lot area.

(c) Lots shall not be less than 150 feet in width.

(6) BUILDING HEIGHT AND AREA. (a) No building or parts of a building shall exceed 60 feet in height. No accessory building shall exceed 20 feet in height.

(7) SETBACK AND YARDS. (a) A minimum street yard (setback) of 42 feet from an existing or planned public street right-of-way shall be required.

(b) There shall be a minimum side yard of 10 feet on each side and the total of both side yards shall be a minimum of 30 feet.

(c) There shall be a rear yard of not less than 25 feet.

(d) A 5 foot street yard setback for all accessory structures, except buildings.

(8) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

(9) ARCHITECTURAL REVIEW. (a) The City Plan Commission shall review and approve architectural plans for all principal and accessory buildings including design elevations and material composition.

17.305 B-7 INTENSIVE COMMERCIAL AND DISTRIBUTION DISTRICT. (Cr. Ord. #2715 – 7/21/12) The B-7 Intensive Commercial and Distribution District is intended to provide an orderly and attractive combinations of retail stores, offices, service establishments, light manufacturing and assembly, warehousing, packaging and processing activities all conducted within an enclosed building or within an approved screened outdoor storage area in accordance with Section 9.101 of the Municipal Code. All operations and uses within the B-7 Intensive Commercial and Institutional District are intended to be

limited in nature and size which are not detrimental to the surrounding area or the community as a whole by reason of noise, dust, smoke, odor, traffic, vibration, physical appearance or other similar factors and contribute to the economic welfare of the community. (1) PERMITTED USES: (a) Those uses permitted in B-1 Community Business District.

(b) Those uses permitted in M-1 Light Industrial District, except for the following uses:

1. Construction or contractor firms such as plumbing, HVAC, building contractors, landscaping, surveyors, soil preparation reviewers, painting, masonry, concrete, siding, roofing and electrical.

2. Mini-warehouses.

(c) Public service offices.

(2) PERMITTED ACCESSORY USES. (a) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.

(b) Off-street parking areas and loading areas.

(c) Essential services.

(d) Lighting and signing.

(e) Outdoor storage in conformance with Section 9.101 of the Municipal Code.

(3) CONDITIONAL USES. (a) Dance halls.

(b) Utilities.

(c) (Cr. Ord. #2633 – 8/4/08). Tattoo establishments and/or body piercing establishments in compliance with sections 11.15 and 12.085 of this Code.

(d) Motion picture production.

(e) Service clubs and organizations.

(f) Mobile food vendors (Non-principle use) (Cr. Ord. #2818 – 7/13/18).

(4) LOT AREA AND WIDTH. (a) Lots shall be a minimum of 22,000 square feet in area.

(b) Lots shall not be less than 80 feet in width as measured at the abutting street right-of-way line.

(5) BUILDING HEIGHT AND AREA. (a) No principal building or parts of a principal building shall exceed two stories or 35 feet in height, whichever is less. No accessory building shall exceed 20 feet in height.

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed 50 percent of the lot area.

(6) SETBACK AND YARDS. (a) There shall be a minimum building setback of 30 feet from the right-of-way of all existing or planned streets.

(b) There shall be a minimum side yard of 15 feet on each side and the total of both side yards shall be a minimum of 35 feet.

(c) There shall be a rear yard of not less than 25 feet.

(d) A 5 foot street yard setback for all accessory structures except buildings.

(7) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

(8) NONCONFORMING USES, STRUCTURES AND LOTS. See Section 17.42.

(9) PERFORMANCE STANDARDS. See Section 17.41.

17.31 I-1 INSTITUTIONAL AND PUBLIC SERVICE DISTRICT. The I-1 Institutional and Public Service District is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use is anticipated to be permanent. (1) PERMITTED USES. (a) Public or private schools, colleges and universities.

(b) (Am. Ord. #2650 – 4/20/09) Child Day Care Facilities.

(c) Churches.

(d) Hospitals, sanatoriums, nursing homes and clinics.

(e) Libraries, museums and art galleries.

(f) Cemeteries and crematory service buildings.

(g) Lodges.

(h) Public administrative offices and public service building, including fire and police stations.

- (i) Public utility offices.
- (j) Water storage tanks and towers.
- (k) Wastewater treatment facilities (publicly-owned).

(2) PERMITTED ACCESSORY USES. (a) Garages for storage of vehicles used in conjunction with the operation of a permitted use.

- (b) Ground-mounted and building-mounted earth station dish antennas.
- (c) Off-street parking and loading areas.
- (d) Residential quarters for caretakers or clergy.
- (e) Service buildings and facilities normally accessory to the permitted uses.
- (f) Lighting and signing.

(3) CONDITIONAL USES. (a) Gift stores.

- (b) Florists (not including greenhouse).
- (c) Utilities, provided all principal structures and uses are not less than 50 feet from any residential district lot line.
- (d) Funeral homes provided all principal structures and uses are not less than 25 feet from any lot line.
- (e) Transmitting towers, receiving towers, relay, and micro-wave towers without broadcast facilities or studios.
- (f) Solid waste management and recycling facilities.

(4) LOT AREA AND WIDTH. (a) Lots shall be a minimum of 9,600 square feet in area.

- (b) Lots shall not be less than 80 feet in width.

(5) BUILDING HEIGHT AND AREA. (a) No building or parts of a building shall exceed 50 feet in height. Those buildings listed on the U.S. National Register of Historic Places are exempt from the building height regulations.

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed 40 percent of the lot area.

(6) SETBACK AND YARDS. (a) A minimum setback of 30 feet from an existing or planned public street right-of-way shall be required.

(b) There shall be a minimum side yard of not less than 10 feet on a side.

(c) There shall be a rear yard of not less than 25 feet.

(d) A 5 foot street yard setback for all accessory structures, except buildings.

(7) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

17.32 P-1 PARK, RECREATION AND OPEN SPACE DISTRICT. The P-1 Park, Recreation and Open Space District is intended to provide for areas where the recreational needs, both public and private, of the populace can be met without undue disturbance of natural resources and adjacent uses. When applied to privately-owned recreational lands, this district is intended to avoid the conversion of such lands to other urban uses without adequate public review and approval. The district should be used for areas designated as conservancy lands and environmental corridor lands. (1) PERMITTED USES. (a) Art galleries.

(b) Boat rentals and boat access sites.

(c) Botanical gardens and arboretums.

(d) Flood control retention/detention areas.

(e) Forest reserves (wilderness areas).

(f) Forest reserves (wildlife refuges).

(g) Group or organized camps.

(h) Historic and monument sites.

(i) Ice skating.

(j) Parks - general recreation.

(k) Parks - leisure and ornamental.

(l) Picnicking area.

(m) Play fields or athletic fields.

(n) Playgrounds.

- (o) Play lots or tot lots.
- (p) Skiing and tobogganing.
- (q) Swimming beaches.
- (r) Trails for bicycling, hiking and cross-country skiing.

(2) PERMITTED ACCESSORY USES. (a) Buildings and structures accessory to the principal use.

- (b) Ground-mounted and building-mounted earth station dish antennas.
- (c) Off-street parking and loading areas.
- (d) Lighting and signing.

(3) CONDITIONAL USES. (a) Amphitheaters.

- (b) Amusement parks.
- (c) Aquariums.
- (d) Archery ranges.
- (e) Arenas and field houses.
- (f) Auditoriums.
- (g) Drive-in motion picture theaters.
- (h) Exhibition halls.
- (i) Fairgrounds.
- (j) General resorts.
- (k) Golf course (with/or without country club/restaurant facilities).
- (l) Golf driving ranges.
- (m) Gymnasiums and athletic clubs.
- (n) Miniature golf.

- (o) Museums.
- (p) Planetaria.
- (q) Recreation centers.
- (r) Stadiums.
- (s) Swimming pools.
- (t) Tennis courts.
- (u) Utilities.
- (v) Zoos.

(4) LOT AREA AND WIDTH. (a) Lots in the P-1 Park, Recreation and Open Space District shall provide sufficient area for the principal structure and its accessory structures, off-street parking and loading areas, and all required yards.

(5) BUILDING HEIGHT. (a) No building or parts of a building shall exceed 35 feet in height.

(6) SETBACK AND YARDS. (a) A minimum setback of 50 feet from an existing or planned public street right-of-way shall be required.

(b) There shall be a minimum side yard of not less than 40 feet on a side.

(c) There shall be a rear yard of not less than 50 feet.

(d) A 5 foot street yard setback for all accessory structures, except buildings.

(7) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

17.33 M-1 LIGHT INDUSTRIAL DISTRICT. (Rep. & Recr. Ord. #2375 - 9/25/00; Am. Ord. #2382 - 12/18/00). The M-1 Light Industrial District is intended to provide for light industrial and related commercial uses including light manufacturing, warehousing, light assembly, packaging, distributing, wholesaling, and processing activities, conducted wholly within an enclosed building or within an approved screened outdoor storage area in accordance with Section 9.101 of the Municipal Code. The M-1 Light Industrial District is intended for light industrial operations or intensive commercial uses which are limited in nature and size, and which have physical and operational characteristics that are not detrimental to the surrounding area or to the community as a whole by reason of noise, dust, smoke, odor, traffic, vibration, physical appearance or other similar factors. (1)

PERMITTED USES. Permitted uses include the following: (a) Professional and business offices.

(b) Construction or contractor firms such as plumbing, HVAC, building contractors, landscaping, surveyors, soil preparation services, painting, masonry, concrete, siding, roofing, and electrical.

(c) Processing, light manufacturing, assembly, packaging, distribution, wholesaling, and/or storage of the following:

1. Apparel, clothing, and related products.
2. Audio, video, photography and computer equipment and supplies.
3. Baked goods and bakery products.
4. Bottling and canning soft drinks and carbonated waters.
5. Cabinet making provided all activities are conducted indoors.
6. Carpet and rugs, except heavy manufacturing.
7. Communication structures without broadcast facilities or studios.
8. Ceramic products, except heavy manufacturing.
9. Dental, medical, mortician, and optical equipment, products, and supplies.
10. Electronic and electrical components, accessories, equipment, and supplies.
11. Engineering, laboratory, and scientific and research instruments and associates equipment.
12. Food processing and preparation.
13. Footwear, except heavy manufacturing.
14. Furniture and upholstery.
15. Hardware, hand tools, and cutlery, except heavy manufacturing.
16. Household and office furnishings and machines.

17. Household appliances, except heavy manufacturing.
18. Janitorial equipment and supplies, except heavy manufacturing.
19. Jewelers materials, jewelry, and precious metals.
20. Leather and leather products, except heavy manufacturing.
21. Lighting and wiring equipment and supplies.
22. Machinery, general and special, except heavy manufacturing.
23. Measuring and controlling instruments.
24. Metal products, except heavy manufacturing.
25. Metal working machinery, except heavy manufacturing.
26. Mini-warehousing.
27. Musical instruments and parts, except heavy manufacturing.
28. Office and art, equipment, products, and supplies.
29. Paper products and supplies, except paper mills and manufacturing of paper from pulpwood.
30. Partitions, shelving, and commercial fixtures, except heavy manufacturing.
31. Plumbing and heating equipment, not including manufacturing and outdoor storage of junk parts.
32. Printing, publishing, binding, and related uses.
33. Sand blasting operations, provided all activities are conducted indoors.
34. Service establishment equipment and supplies, except heavy manufacturing.
35. Signs and advertising displays, except heavy manufacturing.
36. Toys, amusement, sporting and athletic goods, except heavy manufacturing.

37. Watches, clocks, clockwork operated devices and parts.

38. Alcohol beverages, except manufacturing.

(d) (Cr. Ord. #2650 – 4/20/09) Child Day Care Facilities.

(2) PERMITTED ACCESSORY USES. Permitted accessory uses include the following: (a) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.

(b) Office, storage, power supply and other uses normally auxiliary to the principal industrial operations.

(c) Ground-mounted and building-mounted earth station dish antennas.

(d) Outdoor storage in conformance with Section 9.101 of the Municipal Code.

(3) CONDITIONAL USES. Conditional uses include the following: (a) Animal veterinary clinic and offices.

(b) Animal veterinary hospital, provided all activities are conducted indoors.

(c) Animal obedience school.

(d) Motion picture production.

(e) Service clubs and organizations.

(f) Truck repair and service establishments.

(g) Vehicle storage yards.

(4) LOT AREA AND WIDTH. (a) Lots shall have a minimum area of 20,000 square feet and shall not be less than 100 feet in width.

(5) BUILDING HEIGHT AND AREA. (a) No building or parts of a building shall exceed 35 feet in height.

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed 50 percent of the lot area.

(6) SETBACK AND YARDS (a) There shall be a minimum building setback of 30 feet from the right-of-way of all streets.

(b) There shall be a side yard on each side of all buildings not less than 15 feet in width and the combined total of both side yards shall not be less than 35 feet.

(c) There shall be a rear yard of not less than 25 feet.

(d) A 5 foot street yard setback for all accessory structures, except buildings.

(7) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

(8) PERFORMANCE STANDARDS. See Section 17.41.

(9) NONCONFORMING USES, STRUCTURES AND LOTS. See Section 17.42.

17.34 M-2 HEAVY INDUSTRIAL DISTRICT. (Cr. Ord.# 2764 – 2/21/15; Rep. & Recr. Ord. #2375 - 9/25/00; Am. Ord. #2382 - 12/18/00). The M-2 Heavy Industrial District is intended to provide for general industrial uses including manufacturing, warehousing, assembly, packaging, distributing, wholesaling, processing, and related industrial activities, conducted wholly within an enclosed building or within an approved screened outdoor storage area in accordance with Section 9.101 of the Municipal Code. M-2 uses are intended to be of a more general nature than the limited uses in the M-1 Light Industrial District. M-2 Heavy Industrial uses may be characterized as activities where goods are generally mass produced on a large scale through the use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses and may produce external effects such as noise, dust, smoke, odor, and vibrations. (1) PERMITTED USES. Permitted uses include the following: (a) (Am. Ord. #2650 – 4/20/09). Those uses permitted in the M-1 Light Industrial District except Child Day Care Facilities.

(b) Processing, manufacturing, assembly, packaging, distribution, wholesaling, and/or storage of the following:

1. Aircraft and parts.
2. Alcohol beverages.
3. Brick, block, and structural clay tile.
4. Carpet and rugs.
5. Ceramic products.
6. Coating, engraving and allied services.
7. Residential, commercial, industrial, and farm machinery equipment and supplies, not including outdoor storage of junk parts.

- of cement.
8. Concrete and concrete products, not including the manufacturing
- equipment.
9. Construction, mining, and materials handling machinery and
10. Engines and turbines.
11. Flour and other grain mill products.
12. Fluid milk, cream and milk beverages.
13. Fresh or frozen fruits, fruit juices, vegetables, and specialties.
14. Footwear.
15. Hardware, hand tools, and cutlery.
16. Hardwood and flooring, veneer and plywood manufacturing or
- processing.
17. Heating apparatus and plumbing fixtures.
18. Household appliances.
19. Janitorial equipment and supplies.
20. Leather and leather products.
21. Machinery, general and special.
22. Metal products, fabricated.
23. Metal working machinery.
24. Millwork, lumber yards, saw mills, and planing mills.
25. Automobile, motorcycles, bicycles and parts and equipment.
26. Musical instruments and parts.
27. Partitions, shelving, and commercial fixtures.
28. Plastic injection molding.

29. Plumbing and heating equipment, not including outdoor storage of junk parts.

30. Processing and manufacturing of feeds prepared for animals and fowl, wholesaling and warehousing of animal feeds, fertilizer, seeds, garden and lawn supplies, animal health products and lawn equipment, provided that all operations are conducted within an enclosed building.

31. Rubber products.

32. Screw machine products.

33. Service industry machines.

34. Ship and boat building and repairing.

35. Signs and advertising displays.

36. Stone, clay, and glass products.

37. Toys, amusement, sporting and athletic goods.

38. Transportation equipment.

39. Wire products, fabricated.

(c) Those uses permitted within the B-1 Community Business District, except child day-care facilities and residential units or quarters, provided those uses are within a large single-user site or shopping center encompassing a minimum of 10 acres in site area and within a building with a footprint area in excess of 100,000 sq. ft.. Such uses must demonstrate a satisfactory relationship to the traffic circulation system.

(2) PERMITTED ACCESSORY USES. Permitted accessory uses include the following: (a) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.

(b) Office, storage, power supply and other uses normally auxiliary to the principal industrial operations.

(c) Ground-mounted and building-mounted earth station dish antennas.

(d) Outdoor storage in conformance with Section 9.101 of the Municipal Code.

(3) CONDITIONAL USES. Conditional uses include the following: (a) Bottling plants.

(b) Construction and prefabrication of wood buildings and structural members, and construction of wooden containers.

(c) Experimental, testing and research laboratories.

(d) Foundries.

(e) Public passenger transportation terminals such as heliports and bus depots, except airports, airstrips and landing fields, provided all principal structures and uses are not less than 250 feet from any residential district boundary.

(f) Retail stores and services related to principal industrial operations.

(g) Solid waste collection and recycling centers.

(h) Utilities.

(i) Truck terminals and semi-trailer parking facilities.

(j) Vehicle storage yards.

(4) LOT AREA AND WIDTH. (a) Lots shall have a minimum area of 40,000 square feet and shall not be less than 150 feet in width.

(5) BUILDING HEIGHT AND AREA. (a) No buildings or parts of a building shall exceed 65 feet in height.

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed 50 percent of the lot area.

(6) SETBACK AND YARDS. (a) (Am. Ord. #2786 – 10/25/16). There shall be a minimum building setback of 25 feet from the right-of-way of all streets.

(b) There shall be a side yard on each side of all buildings of not less than 15 feet in width and the combined total of both side yards shall not be less than 40 feet.

(c) There shall be a rear yard of not less than 25 feet.

(d) A 5 foot street yard setback for all accessory structures, except buildings.

(e) (Cr. Ord. #2687 – 4/18/11). The area bounded by Creek Road on the north, N. River Road on the west, E. Washington Street on the south and Schoenhaar Drive on the east, including the properties on both sides of Schoenhaar Drive and the property at 1701 Creek Road, are not required to meet the side and rear yard setbacks stated in GENERAL

subsections (b) and (c) above. Instead the properties in that area shall have minimum side and rear yard setbacks as follows:

1. There shall be a minimum side yard setback of 10 feet on one side with the total side yard setback for both sides being a minimum of 30 feet.

2. Parcels adjacent to a residentially zoned property shall have a minimum rear yard setback of 25 feet. All other parcels shall have a minimum rear yard setback of 15 feet.

(7) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

(8) PERFORMANCE STANDARDS. See Section 17.41.

(9) NONCONFORMING USES, STRUCTURES AND LOTS. See Section 17.42.

17.35 M-3 PLANNED BUSINESS PARK DISTRICT. (Rep. & Recr. Ord. #2375 - 9/25/00; Am. Ord. #2382 - 12/18/00). The M-3 Planned Business Park District is intended to provide for the development of an attractive planned grouping of light industrial uses, professional offices and intensive commercial uses, in a business park setting. The M-3 district is not intended for intensive commercial or industrial uses that may produce external effects such as noise, dust, smoke, odor, and vibrations. M-3 uses are also intended to be in structures which convey an aesthetically pleasing outward appearance with ample off-street parking and loading areas, increased yard space, landscape planting screens, and restricted outside storage. (1) PERMITTED USES. Permitted uses include the following: (a) Professional and business offices.

(b) Wholesaling operations.

(c) Light industrial uses permitted in the M-1 Light Industrial District.

(d) (Cr. Ord. #2650 – 4/20/09) Child Day Care Facilities.

(2) PERMITTED ACCESSORY USES. Permitted accessory uses include the following: (a) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.

(b) Ground-mounted and building-mounted earth station dish antennas.

(c) Office, storage, power supply and other uses normally auxiliary to the principal industrial operations.

(3) CONDITIONAL USES. Conditional uses include the following: (a) Industrial uses permitted in the M-2 Heavy Industrial District provided that the intent of the M-3 introductory paragraph is complied with.

(b) Experimental, testing and research laboratories.

(c) Motion picture production.

(d) Outside storage and manufacturing areas, provided that such uses shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way in conformance with section 9.101 of the Municipal Code.

(e) Public passenger transportation terminals such as heliports and bus depots, except airports, airstrips and landing fields, provided all principal structures and uses are not less than 250 feet from any residential district boundary.

(f) Retail stores and services related to the principal operations.

(g) Utilities.

(4) ZONING DISTRICT SIZE. (a) The M-3 district shall be a minimum of ten (10) contiguous acres in area.

(5) LOT AREA AND WIDTH. (a) Lots shall be a minimum of one (1) acre in area.

(b) Lots shall not be less than 150 feet in width.

(c) The sum total of the floor area of all principal and accessory buildings shall not exceed 50 percent of the lot area.

(6) BUILDING HEIGHT. (a) No building or parts of a building shall exceed 65 feet in height.

(7) SETBACK AND YARDS. (a) A minimum street yard (setback) of 50 feet from an existing or planned public street right-of-way shall be required.

(b) There shall be a minimum side yard of not less than 15 feet on a side and the combined total of both side yards shall not be less than 40 feet.

(c) There shall be a rear yard of not less than 25 feet.

(d) A 5 foot street yard setback for all accessory structures, except buildings.

(8) TRAFFIC LOADING, PARKING AND ACCESS. See Section 17.38.

(9) PERFORMANCE STANDARDS. See Section 17.41.

(10) NONCONFORMING USES, STRUCTURES AND LOTS. See Section 17.42.

17.355 MXD MIXED USE DISTRICT (Cr. Ord. #2512 – 1/19/04). The MXD Mixed Use District is intended to allow a diversity of land uses in close proximity, within a limited area; to promote a balance of land uses; to facilitate development proposals

responsive to current and future market conditions; to facilitate integrated physical design; and to encourage interaction among activities located within the District.

(1) PERMITTED USES. (a) Residential:

1. Multifamily dwelling
2. Attached single-family dwelling (townhouse).
3. Adult care facilities and group homes.
4. Family day care home.

(b) Office and Research:

1. Medical and dental clinics and offices.
2. Business or professional offices.
3. Bank, trust company, or other financial institution.
4. Research and development office.
5. Research, experimental and testing laboratory.
6. Radio or television studio.

(c) Retail and Services:

1. Business service.
2. Retail sale of merchandise, but not sales of gasoline, automobiles, trucks, campers, trailers, recreational vehicles or motorized vehicles.
3. Eating and/or drinking establishment, including restaurant, bar, lunchroom, cafeteria and food commissary with no drive-thru facilities.
4. Fast food establishment only if it is not located in a separate structure and it does not exceed three thousand (3,000) square feet of gross floor area with no drive-thru facilities.
5. Child day care facilities.

6. Printing, reproduction and mailing services.

7. Personal service establishments, including but not limited to hairdresser, barber shop, locksmith shop, laundry or dry cleaning pick up establishment, self-service laundry, shoe repair or tailoring shop, photography studio and florists.

8. Studios including but not limited to music, art, sculpture, tutoring and dance.

9. Bed and Breakfast.

10. Hotel and motel.

11. Animal grooming and veterinarian facilities.

(d) Institutional and Civic:

1. Religious assembly.

2. Elementary, secondary and post-secondary schools and facilities.

3. Library, museum, community center and cultural institution.

4. Government offices and facilities.

5. Health care facilities including medical research.

6. Nursing home.

7. Social service facilities including emergency residential shelter.

8. Lodges and clubs.

(e) Entertainment and Recreation:

1. Indoor commercial entertainment establishments including but not limited to cinema, theater, concert hall, cabaret and night club.

2. Recreation facilities including bowling alley, indoor or outdoor tennis courts, public recreation building, health club, or skating rink.

3. Recreation facilities shall be allowed only if they are located in or attached to structures containing other principal uses.

4. Hall, auditoriums and spaces used for public gatherings including festival grounds and outdoor markets.

5. Park or playground.

6. Sports and gaming facility.

7. Marina.

(f) Transportation and Communication:

1. Bus, taxi and ground transportation facilities.

2. Automobile parking lot or parking garage.

3. Radio or television transmission station.

(2) PERMITTED ACCESSORY USES. (a) Garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.

(b) Building-mounted earth station dish antennas.

(c) Outdoor vending machines.

(d) Indoor storage.

(e) Parcel delivery.

(f) Electric substation and distribution equipment.

(3) CONDITIONAL USES. (a) Detached single-family dwelling.

(b) Two-family dwelling.

(c) Any proposed use conversion from an existing use shall require a conditional use permit per Section 17.10, except those uses identified as a minor home occupation in Section 17.37.

(d) Mobile food vendors (Non-principle use) (Cr. Ord. #2818 – 7/13/18).

(4) MULTIPLE USES IN THE SAME STRUCTURE. Within the District there shall be no restriction on combining different uses within the same building other than those restrictions imposed by state building codes, or other federal, state or local regulations. For the purposes of meeting the requirements found in subsections (5), (6) and (7), the use of a lot containing multiple uses shall be the use that occupies the majority of the gross floor area as determined by the Zoning Administrator.

(5) LOT AREA AND WIDTH. (a) Lots with residential uses shall have a minimum area of 4,800 square feet.

(b) Lots shall not be less than 40 feet in width.

(6) BUILDING HEIGHT AND AREA. (a) No principal building or parts of a principal building shall exceed the following heights:

	<u>Building Height Maximum (Feet)</u>
Detached Single Family Conditional Use	35
Two-Family Conditional Use	35
Residential Permitted Uses	50
Office and Research Uses	60
Retail and Service Uses	50
Institutional and Civic Uses	60
Entertainment and Recreation Uses	60
Transportation and Communication Uses	40

(b) The sum total of the floor area of all principal and accessory buildings shall not exceed the following percentages of lot coverage:

1. A maximum of 60 percent for lots with detached single family or two-family residential conditional uses;
2. A maximum of 90 percent for lots with residential permitted uses;
3. A maximum of 90 percent for lots with non-residential uses.

(7) SETBACK AND YARDS. (a) There shall be a minimum building setback of 20 feet from the right-of-way of all streets for lots with transportation and communications uses or with detached single family or two-family residential conditional uses.

(b) There shall be a maximum building setback of 10 feet from the right-of-way of all streets for lots with office and research, retail and services, institutional and civic, or entertainment and recreation uses.

(c) There shall be minimum side yards in accordance with the following requirements:

1. For lots with retail and services uses or detached single family or two-family residential conditional uses, 5 feet on each side and the total of both side yards shall be a minimum of 10 feet.

2. For lots with office and research, institutional and civic, or entertainment and recreation uses, 10 feet on each side and the total of both side yards shall be a minimum of 20 feet.

3. For lots with transportation and communication uses, 15 feet on each side and the total of both side yards shall be a minimum of 30 feet.

(d) There shall be a rear yard of not less than 20 feet for all lots except that no rear yard is required for lots with residential permitted uses.

(e) There shall be open space in accordance with the following requirements:

1. A minimum of 20 percent for lots with detached single family or two-family residential conditional uses;

2. A minimum of 10 percent for lots with residential permitted uses or non-residential uses.

(8) RESIDENTIAL DENSITY. Within the district there shall be maximum residential density as follows: 1. Nine units per acre of detached single family residential;

2. Eighteen units per acre of two family residential;

3. 1450 square feet of lot area per unit for residential permitted uses except that for multifamily residential uses for the elderly (over age 62), the maximum shall be 1245 square feet of lot area per unit.

(9) TRAFFIC LOADING, PARKING, ACCESS AND LIGHTING. See Sections 17.26(7) and 17.47.

(10) PERFORMANCE STANDARDS. See Section 17.41.

(11) NONCONFORMING USES, STRUCTURES AND LOTS. See Section 17.42.

(12) URBAN DESIGN REQUIREMENTS. See Section 17.47.

(13) LANDSCAPING. See Sections 17.40 and 17.47.

(14) SIGNS. (Am. Ord. #2606 - 2/26/07) See Sections 17.47, 17.48 and 17.49.

(15) MODIFICATION OF REQUIREMENTS (Cr. Ord. #2522 – 4/19/04). In exceptional circumstances, the City Plan Commission may modify the requirements of subsections (5) through (8) where the enforcement of those regulations is determined by the City Plan Commission to be inconsistent with good site development planning. Decisions by the City Plan Commission to modify the requirements in subsections (5) through (8) shall be based upon the purpose and intent of this Chapter as set forth in Sections 17.03 and 17.04.

17.36 PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT. The PUD Planned Unit Development Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified placement of structures, flexibility in design of building types including attached and detached structures, and/or mixing of compatible land uses. Such developments are intended to provide a safe and efficient internal and external system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to preserve and protect environmentally sensitive areas; to enable economic design in the location of public and private utilities and community facilities; to ensure adequate standards of construction and planning; and to ensure privacy and protection from adjoining and adjacent land uses by landscaping, buffering and screening. (1) **PERMITTED USES.** (Am. Ord. #2360 - 2/28/00) Principal uses allowed in a Planned Unit Development Overlay District shall conform to uses permitted in the underlying basic zoning district. However, uses of a different zoning district not allowed in the underlying district may be granted providing they are accessory only to the principal use and not separate and distinct principal uses. Individual structures may vary from specific area, height and size restrictions provided that the Common Council determines such variation to be consistent with the purposes of this chapter. All open space and parking requirements of the underlying basic use district shall be complied with either individually or by providing the combined open space and parking space required for the entire development in one (1) or more locations within the development.

(2) Repealed Ord. #2422 – 12/10/01.

(3) **PROCEDURAL REQUIREMENTS.** (a) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a Planned Unit Development Overlay District, the owner or his agent making such petition shall meet with the Department of Community Development to discuss the scope and proposed nature of the contemplated development.

(b) **Petition.** following the pre-petition conference, the owner or his agent may file a petition with the City Clerk for approval of a Planned Unit Development Overlay District. Such petition shall be accompanied by a review fee, as required by the City pursuant to Section 17.45 of this Chapter, and the following information:

1. A statement which sets forth the relationship of the proposed PUD to the City's adopted master plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:

a. Total area to be included in the PUD, area of open space, residential density computations, proposed number and type of dwelling units, population composition, availability and ownership of or requirements for municipal services, disclosure of the extent and scope of accessory uses not normally allowed in the underlying district, and any other similar data or information pertinent to a complete evaluation of the proposed development.

b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.

c. A general outline of the organizational structure of a property owner's or management association, which may be proposed to be established for the purpose of providing any necessary private services.

d. Any proposed departures from the standards of development as set forth in the City zoning regulations, other City regulations or administrative rules, or other generally accepted guidelines.

e. The expected date of commencement and completion of the physical development as set forth in the proposal.

2. A general development plan including:

a. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.

b. The location and dimensions of public and private roads, driveways and parking facilities.

c. The size, arrangement and location of any individual building sites and proposed building groups on each individual site.

d. The location of institutional, parks and open space areas, land areas reserved or dedicated for public uses, including schools, storm water drainage ways and other accessory uses.

e. The type, size and location of all structures.

f. General landscape treatment including location and species type.

g. Architectural plans, elevation and perspective drawings and sketches illustrating the design and character of proposed structures.

h. The existing and proposed location of public sanitary sewer and water supply facilities.

i. The existing and proposed location of all private utilities or other easements.

j. Characteristics of soils related to contemplated specific uses.

k. Existing topography on the site with contours at no greater than two (2) foot intervals.

l. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.

m. A traffic analysis indicating the projected trip generation (Average Daily Traffic - ADT) and peak hourly traffic resulting from the proposed use(s).

n. Submission of condominium homeowner association or other corporate documents which regulate the planned unit development.

(c) Referral to Plan Commission. The petition for a Planned Unit Development Overlay District shall be referred to the City Plan Commission for its review and recommendation, including any additional conditions or restrictions which it may deem necessary or appropriate.

(d) Public Hearing. (Am. Ord. #2422 – 12/10/01) The City Plan Commission shall hold a public hearing pursuant to the requirements of Section 17.09 (12)

(c) of this Chapter. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested Planned Unit Development Overlay District.

(4) BASIS FOR APPROVAL OF THE PETITION. (a) The City Plan Commission in making its recommendation and the City Council in making its determination, shall consider:

1. That the petitioners for the proposed Planned Unit Development Overlay District have indicated that they intend to begin the physical development of the PUD within nine (9) months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule satisfactory to the City.

2. That the proposed Planned Unit Development Overlay District is consistent in all respects to the purpose of this Section and to the spirit and intent of this Ordinance as established in Section 17.04, and is in conformity with the adopted master plan or any adopted component thereof.

(b) The City Plan Commission in making its recommendations and the City Council in making its determination shall further find that:

1. The proposed development has been designed to promote the preservation of natural resources and environmentally sensitive areas within the property.
2. The proposed site shall be provided with adequate drainage facilities for storm water.
3. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
4. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
5. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances or administrative regulations of the City.
6. Centralized water and sewer facilities shall be provided.
7. Repealed Ord. #2422 – 12/10/01.

(c) That in the case of a proposed residential Planned Unit Development Overlay District:

1. Such development will create an attractive residential environment which is architecturally compatible with surrounding homes, considers terrain and natural resource elements, considers safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the community.
2. The total net residential density within the Planned Unit Development Overlay District will be consistent with and not exceed the average intensity and density of development permitted in the underlying basic use district.
3. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
4. Adequate, continuing fire and police protection is available.
5. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
6. (Amended Ord. #2422 – 12/10/01). Adequate guarantee is provided for permanent preservation of open space areas as shown on the approval site plan either by private covenant or reservation or by dedication to the public.

7. Adequate separation from adjoining non-PUD land uses is achieved by landscaping, buffering or screening.

(d) That in the case of a proposed business Planned Unit Development Overlay District:

1. The proposed development will be adequately served by off-street parking and truck service facilities.

2. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities such as fire and police protection, street maintenance, solid waste collection and maintenance of public areas.

3. The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.

4. The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.

5. Repealed Ord. #2422 – 12/10/01.

(e) That in the case of a proposed industrial Planned Unit Development Overlay District:

1. The operational character, physical plant arrangement and architectural design of buildings will be compatible with the latest in performance standards and industrial development design and will not result in adverse effect upon the property values of the surrounding neighborhood.

2. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, solid waste collection and maintenance of public areas.

3. The proposed development will include adequate provisions for off-street parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.

4. The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

(f) That in the case of a mixed use Planned Unit Development Overlay District:

1. The proposed mixture of residential, commercial, office or institutional uses produces a unified development which is compatible within the underlying districts and which as a total development entity is compatible with adjacent land uses and the surrounding neighborhood.

2. The various types of uses shall conform to the dimensional requirements as set forth in this Ordinance unless otherwise modified by the City Plan Commission.

3. The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, solid waste collection and maintenance of public areas.

4. Adequate separation from adjoining non-PUD land uses is achieved by an entrance or entrances into the district and with sufficient buffering and screening of adjacent non-PUD land uses. At a minimum, 30% of the gross lot area of the PUD shall be reserved for common open space.

(g) (Cr. Ord. #2360 - 2/28/00) Improvements in a planned unit development shall be concentrated so as to maximize concentrated, contiguous open areas.

(5) DETERMINATION. The City Council, after due consideration, may deny the petition, approve the petition as submitted or approve the petition subject to additional conditions and restrictions. The approval of a Planned Unit Development Overlay District shall be based upon and include as conditions thereto the building, site and operational plans for the development as approved by the City Council and as incorporated into a Developer's Agreement in accordance with Section 17.39 (7) (b) of this Chapter.

(6) CHANGES AND ADDITIONS. Any subsequent change or addition to the plans or uses shall first be submitted for approval to the City Plan Commission and if in the opinion of the City Plan Commission, such change or addition constitutes a substantial alteration of the original plan, a public hearing before the City Plan Commission shall be required and notice thereof be given pursuant to the provisions of Section 17.09(12) of this Chapter, and said proposed alterations shall be submitted to the City Council for approval.

(7) SUBSEQUENT LAND DIVISION. (Am. Ord. #2422 – 12/10/01). The division of any land or lands within a Planned Unit Development Overlay District for the purpose of change or conveyance of ownership shall be accomplished pursuant to the land division regulations of the City and when such divisions is contemplated, a preliminary plat or certified survey map of the lands to be divided shall be used.

(8) PLANNED DEVELOPMENT DISTRICT: TRADITIONAL NEIGHBORHOOD DEVELOPMENT (Cr. Ord. #2422 – 12/10/01). Proposed developments contemplated by an applicant to include design features described as "traditional neighborhood development" in Wisconsin Statutes Section 66.1027 (1) (c) may be considered for approval at locations determined appropriate by the City under this

section, including appropriate conditions.

A document identified as "A MODEL ORDINANCE FOR TRADITIONAL NEIGHBORHOOD DEVELOPMENT," dated December, 2000 published by the University of Wisconsin Extension pursuant to Wisconsin Statutes Section 66.1027 (2), shall serve as a non-exclusive guidebook to assist in further defining the various aspects of this form of urban design, along with such other sources of guidance the Plan Commission and Common Council may choose to consult.

17.37 HOME OCCUPATIONS. (Rep. & Recr. Ord. #2253 - 6/17/96). (1) **PURPOSE AND INTENT.** The purpose and intent of this Section is to permit residents of the City a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal and family income. This Section is also intended to protect residential areas from adverse impacts of activities associated with home occupations.

(2) **GENERAL REGULATIONS.** All home occupations shall comply with the following requirements (a) Home occupations shall be conducted entirely within a dwelling unit and performed by the inhabitants of the dwelling unit and no others. No more than one major home occupation shall be permitted within a single dwelling.

(b) Home occupations shall be clearly incidental and secondary to the residential purpose of the dwelling. The appearance of the structure shall not be altered, nor the occupation within the residence be conducted in a manner that would cause the premises to differ from its residential character by colors, materials, construction, lighting, or signs.

(c) The total area used for purposes of the home occupation (including storage) shall not exceed the equivalent of one-half of the floor area, in square feet, of the main floor of the dwelling unit.

(d) Home occupations shall not be open to the public at times earlier than 8:00 a.m. nor later than 9:00 p.m., except for child day care facilities.

(e) Home occupations shall have adequate off-street parking available on or adjacent to the property.

(f) Deliveries from commercial suppliers may not be made more than once each week, and the deliveries shall not restrict traffic circulation. 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.

(g) There shall be no signs present on the property except that for major home occupations, one wall sign, not to exceed two square feet, shall be permitted. The sign shall not be illuminated and shall be composed of a material and have a finish which is similar to the materials and finish of the residence and of residences in the immediate vicinity.

(h) There shall not be conducted on the premises the business of selling stocks of merchandise, supplies or products except that orders previously made by telephone or at a sales party may be filled on the premises. That is, direct sales of products off of display shelves or racks are not allowed, but a person may pick up an order placed earlier as described herein.

(i) There shall be no outdoor uses nor any exterior storage of material used in the home occupation.

(j) Large volume sales, wholesaling, industrial uses, and warehousing, are prohibited home occupations.

(k) Animal kennels are prohibited as a home occupation.

(l) Repealed Ordinance #2368 - 06/19/00.

(m) No noise, vibration, smoke, dust, heat, glare or offensive odor shall be noticeable at or beyond the property line.

(n) No activity is permitted which might interfere with radio, television, or other electronic transmissions in the area.

(o) No commercial radio, television, newspapers, telephone directories, Internet, or other public media shall be used to advertise the location or address of a home occupation to the general public.

(p) Notwithstanding any provision contained herein, garage, basement, yard, or other similar sales shall not be allowed more than four (4) times each year, and each sale shall not last more than 72 consecutive hours.

(3) MAJOR HOME OCCUPATIONS. Major home occupations are permitted only by conditional use permit. Major home occupations include the following: (a) Animal grooming not to exceed six animals at any one time with no overnight boarding facilities.

(b) Bed and breakfast establishments regulated by the Department of Health and Social Services pursuant to Wisconsin Statutes 46.011(1) and 50.50-50.85 with a maximum of 4 rental rooms. with boarding facilities.

(c) Craft or other similar home furnishings.

(d) Drapery making.

(e) Food production for sale off-site requiring a "Food Processing" license by the Wisconsin Department of Agriculture, Trade, and Consumer Protection Division of Food Safety.

- (f) Furniture upholstering and refinishing.
- (g) Hairstyling, facials, and manicures with a maximum of two customer chairs with the required State Department of Regulation and Licensing approvals.
- (h) Organized classes with up to eight students at one time interval.
- (i) Photo developing and photo studios.
- (j) Small engine repairs, excluding automobiles, trucks, motorcycles, A.T.V.'s and snowmobiles.
- (k) Minor electrical repair including repair of: televisions, VCR's, CD players, stereos, and computers. Storage and repair of major appliances or equipment is not permitted.
- (l) Woodworking, excluding cabinet making.
- (m) Other home occupations meeting the requirements of this section but not qualifying as minor home occupations.
- (n) (Cr. Ord. #2368 – 6/19/00) Massage therapy.

(4) MINOR HOME OCCUPATIONS. Minor home occupations are permitted without a conditional use permit. (a) In order to be considered a minor home occupation, the following requirements must be complied with:

- 1. No more than one room of the dwelling unit may be used for the home occupation.
- 2. No advertising, display, or other indications of a home occupation shall be visible from the exterior of the premises.
- 3. Customer traffic shall not affect the residential character of the neighborhood nor exceed 8 persons per day.

(b) Permitted minor home occupations include, but are not necessarily limited to the following:

- 1. Art or sculpture.
- 2. Writing or composing.
- 3. Assembling of non-industrial products for sale off-site, (e.g., circuit boards, and crafts).

4. Child day care facility with a maximum of eight (8) children (see Section 17.13).
5. Clothing alterations and tailoring.
6. Food production for sale off-site not requiring a "Food Processing" license by the Wisconsin Department of Agriculture, Trade, and Consumer Protection Division of Food Safety.
7. Individual musical instrument instruction.
8. Individual tutoring.
9. Office facility of minister, rabbi, or priest.
10. Office facility of salesman, sales representative, or manufacturer's representative.
11. Personal services and home offices, (e.g., secretarial services, painting business, home repairs, telephone answering service, mail order business, cleaning service).
12. Telephone solicitation work.
13. Firearms sales with the required Bureau of Alcohol, Tobacco and Firearms licensing.

17.38 TRAFFIC, LOADING, PARKING AND ACCESS. (1) TRAFFIC VISIBILITY. (Rep. & Recr. Ord. #2360 - 2/28/00; Am. Ord. #2617 - 8/20/07). (a) No structure, sign, vegetation or other obstruction shall be permitted in a vision clearance triangle between the heights of three feet and twelve feet above the mean grade of the adjacent roadways.

(b) No driveway or parking area shall be permitted in any vision clearance triangle.

(2) LOADING REQUIREMENTS. On every lot on which a business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as specified below for the loading and unloading of vehicles off the public right-of-way. (a) Number of loading and unloading spaces required.

Gross Floor Area of Building	
<u>In Square Feet</u>	<u>Number of Spaces</u>
5,000 - 24,999	1
25,000 - 49,999	2
50,000 - 99,999	3
100,000 - 174,999	4
175,000 - 249,999	5

For each additional 75,000 square feet (or fraction thereof) of gross floor area, one (1) additional loading and unloading space shall be provided.

(b) Each loading and unloading space shall have access to a public dedicated street or alley and shall have minimum dimensions of 14 feet in height, 12 feet in width and 55 feet in length.

(c) At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public thoroughfare while the truck or van is being loaded or unloaded.

(3) VEHICULAR PARKING. (Rep. & Recr. Ord. #2738 – 6/1/2013) In all districts there shall be provided adequate off-street parking as required by this Chapter. Off-street parking of motor vehicles and all other vehicles requiring registration with the Wisconsin Department of Transportation shall be within an enclosed building, or on an approved driveway or parking lot. Parking of vehicles for storage purposes within the front yard of residential lots may extend onto hardscape landscaped surfaces between the driveway and the nearest side lot line, if the hardscape surface is concrete, asphalt, brick paver, patio block, or compacted stone and gravel.

(4) PARKING REQUIREMENTS. In all districts and in connection with every building or use, there shall be provided at the time any building or use is erected, enlarged, extended, changed 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) (Rep. & Rec. Ord. #2274 - 2/3/97). Barrier-Free Parking stalls. Where parking spaces are provided, barrier-free parking spaces shall be provided in accordance with all applicable federal and state requirements including the Americans with Disabilities Act and chapter Comm 69 of the Wisconsin Administrative Code. The parking spaces provided under this paragraph shall be in addition to, and not in lieu of, any parking spaces required under other provisions of this section.

(c) (Am. Ord. #2713 – 6/23/12; Am. Ord. 2360 – 2/28/00). Location of parking spaces is to be on the same lot as the principal use or on another lot not more than 150 feet from the principal use. No driveway, except in residential districts, shall be closer than 25 feet to a residential lot line. No part of a paved parking lot shall be closer than 10 feet to a street unless the Plan Commission or in accordance with 17.39(5)(b), the Director of Economic and Community Development modifies the requirement where the literal enforcement would be inconsistent with good site development planning.

(d) Surfacing. All off-street parking areas shall be surfaced with an asphalt or portland cement pavement or other pavements in accordance with City standards and specifications so as to provide a durable and dust free surface, and shall be so graded and drained so as to dispose of all surface water. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.

(e) Landscaping. See Section 17.40.

(f) (Rep. & Recr.Ord. #2360 - 2/28/00). Curbs shall be constructed along the perimeter of each parking lot, driveway and landscape island. The curbs shall be constructed in accordance with the requirements of the City's standard specifications for public works construction or equivalent requirements as approved by the Director of Community Development.

(g) (Am.Ord. #2360 - 2/28/00) The Following Guide Specifies the Minimum Number of Parking Spaces Required. In the case of structures or uses not specified herein, the number of spaces specified as the general standard for the use class or the number of spaces specified for similar use shall apply. In developments involving the establishment or addition of two or more uses on one lot or parcel, the cumulative number of spaces required for each use shall determine the total number of spaces required.

1. Residential Uses:

a. Single-family and two-family dwellings -- two (2) spaces per dwelling unit.

b. Housing for the elderly - one and one half (1- 1/2) spaces per dwelling unit.

c. Community Living Arrangements and Community Based Residential Facilities shall be required to provide off-street parking in accordance with the individual needs of the facility.

d. (Cr. Ord. #2360 - 2/28/00) Multi-family dwellings and planned unit developments -- two and one-half (2-1/2) spaces per dwelling unit.

2. Retail sales and customer service uses, and places of entertainment:

a. General standard for the above uses - one (1) space per 200 square feet of gross floor area of customer sales and service, plus one (1) space per employee for the work shift with the largest number of employees.

b. Financial Institutions - one (1) space for each 150 square feet of gross floor area of customer service, plus one (1) space per employee for the work shift with the largest number of employees. Financial institutions with drive-in facilities shall provide sufficient space for four (4) waiting vehicles at each drive-in service lane.

c. Funeral homes - one (1) space for each four (4) patrons at maximum capacity, or 25 spaces per chapel unit, whichever is greater.

d. Grocery stores or supermarkets - one (1) space per 150 square feet of gross floor area of customer sales and service area, plus one (1) space per employee for the work shift with the largest number of employees.

e. Convenience grocery stores - one (1) space per 100 square feet of gross floor area.

f. Motels and hotels - one (1) space per room or suite, plus one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per three (3) persons, based on maximum capacity, for each public meeting room and/or banquet room.

g. Lodges and Clubs - one (1) space per three (3) persons based on the maximum capacity of the facility.

h. Restaurants - one (1) space per 30 square feet of gross dining area, plus one (1) space per employee for the work shift with the largest number of employees.

i. Restaurants, drive-in or fast-food - one (1) space per 50 square feet of gross dining area, plus one (1) space per employee for the work shift with the largest number of employees. Restaurants with drive-through facilities shall provide sufficient space for four (4) waiting vehicles at each drive-through service lane as measured from the order board.

j. Appliance and general merchandise repair services - one (1) space per 300 square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

k. (Cr. Ord. #2299 – 12/22/97) Movie Theaters - based on the maximum capacity of the theater, one space per three persons of capacity for the first 500 persons plus one space per four persons for the next 300 persons plus one space per five persons for the next 500 persons plus one space per six persons for the portion of the capacity in excess of 1301 persons so that a theater with a maximum capacity of 500 persons would require 167 spaces, a theater with a capacity of 800 would require 242 spaces, a theater with a capacity of 1300 would require 342 spaces and a theater with a capacity of 1600 would require 392 spaces.

l. (Cr. Ord. #2299 - 12/22/97). Auditoriums and other places of public assembly - one (1) space per three (3) patrons based on the maximum capacity of the facility.

m. Theaters, auditoriums and other places of public assembly - one (1) space per three (3) patrons based on the maximum capacity of the facility.

n. Personal services - one (1) space per 200 square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

o. Taverns, dance halls, night clubs and lounges - one (1) space per 50 square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

p. Motor vehicle sales establishments - two (2) customer parking spaces per salesperson, plus one (1) space per employee for the work shift with the largest number of employees.

q. Motor vehicle repair, maintenance and service stations - three (3) spaces per indoor service bay plus one (1) space per employee for the work shift with the largest number of employees.

r. Car washes - one (1) space per employee for the work shift with the largest number of employees. Car washes shall provide sufficient space for eight (8) waiting vehicles at each washing stall and sufficient space for drying two (2) vehicles after each washing stall.

s. (Am. Ord. #2088 - 11/16/92). Animal veterinary clinics and hospitals - three (3) patron parking spaces per doctor, plus one (1) space per employee for the work shift with the largest number of employees.

t. Plant nurseries, and lawn and garden supply stores - one (1) space per 200 square feet of gross indoor sales and display area, plus one (1) space per 500 square feet of gross outdoor sales and display area, plus one (1) space per employee for the work shift with the largest number of employees.

u. Shopping centers (gross leasable area of at least 50,000 square feet) - five and one-half (5 1/2) spaces per 1,000 square feet of gross leasable area.

3. Offices:

a. Medical, dental and similar professional health service offices - five (5) patron spaces per doctor, plus one (1) space per employee for the work shift with the largest number of employees.

b. Government, professional and business offices - one (1) space per 250 square feet of gross floor area, plus one (1) space per employee for the work shift with the largest number of employees.

4. Commercial/Recreational Uses:

a. General standard - one (1) space per three (3) patrons based on the maximum capacity of the facility, plus one (1) space per employee for the work shift with the largest number of employees.

b. Bowling alleys - five (5) spaces for each lane, plus one (1) space per employee for the work shift with the largest number of employees.

c. Indoor tennis, racquetball and handball courts - three (3) spaces per court, plus one (1) space per employee for the work shift with the largest number of employees.

d. Skating rinks, ice or roller - one (1) space per 200 square feet of gross floor area.

5. Industrial and related uses:

a. Manufacturing, processing and fabrication operations - one (1) space per employee for the work shift with the largest number of employees.

b. Wholesale business - one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per 2,500 square feet of gross floor area.

c. Warehousing - one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per 5,000 square feet of gross floor area.

d. Extractive and related operations - one (1) space per employee for the work shift with the largest number of employees.

6. Institutional and related uses:

a. Churches - one (1) space per three (3) seats based on the maximum capacity of the facility.

b. Libraries - one (1) space per 250 square feet of gross floor area or one (1) space per four (4) seats based on maximum capacity, whichever is greater, plus one (1) space per employee for the work shift with the greatest number of employees.

c. Museums - one (1) space per 250 square feet of gross floor area, plus one (1) space per employee for the work shift with the greatest number of employees.

d. Rooming and boarding houses, fraternity and sorority houses, dormitories and rectories - one (1) space per bed.

e. Convents and monasteries - one (1) space per three (3) residents, plus one (1) space per employee for the work shift with the largest number of employees, plus one (1) space per five (5) chapel seats if the public may attend.

f. Nursing homes - one (1) space per three (3) patient beds, plus one (1) space per employee for the work shift with the largest number of employees.

g. Hospitals - two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor, plus one (1) space per employee, excluding doctors, for the work shift with the largest number of employees. Hospital related out-patient clinic facilities shall provide one (1) space per 200 square feet of building space.

h. Schools:

Elementary schools and middle schools - shall contain one (1) space for each teacher and staff member plus ten (10) additional spaces. High schools - shall contain one (1) space for each teacher and staff member, plus one (1) space for each three (3) students 16 years of age or older.

Colleges, universities and vocational schools - one (1) space for each teacher and staff member, plus one (1) space for each two (2) students during the highest attendance period.

Children's nursery schools and day-care centers - one (1) space per employee for the work shift with the greatest number of employees, plus one (1) space per six (6) students at the highest class attendance period.

(h) (Cr. Ord. #2360 - 2/28/00) Upon the submission of sufficient documentation demonstrating actual maximum parking needs, the Plan Commission may require more or less parking than specified in paragraph (g).

(5) PARKING DIMENSIONS. (Repeal & Recr. Ord. #2360 - 2/28/00). (a) The dimensions of each off-street parking space shall be not less than 8 feet wide and 22 feet long for parallel parking and 9 feet wide and 18 feet long for angle parking.

(b) Two-way drive aisles shall be not less than 24 feet wide when adjacent to parking spaces and not less than 20 feet wide in other areas.

(c) One-way drive aisles shall be at least 10 feet wide if not adjacent to parking spaces, at least 12 feet wide if adjacent to 0° or 30° parking spaces, at least 13 feet wide if adjacent to 45° parking spaces, and at least 16 feet wide if located adjacent to 60° parking spaces.

(d) Dead end drive aisles shall extend at least three feet past the last parking space.

(6) DRIVEWAY DIMENSIONS AND SPACING. (Am. Ord. #1701 – 11/23/11)

All driveways installed, altered, changed, replaced or extended after the effective date of this Chapter shall meet the following requirements:

Type Of Use	(a)	<u>Driveway Openings</u>		<u>Driveway Setbacks</u>		
		Maximum	Maximum	Minimum	Minimum	
		Width	Width	Offset	Distance	
		At	At	Maximum	At Property	From
		R-O-W	Curb	Flare	Line	Adjacent Drive
Residential						
Minor		24'	30'	3'	3'	6'
Collector		24'	34'	5'	5'	10'
or Arterial						
Other Use						
Minor		28'	34'	3'	3'	6'
Collector		28'	38'	5'	5'	10'
or Arterial						

EXCEPTIONS to the required driveway setbacks for residential uses may be allowed by the Zoning Administrator: (a) for maintenance or replacement of an existing nonconforming driveway which is located on property that has physical constraints that prevent compliance with the driveway setback requirements.

(b) When a driveway that is legal nonconforming due to substandard setbacks is to be maintained or replaced on the property to the extent and location of the existing driveway.

(b) Number of Driveways. There shall be no more than two driveways per parcel or lot, except that additional driveways may be permitted for major commercial, industrial or institutional developments.

(c) Driveway Access.

1. No direct access shall be permitted to the existing right-of-way of U.S.H. "45". No direct access shall be permitted to the right-of-way of State Trunk Highways lying outside of the City of West Bend's area of maintenance responsibility without the property owner first obtaining a permit from the Wisconsin Department of Transportation.

2. All points of access to highways or streets that interchange with existing U.S.H. "45" and which lie within one half mile of U.S.H. "45" shall be located in accordance with the "Guide for Interchange Area Planning" published by the Wisconsin Department of Transportation.

3. Private access to State Trunk Highways and local arterial, collector and minor land access streets shall be regulated as follows:

a. No points of access shall be permitted within 200 feet from the intersection of the right-of-way lines of two intersecting arterial streets.

b. No points of access shall be permitted within 100 feet from the intersection of the right-of-way lines of an arterial street and a collector or minor land access street.

c. No points of access shall be permitted within 75 feet from the intersection of the right-of-way lines of a collector street and another collector street or minor land access street, except a lesser distance shall be allowed for single-family or two-family dwellings.

d. No points of access shall be permitted within 50 feet from the intersection of the right-of-way lines of a railroad and an arterial, collector or minor land access street.

4. Spacing between openings on arterial highways or streets is deemed critical to the safe and proper flow of intra-City traffic. Accordingly, the City Plan Commission may limit the number of access points and thereby require shared driveways or connecting private frontage or service roads where appropriate.

5. Access Barriers such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways. Such barriers shall not be constructed on street or highway right-of-way unless approved by the Board of Public Works.

6. Temporary Access to the above rights-of-way may be granted by the Board of Public Works after review and recommendation by the highway agencies having jurisdiction and the City Plan Commission. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed 12 months or unless otherwise agreed to in the Developer's Agreement.

(7) DRIVEWAY GRADES. Maximum grades for residential driveways shall be 15 percent and for commercial, industrial, institutional and other uses, the maximum grade shall be 10 percent.

(8) PEDESTRIAN WALKWAY. (Cr. Ord. #2360 - 2/28/00). There shall be a hard surface pedestrian walkway not less than four feet wide from the public sidewalk, or from the roadway if there is no sidewalk, to the entrance of each principal structure.

(9) STORM DRAINS. (Cr. Ord. #2360 - 2/28/00) No sump discharge, roof drain or other storm water drain shall be discharged over or onto any parking lot, driveway or pedestrian walkway.

17.39 SITE PLAN REVIEW. (1) PURPOSE. The purpose of this Section is to promote compatible development; stabilize property values; foster the attractiveness and functional utility of the community as a place to live and work; preserve the character and quality of the built environment by maintaining the integrity of those areas which have a discernible character or are of a special historic significance; protect public investments; and protect the natural environment by reducing storm water runoff, sedimentation and erosion, and the destruction of environmentally sensitive areas.

(2) SITE PLAN REVIEW PRINCIPLES AND STANDARDS. To implement the purposes set forth in Section 17.39(1), the City Plan Commission shall review the site, existing and proposed structures, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading (in the case of commercial and industrial uses), highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operations. The City Plan Commission will approve site plans only after determining that: (a) The proposed use(s) conform(s) to the uses permitted in that zoning district.

(b) The dimensional arrangement of buildings and structures conform to the required area, yard, setback and height restrictions of this Chapter.

(c) The proposed use conforms to all use and design provisions and requirements (if any) as found in this Chapter for the specified uses.

(d) There is a proper relationship between the existing and proposed streets, highways, and sidewalks within the vicinity of the project in order to assure the safety and convenience of pedestrian and vehicular traffic.

(e) The proposed on-site buildings, structures and entryways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress, interior/exterior traffic flow, pedestrian movement, stormwater drainage, erosion, grading, lighting and parking as specified by this Chapter and any other codes or laws.

(f) Natural features of the landscape are retained where they can enhance the development on the site, or where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes or where they assist in preserving the general safety, health, welfare and appearance of the neighborhood.

(g) Adverse effects of the proposed development and activities upon adjoining residents or owners are minimized by appropriate screening, fencing or landscaping as provided or required in this Chapter.

(h) Land, buildings and structures are readily accessible to emergency vehicles and the handicapped.

(i) The site plan is consistent with the intent and purpose of this Chapter.

(j) The site plan is consistent with the public goals, objectives, principles, standards, policies and urban design criteria set forth in the City's adopted community master plan or components thereof.

(3) REQUIREMENT. (Rep. & Recr. Ord. #2360 - 2/28/00) Except on a lot used exclusively for a single-family or two-family dwelling, no use, structure, paved area or ground surface contour shall be developed, altered, moved, constructed, reconstructed, extended, enlarged or changed without site plan approval as provided in this section. Site plan approval is also required as a condition of approval of a conditional use permit for a mobile home park.

(4) APPLICATIONS FOR SITE PLAN REVIEW. Copies of all site plan data shall be submitted to the Department of Community Development and reviewed for completeness prior to being placed on a regularly scheduled City Plan Commission meeting. The Department of Community Development shall transmit all applications and accompanying plans to the appropriate City departments and staff and the City Plan Commission for its review. A site plan review fee pursuant to Section 17.45 of this Chapter shall be submitted with all site plan materials required of this Section. Site plan data to be submitted with all site plan review applications shall include the following: (a) Site plans drawn to an engineering scale not smaller than 50 feet to the inch with the name of the project noted.

(b) Owner's and/or developer's name and address.

(c) Architect's and/or engineer's name and address.

(d) Date of plan submittal.

(e) Scale of drawing, north arrow, site size information (area in square feet or acres).

(f) Existing and proposed topography shown at a contour interval of not less than two (2) feet a National Geodetic Vertical Datum, indicating proposed grade and location of improvements within the lot or parcel proposed for development and extending beyond the lot line a distance necessary to determine off-site drainage patterns.

(g) The characteristics of soils, particularly if filling has occurred in the last seven years, as related to contemplated specific uses.

(h) All building and yard setback lines.

(i) Where applicable, both the 100-year recurrence interval floodplain and the floodway. Where applicable, wetland areas.

(j) All drives, curb cuts and both ingress and egress locations. The Plan Commission may require the submission of existing and projected traffic volumes to determine the adequacy of existing and proposed streets, on-site roadways, driveways and ingress/egress locations.

(k) The proposed location and type of all signage to be placed on the site.

(l) The location and type of all outdoor lighting.

(m) Total number and location of off-street parking spaces noted.

(n) The type, construction materials, size and location of all structures with all building dimensions shown.

(o) Height of building(s).

(p) Existing and proposed street names.

(q) Existing and proposed public street rights-of-way and/or reservations and width.

(r) Type and location of all easements on the subject property.

(s) Zoning classification.

(t) Location of existing and general location of proposed sanitary sewers, storm sewers, water mains and fire hydrants, and proposed electrical service easements. In addition, all locations for the proposed connections to such utilities should be indicated on the site plan.

(u) Proposed stormwater management facilities, including detention/retention areas.

(v) Location of existing trees and woodlots.

(w) Note location, extent and type of proposed landscaping and landscape plantings as well as any proposed buffer areas for adjoining properties pursuant to Section 17.40 of this Chapter.

(x) Location of pedestrian sidewalks and walkways.

(y) A graphic outline of any development staging which is planned.

(z) If the development abuts an existing or planned arterial street or highway, as identified on the City's master plan or component thereof, all driveway locations of all adjoining property within 200 feet of the subject property shall be indicated on the site plan.

(5) APPROVAL. (Rep. & Recr. Ord. #2360 - 2/28/00; Am. Ord. #2617 - 8/20/07).

(a) Not more than 45 days after a complete application for site plan approval is filed with the Department of Community Development, the Plan Commission shall approve, approve with conditions or deny approval of the site plan. The Plan Commission shall base its decision upon the purpose and intent of this Chapter as set forth in Section 17.03 and Section 17.04, respectively. The City Engineer may modify the requirements of Section 17.38(6) and Section 17.38(7) of the Code where the literal enforcement of those regulations would be inconsistent with good site development planning.

(b) As time and personnel permit, the Director of Community Development may, but shall not be required to, review site plan applications for modifications to existing developments which meet the following requirements:

1. Building size is not changed by more than ten percent;
2. Drainage patterns are not altered;
3. Vehicle access from public streets is not changed other than widening driveway openings;
4. There are no significant visual or aesthetic changes to the site.

(c) Approval of site plans by the Director under Paragraph (b) shall constitute approval by the Plan Commission.

(6) APPEALS. Any person or persons aggrieved by any decisions of the Plan Commission related to site plan review may appeal the decision to the City Council. Such appeal shall be filed with the City Clerk within 30 days after filing of the decision with the Zoning Administrator.

(7) DEVELOPMENT AGREEMENT. Approval of a site plan by the Plan Commission shall constitute an agreement between the owner and the City. The owner shall prepare the site, construct any buildings and make any improvements in accordance with the approved plan. (a) Plan Changes. Any substantial change to the plan may be cause for review by the Commission. Substantial change may include modification of one or more of the following factors:

1. Land use.
2. Ratio of different uses of buildings.

3. Type and location of access ways and parking areas where off site traffic is affected.
4. Increase in the floor area proposed for nonresidential use by more than 10%.
5. Reduction of more than 10% of the area reserved for common open space and/or usable open space.
6. Increase in the total ground area proposed to be covered by structures and other impervious features by more than 5%.
7. Reduction of specific setback requirements by more than 25%.
8. Reduction of project amenities provided such as recreational facilities, screening and/or landscaping provisions by more than 10% where previously specified.
9. A change in elevation by more than one foot or any lesser amount which has a substantial impact on neighboring properties or utilities.

(b) Developer's Agreement. The City may require a signed and recordable developer's agreement addressing, but not limited to, such elements of the project as density, required improvements, timing or phasing of the development and land dedication and/or park fees, consent and waiver for special assessments, and easements or dedications of land for road improvements and public utilities.

(8) COMPLETION OF IMPROVEMENTS. No certificate of occupancy shall be granted for any structure until all improvements shown on an approved site plan have been completed, provided, however, upon determination that certain improvements cannot be completed due to seasonal or other factors, and provided that sufficient surety as determined by the Director of the Department of Community Development in the amount needed to complete the improvements has been filed with the City Clerk, the Building Inspector may authorize the issuance of a temporary certificate of occupancy. A temporary certificate of occupancy shall bear an expiration date which shall allow reasonable time for completion.

(9) PLAN COMMISSION REVIEW. (Cr. Ord. #2157 – 4/25/94). The Plan Commission may review site plans for single-family and two-family dwellings upon application for site plan review by the owner. Upon such review the Plan Commission may modify requirements of section 17.38 (6) and (7) of the Code where the literal enforcement of those regulations would be inconsistent with good site development planning. Decisions by the Plan Commission shall be based upon the purpose and intent of this Chapter as set forth in sections 17.03 and 17.04 and shall be consistent with the purpose and intent of section 17.38 (6) and (7).

17.40 LANDSCAPING. (1) INTENT. The purpose of requiring landscaping as an integral element of urban development is: (a) To provide vegetation to visually soften paved areas and buildings.

(b) To establish positive environmental conditions by providing shade, air purification, oxygen regeneration, ground water recharge, storm water runoff retardation, improved water quality, noise, glare and heat abatement, and protection from the forces of erosion.

(c) To buffer uncomplimentary land uses, lessen the impact of high intensity uses and generally enhance the quality and appearance over the entire site of the project.

(2) GENERAL CONDITIONS AND APPROVALS. All site development plans submitted in accordance with Section 17.39 (1) - 17.39 (8) of this Chapter shall include a landscape plan. Landscape plans shall be submitted for approval to the Department of Parks, Recreation and Forestry.

(3) LANDSCAPE PLAN REQUIREMENTS. All landscape plans shall be completed by a landscape architect or by a nurseryman and shall contain the following information: (a) North Arrow and scale.

(b) Topographic information based upon U.S. Government datum, and final grading adequate to identify and properly specify planting for areas needing slope protection.

(c) The location, size and surface of materials of all structures and parking areas.

(d) The location, type, size, quantity and botanical name and common name of all proposed landscape materials. The size, grading and condition shall be specified according to American Association of Nurserymen Standards.

(e) The location, size and common name of all existing plant materials to be retained on the site.

(f) Plant materials shall be drawn to a scale to reflect mature sizes.

(4) DISTRICT REQUIREMENTS. (a) Multi-Family Residential Districts.

1. The developer shall include foundation, garage, driveway, parking lot (including landscaped islands) and yard plantings.

2. All multi-family residential developments which directly abut single or two family residential development, shall install a vegetative buffer. Buffer plants shall be a 4 foot minimum height at the time of planting.

3. In all platted lands, the developer shall backfill the public parkway with 8 inches of topsoil suitable for the planting of street trees. The planting strip and backfill material shall be free of rubble, concrete, asphalt or any other foreign material.

4. The developer shall be required to install in the public planting strip one street tree per 35 feet or portion thereof, of public street frontage, spaced in accordance with City standards pursuant to Chapter 20.03 (4) (d), except when development is adjacent to an open ditch rural street section.

(b) Commercial or Business Districts.

1. The developer shall include foundation and yard plantings.

2. In all platted lands, the developer shall backfill the public parkway with 8 inches of topsoil suitable for the planting of street trees. The planting strip and backfill material shall be free of rubble, concrete, asphalt or any other foreign material.

3. The developer shall be required to install in the public planting strip one street tree per 35 feet or portion thereof, of public street frontage, spaced in accordance with City standards pursuant to Chapter 20.03 (4) (d), except when development is adjacent to an open ditch rural street section.

4. All commercial or business developments which directly abut residential uses shall install a vegetative buffer. Buffer plants shall be a 4 foot minimum height at the time of planting and shall be installed along the full length of the property line.

5. All commercial or business developments shall install landscaping elements within the parking areas associated with the business. The following guidelines will apply:

a. Provide a maximum 3 foot high and 5 foot wide visual relief screen when adjacent to a street in the form of a hedge, fence, planter, berm, dividers, shrubbery and trees or any combination. All landscaping to form such a visual relief shall be a minimum height of 18 inches at time of planting. Bark or other organic mulches shall be retained within the planting area.

b. Provide perimeter landscaping appropriate to break up the visual expanse of paving and to provide shade.

c. Provide landscaped islands at major entrances and other appropriate areas to delineate internal traffic patterns for vehicular and pedestrian movements. All off-street vehicular parking areas must be broken by a landscape island for each linear row of 10 parking spaces for single row configurations, or for each 20 parking spaces in double row configurations. All tree islands and landscaped areas with trees shall be a minimum of 5 feet as measured from the inside of a curb or frame

d. All free standing signs shall be set in a landscaped base of appropriate size to provide shrubs and base plantings that will enhance and compliment the sign.

(c) Industrial Districts.

1. The developer shall include foundation and yard plantings.
2. In all platted lands, the developer shall backfill the public parkway with 8 inches of topsoil suitable for the planting of street trees. The planting strip and backfill material shall be free of rubble, concrete, asphalt or any other foreign material.
3. The developer shall be required to install in the public planting strip one street tree per 35 feet or portion thereof, of public street frontage, spaced in accordance with City standards pursuant to Chapter 20.03 (4) (d), except when development is adjacent to an open ditch rural street section.
4. All industrial developments which directly abut other non-industrial uses shall install a vegetative buffer to a 4 foot minimum height at the time of planting and shall be installed along the full length of the property line.
5. The Plan Commission may require within parking areas landscaped islands at major entrances and other appropriate areas to delineate internal traffic patterns for vehicular and pedestrian movements.

(d) Institutional Districts.

1. The developer shall include foundation, driveway, yard and parking lot plantings.
2. In all platted lands, the developer shall backfill the public parkway with 8 inches of topsoil suitable for the planting of street trees. The planting strip and backfill material shall be free of rubble, concrete, asphalt or any other foreign material.
3. The developer shall be required to install in the public parkway one street tree per 35 feet or portion thereof, of public street frontage, spaced in accordance with City standards pursuant to Chapter 20.03 (4) (d), except when development is adjacent to an open ditch rural street section.
4. All institutional developments shall install a vegetative buffer to a 4 foot minimum height at the time of planting, along that portion of the property line which directly abuts existing or planned non-institutional uses.
5. Provide landscaped islands at major entrances and other appropriate areas to delineate traffic patterns for vehicular and pedestrian movements.

(5) ACCEPTABLE LANDSCAPE SPECIES. (a) Each landscape plan shall contain plant species as recommended by published materials provided by the City of West Bend, Department of Parks, Recreation and Forestry.

(b) The following species shall not be permitted as landscape materials:

1. Honeysuckle.
 - a. *Lonicera x-bella*.
 - b. *Lonicera marrowii*.
 - c. *Lonicera tartarica*.
2. Buckthorn.
 - a. *Rhamnus cathartica*.
 - b. *Rhamnus frangula* (tall hedge).
3. Purple Loosestrife.
 - a. *Lythrum Salicaria*.
4. Cottonwood.
 - a. *Populus Deltoides*.

(6) PRESERVATION OF LANDSCAPING (Cr. Ord. #2360 - 2/28/00). All landscaped areas shall be maintained and preserved in accordance with the approved landscape plan.

17.41 PERFORMANCE STANDARDS. (1) COMPLIANCE. This 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. All structures, land, and uses shall hereafter, in addition to their uses and site regulations, comply with the following performance standards.

(2) AIR POLLUTION. No person or activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities so as to substantially contribute to exceeding state or federal air pollution standards.

(3) FIRE AND EXPLOSIVE HAZARDS. All activities involving the manufacturing, utilization, processing or storage of flammable or explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed or stored only within completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing systems. The above-

ground storage capacity of materials that produce flammable or explosive vapors shall not exceed the standards and requirements of Wis. Adm. Code Chapter Ind. 8.

(4) GLARE AND HEAT. No activity shall emit glare or heat that is visible or measurable outside its premises except activities which may emit direct or sky reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

(5) WATER QUALITY PROTECTION. No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant or aquatic life.

In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward the exceeding of the minimum standards set forth in Chapter NR 102 of the Wisconsin Administrative Code.

(6) NOISE. No activity in any manufacturing district shall produce a sound level outside the property that exceeds the following sound level measured by a sound level meter and associated octave level filter:

Octave Band Frequency (cycles per second)	Sound Level (decibels)
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59
Octave Band Frequency (cycles per second)	Sound Level (decibels)
600 to 1200	53
1200 to 2400	47
2400 to 4800	41
above 4800	39

No activity in any other district shall produce a sound level outside its premises that is unnecessary or unreasonable pursuant to Chapter 10 of the Municipal Code.

(7) ODORS. No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside its premises. The guide for determining odor measurement and control shall be Chapter NR 154 of the Wisconsin Administrative Code.

(8) RADIOACTIVITY AND ELECTRICAL DISTURBANCES. No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

(9) VIBRATION. No activity in any district shall emit vibrations which are discernible without instruments outside its premises. No activity shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

Frequency (cycles per second)	Displacement (inches)	
	<u>Outside the Premises</u>	<u>Outside the District</u>
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and over	.0002	.0001

17.42 NONCONFORMING USES AND STRUCTURES. (1) NON-CONFORMING USES OF LAND. Where lawful use of land exists that is made no longer permissible under the terms of this Chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this Chapter.

(b) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of adoption or amendment of this Chapter.

(2) NONCONFORMING STRUCTURES. Where a lawful structure exists on the effective date of adoption or amendment of this Chapter that could not be built under the terms of this Chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions: (a) No structure may be enlarged or altered in a way which increases its nonconformity.

(b) The total lifetime structural repairs or alterations of a nonconforming structure shall not exceed 50% of the fair market value of the structure unless permanently changed to a conforming use.

(3) ABOLISHMENT OR REPLACEMENT. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure or land shall conform to the provisions of this Chapter. When a nonconforming use or structure is damaged by fire, explosion, flood or other calamity to the extent of more than 50 percent of its current equalized value, it shall not be restored except to comply with the use provisions of this Chapter.

17.43 BOARD OF ZONING APPEALS. (1) ESTABLISHMENT. There is hereby established a Board of Zoning Appeals for the City of West Bend for the purpose of hearing appeals and applications, and for granting variances and exceptions to the provisions of this Zoning Ordinance in accordance with §62.23, Wis. Stats.

(2) MEMBERSHIP. (Am. Ord. #2476 - 4/28/03). Membership shall be as provided in Section 1.60 (1) of this Code. (a) (Deleted as repetitive of Section 1.60(1) of this Code.)

(b) (Deleted as inconsistent with Section 62.23(7)(e)(2) Stats.)

(c) (Deleted as repetitive of Section 1.60(1) of this Code.)

(d) The Secretary shall be the Administrative Assistant of the Department of Community Development.

(e) The Zoning Administrator shall attend all meetings for the purpose of providing technical assistance when requested by the Board.

(f) Official Oaths shall be taken by all members in accordance with §19.01 of the Wis. Stats. within 10 days of receiving notice of their appointment.

(g) Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

(3) ORGANIZATION. The Zoning Board of Appeals shall organize and adopt rules of procedures in accordance with the provisions of this Chapter. (a) Meetings shall be held at the call of the Chairperson and shall be open to the public.

(b) Minutes of the proceedings and a record of all actions shall be kept by the secretary, or other designated person, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of fact. These records shall be immediately filed in the Office of the Board and shall be a public record.

(c) Repealed Ordinance #2615 - 7/16/07.

(4) POWERS. The Zoning Board of Appeals shall have the following powers:

(a) Errors. To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by any administrative official.

(b) Variances. To authorize, upon appeal in specific cases, such variances from the terms of this Chapter as shall not be contrary to the public interest where, owing to special conditions, a literal enforcement shall result in unnecessary hardship so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. The burden of proof for the unnecessary hardship shall rest entirely upon the applicant. Use variances shall not be granted. In every case where a variance from these regulations has been granted, the minutes of the Board meeting shall affirmatively show that an unnecessary hardship exists, and the records of the Board shall clearly show in what particular and specific respects an unnecessary hardship is created.

(c) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.

(d) Temporary Uses. To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature and are compatible with the neighboring uses and the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the Board of Zoning Appeals, and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this Chapter shall be required.

(e) Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issuance of a permit.

(f) Assistance. The Board may request assistance from other City officers, departments, commissions and boards.

(g) Oaths. The Chairperson may administer oaths and compel the attendance of witnesses.

(5) APPEALS AND APPLICATIONS. Appeals from the decision of the Zoning Administrator concerning the literal enforcement of this Chapter may be made by any person aggrieved or by an officer, department, board or bureau of the City. Such appeals shall be filed with the secretary within 30 days after the date of written notice of the decision or order of the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected at any time and shall be filed with the secretary. Such appeals and applications shall include the following: (a) Name and Address. Name and address of the appellant or applicant and all abutting and opposite property owners of record.

(b) Information. All information required for a zoning permit.

(c) Additional Information. Additional information required by the Plan Commission, the Board of Zoning Appeals or the Zoning Administrator.

(d) Payment of Fee in accordance with Section 17.45 of this Chapter.

(6) HEARINGS. The Board of Zoning Appeals shall fix a reasonable time and place for the hearing, give a Class 1 public notice thereof as specified in Ch. 985, Wis. Stats., and shall give due notice to the parties of interest, the adjacent property owners, the Zoning Administrator and the Plan Commission. At the hearing, the appellant or applicant may appear in person, by agent or by attorney.

(7) FINDINGS. (Am. Ord. #2567 - 6/27/05). No variance to the provisions of this Chapter shall be granted by the Board unless it finds that all the following facts and conditions exist and so indicated such in the minutes of its proceedings. (a) Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use or conditional use in that particular district.

(b) Special or Unique Condition: There must be a special or unique condition applying to the lot or parcel that does not apply generally to other properties in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.

(c) Economic Hardship and Self-Imposed Hardship Not Grounds for Variance: The special or unique condition on the lot or parcel must cause an unnecessary hardship. However, no variance shall be granted solely on the basis of economic gain or loss and self-imposed hardships shall not be considered as grounds for the granting of a variance.

(d) Repealed Ordinance #2567 - 6/27/05.

(e) Public Interest: No variance shall be granted that will materially impair or be contrary to the purpose and spirit of this Chapter or the public interest.

(8) DECISION. The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator and City Plan Commission. (a) Conditions may be placed upon any building permit ordered or authorized by the Board.

(b) Variances, Substitutions or Use Permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

(9) REVIEW BY COURT OF RECORD. Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality.

Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Zoning Board of Appeals.

17.44 DEFINITIONS. For the purpose of this Chapter, certain words or phrases shall have meanings that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning. Words used in the present tense in this Chapter include the future. The word "person" includes a firm, association, partnership, trust, company or corporation as well as an individual. The word "shall" is mandatory, the word "should" is advisory, and the word "may" is permissive. Any words not defined in this Section shall be presumed to have their customary dictionary definitions.

(1) ACCESSORY USE OR STRUCTURE. A use or detached structure subordinate to the principal use of a structure or land, and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.

(2) ADULT ESTABLISHMENTS. One or a combination of more than one of the following types of businesses: adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult personal service business, adult novelty business (a) Adult bookstore. An establishment having as a principal activity the sale or rental of books, magazines, newspapers, video tapes, video discs and motion picture films which are characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy.

(b) Adult motion picture theater. An enclosed building having as a principal activity displaying motion pictures characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy for observation by patrons therein.

(c) Adult mini-motion picture theater. An enclosed building having as a principal activity the presentation of material characterized by emphasis of portrayals of human genitals and pubic regions or actions of human masturbation, sexual intercourse or sodomy for observation by patrons therein individual viewing booths.

(d) Adult novelty business. A business which has as a principal activity the sale of devices of simulated human genitals or devices designed for sexual stimulation.

(e) Adult personal service business. A business having as a principal activity a person, while nude or partially nude, providing personal services for another person on an individual basis in a closed room. It includes, but is not limited to, the following activities and services: massage parlors, exotic rubs, modeling studios, body painting studios, wrestling studios, individual theatrical performances. It does not include activities performed by persons pursuant to, and in accordance with, licenses issued to such persons by the State of Wisconsin.

(f) Partially nude. Having any or all of the following bodily parts exposed: buttocks, genitals, pubic area or female breasts.

(g) Principal activity. A use accounting for more than 20 percent of a business's stock in trade, display space, floor space or movie display time per month.

(3) AGGRIEVED PERSON. One whose application for a permit is denied or one whose permit is revoked. An adjacent property owner is not an aggrieved person unless he is suffering some specific ascertainable damages or is specifically injured by the actions of his neighbor.

(4) ALLEY, PUBLIC. A public right-of-way affording secondary access to abutting properties.

(5) ANIMAL GROOMING. (Cr. Ord. #2088 - 11/16/92). A business which conducts personal care and grooming of dogs, cats or other small animal household pets.

(6) ANIMAL KENNEL. (Cr. Ord. #2088 - 11/16/92). A shelter used to house or board dogs, cats or other small animal household pets.

(7) ANIMAL OBEDIENCE SCHOOL. (Cr. Ord. #2088 - 11/16/92). A business facility which conducts obedience training of dogs, cats or other small animal household pets.

(8) ANIMAL PET STORE. (Cr. Ord. #2088 - 11/16/92). A business conducting the sale of small animal household pets.

(9) ANIMAL VETERINARY CLINIC. (Cr. Ord. #2088 - 11/16/92). A business facility in which veterinary medicine includes the treatment of dogs, cats and other small animal household pets on an out-patient basis and which provides no boarding facilities.

(10) ANIMAL VETERINARY HOSPITAL. (Cr. Ord. #2088 - 11/16/92). A business facility in which veterinary medicine includes the treatment and boarding of dogs, cats, and other small animal household pets.

(11) ANIMAL VETERINARY OFFICE. (Cr. Ord. #2088 - 11/16/92). A business facility in which limited or consultative veterinary medicine is conducted indoors and which provides no boarding facilities.

(12) ANTENNA. A device designed to receive or transmit television or radio broadcasts either from over the air signals from terrestrial transmitters or microwave signals from earth-orbiting communication satellites. Government-owned or operated antennas are excluded from this definition and the regulations of this Chapter.

(13) ANTENNA, EARTH STATION DISH. A dish-shaped antenna designed to receive television broadcasts relayed by microwave signals from earth-orbiting communication satellites.

(14) ARTERIAL STREET. (SEE STREET, ARTERIAL)

(15) ASSEMBLY. When used in describing an industrial or manufacturing operation, the fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, welding or other similar technique. Assembly shall not include the construction, stamping or reshaping of any of the component parts.

(16) AUTOMOBILE STORAGE YARD. Any premises on which more than one (1) automotive vehicle, not in running or operating condition, is stored in the open.

(17) A ZONES. Areas of potential flooding shown on the City's Flood Insurance Rate Map which would be inundated by the regional floor as defined herein. These zones may be numbered as A0, A1 to A99, or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

(18) BASEMENT. That portion of any structure located partly below the average adjoining lot grade.

(19) BED AND BREAKFAST ESTABLISHMENT. Any place of lodging that provides four (4) or fewer rooms for rent, is the owner's personal residence, is occupied by the owner at the time of rental, and is licensed pursuant to Chapter 50 of Wisconsin Statutes.

(20) BOARDINGHOUSE. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for five (5) or more persons not members of a family, but not exceeding 12 persons and not open to transient customers.

(21) BUILDABLE LOT AREA. The portion of a lot remaining after required yards have been provided.

(22) BUILDING. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

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

(24) BUILDING, DETACHED. A principal building surrounded by open space on the same lot.

(25) BUILDING HEIGHT. The vertical distance measured from the mean elevation of the unfinished lot grade along the street yard face of the structure to the highest point of the roof.

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

(27) BULKHEAD LINE. A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11, Wisconsin Statutes and which allows complete filling of the landward side except where such filling is prohibited by the floodway provisions of this Chapter.

(28) BUSINESS. (ALSO SEE HOME OCCUPATION). An occupation, employment or enterprise which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered other than home occupations.

(29) CAR WASHES. Any facility used for the washing of vehicles requiring the installation of special equipment, or machinery and plumbing affixed to or affixed separate of a structure. Said facility shall be installed in such a manner as not to cause spray or runoff water to encroach upon any adjoining properties.

(30) CERTIFICATE OF COMPLIANCE. A certification by the Building Inspector that a structure, use or development is in compliance with all provisions of this Chapter.

(31) CHANNEL. Those Floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.

(32) CHILD DAY CARE FACILITY. Any place which receives at any one time for compensation four (4) or more children under the age of 12 years, for care and supervision for less than 24 hours a day without the attendance of a parent, relative or legal guardian.

(33) CLINIC. A building used by a group of doctors for the medical examination or treatment of persons on an out-patient or non-boarding basis only.

(34) CLOTHING REPAIR SHOPS. Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but not employing over five (5) persons.

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

(36) CLUB. A building owned, leased or rented by a nonprofit association of persons who are bona fide members paying dues, the use of which is restricted to said members and their guests.

(37) COLLECTOR STREET. (SEE STREET, COLLECTOR)

(38) COMMON WALL. A wall containing no opening which extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and which separates contiguous buildings or units but is in joint use for each building or unit.

(39) COMMUNITY LIVING ARRANGEMENT. The following facilities licensed or operated, or permitted under the authority of Wisconsin State Statutes: child welfare agencies under §48.60, group foster homes for children under §48.02 (7) (m), and community-based residential facilities under Section 50.01; but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with §§46.03(22), 59.97 (15), 62.23 (7) (i) and 62.23 (7) (a) of the Wisconsin State Statutes and amendments thereto.

(40) COMPREHENSIVE PLAN. (SEE MASTER PLAN)

(41) CONDITIONAL USES. (SEE USE, CONDITIONAL)

(42) CORNER LOT. (SEE LOT, CORNER)

(43) CURB BREAK. Any interruption or break in the lines of a street curb in order to connect a driveway to a street, or otherwise to provide vehicular access to abutting property.

(44) CURB LEVEL. The level of the established curb in the front of the building measured at the center of such front. Where no curb has been established, the City Engineer shall authorize and approve the establishment of such curb or its equivalent for the purpose of this Chapter.

(44.5) DECORATIVE FENCE POST CAP. (Cr. Ord. #2617 - 8/20/07). A decorative material placed on the top of fence posts to cap and seal the fence posts and to enhance the aesthetics of the fence.

(45) DENSITY. Density is the number of dwelling units per acre of developable land.

(46) DEVELOPABLE LAND. Developable land is the land area accommodating urban uses including buildings, yards and parking areas. The following land areas shall not be considered developable land - floodplains, wetlands, steep slopes of 15% or greater, public street right-of-way and public park land.

(47) DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to construction of additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.

(48) DISTRICT, BASIC. A part or parts of the City for which the uniform regulations of this Chapter govern the use and location of land and buildings.

(49) DISTRICT, OVERLAY. Overlay districts allow for superimposing certain additional requirements or uses upon a basic zoning district which are compatible with the basic district.

(50) DONATION DROP-OFF BOXES. (Am. Ord. 2714 – 7/21/12) Any container, storage unit or structure, other than an accessory building or shed complying with all building codes and land use requirements, that can or is used for the holding of charitable or for profit donations with collection of these donations made at a later date or time and which is located for such purposes outside an enclosed building.

(51) DRIVEWAY. Any vehicular access area which is neither a dedicated public alley nor a public street right-of-way and which is privately owned and maintained.

(52) DRIVEWAY APPROACH. That portion of a public street right-of-way lying between the street paving and its right-of-way line and allowing for vehicular access to abutting driveways or property.

(53) DRYLAND ACCESS. A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land which is outside the floodplain, such as a road with its surface above the regional flood elevation and wide enough to accommodate wheeled vehicles.

(54) DWELLING. Any building or portion thereof designed or used exclusively as a residence and having cooking facilities, but not including boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

(55) DWELLING UNIT. A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.

(56) DWELLING, EFFICIENCY. A dwelling unit consisting of one principal room with no separate sleeping rooms.

(57) DWELLING, SINGLE-FAMILY. A detached building designed for or occupied exclusively by one (1) family.

(58) DWELLING, TWO -FAMILY. A dwelling containing two (2) separate living units, each unit being designed for exclusive occupancy by one (1) family.

(59) DWELLING, MULTI-FAMILY. A dwelling designed for occupancy by three (3) or more families, with each family occupying a separate living unit.

(59.5) ELDERLY HOUSING. (Cr. Ord. #2295 - 12/1/97). A multi-family dwelling in which at least one person over the age of 62 years resides in every occupied dwelling unit.

(60) ENCROACHMENT. Any fill, structure, building, accessory use, use or development in the floodway.

(61) ESSENTIAL SERVICES. Public services provided by the City for the benefit of the public and private utilities, necessary for the operation of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, emergency warning sirens, traffic signals, pumps, lift stations and hydrants, but not including buildings.

(62) FAMILY. An individual or group of two (2) or more persons related by blood, marriage or adoption, together with not more than two (2) additional persons not so related (not including domestic employees) living together as a single housekeeping unit.

(62.5) FENCE. (Cr. Ord. #2617 - 8/20/07). A structure, solid or otherwise, that is an enclosure or property barrier used as a boundary, means of security or protection, privacy screening and/or confinement, but not including vegetation. A fence can be designated by the type of yard where it is located. For example, a side yard fence is a fence located in a side yard.

(63) FLOOD. A temporary rise in stream flow or stage in lake level that results in water overtopping the banks and inundating areas adjacent to the stream channel or lake bed.

(64) FLOOD INSURANCE STUDY. An examination, evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mud slide (i.e., mud flow) and/or flood-related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either number or unnumbered A Zones.

(65) FLOOD PLAIN. For the purpose of this Chapter, the flood plain is all lands contained in the "regional flood" or 100-year recurrence interval flood. For the purpose of zoning regulation, the flood plain is divided into the floodway district, the flood plain storage district and the flood plain fringe overlay district.

(66) FLOOD PLAIN FRINGE. Those Floodlands, outside the floodway, subject to inundation by the 100-year recurrence interval flood. For the purpose of this Chapter, the flood plain fringe includes the flood plain storage district and the flood plain fringe overlay district.

(67) FLOOD PROFILE. A graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.

(68) FLOOD PROTECTION ELEVATION. A point two (2) feet above the water surface elevation of the 100-year recurrence interval flood. This safety factor, also called "freeboard" is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action, and obstructions of bridge openings.

(69) FLOOD STAGE. The elevation of the floodwater surface above an officially established datum plane, which is Mean Sea Level, 1929 Adjustment, on the Supplementary Floodland Zoning Map.

(70) FLOOD STORAGE. Those floodplain areas where storage of floodwaters has been taken into account during analysis is reducing the regional flood discharge.

(71) FLOODPROOFING. Measures designed to prevent and reduce flood damage for those uses which cannot be removed from, or which, of necessity, must be erected in the flood plain, ranging from structural modifications through installation of special equipment or materials to operation and management safeguards, such as the following: reinforcing of basement walls; underpinning of floors; permanent sealing of all exterior openings; use of masonry construction; erection of permanent watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood vulnerable utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of seal-tight windows and doors; installation of wire reinforced glass; location and elevation of valuable items; waterproofing, disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood vulnerable area; temporary removal or waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valve; placement of plugs and flood drain pipes; placement of movable watertight bulkheads; erection of sand bag levees; and the shoring of weak walls or structures. Flood proofing of structures shall be extended at least to a point two (2) feet above the elevation of the regional flood. Any structure that is located entirely or partially below the flood protection elevation shall be anchored to protect it from larger floods.

(72) FLOODWAY. A designated portion of the 100-year flood area that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.01 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the flood plain not suited for human habitation.

(73) FLOOR AREA - BUSINESS, MANUFACTURING AND INSTITUTIONAL BUILDINGS. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of several floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall

include accessory storage areas located within selling or working space, such as counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purpose of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

(74) FLOOR AREA - GROSS. The sum of the gross horizontal areas of all floors measured in square feet, not including the basement floor, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area of a building includes elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment-open or closed-located on a roof or in a basement), penthouses, attic space having headroom of seven (7) feet, interior balconies and mezzanines, enclosed porches and floor area devoted to accessory uses.

(75) FOSTER FAMILY HOME. The primary domicile of a foster parent which is for four (4) or fewer foster children and which is licensed under §48.62 of the Wisconsin State Statutes and amendments thereto.

(76) FRONTAGE. The smallest dimension of a lot abutting a public street measured along the street right-of-way line.

(77) GARAGE - PRIVATE. A structure primarily intended for and used for the enclosed storage or shelter of a private motor vehicles of the families resident upon the premises. Carports are considered garages.

(78) GARAGE - PUBLIC OR COMMERCIAL. Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing, public parking of motor vehicles, snowmobiles or other recreational vehicles for hire.

(79) GARAGE, STORAGE. A building or portion thereof, other than a private garage, used exclusively for parking or temporary storage of self-propelled vehicles.

(80) GASOLINE SERVICE STATION. Any building or portion thereof or premises, enclosure or other place used for dispensing or offering for sale at retail any automotive fuels or oils having pumps and storage tanks thereon. In addition, the following activities may be conducted: (a) Sale and servicing of spark plugs, batteries and distributors and distributor parts.

(b) Tire servicing and repair, but not recapping or re-grooving.

(c) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and other similar activities.

(d) Radiator cleaning and flushing.

(e) Washing and polishing and sale of automotive washing and polishing materials.

(f) Greasing and lubrication.

(g) Providing and repairing fuel pumps, oil pumps and lines.

(h) Minor servicing and repairing of carburetors.

(i) Emergency wiring repairs.

(j) Adjusting and repairing brakes.

(k) Minor motor adjustments not involving removal of the head or crankcase or racing the motor.

(l) Sales of cold drinks, packaged foods, road maps, tobacco and similar convenience goods for filling station customers as accessory and incidental to principal operations.

Gasoline service stations do not include open sales lots, major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in such gasoline service stations. A gasoline service station is not a major repair garage nor a body shop.

(81) GIFT STORES. Retail stores where items such as art, antiques, jewelry, books and notions are sold.

(82) GROUP FOSTER HOME. Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute §48.62 for the care and maintenance of five (5) to eight (8) foster children.

(83) HARDWARE STORES. Retail stores where items such as plumbing, heating and electrical supplies, sporting goods and paints are sold.

(84) HIGH-WATER ELEVATION, ORDINARY. The average annual high water level of a pond, stream, lake, flowage or wetland referred to an established datum plane or, where such information is not available, the elevation of the line up to which the presence of the water is so continuous as to leave a distinct mark by erosion, change in, or destruction of vegetation or other topographic, geologic or vegetative characteristics.

(85) HOME OCCUPATIONS. A home occupation is an occupation for gain conducted entirely within the principal building by resident occupants, which occupation is clearly incidental to the residential use of the premises.

(86) HOTEL. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms.

(87) JUNK OR 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 operable condition.

(88) LANDOWNER. Any person holding title to land.

(89) LANDSCAPING. Living material, such as grass, ground cover, flowers, shrubs, vines, hedges and trees; and nonliving durable material, such as rocks, pebbles, sand, mulch, wood chips or bark, walls, and fences, but not including paving.

(90) LOADING AREA/DOCK. 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.

(91) LOCAL STREET. (SEE STREET, MINOR)

(92) LODGING HOUSE. A building where lodging only is provided for compensation for not more than five (5) persons.

(93) 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 lot width, lot frontage, lot area and other open space provisions of this Ordinance. No lot area shall be counted as accessory to more than one main building or use.

(94) LOT, CORNER. (Am. Ord. #2617 - 8/20/07). A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side. Corner lots have at least two street yards.

(95) LOT COVERAGE. The area under a roof.

(96) LOT, CUL-DE-SAC. A lot which completely fronts on the radius of a cul-de-sac. The lot width shall be measured along the arc of the right-of-way of the street.

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

(98) LOT, DOUBLE FRONTAGE. A parcel of land, other than a corner lot, with frontage on more than one street or with frontage on a street and a navigable body of water. Double frontage lots, for the purpose of this Chapter, shall be deemed to have two (2) front yards and no rear yard.

(99) LOT, INTERIOR. A lot situated on a single street which is bounded by adjacent lots along each of its other lines.

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

(101) LOT OF RECORD. A platted lot of a recorded subdivision, certified survey map or parcel of land for which the deed, prior to the adoption of this Chapter, is on record with the Washington County Register of Deeds and which exists as described therein.

(102) LOT, SUBSTANDARD. A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal building or structure having insufficient size to meet either the lot width, lot depth, lot area, yard, off-street parking areas and other open space provisions of this Chapter.

(103) LOT WIDTH. The width of a parcel of land measured at the street right-of-way.

(104) MACHINE SHOPS. Shops where lathes, presses, grinders, shapers and other wood and metal working machines are used, such as blacksmith, tinsmith, welding and sheet metal shops; plumbing; heating and electrical repair and overhaul shops.

(105) MANUFACTURED HOME. See Mobile Home and Manufactured Home.

(106) MANUFACTURING. When used in describing an industrial operation, the making or processing of a product with machinery. (a) (Cr. Ord. #2375 - 9/25/00) Light manufacturing means the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing.

(b) (Cr. Ord. #2375 - 9/25/00) Heavy manufacturing means the manufacture or compounding process of raw materials and any manufacturing not defined as light manufacturing.

(107) MASTER PLAN. A document or series of documents prepared by the City Plan Commission and duly adopted by said Commission setting forth policies for the future development or redevelopment of the City of West Bend pursuant to Chapter 62.23 of the Wisconsin Statutes.

(108) MINOR STREET. (SEE STREET, MINOR)

(109) MINOR STRUCTURE. Any small, movable accessory erection or construction, such as a birdhouse, pet house, play equipment, arbor, or a wall or fences under four (4) feet in height.

(110) MOBILE HOME AND MANUFACTURED HOME. A structure transportable in one or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For the purpose of this Chapter, it does not include recreational vehicles or travel trailers.

(111) MOBILE HOME PARK. Any lot on which are parked two (2) or more mobile homes or one (1) or more mobile homes for a longer period of time than 48 hours.

(111.5) Mobile Food Vendors. (Cr. Ord. #2818 – 7/13/18). A retail food establishment where food is cooked, wrapped, packaged, processed, served and/or sold to members of the general public on an intermittent basis from a movable vehicle, push cart, or trailer which may or should be capable of periodically changing locations. The movable vehicle, push cart, or trailer shall be moved to an off-site or approved on-site storage location when not in operation. A Mobile Food Vendor may be licensed pursuant to Section 12.10 of the Municipal Code. This definition is not intended to include or regulate home delivery of food or beverage items.

(112) MOTEL. A building containing lodging rooms having adjoining individual bathrooms, and where each lodging has a doorway opening directly to the outdoors, and more than 50 percent of the lodging rooms are for rent to transient tourists for a continuous period of less than 30 days.

(113) NAVIGABLE WATERS. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other water within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Rivers and streams are presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter.

(114) NONCONFORMING USES/STRUCTURES. (SEE USE, NON-CONFORMING AND STRUCTURE, NONCONFORMING)

(115) NURSERY. Any building or lot, or portion thereof, used for the cultivation of growing of plants and including all accessory buildings.

(116) NURSING HOME. An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who by reason or advanced age, chronic illness, or infirmity, are unable to care for themselves.

(117) OBSTRUCTION TO FLOW. Any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

(118) OFFICIAL LETTER OF MAP AMENDMENT. Official notification from Federal Emergency Management Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

(119) OFFICIAL MAP. That document as described by Chapter 62.23(6) of the Wisconsin Statutes which shows the location of streets, highways, parkways, parks, playgrounds, railroad rights-of-way, waterways and public transit facilities in the City of West Bend and within three (3) miles of the City corporate limits.

(119.5) OPACITY. (Cr. Ord. 2617 - 8/20/07). The screening effectiveness of a fence expressed as the percentage of vision that the screen blocks.

(120) OPEN SALES LOT. Any land used or occupied for the purpose of buying, selling or renting merchandise, passenger cars, trucks, motor scooters, motorcycles, boats, monuments and trailers or for the storing of same prior to sale or rental.

(121) OPEN SPACE. (Am. Ord. 2360 - 2/28/00) Land areas not occupied or overhung by buildings, structures, parking areas, streets, driveways, alleys or other impervious surfaces.

(122) PARKING LOT. A structure or premises for the parking of vehicles, excluding parking areas accessory to single-family and two-family dwelling units.

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

(124) PARTIES IN INTEREST. Any person(s) with incidence of ownership including all abutting property owners, all property owners within 100 feet and all property owners of opposite frontages.

(125) PARTY WALL. (SEE COMMON WALL)

(126) PERMITTED USE. (SEE USE, PERMITTED)

(126.3) PLOT PLAN. See SURVEY, PLAT OF. (Cr. Ord. #2617 - 8/20/07).

(126.6) PRIVACY FENCE. (Cr. Ord. #2617 - 8/20/07). A fence erected and/or constructed of materials that create a solid wall or screen that is intended to prevent inward views rather than for lot enclosure purposes.

(127) PROCESSING. When used in describing an industrial or manufacturing operation, the series of continuous actions that change one or more raw materials into a finished product. The process may be chemical, special method or mechanical.

(128) REACH, HYDRAULIC. A hydraulic reach along a river or stream is that portion of the river or stream extending from one significant change in the hydraulic character of the river or stream to the next significant change. These changes are usually

associated with breaks in the slope of the water surface profile, and may be caused by bridges, dams, expansion and contraction of the water flow, and changes in stream bed slope or vegetation.

(129) RECYCLING DROP-OFF CENTER. A facility for the temporary collection of household cardboard, paper, glass, plastic, aluminum and tin cans.

(130) REGIONAL FLOOD. The regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year, there is a one (1) percent chance that the regional flood may occur or be exceeded. During a typical 30-year mortgage period, the regional flood has a 26 percent chance of occurrence.

(131) RUNOFF. The rainfall, snowmelt or irrigation water flowing over the ground surface.

(132) SCREENING. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, earthen berms or densely planted vegetation.

(133) SEAT. Furniture upon which to sit having a linear measurement not less than 24 inches across the surface used for sitting; intended for use in determining off-street parking requirements.

(134) SETBACK. (Am. Ord. #2617 - 8/20/07). The minimum horizontal distance between a property line and a line parallel thereto through the nearest point of the principal structure. Covered porches, whether enclosed or unenclosed, and attached garages shall be considered as part of the principal structure and shall not project into the required setback. Where the street line is an arc, the setback shall be measured from the arc.

(135) SHOPPING CENTER. A group of commercial establishments which is planned, developed, owned and managed as a unit with customer and employee parking provided on-site.

(136) SHORELAND. See Section 17.76(11) of this Chapter.

(137) SITE. The entire area included in the legal description of the land on which a land disturbing or land development activity is proposed in a permit application.

(138) Repealed Ord. #2088 – 11/16/92.

(139) STORY. That portion of a principal building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall not be counted as a story.

(140) STORY, HALF. A story which is situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.

(141) STREET. A public right-of-way not normally less than 66 feet wide providing primary access to abutting properties.

(142) STREET, ARTERIAL. A public street or highway used or intended to be used primarily for fast or heavy through traffic as defined in the adopted City master plan or component thereof. Arterial streets and highways shall include freeways and expressways as well as arterial streets, highways and parkways. Design standards for arterial streets shall be in accordance with the applicable provisions of Chapter 18 of the West Bend Municipal Code.

(143) STREET, COLLECTOR. A street used, or intended to be used, to carry traffic from minor or local streets to the major system of arterial streets including the principal entrance streets to residential developments. Design standards for collector streets shall be in accordance with the applicable provisions of Chapter 18 of the West Bend Municipal Code.

(144) STREET, CUL-DE-SAC. A minor or local street with only one outlet and having an appropriate turn-around for the safe and convenient reversal of traffic movement.

(145) STREET, MINOR OR LOCAL. A street used, or intended to be used, primarily for access to abutting properties. Design standards for minor or local streets shall be in accordance with the applicable provisions of Chapter 18 of the West Bend Municipal Code.

(146) STRUCTURAL ALTERATIONS. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

(147) STRUCTURE. (Am. Ord. #2338 - 5/17/99) Any constructed, erected or placed material or combination of matter in or upon the ground, including buildings, towers, sheds, signs, poles, decorations, driveways and carports but not including at grade patios.

(148) STRUCTURE, NONCONFORMING. A building or structure lawfully existing at the time of enactment of this Chapter or amendments thereto that does not comply with all of the applicable area, height and placement regulations of this Chapter. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall be considered a nonconforming structure.

(149) STRUCTURE, SUBSTANDARD. (SEE STRUCTURE, NON-CONFORMING)

(150) SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the present equalized assessed 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: (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 a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places. 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 structural components.

(150.5) SURVEY, PLAT OF. (Cr. Ord. #2617 - 8/20/07). A map drawn to scale by a registered land surveyor identifying the existing parcel description, property boundaries, existing and proposed structures, easements, streets, driveways, setbacks, parking areas, appropriate dimensions, property restrictions, and other pertinent property features or measurements.

(151) SWIMMING POOL, PRIVATE RESIDENTIAL. An outdoor structure containing a body of water in a container having a depth for water of 24 inches or more, located above or below the surface of ground elevation and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private residential swimming pool.

(152) USE. A purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

(153) USE, ACCESSORY. A subordinate use on the same lot which is incidental and customary in connection with the principal use.

(154) USE, CONDITIONAL. A use of a special nature as to make impractical their predetermination as a permitted use in a district. After due consideration of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such conditional use may or may not be granted.

(155) USE, NONCONFORMING. Any use of a building or premises which on the effective date of this Chapter does not, even though lawfully established, comply with all of the applicable use regulations of the zoning district in which such building or premise is located.

(156) USE, PERMITTED. A use by right which is specifically authorized in a particular zoning district provided it conforms with all requirements, regulations and standards of such district.

(157) USE, PRINCIPAL. The main use of land or building as distinguished from a subordinate or accessory use.

(158) UTILITIES. Public and private facilities, such as water wells, sanitary sewers, storm sewers, water mains, water and sewage pumping stations, water storage tanks, water purification facilities, power and communication transmission lines, electrical power stations and substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulating stations, but not including sewage disposal plants, municipal incinerators, warehouse, shops and storage yards.

(158.5) VISION CLEARANCE TRIANGLE. (Cr. Ord. #2360 - 2/28/00). The area bounded by two intersecting streets, railroad or alley right-of-way lines and a line joining points on such lines located 25 feet from the point of intersection or 35 feet from the point of intersection if one of the streets is an arterial street.

(159) WETLAND. See Section 17.76 (15) of this Chapter.

(160) WETLAND, ALTERATION. See Section 17.76 (16) of this Chapter.

(161) YARD. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

(162) YARD, FRONT. See YARD, STREET. (Am. Ord. #2617 - 8/20/07).

(163) YARD, REAR. (Am. Ord. #2617 - 8/20/07). 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 except that corner lots have no rear yards.

(164) YARD, SIDE. (Am. Ord. #2617 - 8/20/07). Except in corner lots, 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. The non-street yards on corner lots are side yards.

(164.5) YARD, STREET. (Cr. Ord. #2617 - 8/20/07). A yard extending across the full width of a lot that is adjacent to a street, the depth of which shall be the minimum horizontal distance between the front lot line and a line parallel thereto through the nearest point of the principal structure. Corner lots have at least two street yards.

(165) ZONING PERMIT. The permit required by Section 17.09 (9) prior to the erection, reconstruction, enlargement or moving of any building or structure, or use of a structure, land or water where such erection or use complies with all provisions of this Chapter.

17.45 PERMIT FEES (Am. Ord. #2050 – 11/18/91; Am. Ord. #2136 – 12/13/93; Am. Ord. #2187 – 12/12/94; Am. Ord #2296 - 12/01/97; Rep. & Rec. Ord. #2342 - 7/26/99).
 (1) FEE SCHEDULE. The fees for permits, inspections, reports, variances, applications, plan reviews and other matters under this chapter shall be determined from time to time by the Common Council. A schedule of such fees shall be kept on file in the office of the Department of Community Development.

(2) REAPPLICATION FEE. A reapplication fee shall be paid with the submission of any site plan or concept plan containing substantial changes from a site plan or concept plan previously submitted. If the plan is so different as to constitute a new site plan or new concept plan, the full review fee shall be paid.

17.46 ADMINISTRATION, ENFORCEMENT AND PENALTIES. (1) ENFORCEMENT OFFICER. The Zoning Administrator is authorized and directed to enforce all of the provisions of this Chapter and for such purposes he shall have the authority to interpret the provisions of this Chapter consistent with its purpose and intent.

(2) ZONING PERMIT. A zoning permit shall be issued prior to the issuance of a building permit in accordance with the following provisions: (a) When Required. It shall be unlawful to commence the excavation or filling of any lot for any construction of any building, or to begin the construction of any building, or to commence the movement or alteration of any building or commence the development of land for a use not requiring a building until the Zoning Administrator has issued a zoning permit.

(b) (Am. Ord. #2701 – 11/23/11) Plat of Survey Required. All applications for zoning permits for single and two family dwellings shall be accompanied by a plat of survey showing the actual dimensions of the lot to be built upon, the location and size of the building or structure to be erected, the location of adjoining or surrounding buildings or structures, and such other information as may be required by the Zoning Administrator. A site plan is required under Section 17.39 of this Chapter for all other permits.

(c) Time Limit. Any zoning permit issued shall become invalid unless the work authorized by it is commenced within 6 months of its date of issue, or if the work authorized by it is suspended or abandoned for a period of one year.

(3) CERTIFICATE OF OCCUPANCY. Certificates of occupancy shall be issued in accordance with the following provisions: (a) When Required. No vacant land shall be occupied or used, except for agricultural purposes, and no buildings hereafter erected or structurally altered shall be occupied or used until a certificate of occupancy is issued by the Zoning Administrator. A certificate of occupancy is required for any change of type of occupancy or use of any building or land.

(b) Denials. A certificate of occupancy shall not be issued unless the applicable provisions of this Chapter and the health and building regulations are complied with.

(4) PENALTY. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Chapter shall, upon conviction, be subject to a forfeiture of not less than \$25 nor more than \$200 for each offense, together with the cost of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until said forfeiture and cost are paid, but not exceeding 30 days. Each day that a violation continues to exist shall constitute a separate offense.

(5) REMEDIES. In the event any building is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building or land is used in violation of this Chapter, the Building Inspector or any other appropriate City authority or any person who may be damaged by such violation, in addition to the penalty, may institute injunction, mandamus or other appropriate action in proceeding to prevent the violation in the case of each such building or use of land.

17.47 URBAN DESIGN REQUIREMENTS. (Cr. Ord. #2360 - 2/28/00). All site plans must comply with the design requirements of this section to be approved. The provisions of this section shall not be construed to limit the discretion granted to the Plan Commission by Section 17.39. (1) MANUAL OF URBAN DESIGN STANDARDS. The Director of Community Development shall maintain a Manual of Urban Design Standards for the City of West Bend as adopted and amended from time to time by the Plan Commission. All site plans shall conform to the requirements of the Manual. The Manual shall not be inconsistent with the other requirements of this section. The Manual may be used to define, clarify and illustrate the other provisions of this section.

(2) MISCELLANEOUS REQUIREMENTS. (a) To the extent practical, landscaping shall screen all light pole bases and utility pedestals from view.

(b) Except as otherwise permitted by the Plan Commission, light poles shall not exceed 20 feet in height on parcels of 1.5 acres or less, 25 feet on parcels 1.5 to 3 acres and 30 feet on parcels larger than 3 acres. The Plan Commission may permit taller poles in exceptional circumstances based on the size and topography of the parcel and compatibility with surrounding development and uses.

(c) Shopping cart corrals shall be located within landscape islands.

(d) Outdoor refuse and refuse containers shall be completely enclosed in a fence at least one foot taller than the containers and constructed of the same building

materials as the exterior of the principle structure. The fence shall be surrounded by a landscape screen at least three feet wide.

(e) Snow storage areas shall be provided in open space.

(f) Outdoor storage areas shall be screened from view from public streets. Such storage areas shall be located only in the rear yard except that on corner lots or double frontage lots, they may be located in one side yard but not within the setback.

(3) OPEN SPACE. (a) All areas of a lot within 10 feet of the rear lot line, within 10 feet of a lot line adjacent to residentially zoned lands or within 5 feet of other side lot lines shall be open space.

(b) All areas within 15 feet of a wetland or non-shoreland wetland, or within 15 feet of an environmental corridor identified by the Southeastern Wisconsin Regional Planning Commission, shall be open space.

(c) Fifty percent of the lot area shall be preserved as open space in residential districts.

(d) Twenty-five percent of the lot area shall be preserved as open space in commercial districts except the B-2 Central Business District.

(e) Thirty percent of the lot area shall be preserved as open space in industrial and institutional districts.

(4) ARCHITECTURAL REQUIREMENTS. All buildings shall be designed, constructed and maintained in accordance with the standards in the Manual of Urban Design

Standards. The architectural design standards in the Manual shall be generally consistent with the following goals: (a) Multi-family buildings.

1. Building designs should minimize the effects of size and scale by highlighting individual dwelling units using separate entrances, integrating garages, use of variable roof lines, door and window openings, facade protrusions or recesses, and use of porticos, overhangs, arcades, arches and outdoor patios. Mechanicals should be hidden from view with exceptions for adaptive re-use of old commercial and industrial buildings. Accessory structures should be compatible with principle structures in terms of character, roof shape, building material, color, and architectural detail.

2. Building facades should have unified and complimentary finished materials. Acceptable materials include glass, cultured stone, stucco, brick, wood and vinyl siding. Exterior entrances should be clearly defined and visible by using distinct materials.

3. Building facade colors on all four sides should be non-reflective, subtle, neutral or earth tone. The use of high intensity colors and metallic colors on facades and roof areas should not be permitted. Colors should relate to existing community and neighborhood patterns.

(b) Commercial and Institutional buildings.

1. Buildings designs should be unified in design throughout a structure and compliment other buildings in the area and should employ variable building setbacks, height, roof treatments, door and window openings, facade protrusions and recesses. Public entryways should be clearly defined by the use of porticos, overhangs, projections, arcades or arches. Mechanicals should be hidden from view. Accessory structures should be compatible with principle structures in terms of character, roof shapes, building materials, colors and architectural details.

2. Building facades should have unified and complementary finished materials. Acceptable materials include glass, brick, decorative concrete block, stucco and wood. All sides of a building should be of similar materials. Metal buildings should not be permitted.

3. Building facade colors on all four sides should be non-reflective, subtle, neutral or earth tone. The use of high intensity colors, metallic colors, black or fluorescent colors on facade and roof areas should not be permitted. Colors should relate to existing community and neighborhood patterns.

(c) Industrial Buildings.

1. Buildings should be unified in design throughout a structure and compliment other buildings in the area. Building height and roof lines should contain some variability. Public entryways should be clearly defined by the use of porticos, overhangs, and projections. Mechanicals should be hidden from view. Accessory structures should be compatible with principle structures in terms of character, roof shapes, building materials, colors, and architectural details. Exterior walls should not be greater than 200 feet in length without an architectural break.

2. Building facades should have unified and complimentary finished materials. Acceptable materials include glass, brick, concrete panel, concrete block, or wood on at least 33% of the building. Decorative architectural metal may be permitted. Buildings should be faced with concrete or brick masonry, stone, or other similar material across the full front of the building and extending a distance not less than 20 feet on each side of the front of the building, or 10% of the building depth, whichever is greater. The facing should have a minimum height of 33% of the height of the building to the average gutter line height.

3. Building facade colors on all four sides should be non-reflective, subtle, neutral or earth tone. The use of high intensity colors, metallic colors, black or fluorescent colors on facade and roof areas should not be permitted. Colors should relate to existing community and neighborhood patterns.

(d) Signs

1. All ground signs shall be panel signs and shall be a minimum of 20% of materials similar to the building materials of the principal structure. Sign composition, building material, color, and company logos shall be compatible with the building architecture and color.

2. The maximum height of any ground sign shall be 22'.

3. No more than one ground sign shall be permitted for each street abutting the parcel and no more than two ground signs shall be permitted on a parcel.

4. At the base of each ground sign shall be a landscaped area of the same size as the area of the copy. Where a ground sign is located within a paved area, then the landscaped area shall be located within the nearest unpaved area.

5. (Am. Ord. #2541 – 11/1/04) The area of copy of any ground sign shall not exceed 100 sq. ft. per side with a total allowable area of 200 sq. ft. for multi-sided signs, except that on a parcel with a principal structure more than 50,000 sq. ft. in area, the area of copy shall not exceed 250 sq. ft. per side with a total allowable area of 500 sq. ft.

6. Wall signs shall not extend above the second story windowsill or extend above the roofline, whichever is lower.

7. Wall signs shall be limited to one per building side and no more than two per building.

8. Single pole ground signs are not permitted.

17.48 SIGNS. (Cr. Ord. #2360 - 2/28/00). (1) DEFINITIONS. For purposes of this section, the following terms are defined as indicated: (a) Abandoned Sign. A sign which no longer correctly advertises a bona fide business, lessor, owner, product or activity conducted, or product available on the premises where the sign is displayed or elsewhere.

(b) Animated Sign. A sign which creates an illusion of movement or motion. Not to include a flashing sign which is separately defined.

(c) Area of Copy. The entire area within a single, continuous perimeter which encloses the extreme lights of advertising message, announcement or decoration of a sign.

(d) Area of Sign. The area of the largest single face of the sign within a perimeter which forms the outside shape, by excluding the necessary supports or upright on which the signs may be placed. If the sign consists of more than one section or module, all areas will be totaled. Any irregular shaped sign area shall be computed using the actual sign face surface. In the case of individual letters, the area of copy will be cubed off and used.

(e) Awning. A hood or type of covering over doors or windows. May be fixed or adjustable.

(f) Awning Sign. That area of an awning occupied by signage.

(g) Billboard. See "Off-Premises Signs."

(h) Building Facia. That portion of a building which is parallel or nearly parallel to the abutting roadway.

(i) Business Identification Sign. Any sign which promotes the name and type of business only on the premises where it is located.

(j) Canopy Sign. Any sign attached to or constructed in, on or under a canopy or marquee. For the purpose of this section, canopy signs shall be controlled by the rules governing projecting signs.

(k) Changeable Message Sign. A sign such as a manual reader board where copy changes. Any sign may be, or included as part of it, a changeable message sign.

(l) Construction Sign. A sign which warns persons of construction or demolition for a project or describes the project and the contractors involved.

(m) Copy. The message, announcement, words, letters, numbers, pictures, art, other information or decoration displayed on a sign.

(n) Directional Sign. Any sign which serves to designate the location or direction of any place or area on the same premises, i.e., enter, exit, parking, etc. These signs should contain no advertising other than 50% of the sign may contain the business name or logo, up to 24 square feet in area and not to exceed 8 feet in height.

(o) Electronic Message Sign. A changeable message sign whose message is electrically activated such as with light bulbs or mechanical flip discs.

(p) Flashing Sign. Any sign which contains an intermittent or flashing light source or which includes the illusion of intermittent light source, not including electronic message signs or time and temperature signs.

(q) Frontage. The length of the property line of any one premises parallel to and along each public right of way it borders. Said public right of way may be known as a frontage road.

(r) Ground Sign. A sign erected on one or more freestanding supports or uprights and not attached to any building.

(s) Gross Area. The area of a sign determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one module or section, their areas shall be totaled. If the modules are formed in the shape of letters or symbols, the rules for "area" or "copy" apply. The area of any module or section shall be calculated on one face only.

(t) Height of Sign. The vertical distance measured from the grade at the street right of way line where the sign is located to the highest point of such sign. If a sign is located near 2 streets, the height is measured from the lower street.

(u) Illuminated Awning. An internally illuminated awning fabricated from a translucent material. May be used for an awning sign.

(v) Illuminated Sign. A sign designed to incorporate artificial light.

(w) Legal Nonconforming Sign. A nonconforming sign that did meet code regulations when it was originally installed.

(x) Nonconforming Sign. A sign that does not meet the regulations of this section.

(y) Off-Premises Sign. A sign owned or leased by a person other than the owner or occupant of the principal structure on the parcel on which the sign is located.

(z) On-Premises Sign. Any sign identifying or advertising a business, person, activity, goods, products or services located on a premises where the sign is installed and maintained.

(zm) Panel Sign. (Cr. Ord. #2541 – 11/1/04). A freestanding ground sign with 20% of the sign consisting of materials similar to the building materials of the principal structure. The sign is designed to be compatible with the principal building and shall contain a top cap (or similar treatment) on signs with sign panels five feet and wider. The sign is generally the same width from the ground to the top of the sign. All sign components are no less than two-thirds of the width of the base, and the base is at least as wide as the narrowest sign panel. Also known as a “monument sign.”

(aa) Portable Sign. Any sign not permanently attached to the ground or a building.

(bb) Projecting Sign. A sign, normally double faced, which is attached to and projects from a structure or building facia. The area of projecting signs are calculated on one face only.

(cc) Real Estate Sign. A temporary on-premises sign pertaining to the sale, lease or rental of land and buildings.

(dd) Roof Sign. A sign erected upon, against or above a roof.

(ee) Sign. Any emblem, painting, banner, pennant, placard, design, identification, description, illustration or device, illuminated or non-illuminated, to advertise, identify, convey information or direct attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise. For the purpose of removal, signs shall also include all sign structures, but not including any buried foundations.

(ff) Sign Contractor. Any person, partnership or corporation engaged in whole or in part of the erection or maintenance of signs, excluding the business which the sign advertises.

(gg) Sign Structure. Any device or material which supports, has supported or is capable of supporting a sign in a stationary position, including decorative covers.

(hh) 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.

(ii) Time and Temperature Sign. An electrically controlled sign alternately displaying time and temperature for public service information. May be incorporated into a business identification sign.

(jj) Wall Sign. A sign attached to the wall of a building with the face in a parallel plane to the plane of the building wall. This includes signs painted directly on a wall.

(kk) Window Sign. A sign installed on a window for purposes of viewing from outside the premises.

(2) **PERMIT REQUIRED.** Except as otherwise provided in sub. (3), it shall be unlawful to erect, construct, enlarge, or modify a sign in the city, or cause or permit the same to be done, without first obtaining a sign permit therefor from the Administrator. Site plan approval shall be a condition of the permit. A sign permit shall not be required for a change of copy, provided the colors are not changed, or for repainting, cleaning, and other normal maintenance and repair.

(3) **SIGNS NOT REQUIRING A PERMIT.** The following signs shall not require a permit: (a) Construction Signs. One construction sign per construction site, not exceeding 32 square feet in area each, which shall be confined to the site of construction and shall be removed 30 days after completion of construction or prior to occupancy, whichever is sooner.

(b) Directional Signs. Directional and instructional non-electric signs which provide instruction or direction and are located entirely on a property to which they pertain and do not exceed 6 square feet each in area and do not in any way advertise a business. This includes such signs as those identifying rest rooms, telephones, parking areas, entrances and exits.

(c) Government Signs. Government signs for control of traffic and other regulatory purposes, danger 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 his public duty.

(d) Home Occupation Signs. Signs associated with a home occupation as defined in the Zoning Code provided such signs are non-illuminated wall signs that do not exceed 2 square feet in area.

(e) House Numbers and Name Plates. House numbers and name plates not exceeding 2 square feet in area for each residential, commercial or industrial building.

(f) Interior Signs. Signs located within the interior of any building or structure which are not visible from the public right of way. This does not, however, exempt such signs from the structural, electrical or material specifications of this chapter.

(g) Memorial Signs and Plaques. Memorial signs or tablets, names of buildings and dates 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 nonconvertible material not more than 4 square feet in area.

(h) No Trespassing or No Dumping Signs. No trespassing or no dumping signs not to exceed 1-1/2 square feet in area per sign.

(i) Public Notices. Official notices posted by public officers or employers in the performance of their duties.

(j) Political and Campaign Signs. Signs containing a political message as defined in Section 12. 04, Stats., provided that said signs are subject to the following regulations:

1. Signs may be erected not earlier than the beginning of the election campaign period as defined in Section 12.04, Stats., and shall be removed within 15 days following the end of the election campaign period.

2. No sign, except billboards, shall exceed 16 square feet in any nonresidential zoning district.

3. No sign shall exceed 11 square feet in a residential zoning district unless the sign is affixed to a permanent structure and does not extend beyond the perimeter of the structure and does not obstruct a window, door, fire escape, ventilation shaft or other area which is required to remain unobstructed.

4. No sign shall be located in or over any street right of way nor within the vision clearance triangle as established in the Zoning Code.

(k) Real Estate Signs. One real estate sales sign on any lot or parcel which is currently for sale or lease, provided such sign is located entirely within the property to which the sign applies and is not directly illuminated.

GENERAL ZONING 17.48 (3) (k) (1)

1. In residential districts, such signs shall not exceed 6 square feet in area and shall be removed within 15 days after the sale, rental or lease has been accomplished.

2. In all other districts, such signs shall not exceed 32 square feet in area and shall be removed within 30 days after the sale, rental or lease has been accomplished.

3. No such sign shall be located in or over any street right of way nor within the vision clearance triangle as established in the Zoning Code.

4. If there are any other signs on the lot or parcel, the real estate sign shall be attached to or made part of such other sign.

(l) Temporary Window Signs. In business, commercial and industrial districts, the inside surface of any window may be used for attachment of temporary signs. The total area of such signs, however, shall not exceed 50% of the total window area and shall not be placed on door windows or other windows needed to be clear for pedestrian safety.

(m) Vehicular Signs. Trucks, busses, trailers or other vehicles, while operating in the normal course of business, which is not primarily the display of signs.

(n) Temporary Signs. Temporary signs shall be permitted not more than 2 times per year for a total of not more than 6 weeks per year on any lot or parcel of land provided that:

1. The owner gives the Zoning Administrator advance written notice of the nature and location of the signs and the dates on which they will be placed and removed; and

2. The signs do not violate, or cause or create a violation of, any other provision of this Code.

(4) GENERAL REQUIREMENTS. In addition to the other requirements of this section, all signs shall comply with the following requirements: (a) All ground and roof sign structures shall be self supporting structures and permanently attached to sufficient foundations.

(b) All signs, except those attached flat against the wall of a building, shall be constructed to withstand wind loads as follows, with correct engineering adjustments for the height of the sign above grade:

1. For solid signs, 30 pounds per square foot.

2. For skeleton signs, 30 pounds per square foot of the total face cover of the letters and other sign surfaces, or 10 pounds per square foot of the gross area of the sign as determined by the overall dimensions of the sign, whichever is greater.

(c) No sign, the highest point of which is more than 6 feet above the surface over which it is suspended, shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs over 6 feet shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections.

(d) Supports and braces shall be an integral part of the sign design. Angle irons, chains or wire used for supports or braces shall be hidden from public view to the extent technically feasible.

(e) All signs shall be marked with the manufacturer's name in a size which is easily visible from the ground and electrical information as required in the National Electric Code.

(f) No ground sign may be closer than 5 feet to the nearest lot line or right of way line. The distance to the lot line or right of way line shall be measured horizontally to the nearest point of the sign.

(g) 1. Except as provided in sub. 2 of this paragraph, any ground sign within 25 feet of any street right of way shall be supported by no more than 2 uprights and shall have a minimum vertical distance of 12 feet between the bottom of the sign and the grade at the nearest right of way line or shall be not more than 2 feet in height.

2. Sub. 1 of this paragraph does not apply to a sign within 25 feet of a street right of way if it is more than 25 feet from the nearest driveway, alley, or other right of way and it is more than 25 feet from the nearest property boundary other than the right of way boundary.

3. If a property boundary or driveway is created within 25 feet of a sign, the sign must be removed within 10 days if it does not conform to the requirements of sub. 1 of this paragraph.

(h) If a sign projects over a parking lot or driveway where there is vehicular traffic, there must be 14 feet 6 inches or more of clearance between the bottom of the sign and the surface beneath it.

(i) Wall signs shall not project more than 18 inches from the wall.

(j) Projecting and Canopy Signs.

1. Clearance. All projecting and canopy signs shall maintain a minimum vertical distance of 8 feet between the sign and the ground or other surface beneath the sign.

2. Projection. Projecting signs may not extend more than 8 feet from the building to which they are attached.

(k) Roof Signs.

1. Height. A roof sign may not extend above the highest point of the roof on which it is installed.

2. Clearance. A minimum vertical distance of 3 feet must be maintained between the bottom of the sign and the roof.

3. Construction. Roof signs and their supports shall be constructed entirely of noncombustible materials.

(l) (Am. Ord. #2493 - 8/25/03). No sign shall be located in or project over any street or highway right of way except as provided in subsection (9).

(m) 1. The total area of wall signs on any one wall shall not exceed 10% of the area of the wall.

2. The area of copy of wall signs shall not exceed 200 square feet on any wall.

(n) The total sign area of ground signs on any tax key parcel shall not exceed 2 square feet for each foot of frontage of the tax key parcel. For lots having frontage on 2 or more streets, frontage shall be measured only along the street on which the parcel has the longest frontage.

(o) The total area of any signs on any tax key parcel shall be limited in each residential zoning district as follows:

<u>Zoning District</u>	<u>Maximum Sign Area Per Parcel</u>
RS-1	20 square feet
RS-2	20 square feet
RS-3	20 square feet
RS-4	20 square feet
RD-1	20 square feet
RD-2	20 square feet
RM-1	32 square feet
RM-2	32 square feet
RM-3	32 square feet

RM-4

32 square feet

(p) The total area of signs attached to a building shall not exceed 15% of the area of the surface of the building to which they are attached.

(q) (Cr. Ord. #2541 – 11/1/04). Residential development signs are not required to be panel signs. A residential development can have more than one sign identifying the residential development if approved by Plan Commission and if in conformance with all other sign requirements.

(5) PROHIBITED SIGNS. The following signs are prohibited in the City: (a) Abandoned signs.

(b) Animated signs

(c) Signs with flashing, scintillating, blinking, or traveling lights of more than 15 watts per lamp.

(d) Swinging signs

(e) Signs with any moving component

(f) Reflection illuminated signs whose light source is positioned so that 25% or more of its light intensity is visible from a public right of way by vehicular traffic or whose light source is visible from residential property or a public right of way.

(g) Signs which are an imitation of, or resemble in shape, size, copy or color, an official traffic sign or signal.

(h) Signs with any light flashing more than 10 times per minute.

(i) Portable signs except for temporary signs as permitted in this section.

(j) Inflatable advertising devices or signs.

(k) Signs which are painted on, or attached or affixed to, rocks, trees or other living vegetation.

(l) Signs not specifically permitted by this section.

(6) OFF-PREMISES SIGNS. All off-premises signs are prohibited in the City, except as provided in this subsection. (a) Off-premises sign may be located in commercial, industrial, and institutional districts only and must be more than 200 feet from the nearest residential district.

(b) Off-premises signs shall be located only within 100 feet of Federal aid primary highways.

(c) No off-premises sign shall be located within a radius of 1,000 feet of any other off-premises sign.

(d) The area of sign for off-premises signs shall be limited to 32 square feet or less.

(e) No off-premises sign may be located within 150 feet of any intersection.

(f) No permit may be issued for an off-premises sign unless the applicant provides such proof as the Zoning Administrator may require that the applicant has obtained any permit which may be required by the State for the sign and that the applicant owns the land or has a lease, easement or other interest in the land permitting construction of the sign.

(7) MAINTENANCE; REMOVAL. (a) Every sign, including, but not limited to, those signs for which permits are required, shall be maintained in a safe, presentable and good structural condition at all times, including replacement of defective parts, painting (except when a weathered or natural surface is intended), repainting, cleaning and other acts required for the maintenance of said sign.

(b) The Building Inspector shall require compliance with all standards of this section. If the sign is not modified to comply with safety standards outlined in this section, the Building Inspector shall require its removal in accordance with this section.

(c) Abandoned Sign. All signs or sign messages shall be removed by the owner or lessee of the premises upon which an on-premises sign is located when the business it advertises is no longer conducted or, for an off-premises sign, when lease payment and rental income are no longer provided. If the owner or lessee fails to remove the sign, the Building Inspector shall give the owner 60 days written notice to remove said sign. Upon failure to comply with this notice, the City may cause removal to be executed, the expenses of which will be assessed to the property on which the abandoned sign is located as a special tax.

(d) Deteriorated or Dilapidated Signs. The Building Inspector shall cause to be removed any deteriorated or dilapidated signs under the provisions of Section 66.0413 (1), Wis. Stats.

(e) Any sign which is in violation of this section or other provision of this chapter or the State statutes shall be considered a nuisance and may be removed by the City and the costs of removal charged to the property on which the sign is located as a tax.

(8) INTERPRETATION. (Am. Ord. # 2764 – 2/21/2015) The requirements and restrictions of this section are in addition to, and not in lieu of, other provisions of this chapter. This section shall be strictly construed to limit signs in the City. Upon submission of sufficient documentation demonstrating the need to modify the size, design or number of signs necessary to identify a development, the plan commission may modify the sign restrictions within this section to overcome constraints due to poor site visibility, excessive setbacks or other physical constraints.

(9) PROJECTING SIGNS (Am. Ord. #2493 - 8/25/03). Awning signs, canopy signs, projecting signs and wall signs for which a privilege has been issued under Section 12.24 are exempt from the requirements of sub. (4)(l) as long as the privilege remains in effect. A sign for which a permit has been issued under this section is exempt from the requirements of Sections 12.22 and 12.24 (6) (c).

(10) ELECTRONIC MESSAGE SIGNS (Cr. Ord. #2541 – 11/1/04).

(a) Location Restrictions.

1. Electronic message signs are prohibited in all residential zoning districts.

2. Electronic message signs shall not be located within 100 feet of a residential zoning district, unless approved by the Plan Commission after a Class 1 public hearing.

3. Electronic message signs shall not be located within 150 feet of a major street intersection as determined by the Zoning Administrator.

(b) Requirements.

1. All electronic message signs shall be adequately screened from view of all residential structures within 200 feet of the sign if the residential structure is located within a residential zoning district.

2. The area of copy of an electronic message sign shall not exceed 16 sq. ft. per side and the total area of copy on all electronic message signs shall not exceed 32 sq. ft. per parcel unless approved by the Plan Commission after a Class 1 public hearing.

3. Electronic message signs shall provide a minimum 3 second time interval between changes of words and/or messages.

17.49 (Cr. Ord. #2606 - 2/26/07). COORDINATED DEVELOPMENT GATEWAYS OR SIGNS (1) DEFINITIONS. For purposes of this section, the following terms are defined as indicated: (a) Coordinated Development Gateway or Sign. A sign or structure erected for the purpose of identifying the name of a coordinated development and sub-components or businesses located within a development.

(b) Coordinated Development. A development with integrated physical design for which a planned-unit development site plan or a master plan for a MXD Mixed Use District has been approved by the City Plan Commission..

(2) INTENT. The purpose of permitting coordinated development gateways or signs in the City is: (a) To allow a sign or gateway structure to be located at, or near, the

entrance(s) of a development in order to identify the development name and sub-components or businesses within the coordinated development.

(b) To reduce the number of signs needed to advertise businesses within a coordinated development.

(c) To minimize the impact of signage on adjoining uses.

(d) To improve the aesthetics and effectiveness of development signage by coordinating sign design and sharing sign locations.

(3) GENERAL CONDITIONS AND APPROVALS. (Am. Ord. #2764 – 2/21/2015) (a) All coordinated development gateways or signs shall comply with Sections 17.47(4)(d) and 17.48 of this Code except as authorized by the Zoning Administrator in accordance with Subsection. (4);

(b) All coordinated development gateways or signs shall be consistent with the applicable master plan, site plan or planned-unit development site plan as approved by the City Plan Commission;

(c) Any business, activity, product or service advertised on a coordinated development gateway or sign must be located within the adjoining development; and

(d) A coordinated development gateway or sign may be permitted for:

1. Property located within commercial, institutional, recreational or industrial zoning districts which is also in a planned-unit development overlay district or has a site plan approved for a coordinated development of greater than 10 acres in area; or

2. Property located within a MXD-Mixed Use Zoning District.

(4) MODIFICATIONS. The Zoning Administrator, in reviewing sign permits for coordinated development gateways or signs, may grant modifications to the terms of this chapter as provided herein. (a) A coordinated development gateway or sign may be located off-premise if located at or adjacent to the entrance to a coordinated development and if, the judgment of the Zoning Administrator, it must be located off-premise to provide adequate visibility for the coordinated development gateway or sign.

(b) The size and design requirements of Sections 17.47(4)(d) and 17.48 may be modified for a coordinated development gateway or sign if such modifications are determined to be in accordance with the intent of this section.

(c) Reasonable restrictions on the design of a coordinated development gateway or sign may be required to minimize the impact on adjoining uses and to provide compatibility with surrounding signage.

17.495 (Cr. Ord. #2617 - 8/20/07). RESIDENTIAL FENCES. The following restrictions and requirements apply to fences in residential districts. (1) SETBACKS. Fences are permitted no closer than six inches from all lot lines except that fences shall be no closer than four feet from any alley. The required setback can only be encroached upon when fences on adjacent properties are connected at fence corners, provided that both property owners consent to the setback encroachment in writing. No material or property may be stored between the property line and a fence located adjacent to a property line.

(2) HEIGHT. (Am. Ord. #2826 – 02/23/19) Side yard fences and rear yard fences shall not exceed a height of six feet as measured from the existing grade and shall not extend into the street yard. Street yard fences shall not exceed a height of four feet as measured from the existing grade except that street yard fences within the vision clearance triangle of a corner lot shall not exceed a height of three feet as measured from the existing grade and shall comply with the traffic visibility requirements of Section 17.38 of this Chapter. Street yard fences with irregular or scalloped tops may be permitted if the maximum height does not exceed five feet and the minimum height is less than four feet.

(3) LOCATION. No fence may be located so as to interfere with drainage and/or utility easements or cause drainage problems to adjacent properties nor shall any fence be placed on any part of a berm.

(4) AESTHETICS. (a) The finished or decorative side of all fences shall be on the outside of the yard or enclosed area facing the adjacent or abutting property or street.

(b) (Am. Ord. #2826 – 02/23/19) Street yard fences shall have no greater than 50% opacity. Ornamental fences with open fence material up to 75% opacity may be located within a street yard adjacent to the side of a house on a corner lot.

(c) All fences shall be maintained in accordance with the approved fence plans, shall have appropriate paint or finish applied, and shall not be allowed to fall into disrepair as determined by the Zoning Administrator.

(d) Decorative fence post caps shall not extend more than eight inches above the maximum allowed fence height without the approval of the Zoning Administrator. Decorative fence post caps shall not have the ability to support a fence where the fence could exceed the maximum fence height allowed.

(e) The following types of fences are prohibited: barbed wire, electrical, chicken wire, razor wire, spiked, sharp picket, single and multiple strand, and any fences

constructed of any other material determined by the Zoning Administrator to be a nuisance, hazard, or aesthetic blight. Chain link type fences are prohibited in street yards.

(f) Snow fences are permitted on a temporary, seasonal basis between November 15 and April 15.

(5) ACCESS. Street yard fences shall include an access gate not less than three feet wide for every 80 feet of continuous fencing unless an exception is approved by the Zoning Administrator.

(6) PRIVACY FENCE. A privacy fence may only be located in side yards and rear yards. The maximum length for a privacy fence is 12 feet long per dwelling unit and 24 feet per parcel.

(7) NON-CONFORMING FENCES. (Am. Ord. #2701 – 11/23/11). Those fences for which a permit was obtained from the City prior to the adoption of this Section 17.495 and that do not conform to the requirements of this Section. 17.495 shall be considered a non-conforming structure that may be continued and maintained as previously approved. Any changes to or replacement of a non-conforming fence shall comply with the fence requirements in effect at the time of the change or replacement. - EXCEPTIONS to the required fence setbacks may be allowed by the Zoning Administrator: (a) for maintenance or replacement of an existing nonconforming fence which is located on property that has physical constraints that prevent compliance with the fence setback requirements.

(b) When a fence that is legal nonconforming due to substandard setbacks is to be maintained or replaced on the property to the extent and location of the existing fence.

(8) APPEALS. Any applicant for a fence approval who is aggrieved by a decision of the Zoning Administrator under this section or Section 17.11(3)(c) has the right to appeal that decision to the Board of Zoning Appeals under Section 17.43(4).

17.50 FLOODPLAIN ZONING STATUTORY AUTHORIZATION AND PURPOSE. (1) These regulations are adopted pursuant to State Stats. §§62.23 (7) and 87.30, Wis. Stats.

(2) The purpose of these regulations is to provide a uniform basis for the implementation and administration of sound floodplain management regulations for all floodplains within the City to:

- (a) Protect life, health and property.

- (b) Minimize expenditures of public monies for costly flood control projects.

- (c) Minimize rescue and relief efforts, generally undertaken at the expense of the tax paying public.

- (d) Minimize business interruptions which usually result in the loss of local incomes.

- (e) Minimize damage to public facilities on the floodplains such as water mains, sewer lines, streets and bridges.

- (f) Minimize the occurrence of future flood blight areas on floodplains.

- (g) Discourage the victimization of unwary land and home buyers.

- (h) (Am. Ord. #2744 – 11/23/13) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

- (i) (Am. Ord. #2744 – 11/23/13) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

17.51 GENERAL FLOODPLAIN PROVISIONS. (1) AREAS TO BE REGULATED. Areas regulated by this subchapter include all lands within the corporate limits of the City that would be inundated by the regional flood.

(2) DISTRICT ESTABLISHED. The flood plain areas within the jurisdiction of this subchapter are divided into 3 districts:

- (a) FW Floodway District.

- (b) FPS Floodplain Storage District.

- (c) FFO Floodplain Fringe Overlay District.

(3) FLOODPLAIN ZONING MAPS. (Rep. & Recr. Ord. #2286 - 8/25/97) (a) The boundaries of the Floodplain Districts are established on the Official Zoning Map of the City of West Bend.

(b) (Am. Ord. #2744 – 11/23/13) The boundaries of the FW Floodway District, the FPS Floodplain Storage District and the FFO Floodplain Fringe Overlay District shall be determined by use of the scale and cross-section information contained on the Official Zoning Map and profiles set forth in the Flood Insurance Study, Number 55131CV001A, Volume 1 and Flood Insurance Study Number 55131CV002A, Volume 2, City of West Bend, Washington County, Wisconsin, by the Federal Emergency Management Agency dated and effective November 20, 2013. The information contained in the Flood Insurance Study is further illustrated on the Flood Insurance Rate Map, Panels 55131C0153D, 55131C0154D, 55131C0158D, 55131C0159D, 55131C0161D, 55131C0162D, 55131C0164D, 55131C0166D, 55131C0167D, 55131C0168D, 55131C0169D, 55131C0186D, 55131C0256, dated and effective November 20, 2013. Where a conflict exists between the flood limits as shown on the Official Zoning Map and actual field conditions, the elevation of the 100-year recurrence interval flood, as determined from the profiles in the Flood Insurance Study, shall be the governing factor in locating the floodplain limits.

(4) Repealed Ordinance #2286 - 8/25/97--see 17.51 (3).

(5) COMPLIANCE. No new use or change in use of any structure, land or water shall be located, extended, converted or structurally altered and no development as defined in the subchapter shall commence without full compliance with the terms of this subchapter and other applicable regulations. Compliance with the provisions of this subchapter shall not, however, be grounds for removal of land from a floodplain district unless such lands are filled to a height of at least 2 feet above the elevation of the "regional flood" for the particular area and are contiguous to other lands lying outside the floodplain district, provided approval has been granted by the Department of Natural Resources pursuant to Section 17.58 of this subchapter and, where required, an official letter of map amendment has been issued by the FIA of the Federal Emergency Management Agency (FEMA).

(6) WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection intended to be provided by this subchapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This subchapter does not imply that area outside floodplain zoning district boundaries or land uses permitted within such districts will always be totally free from flooding or flood damages, nor shall this subchapter create a liability on the part of or a cause of action against the City or any officer or employee thereof for any flood damage that may result from reliance on this subchapter.

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED. (Am. Ord. #2744 – 11/23/13) Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this subchapter and obtain all necessary permits. State agencies are required to comply if §13.48 (13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022, Stats., applies.

(8) ANNEXED AREAS (Am. Ord. #2744 – 11/23/13). The Washington County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the City for all areas annexed by the City until the City adopts an Ordinance which meets the requirements of Ch. NR 116, Wis. Adm. Code and 44 CFR 59.72 National Flood Insurance Program (NFIP).

17.52 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS. (1) HYDRAULIC AND HYDROLOGIC ANALYSES (Am. Ord. #2744 – 11/23/13). (a) No development, except as provided in Section 17.52 (1) (b) below, shall be allowed in floodplain areas which will cause an obstruction to flow, defined in Section 17.44 as any development which physically blocks the conveyance of floodwaters by itself or in conjunction with future similar development causing an increase in regional flood height; or cause an increase in regional flood height due to floodplain storage area lost.

(b) (Am. Ord. #2744 – 11/23/13) Obstructions or increases may be permitted only if amendments are made to this subchapter, the official floodplain zoning maps, including floodway lines and water surface profiles, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than 1.0 foot for the affected hydraulic reach of the stream.

(c) (Am. Ord. #2744 – 11/23/13) The Zoning Administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height, based on the officially adopted FIRM or other adopted map, unless provisions of Section 17.58, Amendments, are met.

(2) WATERCOURSE ALTERATIONS (Am. Ord. #2744 – 11/23/13). Prior to any alteration or relocation of a watercourse, and prior to the issuance of any permit which may be required for the alteration or relocation of a watercourse, the Zoning Administrator shall notify in writing, adjacent municipalities, the appropriate district office of the Department of Natural Resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained. Within six months after the date of the water course alteration or relocation and pursuant to 17.58, Amendments, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Such alterations shall be reviewed and approved by FEMA and the DNR through the Letter of Map Correction (LOMC) process.

(3) CHAPTER 30, 31, WIS. STATS., DEVELOPMENT. Developments which requires a permit from the Department of Natural Resources, under Chapter 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids may be allowed provided the necessary permits are obtained and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning ordinance, are made according to Section 17.58.

17.53 FW FLOODWAY DISTRICT. The FW Floodway District is intended to preserve, in essentially open space land uses, the floodway of all navigable waters in the

City, such lands being found necessary to safely carry and discharge the 100 year recurrence interval flood. (1) PERMITTED USES. (a) Drainage and movement of water.

- (b) Navigation.
- (c) Stream bank protection.
- (d) Flood overflows.
- (e) Wild crop harvesting.
- (f) Hunting and fishing unless prohibited by other laws.
- (g) Farming and related agricultural activities, not including the erection of structures.
- (h) Impoundments.
- (i) Sustained yield forestry.
- (j) Fish hatcheries.
- (k) Wildlife preserves.

(2) CONDITIONAL USES. (a) Structures which are accessory to permanent open space uses, or are essential for historical areas, or are functionally dependent on a waterfront location, providing the structures meet all of the following criteria:

1. Structures are not designed for human habitation, or associated with high flood damage potential.
2. (Am. Ord. #2744 – 11/23/13) Structures are constructed and placed on the building site so that there is no obstruction to the flow of flood waters or does not cause an increase in flood height. Structures shall be constructed with the longitudinal axis parallel to the direction of flow or flood waters, and approximately on the same line as those of adjoining structures;
3. Structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
4. Structures have all service facilities such as electrical and heating equipment at or above the flood protection elevation.
5. (Am. Ord. #2744 – 11/23/13) Structures shall have a minimum of two openings, on different walls having a total net area not less than one square inch for every square feet of enclosed area, and the bottom of all openings be no higher than one foot

above grade. The opening shall have screens, louvers or other coverings or devices provided that permit flood water to enter and exit automatically.

6. (Am. Ord. #2744 – 11/23/13) Structures shall not obstruct flow of flood water or cause an increase in flood levels of the regional flood.

(b) Public Utilities, streets and bridges provided that:

1. Adequate flood proofing measures are provided to the flood protection elevation;

2. Construction does not cause an increase in the regional flood height except where the water surface profiles, flood- plain zoning maps and floodplain zoning ordinance are amended, as needed to reflect any changes resulting from such construction.

(c) Fill or deposition of materials provided that:

1. The fill or deposition of materials does not encroach on the channel area between the ordinary high water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Chapter 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334 has been issued, if applicable, and the other requirements of this subchapter are met.

2. Fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulk heading sufficient to prevent erosion; and provided that fill is not associated with private or public solid waste disposal activities.

3. (Am. Ord. #2744 – 11/23/13) The requirements of 17.52(1) are met.

(3) PROHIBITED USES. All uses not listed as permitted or conditional uses are prohibited within the floodway district including: (a) Structures in, on or over floodway areas which are designed for human habitation, associated with high flood damage potential, or not associated with permanent open-space uses;

(b) The storage of any materials that are capable of floating, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(c) 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. Comm 83, Wis. Adm. Code.

(d) (Am. Ord. #2744 – 11/23/13) Any public or private wells which are used to obtain water for ultimate human consumption; except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(e) Any solid and hazardous waste disposal sites, whether public or private;

(f) Any wastewater treatment ponds or facilities except those permitted under s. NR 110.15 (3) (b), Wis. Adm. Code;

(g) 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.

17.54 FPS FLOODPLAIN STORAGE DISTRICT. The FPS Floodplain Storage District is intended to preserve, in essentially open space and natural uses, lands which are unsuitable for intensive urban development purposes due to poor natural soil conditions and periodic flood inundation. The proper regulation of these areas will serve to maintain and improve water quality, prevent flood damage, protect wildlife habitat, and prohibit the location of structures on soils which are generally not suitable for such use. The FPS Floodplain Storage District shall apply to the floodplain fringe portion of the City's navigable streams and Floodlands. (1) PERMITTED USES. Those uses permitted in the FW Floodway District.

(2) CONDITIONAL USES. (a) (Am. Ord. #2360 - 2/28/00) Those uses listed as conditional uses in the FW Floodway District.

(b) Accessory structures provided that the structure is not designed for human habitation, has a low flood damage potential, is constructed and placed to provide minimum obstruction to flood flows (whenever possible, accessory structures should be placed with their longitudinal axis parallel to the flow of floodwaters), is firmly anchored to prevent them from floating away and restricting bridge openings, and has all service facilities, such as electrical and heating equipment at an elevation that is at least 2 feet above the 100 year recurrence interval flood.

(3) PROHIBITED USES. The following uses shall be prohibited in the FPS Floodplain Storage District: (a) The storage of any materials that are buoyant, flammable, explosive or injurious to human, animal, plant, fish or other aquatic life.

(b) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts.

(c) Any on-site sewage disposal system, whether public or private except portable latrines that are removed during flooding, or systems associated with public recreational areas that meet the applicable provisions of local ordinances and Ch. Comm 83, Wis. Adm. Code.

(d) Solid waste disposal site, whether public or private.

17.55 FFO FLOODPLAIN FRINGE OVERLAY DISTRICT. The FFO Floodplain Fringe Overlay District is intended to provide for and encourage the most appropriate use of land and water in areas subject to periodic flooding and to minimize flood damage to people and property. The FFO Floodplain Fringe Overlay District shall apply to the floodplain fringe portion of the City's navigable streams and shall be in addition to any regulations imposed by the underlying basic use district. (1) PERMITTED USES. Any use of land, except structures, that is permitted in the underlying basic use district.

(2) CONDITIONAL USES. (a) Residential structures, provided that:

1. The first floor of a structure to be erected, constructed, reconstructed or moved on the floodplain shall be constructed on fill which is at least 2 feet above the elevation of the 100 year recurrence interval flood for the particular area. The fill shall extend at such elevation at least 15 feet beyond the limits of any structure or building erected thereon and shall be contiguous to land which is outside of the floodplain and/or is accessible by rescue and relief vehicles during the regional flood.

2. The basement floor shall be at or above the regional flood elevation unless a community-wide exemption allowing flood proofing of basements has been granted by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA).

(b) Mobile homes and manufactured homes.

1. Owners or operators of all mobile manufactured home parks and subdivisions located in the FFO Floodplain Fringe Overlay District shall provide for adequate surface drainage to minimize flood damage.

2. All new, replacement and substantially improved mobile manufactured homes to be placed or improved on a site located in the FFO Floodplain Fringe Overlay District shall:

a. be elevated to the flood protection elevation.

b. be anchored so they do not float, collapse or move laterally during a flood.

(c) In commercial areas, any structure or building which is to be erected, constructed, reconstructed, added to or moved into the flood fringe area shall meet the requirements of par. (a) above. Certain yards, parking lots and other accessory land uses may be at lower elevations. However, no such area in general use by the public shall be inundated to a depth greater than 2 feet or subjected to flood velocities greater than 4 feet per second upon the occurrence of the regional flood.

(d) Manufacturing and industrial buildings, structures and accessory uses shall be elevated or flood proofed in accordance with Section 17.57 (5) of this subchapter to 2 feet above the regional flood elevation. Measures shall be taken to minimize interference with normal plant operations especially for streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in par. (c) above.

(e) The storage or processing of materials that are buoyant, flammable, explosive or which, in times of flooding, could be injurious to human, animal or plant life shall be at or above the flood protection elevation for the particular area or flood proofed in accordance with Section 17.57(5) of this subchapter.

(f) Municipal water supply and sanitary sewerage systems are permitted provided that the system is flood proofed to an elevation at least 2 feet above the elevation of the 100 year recurrence interval flood, and is designed to eliminate or minimize infiltration of floodwaters into the system. Certification of flood proofing shall be made to the Building Inspector and shall consist of a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the flood velocities, forces, depths and other factors associated with the 100 year recurrence interval flood level for the particular stream reach.

(g) All on-site sewage disposal systems shall be flood proofed to the flood protection elevation in accordance with Section 17.57 (5) of this subchapter and shall meet the applicable provisions of local ordinances and Ch. Comm 83, Wis. Adm. Code.

(h) All wells, whether public or private, shall be flood proofed to the flood protection elevation pursuant to Section 17.57 (5) of this subchapter and shall meet the applicable provisions of Wis. Adm. Code NR112.

(i) All solid waste disposal sites, whether public or private, are prohibited in the FFO Floodplain Fringe Overlay District.

17.56 NONCONFORMING USES. (1) **GENERAL.** To the extent that the standards in this section are not inconsistent with the provisions of §62.23 (7) (h), Wis. Stats., they shall apply to all nonconforming uses. The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this subchapter may be continued, subject to the following conditions: (a) No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this section. For the purpose of this section, the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, rebuilding or replacement of any such existing structure or accessory use. 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.

(b) If a nonconforming use is discontinued for 12 consecutive months, any future use of the structure or building shall conform with the appropriate provisions of this subchapter for floodway and flood fringe areas.

(2) FLOODWAY DISTRICT. (a) No modification or additions shall be allowed to any existing structures which are not in compliance with permitted floodway standards or uses, unless such modifications or additions meet all the following criteria:

1. The modifications or additions to a structure will not increase the amount of obstruction to flood flows.

2. Any addition to a structure shall be flood proofed, in accordance with Section 17.57(5) of this subchapter by means other than the use of fill, to the flood protection elevation.

3. No structural repairs, modifications or additions to a structure, which exceed over the life of a structure 50% of its present assessed value, shall be allowed unless the entire structure is permanently changed to a conforming use.

4. If any nonconforming structure is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the use is permitted in the floodway district. For the purpose of this subsection, restoration is deemed impractical where the total cost of such restoration would exceed 50% of the present assessed value of said structure.

(b) No new on-site sewage disposal system, or additions to the existing on-site sewage disposal system, shall be allowed in a floodway area. Any replacement, repair or maintenance of an on-site sewage disposal system in a floodway area shall meet the applicable provisions of this subchapter and Comm 83 Wis. Adm. Code.

(c) No new well used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair or maintenance of a well in a floodway area shall meet the applicable provisions of this Code and Wis. Adm. code NR 111 and 112.

(3) FLOOD FRINGE DISTRICT (including the FPS Floodplain Storage District and the FFO Floodplain Fringe Overlay District). (a) All modifications or additions to any nonconforming structure which do not exceed 50% of its present assessed value shall be protected by flood proofing measures pursuant to Section 17.57(5) of this subchapter. No structural modification or addition to any nonconforming structure, which over the life of the structure would exceed 50% of its present assessed value shall be allowed unless the entire structure is permanently changed to a conforming use in compliance with this subchapter.

(b) Where compliance with the provisions of par. (a) above 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 Zoning Appeals, using the procedure in Section 17.57 (2) of this subchapter, may grant a variance from those provisions, using the criteria listed below. Modifications or additions to structures or buildings which are protected to elevations lower than the flood protection elevation may be permitted if:

1. Human lives are not endangered.
2. Public facilities, such as water or sewer, are not to be installed.
3. Flood depths will not exceed 2 feet.
4. (Am. Ord. #2744 – 11/23/2013) Flood velocities will not exceed 2 feet per second.
5. The structure will not be used for storage of materials described in Section 17.55 (2) (e) of this subchapter.

(c) (Am. Ord. #2744 – 11/23/2013) Any new, addition to, replacement, repair or maintenance of an on-site sewage disposal system in a flood fringe area shall meet all the applicable provisions of this subchapter and Chapter SPS 383 Wis. Adm. Code.

(d) (Am. Ord. #2744 – 11/23/2013) Any new, addition to, replacement, repair or maintenance of a well in a flood fringe area shall meet the applicable provisions of this subchapter and Wis. Adm. Code NR 811 and 812.

17.57 ADMINISTRATION. (1) ZONING ADMINISTRATOR, POWERS AND DUTIES. The Zoning Administrator shall exercise the following powers and duties. (a) Advise applicants as to the provisions of this subchapter.

(b) Issue permits, and inspect properties for compliance with this subchapter. Determine floodplain boundaries and elevations.

(c) Keep the official records of all water surface profiles, floodplain zoning maps, floodplain zoning ordinances, nonconforming uses and changes thereto, permit applications, permits, fee schedules in accordance with Section 17.45 of this Chapter, appeals, variances and amendments related to this subchapter.

(d) Submit copies of any required data, variances, amendments case-by-case analyses, annual reports, and any other required information to the Department of Natural Resources. An annual summary showing only the number and types of zoning actions taken by the City shall be submitted to said Department by the Zoning Administrator.

(e) Investigate, prepare reports and report violations to the City Attorney with copies to the appropriate district office of the Department of Natural Resources.

(f) Submit copies of text amendments and annual reports to the Federal Insurance Administration (FIA) office of FEMA.

(g) Maintain on file a list of all documentation of certified elevations.

(h) Administrative Procedures.

1. Zoning Permits. A zoning permit shall be obtained from the Zoning Administrator before any new land use, change in use or development subject to the provisions of this subchapter may be initiated. An application for a zoning permit shall be made to the Zoning Administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

a. Name and address of the applicant and property owner.

b. Legal description of the property and type of proposed use.

c. A sketch showing the dimensions of the lot and locations of buildings from lot line, center line of abutting highways and high-water mark of any abutting watercourse.

d. All information concerning any private water or on-site sewage disposal system to be installed, including a sketch showing surveyed location of wells, streams, lakes, buildings, privies and septic tank system within 100 feet of the proposed sewage disposal site.

2. Certificate of Compliance. No development, as defined in this subchapter, and no vacant land in the floodplain shall be occupied or used and no building hereafter erected, altered or moved shall be occupied until the applicant obtains a certificate of occupancy from the Zoning Administrator. The Zoning Administrator shall require that the applicant submit a certification by a registered professional engineer or architect that the finished fill and building flood elevations and other floodplain regulatory factors were accomplished in compliance with appropriate floodplain zoning provisions and other floodplain regulations. The applicant shall submit such certification for all new construction and substantial improvements.

3. Other Permits. (Am. Ord. #2744 – 11/23/2013) It is the responsibility of the applicant to secure all other necessary permits from all appropriate Federal, State and local agencies, including those required under Section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 U.S.C. 1334.

(2) VARIANCES. Any deviation from the standards of this subchapter for which a permit has been denied by the Zoning Administrator may be allowed only upon written request for a variance submitted to the Zoning Administrator and issuance of a variance by the Board of Zoning Appeals in accordance with the procedures and provisions of 17.43 of this Chapter. The Board may authorize in specific cases such variance from the terms of

this subchapter as will not be contrary to the public interest where, because of special conditions, a literal enforcement of the provisions of this subchapter would result in unnecessary hardship. A variance shall: (a) Be consistent with the spirit and intent of this subchapter.

(b) Not permit any change in established flood elevations or profiles.

(c) Not be granted for a use that is common to a group of adjacent lots or premises. (In such a case, this subchapter would have to be amended through proper procedures).

(d) Not be granted unless it is shown that the variance will not be contrary to the public interest or damaging to the rights of other persons or property values in the area.

(e) Not be granted for actions which require an amendment to this subchapter.

(f) Not have the effect of allowing or expanding a use or structure which is prohibited in that zoning district by this subchapter.

(g) Not be granted solely on the basis of economic gain or loss.

(h) Not be granted for a self-created hardship.

If a variance is granted, the property owner shall be notified by the Board of Zoning Appeals that increased flood insurance premiums may result.

(3) BOUNDARY DISPUTES. The following procedure shall be used by the Board of Zoning Appeals in disputes of a floodplain zoning district boundary. (a) A floodplain district boundary is established by experience, floodplain maps or engineering studies. The flood elevations or flood profiles for the point in question shall be the governing factor in locating the district boundary. If no elevation or profiles are available to the Board, any other available evidence may be examined.

(b) In all cases, the person contesting the location of the floodplain district boundary shall be given a reasonable opportunity to present his case to the Board of Zoning Appeals and, if he chooses, submit his own technical evidence. Where it is determined that the district boundary as mapped is incorrect, the Board should inform the Zoning Administrator to proceed to petition the City Council for a map amendment or inform the person contesting the location of the floodplain boundary to petition the City Council for a map amendment, pursuant to Section 17.58 of this subchapter.

(4) PROCEDURES FOR DETERMINING FLOODWAY AND FLOOD FRINGE LIMITS. (a) When any developments are proposed within an unnumbered A Zone, a determination shall be made to establish the boundaries of the floodway and determine

whether floodway or flood fringe uses apply and, where applicable, to determine the regional flood elevation.

(b) Upon receiving an application for development, the Zoning Administrator shall:

1. Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the floodplain proposal with respect to the floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures.

2. Require the applicant to furnish any of the following additional information as is deemed necessary by the Department of Natural Resources for evaluation of the effects of the proposal upon flood flows and to determine the boundaries of the floodway and, where applicable, the regional flood elevation.

a. A typical valley cross section showing the channel of the stream, the floodplain adjoining each side of the channel, cross section area to be occupied by the proposed development and high water information.

b. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill or storage elevations, size, location and spatial arrangement of all proposed and existing structures on the site, location and elevations of streets, water supply, sanitary facilities, soil types and other pertinent information.

c. Profile showing the slope of the bottom of the channel or flow line of the stream.

d. Specifications for building construction and materials, flood proofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.

3. Transmit one copy of the information described in subs. (1) and (2) above to the Department of Natural Resources along with a written request to have the agency provide technical assistance to establish floodway boundaries and, where applicable, provide regional flood elevation.

(5) FLOODPROOFING. Flood proofing measures shall be designed to withstand the flood velocities, forces and other factors associated with the regional flood, to assure protection to the flood protection elevation. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are adequately designed to protect to the flood protection elevation for the particular area. All flood proofing shall provide anchorage to resist flotation and lateral movement and shall insure that the structural walls and floors are watertight, which shall be the minimum

standard for certification. Other flood proofing measures may include: (a) Installation of watertight doors, bulkheads and shutters.

(b) Reinforcement of walls and floors to resist pressures.

(c) Use of paints, membranes or mortars to reduce seepage of water through walls.

(d) Addition of mass or weight to structures to prevent flotation.

(e) Placement of essential utilities above the flood protection elevation.

(f) Pumping facilities and/or subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures and to lower water levels in structures.

(g) Construction of water supply and waste treatment systems to prevent the entrance of flood waters.

(h) Construction to resist rupture or collapse caused by water pressure or floating debris.

(i) Cutoff valves or sewer lines or the elimination of gravity flow basement drains.

17.58 AMENDMENTS. (1) Official amendments are required for any changes in the official floodway lines, water surface profiles, floodplain zoning maps or this subchapter. Actions which require an amendment include, but are not limited to, the following: (a) Any change in the official floodway lines or in the boundary of the floodplain area.

(b) Settlement of conflicts between the water surface profiles and floodplain zoning maps in accordance with Section 17.57 (4) of this subchapter.

(c) Any fill or encroachment into the floodway which will result in raising the elevation of an area in the floodway to a height at or above the elevation of the regional flood.

(d) Any fill or encroachment that will cause a change equal to or greater than 0.01 foot in the water surface profiles of the regional flood.

(e) Any upgrading of floodplain zoning ordinances required by law.

(2) **AMENDMENT PROCEDURE.** The provisions of Section 17.09 (12) of this Chapter shall apply to amendments to this subchapter. In addition, no amendment to the text of this subchapter or maps referred to in this subchapter shall become effective until approved by the Department of Natural Resources, the office of the Federal Insurance Administration and, in regard to map amendments, until an official letter of map amendment has been issued by the Federal Insurance Administration office of FEMA. In areas where no stream profiles exist, the Plan Commission shall consider data jointly submitted by the Department of Natural Resources, the Zoning Administrator and/or the City Engineer, visual on-site inspection and other available information.

17.59 **DEFINITIONS.** See Section 17.44 of this Chapter.

17.60 **ADMINISTRATION, ENFORCEMENT AND PENALTY.** See Section 17.46 of this Chapter.

17.70 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND STATEMENT OR PURPOSE. (1) STATUTORY AUTHORIZATION. This Subchapter is adopted pursuant to the authorization in Sections 62.23, 62.231, 87.30 and 281.31, Wis. Stats.

(2) FINDINGS OF FACT. Uncontrolled use of the shore land-wetlands and the pollution of the navigable waters of the city would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land use; and preserve shore cover and natural beauty.

(3) PURPOSE. This Subchapter is adopted to maintain safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, fish and aquatic life and wildlife habitat; to preserve shore cover and natural beauty; and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner which minimizes adverse impact upon the wetland.

17.71 GENERAL PROVISIONS. (1) COMPLIANCE. The use of wetlands and the alteration of wetlands within the shore land area of the City shall be in full compliance with the terms of this Subchapter and other applicable local, State or Federal regulations. However, see Section 17.73 of this Subchapter for the standards applicable to nonconforming uses. All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Subchapter.

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

(3) ABROGATION AND GREATER RESTRICTIONS. This Subchapter supersedes all the provisions of any municipal zoning ordinance enacted under §§62.23 and 87.30, Wis. Stats., which relate to shore land-wetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Subchapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

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(4) INTERPRETATION. In their interpretation and application, the provisions of this Subchapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Subchapter is required by a standard in Wis. Adm. Code NR 117, and where the provision of this Subchapter is unclear, the provision shall be interpreted in light of the Wis. Adm. Code NR 117 standards in effect on the date of the adoption of this Subchapter or in effect on the date of the most recent text amendment of this Subchapter.

17.72 SHORELAND-WETLAND ZONING DISTRICT. (1) OFFICIAL SHORELAND-WETLAND ZONING MAPS. The following maps are hereby adopted and made a part of this Subchapter and are on file in the office of the City Clerk: (a) Wisconsin Wetland Inventory Map(s), stamped "FINAL" on September 3, 1985.

(b) The Official Zoning Map in accordance with sub. (2) below.

(2) DISTRICT BOUNDARIES. (a) The Shoreland-Wetland Zoning District includes all wetlands in the City which are 5 acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Subchapter in sub. (1) above and which are:

1. Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the City shall be presumed to be navigable if they are listed in the Department publication "Surface Water Resources of Washington County" or are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Subchapter in sub. (1) above.

2. (Rep. & Recr. Ord. #1798 - 2/17/86) Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the flood plain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps covering the City of West Bend or other zoning base maps which have been incorporated by reference and made a part of this Subchapter in sub. (1) above. The Supplementary Floodland Zoning Map, City of West Bend, Wisconsin, dated December 6, 1982; the Flood Insurance Rate Maps and the Flood Boundary and Floodway maps dated August 2, 1982; and the Washington County Soil Survey Maps dated June, 1971, or other existing community flood plain zoning maps used to delineate flood plain areas which have been adopted by the City shall be used to determine the extent of flood plain areas in the City.

(b) Boundaries of lands zoned NSW Non-Shore land Wetland as established in accordance with Section 17.12 (4) (b) of this Chapter.

(c) Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate District Office of the Department for a final determination of navigability or ordinary high-water mark.

(d) When an apparent discrepancy exists between the Shoreland-Wetland District boundary shown on the Official Zoning Map and the actual field conditions at the time the Maps were adopted, the Zoning Administrator shall contact the appropriate District Office of the Department to determine if the Shoreland-Wetland District boundary, as mapped, is in error. If the Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the Official Zoning Map, the Zoning Administrator shall be responsible for initiating an Official Zoning Map amendment within a reasonable period.

(3) PERMITTED USES. The following uses are permitted subject to the provisions of Chs. 30 and 31, Wis. Stats., and the provisions of other local, State and Federal laws, if applicable: (a) Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:

1. Hiking, fishing, trapping, swimming, snowmobiling and boating.
2. The harvesting of wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds in a manner that is not injurious to the natural reproduction of such crops.
3. The practice of silviculture, including the planting, thinning and harvesting of timber.
4. The cultivation of agricultural crops.
5. The construction and maintenance of duck blinds.

(b) Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:

1. The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected.
2. The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries.

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3. The maintenance and repair of existing drainage ditches, where permissible under Section 30.20, Wis. Stats., or of other existing drainage systems, such as tiling, to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Chapter 30, Wis. Stats., and that dredged spoil is placed on existing spoil banks where possible.

4. The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.

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

6. (Am. Ord. #1798 - 2/17/86) The installation and maintenance of sealed tiles for the purpose of draining lands outside the Shore land-Wetland Zoning District, provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shore land-wetland listed in Section 17.75 (3) of this Subchapter.

7. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(c) Uses which are allowed upon the issuance of a Wetland-Shore land Zoning permit and which may include wetland alterations only to the extent specifically provided below:

1. The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under this subsection, provided that:

a. The road cannot, as a practical matter, be located outside the wetland.

b. (Am. Ord. #1798 - 2/17/86) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in Section 17.75 (3) of this Subchapter.

c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.

d. Road construction activities are carried out in the immediate area of the roadbed only.

SHORELAND-WETLAND ZONING 17.72 (3) (c) (1) (e)

e. Any wetland alteration must be necessary for the construction or maintenance of the road.

2. The construction and maintenance of nonresidential buildings provided that:

a. The building is used solely in conjunction with a use permitted in the Shore land-Wetland District or for the raising of water fowl, minnows or other wetland or aquatic animals.

b. The building cannot, as a practical matter, be located outside the wetland.

c. The building does not exceed 500 square feet in floor area.

d. Only limited filling and excavating necessary to provide structural support for the building is allowed.

3. The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

a. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose.

b. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed.

c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in subpar. (c)1. above.

d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

SHORELAND-WETLAND ZONING 17.72 (3) (c) (4)

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

a. The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the wetland.

b. Only limited filling or excavating necessary for such construction or maintenance is allowed.

c. (Am. Ord. #1798 - 2/17/86). Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 17.75 (3) of this Subchapter.

5. The construction and maintenance of railroad lines, provided that:

a. The railroad lines cannot, as a practical matter, be located outside the wetland.

b. Only limited wetland alteration necessary for such construction or maintenance is allowed.

c. (Am. Ord. #1798 - 2/17/86) Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland as listed in Section 17.75 (3) of this Subchapter.

(4) PROHIBITED USES. (a) Any use not listed in sub. (3) above is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Subchapter in accordance with Section 17.75 of this Subchapter.

(b) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed house boat below the ordinary high-water mark of an navigable waters are prohibited.

17.73 NONCONFORMING STRUCTURES AND USES. (Rep. & Recr. Ord. #1798 - 2/17/86). (1) The existing lawful use of a structure, building or property, or its accessory use, which is not in conformity with the provisions of this Subchapter may be continued subject to the following conditions: Notwithstanding §62.23 (7) (h), Wis. Stats., the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure in existence at the time of adoption or subsequent amendment of this Subchapter adopted under §62.231, Wis. Stats., or of an environmental control facility in existence on May 7, 1982, related to that structure, is permitted under §62.231 (5), Wis. Stats. §62.23 (7) (h), Wis. Stats., applies to any environmental control facility that was not in existence on

May 7, 1982, but was in existence on the effective date of this Subchapter or amendment thereto.

(2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this Subchapter.

(3) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Subchapter may be continued although such use does not conform with the provisions of the Subchapter. However, such nonconforming use may not be extended or expanded.

(4) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of §30.121, Wis. Stats.

17.74 ADMINISTRATIVE PROVISIONS. (1) ZONING ADMINISTRATOR. The Zoning Administrator shall have the following duties and powers: (a) Advise applicants as to the provisions of this Subchapter and assist them in preparing permit applications and appeal forms.

(b) (Rep. & Recr. Ord. #1798 - 2/17/86). Issue permits and inspect properties for compliance with this Subchapter.

(c) Keep records of all permits issued, inspections made, work approved and other official actions.

(d) Have access to any structure or premises between the hours of 8 A.M. and 6 P.M. for the purpose of performing these duties.

(e) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation, and map or text amendments, within 10 days after they are granted or denied, to the appropriate District Office of the Department.

(f) Investigate and report violations of this Subchapter to the Plan Commission and the City Attorney.

(2) WETLAND-SHORELAND ZONING PERMITS. (a) When Required. Unless another section of this Subchapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 17.76(4) of this Subchapter, or any change in the use of an existing building or structure is initiated.

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(b) Application. An application for a zoning permit shall be made to the Zoning Administrator upon forms furnished by him, and the following:

1. Site Development Plan. A site development plan shall be drawn to scale and shall contain the following information:

- a. Dimensions and area of the lot.
- b. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways.
- c. Location of any existing or proposed on-site sewage systems or private water supply systems.
- d. Location of the ordinary high-water mark of any abutting navigable waterways.
- e. Location and landward limit of all wetlands.
- f. Existing and proposed topographic and drainage features and vegetative cover.
- g. Location of flood plain and floodway limits on the property as determined from flood plain zoning maps used to delineate flood plain areas.
- h. Location of existing or future access roads.
- i. Specifications and dimensions for areas of proposed wetland alteration.

(c) Expiration (Cr. Ord. #1798 - 2/17/86). All zoning permits issued under the authority of this Subchapter shall expire within one year from the date of issuance.

(3) BOARD OF ZONING APPEALS. (a) Powers and Duties. The Board of Zoning Appeals shall:

1. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Subchapter.

2. (Rep. & Recr. Ord. #1798 - 2/17/86) May authorize, upon appeal in specific cases, a variance from the dimensional standards of this Subchapter which shall not be contrary to the public interest where, owing to special conditions, a literal enforcement of this Subchapter with result in unnecessary hardship. In the issuance of a

variance, the spirit of this Subchapter shall be observed and substantial justice done. No variance from the terms of this Subchapter shall be granted which is contrary to the public interest. The granting of a variance shall not have the effect of granting or extending any use of property which is prohibited in that zoning district by this Subchapter.

(b) Appeals to the Board. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement decision, or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board by filing with the official from whom the appeal is taken, and with the Board a notice of appeal specifying the reasons therefor. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board all the papers constituting the record on which the appeal action was taken.

(c) Public Hearings.

1. Before making a decision on an appeal, the Board of Zoning Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.

2. A copy of such notice shall be mailed to the parties in interest and the appropriate District Office of the Department at least 10 days prior to all public hearings on issues involving shore land-wetland zoning.

(d) Decisions.

1. The final disposition of an appeal to the Board of Zoning Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse or modify the order, requirement decision or determination appealed, in whole or in part, or dismiss the appeal for lack of jurisdiction or prosecution.

2. A copy of such decision shall be mailed to the parties in interest and the appropriate District Office of the Department within 10 days after the decision is issued.

17.75 AMENDMENTS. The Council may, from time to time, alter, supplement or change the district boundaries and the regulations contained in this subchapter in accordance with the requirements of §62.23 (7) (d) 2., Wis. Stats., and the following: (1) A copy of each proposed text or map amendment shall be submitted to the appropriate District Office

of the Department within 5 days of the submission of the proposed amendment to the Plan Commission.

(2) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the Plan Commission, and a public hearing shall be held as required by §62.23 (7) (d) 2., Wis. Stats. The appropriate District Office of the Department shall be provided with written notice of the public hearing at least 10 days prior to such hearing.

(3) (Rep. & Recr. Ord. #1798 - 2/17/86). In order to assure that the amendment will be consistent with the shoreland protection objectives in Section 281.31, Wis. Stats., the Council may not rezone a wetland in a Shoreland-Wetland Zoning District, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following: (a) Storm and floodwater storage capacity;

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

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

(d) Shoreline protection against soil erosion;

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

(f) Wildlife habitat; or

(g) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

(4) Where the District Office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in sub. (3) above, the Department shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment.

(5) The appropriate District Office of the Department shall be provided with: (a) A copy of the recommendations and report, if any, of the Plan Commission on the proposed text or map amendment within 10 days after the submission of those recommendations to the Council.

(b) Written notice of the Council's action on the proposed text or map amendment within 10 days after the action is taken.

(6) If the Department notifies the Plan Commission in writing that the proposed amendment may have a significant adverse impact upon any of the criteria listed in sub. (3) above, the proposed amendment, if approved by the Council, may not become effective until more than 30 days have elapsed since written notice of the Council approval was mailed to the Department, as required by sub. (5) above. If within the 30 day period, the Department notifies the Council that the Department intends to adopt a superseding shore land-wetland zoning ordinance for the city under §62.231 (6), Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under § 62.231 (6), Wis. Stats., is completed or otherwise terminated.

17.76 DEFINITIONS. The terms used in this Subchapter shall be defined as follows: (1) ACCESSORY STRUCTURE OR USE. A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

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

(3) DEPARTMENT. The Wisconsin Department of Natural Resources.

(4) DEVELOPMENT. Any man-made 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 substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

(5) DRAINAGE SYSTEM. One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

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

(7) FIXED HOUSEBOAT. As defined in Section 30.121 (1), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spud poles attached to the bed of the waterway.

(8) NAVIGABLE WATERS. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under §281.31 (2) (d), Wis. Stats., notwithstanding any other provision of ordinances required under §62.231, Wis. Stats., and Wis. Adm. Code NR 117 do not apply to lands adjacent to farm drainage ditches if: (a) Such lands are not adjacent to a natural navigable stream or river.

(b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching.

(c) Such lands are maintained in nonstructural agricultural use.

(9) ORDINARY HIGH-WATER MARK. The point on the bank or shore up to which the presence and action of surface water is so continuous so 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.

(10) REGIONAL FLOOD. A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur or be exceeded on a particular stream because of like physical characteristics once in every 100 years.

(11) SHORELANDS. Lands within the following distances from the ordinary high-water mark of navigable waters; 1,000 feet from a lake, pond or flowage; and 300 feet from the river or stream or to the landward side of the flood plain, whichever distance is greater.

(12) SHORELAND-WETLAND DISTRICT. The zoning district created in this Subchapter comprised of shore lands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Subchapter as described in §17.72 (2) of this Subchapter.

(13) UNNECESSARY HARDSHIP. That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Subchapter.

(14) VARIANCE. An authorization granted by the Board of Zoning Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Subchapter.

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(15) WETLAND. Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

(16) WETLAND ALTERATION. Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

17.77 ADMINISTRATION, ENFORCEMENT AND PENALTIES. See Section 17.46 of this Chapter.