Title 18

ZONING CODE

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Chapter 18.01

TITLE

Sections:

18.01.010 Short Title.
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18.01.010 Short Title. This title shall be known and may be cited as the Zoning Code. (Ord. 5037, 1990).

18.01.020 Purpose. The purpose of the zoning code is to protect the public health, safety, and welfare; implement and achieve the policies and goals of the city's comprehensive plan; provide adequate light and air; prevent the overcrowding of land; secure safety from fire, panic, and other dangers; and lessen congestion in the streets; encourage efficiency and economy in the use and development of land; facilitate adequate provisions for transportation, water, sewage, schools, parks, and other public requirements; and allow for the development of residential, commercial, and industrial areas which function in an orderly and harmonious manner, both internally and in relation to each other, and which promote the convenience and prosperity of the citizenry. (Ord. 5037, 1990).

18.01.030 Authority. This title is created pursuant to authority under Section 62.23(7) Wisconsin Statutes. (Ord. 5037, 1990).

18.01.040 Conformity to Comprehensive Plan. The regulations and restrictions established herein are intended to implement the purpose of this title and the goals of the comprehensive plan. (Ord. 5037, 1990).

Chapter 18.02

DEFINITIONS

Sections:

18.02.010 General Interpretations.
18.02.020 Definitions.

18.02.010 General Interpretations. For the purpose of this title, the following rules shall apply:

A. The word "including" means "including but not limited to".

B. The word "shall" is always mandatory and not discretionary.

C. The word "building" includes the word "structure"; and the word "dwelling" includes the word "residence". A "building" or "dwelling" includes any part thereof.

D. The words "used" or "occupied" include the words "intended", "designed", or "arranged" to be used or occupied.

E. The word "lot" includes the words "plot" and "parcel".

F. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either... or", the conjunction shall be interpreted as follows:

1. "and" indicates that all connected items, conditions, provisions, or events shall apply;

2. "or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination;

3. "either... or" indicates that the connected items, conditions, provisions, or events shall apply singularly but not in combination.

G. Whenever a reference is made to several sections and the section numbers are connected by the word "to", the reference includes both sections whose numbers are given and all intervening sections. (Ord. 5037, 1990).

18.02.020 Definitions. A. For the purpose of this title, the following words shall have the following meaning:

1. Adult Book Store. An establishment having as a predominant portion of its stock in trade, books, magazines and other periodicals, or video cassettes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein).

2. Adult Cabaret. A nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas or which regularly feature films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons. An adult cabaret does not include theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

3. Agricultural Uses. The growing of crops and raising of domestic animals but not including commercial dairies, commercial dog kennels, commercial hatcheries, commercial feeding of animals, and commercial mink, fox and other fur-bearing animal farms.

4. Agricultural Uses, Commercial. Includes commercial dairies, commercial kennels, and commercial hatcheries but not including commercial feeding of animals and commercial mink, fox and other fur bearing animal farms.

5. Alley. Any legally established public right-of-way less than 30 feet in width, but more than 10 feet in width, and affording only a secondary means of access to abutting property.

5m. Antenna. Any structure or device used for the purpose of collecting or radiating electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whips.

6. Arcade. A center for entertainment purposes composed of electronic pinball machines and other electric games. Alcoholic beverages or food service account for less than fifty percent of the total gross revenue.

7. Basement. That portion of a building which lies wholly or partially below grade where the vertical distance from grade to the ceiling above it is less than the vertical distance from grade to the floor immediately below.

8. Bed and Breakfast House. A dwelling in which less than ten guest rooms are provided for occupancy for compensation by transient guests.

9. Block. That property abutting on one side of a street and lying between the nearest intersecting or intercepting streets or nearest intersecting or intercepting street and railroad right-of-way, waterway or other barrier to or gap in the continuity of development along such street.

10. Board. The zoning board of appeals created under chapter 18.55.

11. Building. A structure having a roof supported by columns or walls.

12. Building, Accessory. A subordinate building the use of which is incidental to that of the main building on the same lot.

13. Building Height. The vertical distance from the grade to that point midway between the top plate and the peak or for mansard roof or gambrel roof as illustrated below. For accessory buildings, the height shall be measured to the highest point of the building.

(Drawing)

14. Building, Main. A building in which is conducted the principal use of the lot on which it is situated (includes attached garage).

15. Campground. Land or premises used or occupied, for compensation, by campers traveling by automobile or otherwise, or occupied by trailers or movable dwellings, rooms or sleeping quarters of any kind.

16. Car Wash. A building, or portion thereof, where automobiles or other motor vehicles are automatically or manually washed regularly as a business.

16m. Catering Business. An establishment engaged in the preparation of food for off-premise consumption at a banquet or similar event.

17. Central Business District. An area as defined in the Eau Claire Central Business District Plan, adopted by Council on May 26, 1982, which is incorporated herein by reference. A copy thereof is on file with the department and open to public inspection during normal business hours. The central business district contains the highest concentration of commercial and office activities.

18. Clinic. A facility for the reception and treatment of persons physically or mentally ill, injured, handicapped or otherwise in need of physical or mental diagnosis, treatment, care or similar service.

19. Commercial Recreation Use. Includes archery ranges, bowling alleys, dance halls, arcades, golf driving ranges, miniature golf courses, pool halls, swimming pools, skating rinks, indoor theaters and other similar amusement facilities not considered major event entertainment.

20. Commission. The City of Eau Claire Plan Commission.

21. Common Open Space. All land which is intended and reserved for the common use and enjoyment of the residents of a development.

22. Comprehensive Plan. The plan elements adopted by the commission and certified by the council pursuant to Wis. Stats. 62.23(3).

23. Conditional Use. Any building, structure, and use which, on and after the effective date of this title complies with the applicable regulations and standards governing conditional uses of the zoning district in which such building, structure, and use is located and for which a permit is granted under Chapter 18.35.

24. Council. The City of Eau Claire City Council.

25. Day Care Center. Any licensed facility where a person, other than a relative or guardian, provides, for compensation or consideration, care and supervision for more than 8 children under seven years of age, for less than 24 hours a day.

26. Day Care Center, Adolescent. Any facility where any person, other than a relative or guardian, provides for compensation or consideration, care and supervision for more than three persons who are 7 years of age to 18 years of age, for less than 24 hours a day.

27. Day Care Centers, Adult. Any facility where a person, other than a relative or guardian, provides for compensation or consideration or both, care and supervision for three or more adults 18 years of age and older, who require such care and supervision due to age, handicap or other infirmity, for less than 24 hours a day.

28. Day Care Home, Family. A dwelling licensed as a day care center by the department of health and social services under section 48.65, Wisconsin Statutes, where care is provided for not more than 8 children.

29. Department. The City of Eau Claire Department of Community Development.

30. Developable Land. Land which is not restricted by regulations or natural limitations (such as floodplains, steep slopes, high ground water, or other factors) from being developed.

31. Development or Develop. Includes the construction of any new building or other structures on a lot, the relocation of any existing buildings on another lot, or the use of a tract of land for any new use. To develop is to create a development.

32. Director. The Director of the Department of Community Development.

33. Dwelling, Multiple. A building containing three or more dwelling units.

34. Dwelling, One-Family. A detached building containing one dwelling unit and meeting the applicable standards of section 18.20.220 B. herein.

35. Dwelling, Two-Family. A building containing two dwelling units.

36. Dwelling Unit. A room or a group of rooms including cooking accommodations, occupied by one family, and in which not more than two persons, other than members of the family, are lodged or boarded for compensation at any one time.

37. Essential Services. The erection, construction, alteration or maintenance by public utilities or by governmental departments or commissions of such underground or overhead gas, electrical, steam, or water transmission or distribution systems and structures, collection, communication, supply or disposal systems and structures, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, streetlights, traffic signals, hydrants and other similar equipment, and accessories in connection therewith, but not including public utility facilities,
communication structures or buildings as are reasonably necessary for the furnishing of adequate service by such public utilities or governmental departments or commissions or as are required for protection of the public health, safety or general welfare.

38. Family. One or more persons, who are related to each other by blood, marriage, adoption or legal guardianship, occupying a dwelling unit.

39. Garage, Private. An accessory building or portion of a main building (but not to exceed 4 parking stalls) on the same lot and used for the storage only of private passenger motor vehicles.

40. Garage, Public. A building or portion of a building, other than a private garage or a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire, in which any sale of gasoline, oil and accessories is only incidental to the principal use.

41. Garage, Repair. A building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

42. Grade. The average elevation of the finished ground at the exterior walls of the main building.

43. Guestroom. A room occupied by one or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory used primarily for sleeping purposes.

44. Home Occupation. Any occupation customarily conducted for gain or support entirely within a dwelling or accessory building by a member or members of a family while residing in said dwelling, and which is clearly incidental and secondary to the residential use of the premises and does not change the character thereof.

45. Hospital. An institution for the reception and treatment of the physically or mentally handicapped, sick or injured, and having in-patient facilities. It may also be an institutional sanctuary for the reception of the aged, or for the physically or mentally ill, retarded, infirm or deficient. Permitted accessory uses shall include medical and psychiatric clinics, doctors' offices, sale of medical and surgical specialties and supplies, crutches, artificial members and appliances, training in the use of artificial members and appliances, patient and out-patient services, alcoholic centers, pharmacies, those hospital related uses instituted and carried on as shared services pursuant to appropriate agreements with other health care providers, and similar uses; provided, however, that any such accessory use is so related to the principal use as to be in fact an integral part of the total purpose and is incorporated within the same building or building complex; and provided further, that the floor area occupied by all accessory uses does not exceed one-third of the total floor area. Hospital related x-ray and laboratory facilities shall not be considered accessory uses in computation of area occupancy.

46. Junkyard. Any area used for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials or goods, or used for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery, or parts thereof.

47. Lodging House. A dwelling wherein lodging or meals for three persons, not members of the principal family therein, is provided for compensation.

48. Lot. The entire parcel of land occupied or to be occupied by a main building and its accessory buildings, or by a group of buildings, including the yards and open spaces required therefore by this title and other applicable law.

49. Lot, Corner. A lot abutting on two intercepting or intersecting streets where the interior angle of intersection or interception does not exceed one hundred thirty-five degrees.

50. Lot Depth. The average depth from the front line of the lot to the rear line of the lot.

51. Lot, Flag. A lot which has a minimum of 25 feet of frontage on a street, which is reached via a private drive or lane through the "pole" portion of the lot and whose dimensional standards some distance back from the street right-of-way meets all the standards of this title. Example of a flag lot:

(Drawing)

52. Lot, Front. The lot line separating the lot from the principal street on which it fronts.

53. Lot, Interior. A lot other than a corner lot.

54. Lot, Through. A lot having its front and rear lines on different streets, or having its front or rear line on a street and the other line on a river, lake, creek or other permanent body of water.

55. Lot Width. The width of a lot, measured at a distance back from the front line equal to the required minimum front yard setback.

(Drawing)

56. Manufactured Homes. A structure or structures certified and labeled as a manufactured home under 42 U.S.C. secs. 5401 to 5406, built since June 15, 1976, that bears a seal indicating it has met the mobile home construction and safety standards of the United States Department of Housing and Urban Development (HUD standards), is used as a permanent dwelling, and meets the criteria established in section 18.20.220 of this title.

57. Mobile Home. A unit designed to be towed or transported and used as a residential dwelling, but does not include a unit used primarily for camping, touring, or recreational purposes.

58. Mobile Home Park. Means any tract of land containing 2 or more sites. "Sites" means any plot of land which is rental or offered for rental for the accommodations of a mobile home used for residential purposes. It does not include a plot of land rented for the accommodation of a mobile home which is: 1) occupied on a strictly seasonal basis; or 2) owned by the operator and occupied as a residence.

59. Mobile Home Stand. That part of a parcel of land (mobile home site) in a mobile home park which has been reserved for the placement of one mobile home unit and shall include all attachments and additions to such mobile home.

60. Model Home. A single-family residential dwelling which is temporarily used for the purpose of sale and demonstration of the dwelling, or similar dwellings, and may include office space in connection therewith.

61. Motel. A building or portion thereof in which ten or more guestrooms are provided for occupancy for compensation by transient guests. Transient extended-stay guests are permitted for up to 180 days provided that any rooms so used are maintained by the motel owner or operator to applicable health and safety standards. Provisions for cooking may be allowed, provided such cooking devices are provided by the motel owner or operator and are maintained in accordance with health, fire, and safety codes.

62. Nonconforming Lot. A lot of record which was lawfully created prior to January 1, 1981, and does not conform to the lot area or dimensional standards for the district in which it is located.

63. Nonconforming Structure. A structure which conforms to this title with respect to use but not with respect to the design and dimensional standards or other minimum facilities requirements for the district in which it is located.

64. Nonconforming Use. Any use of a building, structure, land or water which was lawfully used, occupied or erected at the time of the effective date of this title, or amendments thereto, which does not conform to the regulations of this title or amendments thereto.

65. Outdoor Recreational Premises. Includes clubs and grounds for hunting, swimming, tennis, boating, horse riding, skiing and other sports. Accessory clubhouses, maintenance buildings and buildings for shelter and keeping of horses shall be located not less than 200 feet from any lot in a residential district.

66. PD Perimeter. An area of land lying immediately within the perimeter of a PD where lot sizes, housing types, setbacks, lot dimensions and building heights must be substantially similar to existing or planned land uses which are immediately outside the PD. The existence and exact location of the PD perimeter shall be determined by the council.

66m. Personal Wireless Communication Services. Licensed commercial wireless communication services, including cellular, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging, and similar services.

67. Planned Development (PD). A land development project comprehensively planned as an entity through a unitary general development plan which permits flexibility in building siting, mixture of housing types and land uses, usable open spaces, and the preservation of significant natural features.

68. Project Density. The number of dwelling units per gross acre of developable land, including existing or planned dedicated rights-of-way.

69. Public Purposes. Includes roadways, rights-of-way, schools, bikeways, bus facilities, parks, libraries, fire stations or other public uses.

70. Public Utility. Any person, or municipal department or board duly authorized to furnish and furnishing under public regulation, to the public, electricity, gas, heat,
power, cable TV, steam, telephone, telegraph, transportation, water or sewerage services.

71. Public Utility Facilities. Includes electrical substations; microwave and radio relay structures and radio and television towers; railroad rights-of-way (not including railroad yards); telephone exchanges and transmission equipment buildings; privately owned sewerage system lift stations, water pumping stations, or water reservoirs; or other similar uses not considered essential services.

71m. Public Utility Tower. Any pole, spire, structure or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna or similar apparatus above grade and used by any person, corporation or government supplying personal wireless communication or similar service to the general public.

72. Recycling Facilities. Includes the following four types of facilities:

a) Reverse Vending Machine - A mechanical device that accepts one or more types of empty beverage containers and issues a cash refund. There are two types of reverse vending machines: single-fed and bulk-fed. Single-fed machines resemble soda vending machines in size and appearance and will be considered accessory to commercial or industrial uses in administration of this title. Bulk reverse vending machines are larger and accept several containers at once. Because of their larger size, parking lot location, and noise; bulk vending machines will be treated as small collection facilities in this title.

b) Small Collection Facilities - These facilities are smaller than 300 square feet in size and are intended for collection only. Such facilities have room for limited day-to-day storage of material, and do not include power-driven processing equipment except as part of bulk reverse vending machines. These facilities are typically an accessory use on a site and will require approval of a certificate of zoning compliance.

c) Large Collection Facilities - Such facilities will typically involve buying or accepting material from the public, moving it to a shipping container and storing it until there is enough for a shipment. These facilities are larger than 300 square feet in size and most likely are the principle use of the building on site, rather than an accessory use. These facilities have capacity for aggregating and storing large amounts of materials on site in preparation for shipping to processing facilities.

d) Processing Facilities - A building or enclosed yard used for the collection and processing of recyclable materials. Processing means the preparation of materials for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, or remanufacturing.

73. Roominghouse. Any dwelling or that part of any dwelling containing one or more rooming units, and/or one or more dormitory rooms. For the purpose of this code, "roominghouse" includes a dwelling unit occupied by more than four persons who are not legally related. "Rooming unit" means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking purposes. "Dormitory" means a room in any dwelling used for sleeping purposes by four or more unrelated persons.

74. Service Station. A retail station for the servicing of automobiles and other motor vehicles which includes the retail sale of gasoline, oil, grease and other automobile accessories, and, when accessory to the conduct thereof, the cleaning, lubricating and similar servicing of automobiles or other motor vehicles, but not including body repairs, spray painting or major mechanical repair, maintenance, or overhauling.

75. Solar Array. An accessory system or device that is roof-mounted or ground-mounted with poles or racks used to collect radiant energy directly from the sun for use in a solar collector's energy transformation process.

76. Solar Collector. A device, structure, or part of device, the substantial purpose of which is to transform solar energy into thermal, mechanical, chemical, or electrical energy.

77. Solar Farm. An array of multiple solar collectors on ground-mounted racks or poles that transmit solar energy and is the primary land use for the parcel on which it is located.

78. Specified Anatomical Areas. a) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; b) human male genitals in a discernible turgid state even if completely and opaquely covered.

79. Specified Sexual Activities. a) Human genitals in a state of sexual stimulation or arousal; or b) acts of human masturbation, sexual intercourse or sodomy; or c) fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

80. Story. That portion of a building included between the surface of a floor and the surface of a floor next above it, or if there is no floor above it, then the portion of the building between the surface of a floor and the ceiling or roof above it. A basement shall be counted as a story for the purposes of height regulations if the vertical distance from grade to the ceiling next above it is greater than distance from the grade to the basement floor.

81. Story, Half. The topmost story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

(Drawing)

82. Street. A public thoroughfare which affords the principal means of access to abutting property.

83. Structural Alteration. Any change, addition or modification in construction in the supporting members of a building, such as but not limited to, exterior walls, bearing walls, beams, columns, foundations, girders, floor joists, roof joists, rafters or trusses.

84. Structure. Anything constructed or erected having location on or under the ground or attached to something having location on or under the ground.

85. Tavern. Characteristics. An establishment that, as its principal business, sells alcoholic beverages for consumption on premises, although off-premise sales of sealed containers of alcohol may also occur at taverns with the appropriate license. While a tavern may serve food, it is distinguished from a restaurant in that its principal business is sale of alcohol as opposed to the preparation, service, or sale of food as indicated by such factors as: a majority of gross and net income from alcohol sales or service; closing hours are at or near statutory closing hours for licensed establishments under Wis. Stats. Chapter 125; predominant allocation of staffing and staff time to alcohol sales service, and security as compared to food preparation and service; prominent use of the premise for bars, bar seating, display of alcohol and its advertisement, and alcohol service; and the name, appearance, and advertising of the entity.

86. Transient Guest - Any person who shares a guest room in a non-permanent status for not more than 30 days.

87. Use. The purpose for which land or a building or structure thereon is designed, arranged, intended or maintained or for which it is or may be used or occupied.

88. Use, Accessory. A subordinate use on the same lot with the principal use and incidental and accessory thereto.

89. Wind Energy Conversion System. A machine or mechanism that converts the kinetic energy in the wind into a usable form of electrical or mechanical energy, such as but not limited to, a wind charger, wind turbine or windmill.

90. Yard. An open space, other than a court, on the same lot with a building. (See also definition for lot.)

91. Yard, Front. A yard extending across the full width of a lot and having a depth equal to the shortest distance between the front line of the lot and the nearest portion of the main building, including an enclosed or covered porch, provided that the front yard depth shall be measured from the future street line for a street on which a lot fronts, when such line is shown on the official map or is otherwise established.

92. Yard, Rear. A yard extending across the full width of a lot and having a depth equal to the shortest distance between the rear line of the lot and the main building.

93. Yard, Side. A yard between the side line of the lot and the main building extending from the front yard to the rear yard and having a width equal to the shortest distance between said side line and the main building.

94. Zoning District Overlay. That zoning classification attached to a given area of land which establishes requirements additional to or in place of those set forth in the underlying zoning district. Examples of overlay zoning districts include but are not limited to, the planned development overlay district, the highway overlay district, the floodplain district and shoreland-wetlands district.

95. Zoning District, Underlying. That zoning classification attached to a given area of land which establishes the permitted and conditional uses to which said land area can legally be put. Examples of underlying zoning districts include but are not limited to, the R-1, C-2, and I-1 districts. (Ord. 7212 §1, 2016; Ord. 6950, 2011; Ord. 6754 §1, 2007; Ord. 6218, 2001; Ord. 6192, 2001; Ord. 5955 §1, 1999; Ord. 5872 §1, 1998; Ord. 5446 §1, 1994; Ord. 5280 §10, 1992; Ord. 5037, 1990).

Chapter 18.03

ZONING DISTRICTS AND MAPS

Sections:

18.03.010 Districts Established.
18.03.020 Zoning Districts Map.
18.03.030 Interpretations of District Boundaries.
18.03.040 Application of Regulations.
18.03.050 Scope of Provisions.
18.03.060 Interpretation and Conflict.
18.03.070 Severance Clause.
18.03.080 Vested Right.
18.03.090 Repeal.

18.03.010 Districts Established. For the purpose of this title, the city is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

R-1A - Non-Sewered One-Family District
R-1 - One-Family District
R-2 - One- and Two-Family District
R-M - Mixed Residential District
R-3 - Low-Rise Multiple-Family District
R-4 - High-Rise Multiple-Family District
R-1B - Mobile Home Park District
C-1A - Office/Professional District
C-1 - Limited Neighborhood Shopping District
C-2 - Neighborhood Shopping District
C-3 - Community Shopping District
CBD - Central Business District
I-1 - Light Industrial District
I-2- Heavy Industrial District
P - Public Properties District
CV - Conservancy District
H - Highway Overlay District
PD - Planned Development Overlay District
F - Flood Plain Overlay District
W - Shoreland-Wetlands Overlay District (Ord. 5037, 1990).

18.03.020 Zoning Districts Map. The boundaries of the respective districts enumerated in section 18.03.010 are defined and established as depicted on the official zoning map for the City of Eau Claire. Such map, with all its notations and explanatory manner thereon, is adopted herein, and made an integral part of this title as if fully described herein. One copy of the official zoning map shall be maintained and kept up-to-date by the Department, accessible to the public and shall be the final authority as to the current zoning status of properties in the city. (Ord. 5037, 1990).

18.03.030 Interpretation of Districts Boundaries. For determination of the boundaries of the districts shown on the district map, the following rules shall apply:

A. Where such boundaries are indicated as following or approximately following street and alley lines, such street and alley lines shall be construed to be such boundaries. Areas within established lakes, waterways and canals are in P districts.

B. Where such boundaries are indicated as following or approximately following lot lines or property lines, such lot lines or property lines shall be construed to be such boundaries.

C. In unsubdivided property or where a district boundary divides a lot or parcel of property, the location of any such boundary, unless the same is indicated by dimensions shown on the district map, shall be determined by use of the scale appearing on such map.

D. The board shall, upon application or upon its own motion, determine the location of boundaries in cases where uncertainty exists.

E. Upon vacation of a street, each portion of such vacated street which attaches to adjoining land is herewith zoned the same as the land to which it attaches. (Ord. 5037, 1990).

18.03.040 Application of Regulations. The regulations herein established within each district shall be the minimum regulations for promoting and protecting the public health, safety and general welfare, and shall be uniform for each class of land or buildings and structures throughout each district. (Ord. 5037, 1990).

18.03.050 Scope of Provisions. A. Except as may otherwise be provided in this title, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of, or addition to an existing use, building and structure occurring after the effective date of this title (April 16, 1990) shall be subject to all regulations of this title which are applicable to the district in which such use, building, or structure shall be located.

B. Uses are allowed by right only if specifically listed or determined as a permitted, accessory or conditional use in the various zoning districts. Where not specifically listed or determined as permitted, accessory or conditional uses, uses are thereby prohibited.

C. Accessory uses are permitted as indicated for the various zoning districts or if such uses are clearly incidental and customarily accessory to the permitted uses.

D. Conditional uses are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, activity, etc.) as necessitating individual standards and conditions in order to safeguard the general health, safety, and welfare of the community and surrounding property.

E. No part of a setback area, or other open space, or off-street parking or loading space required about or in connection with any use, building or structure, for the purpose of complying with this title, shall be included as part of a setback area, open space, or off-street parking or loading space similarly required for any other use, building or structure.

F. No setback area or lot existing at the time of adoption of this title shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards and lots created after the effective date of this title shall meet at least the minimum requirements established herein.

G. No portion of a lot, once established or improved with a building or structure shall be sold unless each lot resulting from each such reduction, division, or sale, shall conform with all requirements established herein. (Ord. 5037, 1990).

18.03.060 Interpretation and Conflict. A. In interpreting and applying the provisions of this title, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, and general welfare. Unless specifically provided for, it is not intended by this title to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this title imposes a greater restriction upon the use of buildings or land than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this title shall control. (Ord. 5037, 1990).

18.03.070 Severance Clause. A. If any court declares invalid the application of any provision of this title to a particular parcel, lot, use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot, use, building or structure not specifically included in said ruling. (Ord. 5037, 1990).

18.03.080 Vested Right. A. Nothing in this title shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare. (Ord. 5037, 1990),

18.03.090 Repeal. A. All ordinances and amendments heretofore enacted by the city, including Title 18, "Zoning" and chapter 16.16, "Sign Code", and all ordinances and parts of ordinances inconsistent with the provisions of this title are hereby repealed as of the effective date of this title (April 16, 1990).

B. The repeal of existing ordinances or parts of ordinances and their amendments does not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time it was enforced, prosecuted or inflicted. (Ord. 5037, 1990).

Chapter 18.04

RESIDENTIAL DISTRICTS

Sections:

18.04.010 Purpose.
18.04.020 Establishment of Districts.
18.04.030 Establishment of Uses.
18.04.040 Design and Dimensional Standards.

18.04.010 Purpose. This chapter is established in order to reserve adequate land for residential development and use; to encourage the development of a variety of housing types which meet the needs of present and future city residents; to ensure compatibility among various densities and features of development; and to encourage urban scale housing development where adequate public facilities and services can be provided; all in accordance with the comprehensive plan. (Ord. 5037, 1990).

18.04.020 Establishment of Districts. A. R-1A Non-Sewered One-Family District. The non-sewered one-family district is established in order to provide for very low urban density areas of one-family homes without public sewer service. The non-sewered one-family district is intended to be used only for those areas in which the provision of public sewer service is not readily available.

B. R-1 One-Family District. The one-family district is established in order to provide for the development and maintenance of one-family, detached homes in areas of moderately low urban density.

C. R-2 One- and Two-Family District. The one- and two-family district is established in order to provide for the development and maintenance of one-family homes and two-family homes, and to encourage land-efficient, energy-efficient, and affordable family housing.

D. RM Mixed Residential District. The mixed residential district is established to provide for the development and maintenance of a compatible mixture of small single-family homes, two-family homes, townhomes, garden apartments, and small apartment buildings; and to encourage moderately dense development which is compatible with existing and future single-family development, in either older neighborhoods or developing areas.

E. R-3 Low-Rise Multiple-Family District. The low-rise multiple-family district is established to provide for the development and maintenance of moderately dense multiple-family housing, in either older neighborhoods or developing areas. The density and height restrictions of the low-rise multiple-family district are intended to allow for the compatibility of these areas with adjacent lower density residential areas.

F. R-4 High-Rise Multiple-Family District. The high-rise multiple-family district is established to provide for the development and maintenance of high rise (3 or more floors), high density residential uses in a limited number of areas of the city. (Ord. 5037, 1990).

18.04.030 Establishment of Uses. A.

P Permitted Use: Any use with a P designation shall be considered a permitted use within the district under which it is listed in the table in subsection B, subject to all applicable requirements of this title.

A Accessory Use: Any use with an A designation shall be considered an accessory use within the district under which it is listed in the table in subsection B, subject to all applicable requirements of this title and the specific standards identified in 18.30.

C Conditional Use: Any use with a C designation shall be considered a conditional use within the district under which it is listed in the table in subsection B, subject to all applicable requirements of this title and the specific standards identified in 18.35.

-- Prohibited Use: Any use with a -- designation shall be considered a prohibited use within the district under which it is listed in the table in subsection B.

B. The following symbols shall have the meaning of the term indicated, as used in the following table:

P : Permitted Uses
A : Accessory Uses (See 18.30)
C : Conditional Uses (See 18.35)
--: Prohibited Use

		R-1A	R-1	R-2	RM	R-3	R-4
1.	Accessory dwelling unit, detached	A	A	A	--	--	--
2.	Agricultural uses (see definition) P	--	--	--	--	--	
3.	Agricultural uses, commercial (see definition)	C	--	--	--	--	--
4.	Antennas or satellite dishes, private	A	A	A	A	A	A
5.	Antennas or satellite dishes, private (in excess of accessory use standards)	C	C	C	C	C	C
6.	Bed and breakfast house	C	C	C	C	C	C
7.	Cemeteries	C	C	C	C	C	C
8.	Christmas tree sales	C	C	C	C	C	C
9.	Churches, parish houses and convents	P	P	P	P	P	P
10.	Damaged Landmarked Properties	C	C	C	C	C	C
11 .	Day care center	C	C	C	C	C	C
12.	Day care center, adolescent	C	C	C	C	C	C
13.	Day care center, adult	C	C	C	C	C	C
14.	Day care home, family	A	A	A	A	C	C
15.	Dwelling, conversion of one-family to duplex	--	--	C	P	P	P
16.	Dwelling, conversion of one-or two-family to 3-6 unit	--	--	C	P	P	P
17.	Dwelling, conversion of one-family to duplex on lots 6,000-8,000 square feet in size	--	--	--	C	P	P
18.	Dwellings, One-Family	P	P	P	P	C	C
19.	Dwellings, Two-Family	--	--	P	P	P	C
20.	Dwellings, 3-8 Unit	--	--	--	P	P	P
21.	Dwellings, 9+ Unit	--	--	--	C	P	P
22.	Essential services (see definition)	A	A	A	A	A	A
23.	Fences	A	A	A	A	A	A
24.	Fraternity or sorority house	--	--	--	C	C	C
25.	Garage, private (see Chapter 18.30)	A	A	A	A	A	A
26.	Garage, private (see Chapter 18.35)	C	C	C	C	C	C
27.	Golf courses	C	C	C	C	C	C
28.	Greenhouse, accessory	A	A	A	A	A	A
29.	Greenhouse, commercial	C	--	--	--	--	--
30.	Home occupations	C	C	C	C	C	C
31.	Horses	A	--	--	--	--	--
32.	Hospitals, sanitariums, nursing homes	--	--	--	--	--	C
33.	Lodging house (see chapter 18.20)	--	--	--	P	P	P
34.	Manufactured homes (see 18.20)	P	P	P	P	C	C
35.	Medical and dental clinics	--	--	--	--	--	C
36.	Model home	C	C	C	C	C	C
37.	Mortuaries	C	C	C	C	C	C
38.	Motels	--	--	--	--	--	C
39.	Museums, libraries	C	C	C	C	C	C
40.	Off-street parking facility, non-accessory	C	C	C	C	C	C
41.	Outdoor recreational premises (see definition)	C	C	C	C	C	C

P : Permitted Uses
A : Accessory Uses (See 18.30)
C : Conditional Uses (See 18.35)
--: Prohibited Use

		R-1A	R-1	R-2	RM	R-3	R-4
42.	Outdoor storage areas, accessory to apartments	--	--	--	C	C	C
43.	Parks and playgrounds	P	P	P	P	P	P
44.	Pigeon Lofts	P*	P*	P*	C	C	C
45.	Professional offices	--	--	--	--	--	C
46.	Public utility facilities (see definition)	C	C	C	C	C	C
46m.	Public utility tower (see Chapter 18.35)	C	C	C	C	C	C
47.	Rooming house (see Chapter 18.20)	--	--	--	C	C	C**
48.	Schools, colleges and universities	C	C	C	C	C	C
49.	Signs (see Chapter 16.16)	A	A	A	A	A	A
50.	Solar Array	A	A	A	A	A	A
51.	Solar Farm	C	C	C	C	C	C
52.	Swimming pools, private	A	A	A	A	A	A
53.	Temporary construction buildings (see chapter 18.20)	A	A	A	A	A	A
54.	Temporary real estate office	A	A	A	A	A	A
55.	Wind energy conversion systems	C	C	C	C	C	C

*See section 18.35.050 O., requiring a conditional use permit under certain circumstances.
Any other use not specifically listed above shall be a prohibited use.
**See Section 18.20.180 for standards for conversion of one-family dwellings to Rooming Houses.
(Ord. 7212 §2, 2016; Ord. 7156 §1, 2015; Ord. 6929 §1, 2010; Ord. 5872 §2, 1998; Ord. 5454 §1, 1994; Ord. 5446 §2, 1994; Ord. 5207 §6, 1992; Ord. 5037, 1990).

18.04.040 Design and Dimensional Standards. A. The following lot, setback, lot coverage and building height requirements shall be the minimum required (except as otherwise stated) as contained in the following table for the district as indicated:

		R-1A	R-1	R-2	RM	R-3	R-4
1.	Lot area (sq. ft.)	25,000	8,000	6,000	6,000	6,000	6,000
2.	Lot area, two-family dwelling (sq. ft.)	n/a	n/a	10,000	8,000	6,000	6,000
3.	Lot area/3 or 4 family dwelling (sq. ft.)	n/a	n/a	n/a	10,000	8,000	6,000
4.	Lot area/additional dwelling unit over 4 (sq. ft.)	n/a	n/a	n/a	3,000	2,000	1,000
5.	Lot width* (ft.)	150	60	60	60	60	60
6.	Front yard setback* (ft.)	30	30	30	20	20	20
7.	Side yard setback* (ft.)	8[1]	8[1]	8[1]	8[1]	8[1]	8[1]
8.	Rear yard setback* (ft.)	25[2]	25[2]	25[2]	20	20	20
9.	Side street setback* (ft.) See Chapter 18.20						
10.	Max. lot coverage (%)*	15	30	30	35	35	35
11.	Max. “improved surface” lot coverage (%)	30	40	40	50	50	50
12.	Building height* (ft.)	35	35	35	35	45	120
13.	Building height, detached accessory structures* (ft.)	18	18	18	18	18	18

*For exceptions and modifications to these standards, see 18.20. For accessory building setbacks and other standards see 18.30.030.
[1]10' for buildings other than 1- or 2-family dwellings. For any building greater than 35' or 2 stories in height, add 1' to each side yard for every 4' above such height.
[2]50' for buildings other than those containing dwelling units.
(Ord. 6672 §1, 2006; Ord. 6685 §2, 2006; Ord. 5037, 1990).

Chapter 18.05

COMMERCIAL DISTRICTS

Sections:

18.05.010 Purpose.
18.05.020 Establishment of Districts.
18.05.030 Establishment of Uses.
18.05.040 Definition of General Uses.
18.05.050 Design and Dimensional Standards.
18.05.060 General Restrictions.

18.05.010 Purpose. This chapter is established in order to reserve adequate land for commercial development and use; to identify appropriate locations and uses for the various types of commercial districts within the city; to protect the health, safety and welfare of the public; and to implement the comprehensive plan. (Ord. 5037, 1990).

18.05.020 Establishment of Districts. A. C-1A Office/Professional District. The C-1A district is established to accommodate those office and professional uses which are specifically compatible to one another and often located separate from the convenience and variety retail uses. It is intended that the uses permitted in this district shall be located and designed so as to be in harmony with adjacent residential uses.

B. C-1 Limited Neighborhood Shopping District. The C-1 district is established to accommodate the shopping needs of residents living in adjacent residential areas. Within this district, which is located in close proximity to residential areas, are allowed those uses which are necessary to satisfy the daily or frequent shopping needs of the neighborhood consumer. Such uses include the retailing of convenience goods and the furnishing of certain personal services. Also permitted within this district are certain types of offices. Within this district, a limitation is imposed on the size of establishments to prevent the generation of large volumes of vehicular and pedestrian traffic.

C. C-2 Neighborhood Shopping District. The C-2 district is established to accommodate the shopping needs of neighborhood level service areas. Within this district, which is located in relative proximity to residential areas and to major thoroughfares, is permitted not only the retailing of convenience goods and the furnishing of certain personal services, but also the retailing of durable and fashion goods and the furnishing of other types of services. Also permitted are all types of office uses.

D. C-3 Community Commercial District. The C-3 district is established to accommodate those uses which are of city-wide and regional significance. Within this district are found the prime retailing and specialized retailing activities, the cultural, recreational and educational activities of city-wide significance, the administrative offices of private organizations, and the offices of professional and nonprofessional persons offering a variety of specialized services. Within this district, development provides services on a community-wide or regional scale.

E. CBD Central Business District. The central business district is established to be a high intensity, pedestrian oriented, shopping, office, service, entertainment and residential area in the city. Diversity in the CBD is encouraged through the mix of uses and activities with development guided by the comprehensive plan. The requirements, herein, reflect the need for the highly compact intense development typical of downtowns while increasing the availability of open space, plazas, pedestrian ways, and the river amenity. (Ord. 5037, 1990).

18.05.030 Establishment of Uses. A.

P Permitted Use: Any use with a P designation shall be considered a permitted use within the district under which it is listed in the table in subsection B, subject to all applicable requirements of this title.

A Accessory Use: Any use with an A designation shall be considered an accessory use within the district under which it is listed in the table in subsection B, subject to all applicable requirements of this title and the specific standards identified in 18.30.

C Conditional Use: Any use with a C designation shall be considered a conditional use within the district under which it is listed in the table in subsection B, subject to all applicable requirements of this title and the specific standards identified in 18.35.

-- Prohibited Use: Any use with a -- designation shall be considered a prohibited use within the district under which it is listed in the table in subsection B.

B. The following symbols have the meaning of the term indicated, as used in the following table:

P : Permitted Uses
A : Accessory Uses (See 18.30)
C : Conditional Uses (See 18.35)
-- : Prohibited Use

		C-1A	C-1	C-2	C-3	CBD
General Uses (See 18.05.040)						
The following General Uses are allowed as shown unless listed as a specific use herein:						
1.	Institutional	--	P	P	P	P
2.	Office Activities	P	P	P	P	P
3.	Personal Services	--	P	P	P	P
4.	Retail Sales and Service	--	P	P	P	P
5.	Vehicle Services	--	--	C	P	P
Specific Uses						
6.	Adult Book Store or Adult Cabaret (provided provisions of chapter 18.20 are met)	--	--	--	P	P
7.	Arenas, Auditoriums, Convention Halls	--	--	--	P	P
8.	Automobile and Motorcycle Sales Lot	--	--	C	P	C
9.	Auto Body Shops	--	--	--	P	C
10.	Bus or Taxi Stations	--	--	--	P	C
11.	Car Wash	--	--	C	P	C
12.	Repealed by ord. no. 6683.					
13.	Commercial Recreational Uses	--	C	C	P	P
14.	Day Care Center	--	C	C	C	C
15.	Day Care Center, Adolescent	--	C	C	C	C
16.	Day Care Center, Adult	--	C	C	C	C
17.	Dwelling Units, ground floor	C	C	C	--	C
18.	Dwelling Units, above the ground floor	C	C	C	--	P
19.	Essential Services	A	A	A	A	A
20.	Greenhouses	--	C	C	C	--

P : Permitted Uses
A : Accessory Uses (See 18.30)
C : Conditional Uses (See 18.35)
-- : Prohibited Use

		C-1A	C-1	C-2	C-3	CBD
21.	Kennels	--	--	--	C	--
22.	Laundries, Commercial	--	--	--	C	C
23.	Linen, Towel or Other Commercial Supply Services	--	--	--	C	C
24.	Machinery and Equipment Sales and Service	--	--	--	C	--
25.	Mobile Home, Travel Trailers, or Recreational Vehicle, Boat Sales or Service	--	--	--	C	--
26.	Mortuaries	C	P	P	P	C
27.	Motels	--	--	C	P	P
28.	Off-Street Parking Facility, Non-accessory	C	C	P	P	P
29.	Outdoor Theaters	--	--	--	C	--
30.	Public Utility Facilities	C	C	C	C	C
30m.	Public Utility Tower (see Chapter 18.35)	C	C	C	C	C
31.	Recycling Facilities					
	a) Reverse Vending Machine	A	A	A	A	A
	b) Small Collection Facility	--	--	P	P	P
	c) Large Collection Facility	--	--	--	C	--
	d) Processing Facility	--	--	--	--	--
32.	Retail Building Material or Lumber Yards	--	--	--	C	--
33.	Signs, Off-Premise (See 16.18)	--	--	--	C	--
34.	Signs, On-Premise (See 16.16)	A	A	A	A	A
35.	Solar Array	A	A	A	A	A
36.	Solar Farm	C	C	C	C	C
37.	Storage and Warehouse Facilities	--	--	--	P	C
38.	Tavern	--	--	C	P	C
39.	Truck Stop or Truck Yards	--	--	--	C	--
40.	Vehicle Rental or Storage	--	--	C	C	C
41.	Veterinary Clinic	--	--	C	C	C
42.	Wind Energy Conversion System	C	C	C	C	C
43.	Wholesale and Jobbing Businesses	--	--	--	P	C
44.	Processing of food related products (see Chapter 18.35)	--	--	--	C	C

Any other use not specifically listed above shall be a prohibited use, unless it is reasonably included under Section 18.05.040. (Ord. 7212 §3, 2016; Ord. 6683 §1, 2006; Ord. 5955 §2, 1999; Ord. 5872 §3, 1998; Ord. 5152 §1, 1991; Ord. 5057, 1990; Ord. 5037, 1990).

18.05.040 Definition of General Uses. The following definitions and descriptions shall be used by the zoning administrator and the board in determining whether a proposed use can be categorized as any of the general uses listed herein:

A. Institutional. "Institutional" includes religious institutions, all schools, hospitals, nursing homes, sanitariums or similar facilities.

B. Office Activities. 1. Characteristics. "Office activities" includes firms where activities are conducted in an office setting and generally focusing on business or personal services. If a service is being provided, the client need not be present for the activity to take place. If the office activity is part of a larger firm, it does not need to be on the same site as the primary activity. Most people coming to the site are employees.

2. Accessory Activities. Accessory uses of office activities may include cafeterias, health facilities or other amenities primarily for the use of employees in the firm or building.

3. Examples. Examples of office activities include professional services such as lawyers, accountants, engineers, or architects; financial businesses such as brokerage houses, lenders, or realtors; medical clinics and related offices; data processing; TV and radio studios; industrial or commercial company headquarters when not adjacent with other portions of the firm; and government offices.

4. Exceptions. Exceptions to office activities include the following: a) offices which are part of and accessory to a firm's industrial use are considered accessory to the firm's primary activity; and b) office activities which primarily offer on-site services to the general public and where the customer must be present are classified as personal service.

C. Personal Service. 1. Characteristics. Personal service establishments provide on-site personal services to the general public or business person. Persons generally spend some time on the site, in contrast to short drop-offs or pick-ups. This category includes office activities offering on-site services where the customer must be present.

2. Accessory Activities. Accessory uses to personal service establishments may include offices, product sales and laboratories.

3. Examples. Examples of personal services include barbers, hair salons and personal care services; banks, savings and loans and credit unions; libraries and museums; cafes, restaurants; laundromats; business and trade schools; dance and martial arts schools; health clubs, gyms, racquet centers, membership clubs and lodges; public service agencies such as employment offices, social service agencies and permit issuing offices.

D. Retail Sales and Service. 1. Characteristics. Retail sales and service firms are involved in the sale, lease or rent of new or used products or goods to the general public and/or provide on-site product repair or services for consumer and business goods. Goods are displayed and sold on-site, and use or consumption is primarily off-site. Goods are generally taken off-site by the customer at the time of sale or may be delivered by the firm. For items being serviced, customers generally deliver and pick up the items and spend little time at the site.

2. Accessory Activities. Accessory uses, retail sales, and service firms may include offices, storage of goods, limited assembly or repackaging of goods for on-site sale.

3. Examples. Examples of retail sales and service include stores selling apparel, housewares, furniture, hardware, auto parts, flowers, personal care items, bicycles, sporting goods, stationery supplies, office products and machines, and computers; food, produce or meat markets; bakeries, delicatessens and caterers; tool rental and household moving centers; repair of TV's, appliances, shoes, precision instruments, and business machines; laundry or dry cleaning drop-off; on-site launderers; photo drop-off; quick printing or reproducing; tailors; locksmiths; upholsterers; and furniture refinishing.

4. Exceptions. Exceptions to retail sales and service include the following: a) repair and service of consumer vehicles is classified in the vehicle service category. Repair of motor vehicles in conjunction with vehicle sales is classified in the vehicle service category.

b) repair and service of industrial vehicles and equipment is classified in the industrial service category.

E. Vehicle Services. 1. Characteristics. "Vehicle services" include firms servicing automobiles, light trucks (less than 18,000 pounds gross vehicle weight) and other consumer vehicles such as motorcycles, boats and recreational vehicles.

2. Examples. Examples of vehicle services may include service stations, vehicle maintenance, alignment shop, auto upholstery installers, tire sales and mounting, towing services, and surface or garage fee parking.

3. Accessory Activities. Accessory uses to vehicle services may include offices and sales of parts. (Ord. 5037, 1990).

18.05.050 Design and Dimensional Standards. A. Building Height Limit. 1. Buildings shall not exceed two and one-half stories, and shall not exceed 35 feet in height in the C-1A, C-1 and C-2 districts.

2. There shall be no height limit in the C-3 and CBD districts, provided that no building or portion of a building shall be erected to a height exceeding 40 feet on any portion of a lot less than 20 feet from any portion of a lot in any residential district.

B. Rear Yard Required. 1. No rear yard is required in the C-1A, C-1, C-2 and C-3 districts except:

a) a minimum 20 foot rear yard is required on any lot where the rear or side lot line is adjacent any residential district.

2. No rear yard is required in the CBD district.

C. Side Yards Required. 1. No side yards are required in the C-1A, C-1, C-2, and C-3 districts except:

a) a minimum side yard of 10 feet shall be provided where a side lot line is adjoining any alley right-of-way line or a side lot line in an adjacent residential district.

b) a minimum side yard of 20 feet or the setback from the street required for the abutting lot, whichever is greater, is required for a side yard abutting a street except as provided by other provisions of this title (see chapter 18.20).

2. No side yard is required in the CBD districts.

D. Front Yard Required. 1. A minimum front yard of 20 feet or the front yard setback required for the abutting lot, whichever is greater, is required in the C-1A, C-1, C-2 and C-3 districts except as provided by other provisions of this title (see chapter 18.20).

2. No front yard is required in the CBD districts except as provided by other provisions of this title (see chapter 18.20).

3. No part of a building wall which contains a vehicle entry door shall be within 20 feet of a street or alley except in a CBD district.

E. Lot Area, Width and Building Coverage Required. 1. No lot area, width or building coverage limit is required for any commercial district.

F. Off-Street Parking and Loading Requirements. 1. See chapter 18.25 for such requirements for all commercial districts. (Ord. 5037, 1990).

18.05.060 General Restrictions. The establishment of buildings and uses in each district listed herein shall include the following restrictions and minimum facilities around them:

1. In the C-1A district, off-street parking and loading spaces shall not be permitted in the front yard area when such districts are within 100 feet of a R-1A, R-1 or R-2 district.

2. In the C-1A district, the parking or storage of commercial trucks rated over 3/4 ton shall not be permitted upon any property located in such district, upon any right-of-way adjacent thereto, or upon any property adjacent thereto which is located in a residential district.

3. In the C-1 district, business establishments are restricted to a maximum gross floor area of five thousand square feet on the ground floor, exclusive of any floor area devoted to off-street parking or loading. All business establishments shall be retail or service establishments which deal directly with the customers. All goods produced on the premises shall be sold to consumers only on the premises where produced.

4. In the C-1, C-2 and C-3 districts, parking of trucks as an accessory use, when used in the conduct of a permitted use listed in these districts, shall be limited to vehicles of not over 1 1/2 ton capacity when located within 150 feet of a residential district.

5. In all commercial districts, all business, servicing or processing, except for off-street parking, off-street loading, display of merchandise such as garden, lawn and recreation supplies and equipment for sale to the public, shall be conducted within completely enclosed buildings, except as otherwise provided in this title. (Ord. 5037, 1990).

Chapter 18.06

INDUSTRIAL DISTRICTS

Sections:

18.06.010 Purpose.
18.06.020 Establishment of Districts.
18.06.030 Establishment of Uses.
18.06.040 Definition of General Uses.
18.06.050 Design and Dimensional Standards.
18.06.060 General Restrictions.

18.06.010 Purpose. This chapter is established in order to reserve adequate land for industrial development and use; to implement the comprehensive plan; to protect the health, safety and welfare of the public; to provide regulations for use and design for different industrial activities for each industrial district; and to provide regulations and standards for industrial uses in the city. (Ord. 5037, 1990).

18.06.020 Establishment of Districts. A. I-1 Light Industrial District. The I-1 district is established to accommodate those uses which are of a non-nuisance type located in relative proximity to residential and commercial areas, and to preserve and protect lands designated on the comprehensive plan for industrial development and use from the intrusion of certain incompatible uses which might impede the development and use of lands for industrial purpose. Development in the I-1 district is limited primarily to certain wholesale and jobbing commercial uses and certain industrial uses, such as the fabrication of materials, and specialized manufacturing and research institutions.

B. I-2 Heavy Industrial District. The I-2 district is established to accommodate most industrial uses and especially those heavy industrial uses which are incompatible to residential and commercial uses. The district allows for areas where intense industries may locate and not be in conflict with residential or commercial areas or more sensitive industrial uses. Industrial activities of all types are permitted, including those not desirable in other zones due to objectionable impacts or appearance. New office, business and retail uses are limited and new residential uses are not allowed. The site development regulations are limited to the minimum standards necessary to assure safe, functional, efficient and environmentally sound development. (Ord. 5037, 1990).

18.06.030 Establishment of Uses. A.

P Permitted Use: Any use with a P designation shall be considered a permitted use within the district under which it is listed in the table in subsection B, subject to all applicable requirements of this title.

A Accessory Use: Any use with an A designation shall be considered an accessory use within the district under which it is listed in the table in subsection B, subject to all applicable requirements of this title and the specific standards identified in 18.30.

C Conditional Use: Any use with a C designation shall be considered a conditional use within the district under which it is listed in the table in subsection B, subject to all applicable requirements of this title and the specific standards identified in 18.35.

-- Prohibited Use: Any use with a -- designation shall be considered a prohibited use within the district under which it is listed in the table in subsection B.

B. The following symbols shall have the meaning of the term indicated, as used in the following table:

P : Permitted Uses
A : Accessory Uses (See 18.30)
C : Conditional Uses (See 18.35)
-- : Prohibited Use

		I-1	I-2
General Uses			
The following General Uses are allowed as shown unless listed as a Specific Use herein:			
1.	Heavy Manufacturing and Production	--	C
2.	Industrial Services	P	P
3.	Industrial Products Sales	P	P
4.	Light Manufacturing and Production	P	P
5.	Major Event Entertainment	C	C
6.	Warehouse and Distribution	P	P
Specific Uses			
7.	Automobile Sales Lot	C	C
8.	Vehicle Services (see chapter 18.05)	C	C
9.	Concrete Products Casting	C	P
10.	Contractor's Storage Yards, Accessory	C	P
11.	Essential Services	A	A
12.	Feedmills	C	C
13.	Foundries and Machine Shops	C	P
14.	Greenhouses	P	P
15.	Indoor recreation uses (such as gymnastics, dance schools, skating rinks, tennis courts, soccer, fitness centers, and other similar uses).	C	C
16.	Impoundment and Vehicle Storage Yards	C	C
17.	Junkyards	C	C
18.	Meat Product Processing Plants	C	C
19.	Mobile Home and Recreational Vehicle Sales and Service	C	C
20.	Motor Freight Facilities	C	C
20m.	Municipal Park	C	C
21.	Off-Street Parking Facilities, Non-Accessory	P	P
22.	Paper Product Manufacturing	C	C
23.	Professional Offices	C	C
24.	Public Utility Facilities	C	C
24m.	Public Utility Tower	C	C
25.	Railroad Freight Facilities	C	C
26.	Recycling Facilities		
	a) Reverse Vending Machine	A	A
	b) Small Collection Facility	P	P
	c) Large Collection Facility	P	P
	d) Processing Facility	C	P
27.	Restaurants	C	C
28.	Signs (See Chapter 16.16)	A	A
29.	Signs, Off-Premise (See Chapter 16.18)	C	C
30.	Solar Array	A	A
31.	Solar Farm	C	C
32.	Taverns	C	C
33.	Tire Manufacture	C	C
34.	Veterinary Clinic and Kennels	C	C
35.	Wind Energy Conversion Systems	C	C

Any other use not specifically listed above shall be a prohibited use, unless it is reasonably included under section 18.06.040. (Ord. 7212 §4, 2016; Ord. 6993 2011; Ord. 6683 §2, 2006; Ord. 6184, 2001; Ord. 5872 §4, 1998; Ord. 5037, 1990).

18.06.040 Definition of General Uses. The following shall be used by the zoning administrator or the board in determining whether a proposed use can be categorized as any of the general uses listed herein:

A. Heavy Manufacturing and Production. 1. Characteristics. Heavy manufacturing and production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods that involves some external activity, including:

a) outside manufacturing or production;

b) major outside storage or activities in general;

c) that which contributes to negative external noise, smoke, odor, dust or other adverse impacts; or

d) that which contributes to negative external aesthetic problems due to storage, operations or vehicle parking or operations.

2. Examples. Heavy manufacturing and production may include: storage yards, gravel pits, batch plants, gasoline and oil storage, foundries, landfills, freight yards, recycling yards, pulp yards, slaughter houses, and other uses involving outdoor activities.

B. Industrial Products Sales. 1. Characteristics. Industrial products sales firms are involved in the sale, rent or lease of products generally intended for industrial or commercial users. Sales may be wholesale or retail. Emphasis is on on-site sales or order taking and may include display areas. Products may be delivered to the customer.

2. Accessory Activities. Accessory uses to industrial products sales may include office, product repair, warehouses, minor fabrication services, and repackaging of goods.

3. Examples. Industrial product sales activities may include: sale of machinery, equipment, trucks, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, office furniture and store fixtures. Industrial product sales also include industrial equipment and vehicle rentals.

4. Exceptions. Industrial products sales shall not include firms that are primarily engaged in retail sales to the general public.

C. Industrial Services. 1. Characteristics. Industrial service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors, building maintenance services and similar activities perform services off-site. Few customers, especially the general public, come to the site.

2. Accessory Activities. Accessory uses to industrial services may include offices and retail drop-off centers.

3. Examples. Industrial service activities may include welding shops; machine shops; tool and appliance repair; electric motor repair; enameling and plating; truck and large equipment repair and storage; truck servicing; garbage and sanitary services (but not disposal); solid waste transfer stations; headquarters for building, heating, plumbing or electrical contractors; printing, publishing and blueprinting; exterminators; janitorial and building maintenance services; research, development and testing laboratories; trade schools; laundry, drycleaning and carpet cleaning plants; and photofinishing laboratories.

4. Exceptions. Industrial services shall not include outdoor services or activities for repair or salvage.

D. Light Manufacturing and Production. 1. Characteristics. Light manufacturing and production firms are involved in the manufacturing, processing, fabrication, packaging or assembly of goods. Raw, secondary or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on-site, but if so, are a subordinate part of sales. Relatively few customers come to the manufacturing site.

2. Accessory Activities. Accessory uses to light manufacturing and production activities may include: offices, cafeterias, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, retail outlets and caretaker's quarters.

3. Examples. Light manufacturing and production activities may include: processing of food-related products; weaving or production of textiles or apparel; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, or glass materials or products; production or fabrication of metals or metal products; manufacture or assembly of machinery, equipment, vehicles, appliances, precision items and other electrical items; production of artwork and sign making.

4. Exceptions. Light manufacturing and production shall not include heavy manufacturing involving outdoor production, processing, or other activities that would be considered incompatible with light manufacturing and production.

E. Major Event Entertainment. 1. Characteristics. Major event entertainment firms are characterized by structures and activities that draw large numbers of people to specific events or shows, in contrast to general entertainment activities that draw people on a continuous basis.

2. Examples. Examples of major event entertainment include stadiums, sports arenas, coliseums, race tracks, auditoriums, exhibition and meeting areas, and drive-in theaters.

3. Exceptions. Exceptions to major event entertainment activities are as follows:

a) theaters and auditoriums with less than 300 seats are classified as commercial uses;

b) exhibition and meeting areas with less than 5,000 square feet of event area are classified as commercial uses.

F. Warehouse and Distribution. 1. Characteristics. Warehouse and distribution firms are involved in the movement, storage and/or sale of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. The category includes wholesale sales which are not open to the general public and where on-site sales are low.

2. Accessory Activities. Accessory warehouse and distribution activities may include: offices, truck fleet parking and maintenance areas, repackaging of goods, and showrooms or display areas, but generally not for direct sale.

3. Examples. Warehouse and distribution firms may include: warehouses used by retail stores such as furniture and appliance stores; food and hardware distributors; household moving and general freight storage; distribution of industrial items such as steel products or machinery parts; building materials, plumbing and electrical distributors; truck terminals; parcel services; heating oil distributors; mail order houses; and mini-warehouses.

4. Exceptions. Warehouse and distribution shall not include firms that are primarily engaged in retail sales to the general public. (Ord. 5037, 1990).

18.06.050 Design and Dimensional Standards. A. Building Height Limit Required. 1. There is no building height limit in any industrial district, provided that no building or portion of a building shall be erected to a height exceeding 40 feet on any portion of a lot less than 20 feet from a residential district.

B. Side Yard Required. 1. No side yard is required in any industrial district, except:

a) that a minimum side yard of 10 feet shall be provided where a side lot line is adjacent to a residential district;

b) a minimum side yard of 20 feet or the setback from the street required for the abutting lot, whichever is greater, is required for a side yard abutting a street for new structures constructed after the effective date of this title except as provided by other provisions of this title (see chapter 18.20).

C. Rear Yard Required. 1. No rear yard is required in any industrial district, except that a minimum rear yard of 20 feet shall be provided where a rear lot line is adjacent to a residential district.

D. Front Yard Required. 1. No front yard is required in any industrial district, except:

a) as specifically provided in other sections of this title (see chapter 18.20);

b) a minimum front yard of 20 feet or the setback from the street required for the abutting lot, whichever is greater, is required for new structures constructed after the effective date of this title;

c) no part of a building wall which contains a vehicle entry door may be closer than 20 feet to a street or alley.

E. Lot Widths, Lot Area and Lot Coverage Required. 1. There is no lot width, lot area or lot coverage required in any industrial district, except as specifically provided in other sections of this title.

F. Off-Street Parking and Loading Required. 1. See Chapter 18.25 for such requirements. (Ord. 5037, 1990).

18.06.060 General Restrictions. A. In all industrial districts, all storage except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened with screening between 6 and 8 feet in height. No storage within 50 feet of such screening shall exceed the maximum height of such screening. (Ord. 5037, 1990).

Chapter 18.07

P-PUBLIC PROPERTIES DISTRICT

Sections:

18.07.010 Purpose.
18.07.020 Uses Permitted.
18.07.030 Procedure.
18.07.040 General Provision.

18.07.010 Purpose. A. The public properties district is established to allow for public use of certain areas, such as parks, playgrounds, schools, governmental uses, or other public areas. Development shall be limited to those projects which meet the regulations of this district and which also shall be in accord with, and promote, the purposes set forth in the comprehensive plan.

B. These districts may include such water areas as are publicly owned, controlled and regulated and such land areas as are owned, controlled, regulated, used or proposed to be used by the city or other public body. (Ord. 5037, 1990).

18.07.020 Uses Permitted. The following uses shall be permitted:

A. Municipal uses, city owned and operated;
B. Public parks, playgrounds;
C. Public utility and public service uses;
D. Noncommercial parking;
E. Boat landings and boat docks for public use;
F. Signs for municipal and public utility use;
G. Public schools, athletic fields and golf courses, and related educational or recreational facilities;
H. Other public buildings, lands, grounds, and uses, including public housing facilities. (Ord. 5037, 1990).

18.07.030 18.07.030 Procedure. A. Zoning. The procedure for zoning to or amending a public properties district shall be the same as required for any other zoning district, including the required fee. In addition to the requirements of Section 18.65.030, a site plan shall also be required prior to any physical change, as defined in subsection C, or change in use of such property.

B. Site Plan The procedure for site plan approval for property that is already zoned public properties district shall be the same as required for any other site plan, including the required fee, except that in addition to the requirements of Chapter 18.45, the following shall also apply:

1. The application shall be scheduled for a public hearing before the commission and the council with a Class 1 notice provided. Notice shall be provided to all property owners within 175' of the site as determined by the department.

2. The commission shall review and make recommendation to the council within 60 days from hearing the request.

3. The council will have final authority on the site plan to approve, deny, or approve with conditions.

4. An application shall be made for any physical change to a property.

C. Physical Change. In this Chapter, "physical change" means any new construction of a building or structure, external alteration of an existing building or structure, or modification of any property located within a public properties district, including the removal or alteration of trees or other vegetation which, in the case of property owned by the state, requires an environmental impact statement to be filed pursuant to the provisions of Wisconsin Statutes, section 1.11, or which, in the case of property owned by any other entity, significantly affects the quality of the human environment in the judgment of the commission. However, projects necessary to maintain or repair buildings and grounds that will not require exterior physical design or use changes or accessory structures considered incidental to a principal use on the property will be permitted without a site plan.

D. Approval of the Site Plan. Approval of the site plan shall establish the basic right of use for the area in conformity with such plan as approved, which shall be established as an integral component of the district regulations. (Ord. 7022, 2012; Ord. 5037, 1990).

18.07.040 General Provisions. A. The commission shall consider the proposed public properties use from a point of view as to achieve a maximum of coordination between the proposed use and the surrounding uses, the conservation of woodland and the protection of watercourses from erosion, siltation and pollution, and a maximum of safety, convenience and amenity for the residents of the area. To these ends the commission and the council shall consider the location of buildings, parking areas and other features with respect to the topography of the area and existing features such as streams and large trees; the efficiency, adequacy and safety of the proposed layout of streets and driveways; the adequacy and location of green areas required, the adequacy, location, and screening of required parking areas; if the project can be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site, and such other matters as the commission and council may find to have a material bearing upon the stated standards and objectives of the public properties district and regulations.

B. Lot Area, Lot Width, Side Yard, Rear Yard, Front Yard, Lot Coverage and Building Height Requirements. In the public properties district, the requirements for lot area, lot width, side yard, rear yard, front yard, lot coverage and building height shall be consistent with basic planning and zoning principals and designed to encourage and promote improved environmental design. Such requirements as are made a part of an approved site plan in accordance with the standards provided herein, shall be construed to be and enforced in accordance with this section.

C. Character and Intensity of Land Use. In a public properties district, the uses proposed, and their intensity and arrangement on the site, shall be of an aesthetic and operational character which:

1. Would be compatible with the physical nature of the site with particular concern for preservation of natural features, tree growth and open space;

2. Would produce an attractive environment of sustained aesthetic and environmental desirability; and

3. Would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.

D. Standards for Streets and Utilities. The width of street right-of-way, width and location of street or other paving, outdoor lighting, location of sewer and water lines, provisions for storm water drainage or other similar consideration shall be adequate to serve their purposes and the standards and objectives of the public properties district. In no case shall such standards be less than those necessary to insure the public safety and welfare as determined by this code of ordinances.

E. Screening Requirements. When property for non-residential uses or structures in a public properties district abuts residential property or a residentially zoned district, appropriate screening may be required to form an opaque screen which visually separates the different uses.

F. Off-Street Parking. In the public properties district, off-street parking facilities shall be provided in accordance with applicable regulations of Section 18.25.

G. For public utility towers as defined herein, the provisions of section 18.35.050 V. shall apply. Notice shall be provided as per s. 18.35.020 C. (Ord. 5872 §5, 1998; Ord. 5037, 1990).

Chapter 18.08

CV -- CONSERVANCY DISTRICT

Sections:

18.08.010 Purpose.
18.08.020 Uses Permitted.
18.08.030 Conditional Uses.

18.08.010 Purpose. The Conservancy District is established to preserve and perpetuate certain areas in their existing or natural state. Such areas include, but are not limited to, lakes and waterways, wetlands and marshes, flood plains and stream beds, slopes, parks and woodlands, and other areas of aesthetic value, which because of their unique physical features, are deemed desirable and functional as natural drainageways and water retention areas, natural habitat for plant and animal life, greenbelts and other multiple purpose uses beneficial to the community. In addition, the Conservancy District is established to control building sites, placement of structures and land uses, and to protect the community from inappropriate development which may be unsuitable in certain areas due to slope, water table or other hazards. It is intended that the Conservancy District and the regulations established therein shall be in accord with and promote the purposes set forth in the Comprehensive Plan. (Ord. 5037, 1990).

18.08.020 Uses Permitted. The following uses shall be permitted:

A. Private lawns and open space;

B. Noncommercial gardens;

C. Public boat landings and publicly-owned boat rental facilities;

D. Public and private swimming beaches;

E. Public and private areas for passive recreation, scenic overlooks, hiking, bicycling, cross country skiing and similar noncommercial activities harmonious to the purpose of the Conservancy District;

F. Conservation uses including drainage control, forestry, wildlife sanctuaries, and facilities for making the same available and useful to the public;

G. Nature preserves, nature study areas and arboretums. (Ord. 5037, 1990).

18.08.030 Conditional Uses. The following conditional uses may be allowed in the conservancy district subject to the general provisions of chapter 18.35 and the finding that the conditional use would exist and be maintained in a manner which is determined to be compatible with the purpose of the conservancy district and the approval of a site plan under chapter 18.45 which clearly depicts the proposed use and general design of the area involved:

A. Public parks and playgrounds, exclusive of intense recreational facilities such as, but not limited to, amusement parks, coliseums, arenas, and stadiums;

B. Cemeteries;

C. Public utility and public service uses;

D. Signs for municipal and public utility uses;

E. Private boat landings, boat rental facilities, marinas, piers, docks and boathouses;

F. Filling, drainage, or dredging of wetlands. For the purpose of this section, "wetland" means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

G. Stormwater facility. (Ord. 7239, §2 2017; Ord. 5037, 1990).

Chapter 18.09

H -- HIGHWAY OVERLAY DISTRICT

Sections:

18.09.010 Purpose.
18.09.020 Uses Generally.
18.09.030 Design and Dimensional Standards.
18.09.040 Setback Requirements for Buildings and Structures.

18.09.010 Purpose. A. For the purpose of providing space for adequate traffic circulation, suitable egress and ingress, parking area, and in the interest of public safety and convenience, the highway overlay district is established to regulate specific locations of uses along controlled-access highways.

B. Before a parcel of land which abuts a controlled-access highway is zoned as an H district, the council shall determine whether or not the public safety and welfare requires the present or future establishment of a public service street along such highway. In making such determination, the council shall employ the official map amendment procedure under chapter 18.60 and if it is found that a public service street is required, the same shall be placed on the official map. (Ord. 5037, 1990).

18.09.020 Uses Generally. A. Any permitted, accessory, or conditional use allowed in the underlying zoning district shall be allowed in the H district.

B. Any prohibited use in the underlying zoning district shall not be allowed in the H district.

C. Any general restriction or provision applicable in the underlying zoning district shall apply in the H district unless specifically stated differently in this chapter. (Ord. 5037, 1990).

18.09.030 Design and Dimensional Standards. A. Building height, lot area, lot width, and lot coverage shall be the same as the underlying zoning district for all uses in the H district.

B. Automobile parking regulations shall be the same as the underlying zoning district and the provision of chapter 18.25 for all uses in the H district. (Ord. 5037, 1990).

18.09.040 Setback Requirements for Buildings and Structures. A. Front yard, side yard, and rear yard setbacks shall be the same as the underlying zoning district for all buildings and structures in the H district, except as provided herein.

B. When a front yard, side yard, or rear yard of a property in the H district abuts an alley or a public street other than a controlled-access highway or a public service street between the property and such highway, a setback of 30 feet shall be required for any building or structure, except as otherwise provided herein.

C. When a front yard, side yard, or rear yard of a property in the H district abuts any controlled-access highway or any public service street between the property and such highway, a setback of 70 feet shall be required for any building or structure, except as otherwise provided herein.

D. The following exceptions are applicable to the 70 foot setback provisions:

1. In a case where a public service street at a street intersection, curves away from a controlled-access highway in order to give better access to the controlled-access highway, the building line established by the normal setback shall continue on to the street intersection; provided, however, that the setback is at no point less than 30 feet;

2. The board may reduce this distance to not less than 55 feet for a building not fronting such public service street or controlled-access highway, upon finding that a greater distance would not be needed and that the reduction would not violate the intent and purpose of this chapter. In such case, the board may also reduce the required setback to not less than 35 feet from any curve in a public service street where such street curves toward such building to give a better access to the controlled-access highway at an intersection of the controlled-access highway and the service road;

3. The board may reduce the required setback in cases where, because of an irregular and unique width of the public right-of-way in front of the premises, the setbacks herein prescribed would create an unnecessary hardship and the lesser setback would not violate the intent and purpose of this Chapter;

4. The board may reduce the required setback for a building to be erected when there are existing buildings within 100 feet on both sides of its proposed location, both having setbacks less than that required. In such case the board may establish the setback for the building to be erected to be more than the greater setback of the two existing buildings, except that the setback shall not be less than 55 feet;

5. The board may reduce the setback distance required for on-premise signs if the established setback for existing signs is less than required by this chapter.

E. Required setback distance shall be measured from the future street line where such line is established by being shown on the official map, or otherwise.

F. Fences, retaining walls, vegetation, directional or informational signs, or other restrictions intended and necessary for vehicular or pedestrian circulation, or parking, within the setback area, may be permitted upon the approval of the zoning administrator. In acting upon such exceptions, the zoning administrator shall, before approval, find either that such circulation or parking is intended and is necessary for public convenience or to serve the purpose of this regulation, or that the exception will not restrict other circulation or parking. (Ord. 5037, 1990).

Chapter 18.10

PD - PLANNED DEVELOPMENT

Sections:

18.10.010 Purpose.
18.10.020 General Provisions.
18.10.030 Procedure.
18.10.040 Review Criteria.
18.10.050 Standards and Special Requirements for a Residential Planned Development.
18.10.060 Standards and Special Requirements for a Commercial and Industrial Planned Development.

18.10.010 Purpose. A planned development is a permit process established for the following purposes:

A. Provide for concurrent processing and combining of permits to simplify and shorten the development review process;

B. Provide for the orderly and functional arrangement of land uses and buildings;

C. Permit flexibility in site design and variety in development;

D. Encourage well-planned neighborhoods through creative and imaginative planning;

E. Provide savings in infrastructure installation costs and energy use through the clustering of dwellings;

F. Create more functional active and passive open space areas within new development;

G. Achieve beneficial land use relationships with nearby areas;

H. Encourage development to be compatible with environmentally sensitive areas;

I. Preserve areas of natural or manmade scenic beauty and protect sites of historical or other commonly held values. (Ord. 5037, 1990).

18.10.020 General Provisions. A. The planned development (PD) shall be applied as an overlay zoning district. When applied to a specific geographic area, the PD shall have the effect of allowing development to be designed, reviewed, approved, constructed and managed according to the provisions of this chapter, rather than as required by the underlying zoning district. However, the underlying zoning district shall prevail in determining permitted and conditional uses of land within the PD as well as the maximum permitted project density or intensity of land use, except as otherwise provided herein.

B. When the planned development has been applied to a specific geographic area, the zoning classification or classifications of the land included within the PD shall thereafter signify this by the addition of a "P" to said zoning classifications, such as "R-1P", "C-2P", or "I-1P".

C. The planned development process shall be required for the following development applications:

1. Any development where variations in lot sizes, dimensional standards, clustering or principal buildings on one lot, provisions for common open space, or other design considerations which are not normally allowed under standard zoning districts and subdivision provisions are desired.

2. Any commercial, industrial, two-family dwelling or multi-family residential development involving the major subdivision of land as defined in title 17 of the municipal code.

3. Any commercial, industrial, two-family dwelling or multi-family development greater than 2 acres involving the zoning or rezoning of property to a commercial, industrial, two-family dwelling or multi-family residential district.

4. Any commercial, industrial, two-family dwelling or multi-family residential development involving a shopping center, an industrial park, an office park, a business park, clustered two-family dwellings or multiple family dwellings or other unified development themes.

Exceptions to these provisions which require approval through the PD process may be allowed by the city council if it is found that requiring such review will not serve to meet the purpose of this chapter. An example of such an exception would be applications involving only a single step review process.

D. Planned developments which require the subdivision of land may also have applications for each processed concurrently. A general development plan may serve as a preliminary plat if concurrent processing is desired. In no instance shall the platting requirements for subdivisions, as set forth in state law and title 17 of the municipal code, be waived as a result of this concurrent processing provision.

1. It is the intent of this provision that if plat review is required under title 17 of the municipal code, that it be accomplished simultaneously with the review of the general development plan under this chapter.

2. If simultaneous review is desired, the general development plan shall be submitted in a form that is in accordance with the requirements of title 17 of the municipal code relative to preliminary plats, where applicable.

E. An application for a planned development may be accompanied by all other discretionary requests, such as rezoning and conditional uses which may relate to the proposal.

1. Authority is given to the director to combine separate permit applications into one application for the convenience of the applicant as well as the City of Eau Claire. Planned development applications, conditional use permits and rezonings may be merged into one PD application for processing and consideration under the PD process. The standards set forth in this chapter shall be used to evaluate the merits of the combined permits. If the combining of permits is accepted by the director, the fees for rezoning and conditional use permits shall be waived and fees for only the PD application are required.

2. The commission may recommend and the council may deny any part of the combined request if they find it does not comply with the standards of this chapter.

F. Dedication, or offers to dedicate, interest in real property for specific public purposes shall be shown on the general development plan. Such dedications may be made a condition of approval of a planned development if the council finds that:

1. Such additional facilities would serve the public interest in such location;

2. Such facilities would be in accord with the comprehensive plan or component thereof; and

3. The amount and location of land to be dedicated bears a reasonable relationship to the demand generated by the proposed development.

G. Improvements, consistent with city standards or as shown on the comprehensive plan or component thereof, may be required as a condition of approval of a planned development. Improvements may include, but are not limited to, paving, curbs, gutters, sidewalks, bikeways, water lines, sewer lines, drainage works, bus turnouts, street lights and landscaping. Improvement requirements for multi-phased projects shall be applied to each final implementation plan as finalized and shall not consider future phases. (Ord. 6461, 2003; Ord. 5832 §1, 1998; Ord. 5037, 1990).

18.10.030 Procedure. An application for a planned development shall be initiated by the filing for a planned development permit. Said application shall be submitted to the department on forms provided for this purpose, and shall be accompanied by all information requested on said application. A planned development shall be processed in three stages: A) pre-application conference; B) general development plan; and C) final implementation plan as follows:

A. Pre-application Conference. The purpose of the preapplication conference is to provide two-way communication between the prospective developer and the city staff regarding the legal, planning and engineering aspects of the potential development. Accordingly, prospective developers shall submit sketches and other pertinent information to the department for review and discussion by other city departments prior to submittal of a general development plan. Sketches shall include the entire area of the intended PD, even if the PD is to be developed in phases.

A pre-application conference review shall consider: success in achieving the purposes of the PD ordinances; adequacy of public and private services and facilities; ability to conform with all applicable codes and ordinances; utilization of commonly accepted principles of good site planning; and consistency with the comprehensive plan.

Submittal requirements for the general development plan will be reviewed as part of the pre-application conference. A submittal item may be waived as part of this review if determined to be not needed, already known or needed at a future stage.

The prospective developer shall be provided with a written copy of the comments and waived submittal items made at such meeting. Applicants shall be advised to take these comments into account in preparation of more detailed plans for the PD.

B. General Development Plan. Upon completion of the pre- application conference, an application may be filed for a general development plan. The purpose of the general development plan is to establish the framework for future development of the PD in terms of timing, overall building layout and site design, land uses, density or intensity of development, traffic circulation/access, off-street parking, storm drainage, general utility locations, active and passive open space, location and management of common areas, general landscaping treatment and similar development components.

The general development plan shall include the entire area of the intended PD, even if the PD is to be developed in stages. All subsequent final implementation plans for such area shall be in conformance with the approved general development plan. The general development plan may be amended using the same procedure for the initial general development plan approval.

Submittal requirements for a general development plan shall include all items indicated upon the submittal list which can be obtained from the department.

Upon receipt of all the required submittal items for the general development plan, and an application for a PD, the director shall coordinate with other departments of the city the review of the plan and formulate a recommendation to the commission. At such time, the city clerk shall give notice and set up public hearings before the commission and council.

The commission shall review the proposed general development plan in accordance with the review criteria set forth in this chapter. It shall also consider the recommendation of the department and other comments received. The commission shall then make its recommendation to the council for approval, approval with conditions, or denial.

Final action on the general development plan lies with the council.

Approval by the council of a general development plan shall constitute an amendment to the zoning ordinance establishing the appropriate PD district, and that district shall be noted on the official zoning map. If, after approval of the general development plan, any portion or phase of the PD development schedule established under this section is not met, the director may initiate appropriate action to rezone the property which has not been developed in accordance with such development schedule to an appropriate zoning district or districts compatible with the surrounding area, as determined by the Commission.

C. Final Implementation Plan. Following approval of a general development plan, a final implementation plan for all or a portion of the PD shall be submitted to the department for review and approval. In the case of a single phase PD, the applicant may combine the general development plan and final implementation plan stages of the review process into a single final implementation plan, in which case review and approval of such plan shall occur using the procedure set forth in subsection B. The purpose of the final

implementation plan is to finalize the detailed planning, engineering, design, ownership, management, maintenance and timing aspects of the development. For this reason it is anticipated that a final implementation plan will normally be prepared only for those portions of a PD which are expected to be developed in the immediate future.

The final implementation plan shall be in substantial conformance with the approved general development plan. If the director finds that a proposed final implementation plan substantially differs from the approved general development plan, or that such change gives reason to notify and obtain input from affected residents and property owners, the director shall require the applicant to submit a proposed amendment to the general development plan as set forth in this chapter. Examples of modifications to a PD which shall first require an amendment to the general development plan include changes in the general layout and design of the PD, the area encompassed by the PD, the overall density of dwelling units is increased by more than 5%, the major categories of land use, the mix, magnitude and intensity of residential or non-residential types of land uses, the parking and traffic circulation system, and major features of the common open space areas.

No building permits shall be issued for construction within the PD without first obtaining approval of a final implementation plan for that portion of the PD. All grading, construction, landscaping and other activities associated with land development shall be carried out in strict conformance with the approved final implementation plan.

The list of items required to be submitted with a final implementation plan may be obtained from the department.

Upon receipt of all the required items for the final implementation plan, the director shall coordinate its review with other city departments for the purpose of reviewing the final implementation plan for compliance with the approved general development plan. If the proposed final implementation plan is found to meet these criteria, it shall be approved by the department and development may then commence accordingly. Such department may approve with conditions or require submittal of a modified final implementation plan if it does not comply with such criteria. Decisions of the department with respect to a final implementation plan may be appealed within thirty (30) days to the commission which shall have final jurisdiction in the case of appeals. (Ord. 6896, 2009; Ord. 5037, 1990).

18.10.040 Review Criteria. A. General Development Plan. In reviewing the general development plan, the following criteria shall be used:

1. Conformance with the applicable provisions of the underlying zoning district;
2. Conformance with the provisions of this chapter and the review criteria of the site plan chapter of this title;
3. Suitability of the site itself for development as proposed;
4. Compatibility of the proposed development with adjacent and nearby existing or planned development in terms of scale, mass, height, bulk, uses, activities, traffic, design, structure placement, privacy, views and similar concerns;
5. Utilization of site planning principles common to high quality development;
6. Conformance with city development and design standards and policies;
7. Availability, both on and off the site, of adequate public utilities and services, including water, sanitary sewer, storm sewer or other means of surface drainage, streets, sidewalks, traffic control, fire protection and police protection;
8. Effective mitigation of any potential negative impacts of the proposed development either on the site itself or off the site;
9. Adequate provision for preservation and maintenance of areas set aside for common ownership;

10. Conformance with the comprehensive plan.

The commission, in making its recommendation to the council, shall consider said criteria as noted above and also take into consideration the recommendations of the department and the commission and comments received at its public hearing.

B. Final Implementation Plan. In reviewing a final implementation plan, the department or the commission, as appropriate, shall consider the following criteria:

1. Strict conformance of the final implementation plan to the adopted general development plan, particularly in terms of the general layout and design of the PD; the overall density of dwelling units; the number and type of dwelling units; the major categories of land use; the mix, magnitude and intensity of non-residential types of land uses; the parking and traffic circulation system; and major features of the open space area.

2. The review criteria set forth in subsection 18.10.040.

C. Amendments to General Development Plan. Amendments to the general development plan involving what are considered by the director or the commission to be substantial changes shall require the same procedure for review and approval as the original general development plan. Amendments involving what are considered by the director or the commission to be minor and of no substantial negative impact upon adjacent properties, the neighborhood or existing dwelling units within the PD may be approved by the department without public hearing and notice. The criteria stated in this chapter under subsection 18.10.030 B. shall be considered in determining substantial changes.

D. Amendments to Final Implementation Plans. Amendments to final implementation plans shall be approved by the department if such amendments conform to the approved general development plan. Amendments which do not conform to the general development plan shall require an amendment to the plan as prescribed above.

E. Recording; Conditions Run With the Land. 1. Before a general development plan becomes effective, a document shall be recorded by the applicant within 30 days of approval in the office of the register of deeds for the county within which the PD is located. Said document shall identify the property as being part of a PD which is on file in the department. Applicant shall furnish evidence of such recording to the director prior to any final implementation approval for multiple phased projects or within 15 days of final implementation approval for single phased projects.

2. Any conditions attached to a general development plan or final implementation plan shall run with the land and shall not lapse or be waived as the result of any subsequent change in the tenancy or ownership of any or all of said lands. Such conditions shall be deemed to be part of the building permit issued for any use or structure within the PD.

F. Fees. 1. Fees for final implementation plan approval shall be the same as those established for site plans.

2. Fees for a PD (general development plan approval) shall be the same as those established for zoning amendments. (Ord. 5037, 1990).

18.10.050 Standards and Special Requirements for a Residential Planned Development. The following provisions shall be applied by the commission and council in their consideration of a residential PD.

A. Permitted Uses. Only those uses which are permitted in the underlying zoning district or districts shall be permitted in a PD, unless provided for herein. However, housing types may vary and residential uses may be at higher densities within portions of the residential PD, pursuant to subsection C below.

B. Conditional Uses. Those uses which are conditional uses in the underlying zoning district or districts shall be allowed in a PD only if a conditional use permit is granted by the Commission. Conditional use permits may be reviewed concurrently with general development plans.

C. Density and Housing Type. 1. The maximum number of dwelling units per acre (project density) for the PD as a whole shall be based upon the acreage of developable land as follows:

Zoning District	Project Density
R-1A	2 units per acre of developable land
R-1	5 units per acre of developable land
R-2	8 units per acre of developable land
R-M	14 units per acre of developable land
R-3	21 units per acre of developable land
R-4	28 units per acre of developable land

Up to a 25 percent increase in said project density may be allowed upon a finding that:

a) Adequate public and private facilities and services are available, both on and off the site, to support the increased density or number of units, including but not limited to streets, parking, traffic control, water, sewer, drainage, fire and police protection, recreational facilities, and schools; and

b) The increased density or number of units would not have a substantial negative effect upon adjacent properties; and

c) The residential PD will be superior in design, function and appearance based upon the following criteria:

1. Orientation of the units on the site to achieve a high level of privacy of interior and exterior spaces;

2. Appropriateness of the scale and massing of structures;

3. Use of varied building elevations and staggered setbacks;

4. Effectiveness of landscaping, screening and buffering within the PD and along its perimeter;

5. Appropriateness of the type and level of improvements within the common open space areas given the characteristics of the residents of the PD;

6. Overall quality of design of the development, including streetscape, parking lots, open space, buildings, lighting, signs, pedestrian pathways, etc.;

7. Varied placement of buildings, demonstrating sensitivity to the natural topographic features of the site;

8. Retention of unique natural features of the site and incorporation of such features into the project's overall design;

9. Recreation areas that are provided are directly accessible to a majority of the dwellings and are well-designed for their intended purpose; and

10. Overall, the project exceeds the standards established in this chapter for design, function and appearance.

2. Lot sizes and housing types (e.g., single family detached, zero lot line, duplex, townhouse, low-rise, high-rise, etc.) may vary from those permitted in the underlying zoning district to the extent that all provisions of this ordinance are met and that the project density for the application as a whole is not exceeded.

3. Where such increases in density or changes in housing types do occur within a PD, extra measures shall be taken, such as increases in setback, open space, screening, buffering, etc., to assure compatibility with adjacent and nearby land uses, both existing and planned.

D. PD Perimeter. The PD perimeter shall be designed and used in such a way as to harmonize uses, scale, structure heights, setbacks and mass with existing or planned adjacent or nearby development. Reasonable provisions relating to lighting; landscaping; screening; buffering; activity areas; land uses; setbacks; structure height, width, length, orientation; or similar characteristics of the development may be imposed to assure this compatibility.

E. Lot Area, Lot Width, Setbacks. 1. Lot area, lot width and setback requirements for the PD may vary from the underlying zoning district, provided the developer has demonstrated that the proposed design and layout meets the provisions of this chapter. Lot areas, lot widths and setbacks within the PD perimeter shall be designed to be compatible to existing or planned land uses immediately outside the development.

2. Setbacks from public right-of-way shall be a minimum of 20 feet for local streets, 30 feet for collector streets and shall be increased accordingly for setbacks from major or minor arterial streets.

3. Perimeter setbacks from the edge of the PD shall be at least the same as is required by the adjacent zoning district.

F. Building and Structure Heights. Building and structure heights may exceed the maximum established by the underlying zoning district only upon the expressed request by the applicant and upon approval of such as part of the general development plan. Building and structure heights within the PD perimeter shall be no higher than allowed height in adjacent districts.

G. Environmental Design. Insofar as possible, a PD shall be designed to preserve existing vegetation, terrain, and other significant natural features. Reasonable provisions relating to the preservation of these features may be imposed to assure preservation of such features.

H. Common Open Space. 1. Since the PD concept of development is intended to provide more functional open space and to make more efficient use of land, utilities and other improvements, at least 15 percent of the total gross land area of the PD, exclusive of areas listed in paragraph 4 of this subsection, shall be permanently reserved as common open space. This provision may be waived by the city council when it is determined that other options for providing open space are available.

2. Common open space may be held in common, be privately owned, or dedicated to the public, or any combination thereof. Any land dedicated to the public must be officially accepted by the council before such dedication becomes valid. Land dedicated to the public may be considered part of the required common open space area for the PD.

3. Common open space areas shall be designed creatively, add to the overall appearance and aesthetic qualities of the PD, and be truly functional in providing for the open space and recreational needs of the residents of the PD.

4. The following areas shall not be included in calculating the minimum amount of common open space for the PD:

a) Areas within required front and side yard setbacks;

b) Open spaces less than 30 feet wide, unless approved as a common pathway system;

c) Existing or proposed street rights-of-way;

d) Parking areas and driveways;

e) Building sites, unless used for recreational purposes.

5. Up to 25 percent of the required common open space may consist of designated floodway, the surface area of water bodies and/or areas having slopes greater than 30 percent, only if the following findings are made:

a) Said areas are available by legal right for the use and enjoyment of the residents of the PD;

b) Said areas are functional in providing for the open space and outdoor recreation needs of the residents of the PD; and

c) Said areas are safely and conveniently accessible to the residents of the PD.

6. Common open space areas shall be functionally related and accessible to all properties within the PD in relation to the location of the dwelling units they are intended to serve.

7. An area of the common open space may be required for active recreational use commensurate with the anticipated need for such private recreational facilities by the intended future occupants of the dwelling units in the PD.

8. In the case of a PD being developed in phases, an appropriate proportion of the gross area of each phase of the PD (subject to final implementation plan approval) shall be reserved for common open space at all times, unless such requirement is waived by the city council.

9. At the time of final implementation plan approval, provision must be demonstrated for the ownership and perpetual care and maintenance of all common open space areas. Areas designated as common open space shall be permanently reserved as such, using appropriate legal instruments as approved by the city attorney, at the time of final implementation plan approval. Covenants or other legal arrangements shall specify ownership of the common open space, method of maintenance, responsibility for maintenance, maintenance taxes and insurance, compulsory membership and assessment provisions, guarantees that any entity formed to own and maintain the common open space will not be dissolved without the consent of the council, and any specifications deemed reasonably necessary by the council.

10. If the common open space contains buildings or other facilities which were approved as part of the general development plan, the developer shall provide legal arrangements or sureties as a part of the final implementation plan submittal, as approved by the city attorney, to assure that such improvements are completed.

I. Minimum Project Size. The minimum project size for a residential PD shall be 2 acres. This requirement may be waived by the council if the applicant can clearly demonstrate that the proposed PD can meet the purpose of this chapter.

J. Non-residential Uses. 1. Nonresidential development may exist within a residential PD only to the extent that it is compatible with existing and planned residential uses, both inside and outside the PD.

2. Nonresidential development shall be integrated into the total design of the project, shall primarily serve the residents of the planned development, shall complement surrounding residential development and blend into the total scheme, avoiding a harsh contrast to its surroundings, either in design or in its effects.

K. Building Spacing and Orientation. The minimum spacing allowed between buildings shall not be less than required by the applicable building codes. However, greater distances may be required, taking into consideration the need for privacy, light and ventilation, fire and safety, traffic circulation, solar access and open space.

L. Building Architecture. Developers shall, where appropriate, incorporate architectural control provisions in the protective covenants for the PD in an effort to maintain long-term property values and the architectural integrity of the development.

M. Off-street Parking. Off-street parking spaces shall be provided as required by city ordinance.

N. Streets, Utilities and Drainage. 1. All publicly dedicated streets, utilities and all drainage facilities shall be designed in accordance with city code and policy.

2. Private streets shall only be allowed as approved on the general development plan.

O. Circulation/Access. 1. Vehicular access to individual lots adjoining an arterial street as defined under the functional street classification system of the city shall be by way of a frontage road, service road, or other local street. Local street access to arterial streets shall be minimized to whatever extent possible. Lot access to collector streets shall be minimized to whatever extent is possible.

2. Each PD shall be provided with at least two separate points of ingress and egress unless waived by the council. Principal vehicular access points to the project shall be designed to encourage smooth traffic flows with controlled turning movements and minimum hazards to vehicular and pedestrian traffic.

3. Internal streets, drives and parking surface areas shall provide safe and convenient access to dwelling units and recreational facilities, and for service and emergency vehicles. Streets shall not be designed to encourage outside traffic to traverse the PD on local streets, nor create unnecessary fragmentation of the PD into the smaller sub-areas.

P. Landscaping, Screening and Buffering. In order to protect the integrity of a PD, and when deemed necessary to provide protection to adjacent properties, landscaping, screening and buffering may be required as part of the general development plan. If so required, a screening and landscape plan shall be submitted to the department for approval in conjunction with final implementation plan approval for each phase of a PD. Landscape plans shall show the location, species of plant material, and the size of all plant materials. Screening plans shall include typical details of fences, berms and plant material to be used.

Q. Signs. Signs within a residential PD shall be in conformance with the city sign code.

R. Street Lighting. 1. Street lights shall be required as established in the city code.

2. Other forms of outdoor lighting may be required, as is reasonable for the safety of the intended uses of the development.

S. Sidewalks and Pathways. 1. Sidewalks and pathways for pedestrians and bicyclists shall be required as established in the city code.

2. Sidewalks and pathways shall form a logical, safe and convenient system for pedestrian access to all dwelling units, appropriate project facilities, and principal off-site pedestrian destinations. (Ord. 7212 §5, 2016; Ord. 5037, 1990).

18.10.060 Standards and Special Requirements for a Commercial and Industrial Planned Development.

A. Uses Permitted. Those areas which are set forth as permitted uses in the underlying zoning district may be considered permitted uses in the approved commercial or industrial PD.

B. Conditional Uses. Those uses which are set forth as conditional uses in the underlying zoning district may be authorized in the commercial or industrial PD only if a conditional use permit is granted by the Commission.

C. Mixed Use Planned Development. For large scale projects involving the reuse of older buildings or sites, the commission may allow uses within a planned development which are not allowed within the underlying zoning district, provided the commission finds them to be compatible and harmoniously incorporated into the unitary design of the planned development and consistent with the purpose of this chapter, as provided in s. 18.10.010. With the approval of a mixed use planned development, the commission shall also approve, as part of the general development plan for the property, a plan for the location of the general uses within the project.

D. Design and Dimensional Standards. The standards in the underlying zoning district regulating site coverage, building height, site area and setbacks shall be used as a guide in evaluating a commercial or industrial PD, but may be modified by the commission or council based on the standards of this chapter.

E. Parking Requirements. The minimum number of off-street parking spaces required for use within a commercial or industrial PD, and their design, shall be set forth in the automobile parking space regulations of this title, except as follows:

Multiple use parking facilities: Commercial or industrial PD's containing uses which have dissimilar peak traffic generation hours may have the total number of parking spaces required for each use reduced by not more than 40 percent where it is shown that the joint facility shall serve all existing, proposed, and potential uses as well as separate parking facilities for each use on the site. As a condition of approval of this joint use provision, reciprocal parking agreements between the parties involved shall be reviewed and approved by the city attorney and filed with the city.

F. Circulation. 1. Vehicular access to lots or parcels fronting on a principal arterial street shall be via a service or frontage road. Curb cuts shall not be allowed within 115 feet of the intersection of 2 principal arterial streets, 75 feet from the intersection of 2 minor arterial streets, and 50 feet from the intersection of 2 collector streets. When a combination of the above street classifications intersect, the more restrictive requirement shall apply. This requirement may be waived or modified by the council where it would constitute an unreasonable requirement and would not create a traffic hazard.

2. Each commercial or industrial PD shall be provided with adequate point(s) of ingress/egress. Principal vehicular access points shall be designed to encourage smooth traffic flows with controlled turning movements and minimum hazards to vehicular traffic. Merging lanes, acceleration lanes, deceleration lanes, turn-out lanes, and/or traffic dividers/medians shall be required where existing or anticipated heavy flows indicate need.

3. Interior circulation for commercial or industrial PD's, particularly within large parking areas, shall be designed and delineated so as to ensure a safe and efficient flow of vehicles and adequate consideration towards pedestrian movement. A pedestrian pathway system shall be provided such that a logical, safe and convenient method of reaching the project facilities from the parking areas is achieved with a minimum of conflict with vehicular traffic. Where vehicular traffic conflicts with walk ways, crossings shall be provided and designed to promote safety, be appropriately marked and otherwise safeguarded.

G. Lighting. The following guidelines are to be used when evaluating lighting plans:

1. The height of light poles shall not exceed 40 feet, but in no case shall said height exceed the maximum height of structures permitted in the base zone.

2. Lights should be located on standards pointing towards the structures or areas to be illuminated. Lighting shields shall be utilized as appropriate to keep glare on-site.

3. The lighting fixtures plan shall be designed so as to harmonize with the building design. The design and placement of lighting fixtures shall not have an adverse effect upon abutting properties.

H. Signs. Integrated sign themes, developed in a manner that will complement the proposed project, shall be instituted for each commercial or industrial PD. Said signs should include a central sign used to identify the complex or center, as well as wall-mounted signs, or similar treatment, used to identify each individual shop or activity. In developing and analyzing signs, consideration shall be given to the scale of the project, internal design considerations, and the character of the project as viewed from adjacent streets and properties. It is the intent of this section to provide for a visually attractive streetscape and to ensure that signs in a commercial or industrial PD are harmonious with the project and adjacent properties. In no cases shall the size of signs within a commercial or industrial PD exceed the criteria established for the base zone as set forth in the sign code.

I. Screening of External Activities. 1. All exterior storage areas, service yards, electrical transformers, storage tanks, refuse collection areas and other similar outdoor areas shall be screened from view if said uses can be seen from a public street or adjacent properties. Said uses shall be screened with opaque fencing or walls which harmonize with the building design of the development.

2. All roof-mounted mechanical equipment, vents and ductwork shall be concealed by the building mass, or shall be screened from public view in a manner that will harmonize with the building design. Solar collectors are exempt from this requirement. Mechanical equipment, vents, and ductwork which are not roof-mounted shall be concealed by the building mass or by walls or fences which are consistent with the design treatment of the building.

J. Landscaping. 1. Landscaping shall consist of an effective, harmonious and functional combination of trees, shrubs and various vegetative materials. Berms, accent boulders, decorative walls and other similar devices are also encouraged as a part of such landscape treatment.

2. Landscape areas shall be provided throughout the commercial and industrial PD to separate pedestrian walks along public rights-of-way or within parking areas from car rows, to shade parking areas, create attractive visual entrance points, define internal circulation patterns, conserve energy, soften the appearance of building walls, and buffer abutting land uses as necessary.

3. Wheel restraints shall be required around landscape areas where determined to be necessary for protecting landscaped areas from vehicular traffic or where determined to be necessary for directing drainage on site.

4. Open space areas containing natural features worthy of preservation may be left unimproved. Structures and improvements to be located in or adjacent to the open space shall conserve and enhance the amenities of the area and be designed to be compatible with the topography and natural features of the site.

K. Fences, Walls and/or Vegetative Screens. Fences, walls and/or vegetative screens shall be provided at the edges of a commercial or industrial PD where needed to protect adjacent property owners or residents from undesirable views, glare, noise or other on-site influences. Particular attention in this regard shall be given whenever a commercial or industrial PD abuts property zoned for or utilized as residential.

L. Streets, Sidewalks, Utilities, Street Lighting and Drainage. All streets, sidewalks, utilities, street lighting and drainage improvements shall be provided in accordance with city code and shall be shown on the approved final implementation plan. (Ord. 7212 §6, 2016; Ord. 5302, 1993; Ord. 5037, 1990).

Chapter 18.11

F -- FLOODPLAIN OVERLAY DISTRICT

Sections:

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18.11.010 Statutory authorization. This chapter is adopted pursuant to the authorization in s. 62.23, the requirements in s. 87.30, Wisconsin Statutes. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.020 Finding of fact. Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare, and tax base. (Ord. 6735, 2006).

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

A. Protect life, health, and property;

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

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

D. Minimize business interruptions and other economic disruptions;

E. Minimize damage to public facilities in the floodplain;

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

G. Discourage the victimization of unwary land and homebuyers;

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

I. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain. (Ord. 6735, 2006).

18.11.040 Title. This chapter shall be known as the Floodplain Zoning Ordinance for Eau Claire, Wisconsin. (Ord. 6735, 2006).

18.11.050 Definitions. Unless specifically defined, words and phrases in this chapter shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and is not discretionary.

A. "A Zones" mean those areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

B. AH Zone – Flood depths of 1 to 3 feet usually in areas of ponding. See "Area of Shallow Flooding."

C. AO Zone – Flood depths of 1 to 3 feet usually sheet flow on sloping terrain. See "Area of Shallow Flooding."

D. "Accessory structure or use" means a facility, structure, building, or use that is accessory or incidental to the principal use of a property, structure or building.

E. "Alteration" – An enhancement, upgrading, or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning, and other systems within a structure.

F. "Area of Shallow Flooding" – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

G. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a flood insurance study and depicted on a federal flood insurance rate map.

H. "Basement" means any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

I. "Building" see "Structure".

J. "Bulkhead line" means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary high water mark, except where such filling is prohibited by the floodway provisions of this chapter.

K. "Campground" means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

L. "Camping unit" means any portable device, no more than 400 square feet in area, used as a temporary shelter, including, but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent, or other mobile recreational vehicle.

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

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

O. "Crawlway" or Crawl space" means an enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

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

Q. "Department" means the Wisconsin Department of Natural Resources (DNR).

R. "Development" means any artificial change to improved or unimproved real estate, including, but not limited to the construction of buildings, structures, or accessory structures; the construction of additions or alterations to buildings, structures, or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation, or drilling operations; the storage, deposition, or extraction of materials or equipment; and the installation, repair, or removal of public or private sewage disposal systems or water supply facilities.

S. "Dryland access" means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface

above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

T. “Encroachment” means any fill, structure, equipment, building, use, or development in the floodway.

U. “Federal Emergency Management Agency (FEMA)” means the federal agency or successor agency that administers the national flood insurance program.

V. “Flood insurance rate map” (FIRM) means a map of a community on which the federal insurance administration has delineated both the floodplain and the risk premium zones applicable to the community. This map may only be amended by FEMA.

W. “Flood or Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

1. The overflow or rise of inland waters;
2. The rapid accumulation or runoff of surface waters from any source; or
3. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

X. “Flood frequency” means the probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on average, once in a specified number of years or as a percent (%) chance of occurring in any given year.

Y. “Floodfringe” mans that portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

Z. “Flood hazard boundary map” means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the national flood insurance program until superseded by a flood insurance study and a flood insurance rate map.

AA. “Flood insurance study” means a technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. Flood insurance rate maps that accompany the flood insurance study form the basis for both the regulatory and the insurance aspects of the national flood insurance program.

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

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

DD. “Floodplain management” means a policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

EE. “Flood profile” means a graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

FF. “Floodproofing” means any combination of structural provisions, changes, or adjustments to properties and structures, water and sanitary facilities, and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

GG. “Flood protection elevation” means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: “Freeboard”.)

HH. “Flood storage” means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

II. “Floodway” means the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry the regional flood discharge.

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

KK. “Habitable structure” means any structure or portion thereof used or designed for human habitation.

LL. “Hearing notice” means publication or posting meeting the requirements of Ch. 985, Wis. Stats. For appeals, a class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a class 2 notice, published twice, once each week consecutively, the last at least one week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

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

NN. “Highest Adjacent Grade” – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

OO. “Historic structure” means any structure that is either:

1. Listed individually in the national register of historic places or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;

2. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the secretary of the interior or by the secretary of the interior in states without approved programs.

PP. “Increase in regional flood height” means a calculated upward rise in the regional flood elevation, greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

QQ. “Land use” means any nonstructural use made of unimproved or improved real estate. (Also see “Development”.)

RR. “Lowest Adjacent Grade” – Elevation of the lowest ground surface that touches any of the exterior walls of a building.

SS. “Lowest Floor” – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

TT. “Maintenance” – The act or process of restoring to original soundness, including redecorating, refinishing, non-structural repairs, or the replacement of existing fixtures, systems, or equipment with equivalent fixtures, systems, or structures.

UU. “Manufactured home” means a structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term “manufactured home” includes a mobile home but does not include a “mobile recreational vehicle”.

VV. “Mobile/Manufactured Home Park or Subdivision” – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

WW. “Mobile/Manufactured Home Park or Subdivision, Existing” – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

XX. “Mobile/Manufactured Home Park, Expansion to Existing” – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets, and either final grading or the pouring of concrete pads.

YY. “Mobile recreational vehicle” means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried, or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required, and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of “mobile recreational vehicles”.

ZZ. “Model, Corrected Effective” – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

AAA. “Model, Duplicate Effective” – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

BBB. “Model, Effective” – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

CCC. “Model, Existing (Pre-project)” – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

DDD. “Model, Revised (Post-project)” – A modification of the Existing or Pre-project Conditions Model, Duplicate Effective Model, or Corrected Effective Model to reflect revised or post-project conditions.

EEE. “Municipality” or “Municipal” means the county, city or village governmental units enacting, administering, and enforcing this zoning ordinance.

FFF. “NAVD”, or “North American Vertical Datum” means elevations referenced to mean sea level datum, 1988 adjustment.

GGG. “NGVD”, or “National Geodetic Vertical Datum” means elevations referenced to mean sea level datum, 1929 adjustment.

HHH. “New construction”, for floodplain management purposes, means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the “start of construction” commenced on or after the effective date of an initial flood insurance rate map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

III. “Nonconforming structure” means an existing lawful structure or building that is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

JJJ. “Nonconforming use” means an existing lawful use or accessory use of a structure or building that is not in conformity with the provisions of this chapter for the area of the floodplain it occupies. (Such as a residence in the floodway.)

KKK. “Obstruction to flow” means any development that blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

LLL. “Official floodplain zoning map” means that map, adopted and made part of this chapter, as described in s. 8.11.060 B., which has been approved by the Department and FEMA.

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

NNN. “Ordinary highwater mark” means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

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

PPP. “Private sewage system” means a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the department of commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure, or a system located on a different parcel than the structure.

QQQ. “Public utilities” means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, and storm sewer.

RRR. “Reasonably safe from flooding” means base flood waters will not inundate the land or damage structures to be removed from the floodplain, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

SSS. "Regional flood" means a flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year and, if depicted on the flood insurance rate map, the regional flood elevation is equivalent to the base flood elevation.

TTT. "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms, nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

UUU. "Structure" means any manmade object with form, shape, and utility, either permanently or temporarily attached to, placed upon, or set into the ground, stream bed, or lake bed, including, but not limited to roofed and walled buildings, gas or liquid storage tanks, bridges, dams, and culverts.

VVV. "Subdivision" has the meaning given in s. 236.02(12), Wis. Stats.

WWW. "Substantial damage" means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

XXX. "Substantial Improvement" – Any repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

YYY. "Unnecessary hardship" means where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of the chapter.

ZZZ. "Variance" means an authorization by the zoning board of appeals for the construction or maintenance of a building or structure in a manner that is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

AAAA. "Violation" means the failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates, or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

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

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

DDDD. "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or other methods to obtain groundwater regardless of its intended use. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.060 General provisions. A. Areas to be regulated. This chapter regulates all areas within the limits of the city of Eau Claire that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. **Note:** Base flood elevations are derived from the flood profiles in the flood insurance study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO Zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

B. Official maps and revisions. The boundaries of all floodplain districts are designated as AE, AH, AO or A1-30, on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see s. 18.11.230 Amendments) before it is effective. No changes to RFEs on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the department of community development of the city of Eau Claire. If more than one map or revision is referenced, the most restrictive information shall apply. Based on the flood insurance study, the following maps apply to the city of Eau Claire:

1. Flood Insurance Rate Map (FIRM), Map Numbers 55035C0032E, 55035C0033E, 55035C0034E, 55035C0041E, 55035C0042E, 55035C0043E, 55035C0051E, 55035C0053E, 55035C0054E, 55035C0058E, 55035C0061E, 55035C0065E, 55035C0066E, 55035C0070E, dated February 18, 2009, and the following map numbers: 55035CINDOB, 55035C0027F, 55035C0029F, 55035C0031F, 55035COO43F, 55035C0044F, 55035C0062F, 550350063F, and 55035C0064F, dated April 16, 2014, with corresponding profiles that are based on the Eau Claire County Flood Insurance Study (FIS) dated April 16, 2014, Volume 55035CV000B. Map numbers 55017C0563E, 55017C0564E, 55017C0707E, 55017C0726E, 55017C0750E, dated March 2, 2010, and the following map numbers: 55017CINDOB, 55017C0706F, dated April 16, 2014, with corresponding profiles that are based on the Chippewa County Flood Insurance Study (FIS) dated April 16, 2014, Volume 55017CV000B.

2. Flood Insurance Rate Maps (FIRM's). Panel 550128 0005 D dated February 4, 1998, with corresponding profiles based on the FIS dated April 16, 2014, with community number 550128.

3. The City of Eau Claire, Wisconsin official flood plain zoning map for the Chippewa River flood plain prepared by the engineering division of the City of Eau Claire, dated March 29, 1993, and approved by WIS/DNR.

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

1. The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.

2. The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.

3. The General Floodplain District (GFP) comprises those areas that have been or may be covered by floodwater during the regional flood.

D. Locating floodplain boundaries. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd 1. or 2. below. If a significant difference exists, the map shall be amended according to s. 18.11.230. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 18.11.190 C. and the criteria in subd. 1. and 2. below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 18.11.230 Amendments.

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

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

Note: Where the flood profiles are based on established base flood elevations from a flood insurance rate map, FEMA must also approve any map amendment pursuant to s. 18.11.230 A. 6.

E. Removal of lands from floodplain. Compliance with the provisions of this chapter shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s 18.11.230 Amendments.

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a letter of map change (LOMC).

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

G. 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 necessary permits. State agencies are required to comply if s. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Wis. Stats., applies.

H. Abrogation and greater restrictions. 1. This chapter supersedes all of the provisions of any municipal zoning ordinance enacted under Wis. Stats. ss. 59.69, 59.692, or 59.694 for counties, s. 62.23 for cities, or s. 87.30, relating to floodplains. If another ordinance is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

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

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

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

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

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

M. General development standards. The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this chapter and all other requirements in s. 18.11.170. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages. (Ord. 7083, 2014; Ord. 6913 §1, 2010; Ord. 6867 §1, 2009; Ord. 6735, 2006).

18.11.070 General standards applicable to all floodplain districts. A. Hydraulic and hydrologic analyses.

1. Except as allowed in par. C. below, no floodplain development shall:

a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or

b. Cause any increase in the regional flood height due to floodplain storage area lost.

2. The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted flood insurance rate map or other adopted map, unless the provisions of s. 18.11.230 Amendments are met.

3. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this chapter, the official floodplain zoning maps, floodway lines and water surface

profiles, in accordance with s. 18.11.230.

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

B. Watercourse alterations. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The standards of s. 18.11.170 A. 3. must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 18.11.230 Amendments, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

C. Chapters 30 and 31, Wis. Stats., development**.** Development that requires a permit from the Department under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams, and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to s. 18.11.230 Amendments.

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

1. The campground is approved by the department of health services;
2. A land use permit for the campground is issued by the zoning administrator;
3. The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
4. There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator, and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
5. This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in subd. 4 above to remain in compliance with all applicable regulations, including those of the state department of health services and all other applicable regulations;
6. Only camping units that are fully licensed, if required, and ready for highway use are allowed;
7. The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;
8. All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;
9. The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
10. All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either ss. 18.11.080 or 18.11.100 for the floodplain district in which the structure is located;
11. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
12. All service facilities, including, but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells, shall be properly anchored and placed at or floodproofed to the flood protection elevation. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.080 Floodway district (FW). A. Applicability. This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 18.11.120 D.

B. Permitted uses. The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district if they are not prohibited by any other ordinance; they meet the standards in s. 18.11.090; and all permits or certificates have been issued according to s. 18.11.160.

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

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

3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of s. 18.11.090 D.

4. Uses or structures accessory to open space uses, or classified as historic structures that comply with s. 18.11.090.

5. Extraction of sand, gravel, or other materials that comply with s. 18.11.090 D.

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

7. Public utilities, streets, and bridges that comply with s. 18.11.090 C. (Ord. 6735, 2006).

18.11.090 Standards for development in floodway areas. A. General. 1. Any development in floodway areas shall comply with s. 18.11.070 and have a low flood damage potential.

2. Applicants shall provide the following data to determine the effects of the proposal according to s. 18.11.070 A.:

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

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

3. The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. 2. above.

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

1. The structure is not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;

2. Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3. It must be anchored to resist flotation, collapse, and lateral movement;

4. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and

5. It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

C. Public utilities, streets, and bridges. Public utilities, streets, and bridges may be allowed by permit, if:

1. Adequate floodproofing measures are provided to the flood protection elevation; and

2. Construction meets the development standards of s. 18.11.070 A.

D. Fills or deposition of materials. Fills or deposition of materials may be allowed by permit, if:

1. The requirements of s. 18.11.070 A. are met;

2. No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Wis. Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344, has been issued, if applicable, and the other requirements of this section are met;

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

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

E. Prohibited uses. All uses not listed as permitted uses in s. 18.11.080 B. are prohibited, including the following uses:

1. Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses.

2. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life.

3. Uses not in harmony with or detrimental to uses permitted in the adjoining districts.

4. Any private or public sewage systems, except portable latrines that are removed prior to

flooding, and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code.

5. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

6. Any solid or hazardous waste disposal sites.

7. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code.

8. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.100 Floodfringe district (FF). A. Applicability. This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 18.11.120 D.

B. Permitted uses. Any structure, land use, or development is allowed in the floodfringe district if the standards in s. 18.11.110 are met, the use is not prohibited by this or any other ordinance or regulation, and all permits or certificates specified in s. 18.11.160 and 18.11.170 have been issued. (Ord. 6735, 2006).

18.11.110 Standards for development in floodfringe areas. Section 18.11.070 A. shall apply, in addition to the following requirements, according to the use requested.

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

1. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s. 18.11.110 A. 2. can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevation of existing streets or sewer lines makes compliance with the fill standards impractical.

2. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.

3. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. 4.

4. In developments where existing street or sewer line elevations make compliance with subd. 3. impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:

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

b. The municipality has a DNR approved emergency evacuation plan.

B. Accessory structures or uses.

1. An accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

C. Commercial uses. Any commercial structure which is erected, altered, or moved into the floodfringe area shall meet the requirements of s. 18.11.110 A. Subject to the requirements of subd. E., storage yards, surface parking lots, and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

D. Manufacturing and industrial uses. Any manufacturing or industrial structure which is erected, altered, or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s. 18.11.210. Subject to the requirements of subd E., storage yards, surface parking lots, and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

E. Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish, or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with s. 18.11.210. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

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

1. When failure of public utilities, streets, and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if

they are designed to comply with s. 18.11.210;

2. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

G. Sewage systems. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 18.11.210, to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 83, Wis. Adm. Code.

H. Wells. All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 18.11.210, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

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

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

K. Manufactured homes.

1. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and shall prepare, secure approval for, and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

2. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

a. Have the lowest floor elevated to the flood protection elevation; and

b. Be anchored so they do not float, collapse or move laterally during a flood.

3. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement, and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 18.11.110 A.

L. Mobile recreational vehicles. All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in ss. 18.11.110 K. 2. and 3. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices, and has no permanently attached additions. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.120 General floodplain district (GFP). A. Applicability. The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

B. Permitted uses. Pursuant to subd D., it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (s. 18.11.080 B.) and floodfringe areas (s. 18.11.100 B.) are allowed within the general floodplain district, according to the standards of subd. C., provided that all permits or certificates required under s. 18.11.160 and 18.11.170 have been issued.

C. Standards for development in the general floodplain district. Section 18.11.080 applies to floodway areas and s. 18.11.100 applies to floodfringe areas. The rest of this chapter applies to either district.

1. In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:

a. at or above the flood protection elevation; or

b. two (2) feet above the highest adjacent grade around the structure; or

c. the depth as shown on the FIRM.

2. In AO/AH Zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

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

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

2. Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height, flood flows, and regional flood elevation, and to determine floodway boundaries:

a. A Hydrologic and Hydraulic Study as specified in s.18.11.170 A. 3.

b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.

c. Specifications for building construction and materials, floodproofing, filling,

dredging, channel improvement, storage, water supply, and sanitary facilities. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.130 Nonconforming uses and structures. A. General. Applicability. If these standards conform with s. 62.23(7)(h), Wis. Stats., they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

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

1. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this chapter. The words "modification" and "addition" include, but are not limited to any alteration, addition, modification, structural repair, rebuilding, or replacement of any such existing use, structure, or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling, and other nonstructural components, and the maintenance, repair, or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification, or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

2. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property and any structure or building thereon shall conform to the applicable requirements of this chapter.

3. As requests are received by the municipality for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept that lists the nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.

4. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 18.11.110 A. The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.

5. No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 18.11.110 A. 3. and 4.

6. If on a per event basis the total value of the work being done under (4) and (5) equals or exceeds 50% of the present equalized assessed value, the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 18.11.110 A. 3. and 4.

7. a. Except as provided in subd b., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

b. For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

c. Residential Structures. i. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts, or perimeter walls. Perimeter walls must meet the requirements of s. 18.11.210 B.;

ii. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage;

iii. Shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

iv. In A Zones, obtain, review, and utilize any flood data available from a federal, state, or other source.

v. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 18.11.120 C. 1.

vi. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

d. Nonresidential Structures. i. Shall meet the requirements of s. 18.11.130 B. 7. c.

ii. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 18.11.210 A. or B.

iii. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 18.11.120 C. 1.

8. A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 18.11.090 A., flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 18.11.210 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 18.11.130 B. 7. c. if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure. (Ord. 7083, 2014; Ord. 6867 §2, 2009; Ord. 6735, 2006).

18.11.140 Floodway areas--Nonconforming uses and structures. A. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

1. Has been granted a permit or variance which meets all ordinance requirements;
2. Meets the requirements of s. 18.11.130 A.;
3. Will not increase the obstruction to flood flows or regional flood height; and
4. Any addition to the existing structure shall be floodproofed, pursuant to s. 18.11.210, by means other than the use of fill, to the flood protection elevation;
5. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;

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

d. The use must be limited to parking or limited storage.

B. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair, or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. SPS 83, Wis. Adm. Code.

C. No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair, or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.150 Floodfringe areas--Nonconforming uses and structures. A. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of s. 18.11.110, except where subd. B. is applicable.

B. Where compliance with the provisions of subd A. 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 zoning board of appeals, using the procedures established in s. 18.11.190, may grant a variance from those provisions of subd A. for modifications or additions, using the criteria listed below. Modifications or additions that are protected to elevations lower than the flood protection elevation may be permitted if:

1. No floor is allowed below the regional flood elevation for residential or commercial structures;
2. Human lives are not endangered;
3. Public facilities, such as water or sewer, will not be installed;
4. Flood depths shall not exceed two feet;
5. Flood velocities shall not exceed two feet per second; and
6. The structure shall not be used for storage of materials as described in s. 18.11.110 E.

C. All new private sewage disposal systems, or addition to, replacement, repair, or maintenance of a private sewage disposal system, shall meet all the applicable provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

D. All new wells, or addition to, replacement, repair, or maintenance of a well, shall meet the applicable provisions of this chapter and ch. NR 811 and NR 812, Wis. Adm. Code. (Ord. 7083, 2014; Ord. 6867 §3, 2009; Ord. 6735, 2006).

18.11.160 Administration. A. Where a zoning administrator, planning agency, or a board of appeals has already been appointed to administer a zoning ordinance adopted under s. 62.23(7), Wis. Stats., these officials shall also administer this chapter.

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

1. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
2. Issue permits and inspect properties for compliance with provisions of this chapter, and issue certificates of compliance where appropriate.
3. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
4. Keep records of all official actions such as:
   a. All permits issued, inspections made, and work approved.
   b. Documentation of certified lowest floor and regional flood elevations for floodplain development.
   c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures, including changes, appeals, variances and amendments.
   d. All substantial damage assessment reports for floodplain structures.
5. Submit copies of the following items to the Department regional office:
   a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments.
   b. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
   c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

   Note: Information on conducting substantial damage assessments is available on the DNR website – http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm
6. Investigate, prepare reports, and report violations of this chapter to the department of community development and attorney for prosecution. Copies of the reports shall also be sent to the Department regional office.
7. Submit copies of text and map amendments to the FEMA regional office. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.170 Administrative procedures. A. Land use permit. A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

1. General information.
   a. Name and address of the applicant, property owner, and contractor.
   b. Legal description, proposed use, and whether it is new construction or a modification.

c. The fee for the above referenced permit as stated in the City of Eau Claire Schedule of Fees and Licenses.

2. Site development plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

a. Location, dimensions, area and elevation of the lot;

b. Location of the ordinary highwater mark of any abutting navigable waterways;

c. Location of any structures with distances measured from the lot lines and street center lines;

d. Location of any existing or proposed on-site sewage systems or private water supply systems;

e. Location and elevation of existing or future access roads;

f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either national geodetic vertical datum or North American vertical datum;

h. Data sufficient to determine the regional flood elevation in national geodetic vertical datum or North American vertical datum at the location of the development and to determine whether or not the requirements of ss. 18.11.080 or 18.11.100 are met; and

i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 18.11.070 A. This may include any of the information noted in s. 18.11.090 A.

3. Hydraulic and Hydrologic Studies to analyze development. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the department. The appropriate method of any such studies shall be based on the standards in ch. NR116.07), Wis. Admin. Code, *and Floodplain Hydrologic and Hydraulic Compliance Guide on file with the City at the Community Development Department.*

4. Expiration. All permits issued under the authority of this ordinance shall expire 180 days after issuance unless extended in writing prior to expiration. Permits may be extended once by the City zoning administrator for a maximum of 180 days for good and sufficient cause shown by applicant.

B. Certificate of compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt, or replaced, shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

1. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this chapter.

2. Application for such certificate shall be concurrent with the application for a permit.

3. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed.

4. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of s. 18.11.210.

C. Other permits. The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.180 Plan commission. A. The plan commission shall review and advise the governing body on all proposed amendments to this chapter, maps, and text.

B. The plan commission shall not:

1. Grant variances to the terms of this chapter in place of action by the zoning board of appeals; or

2. Amend the text or zoning maps in place of official action by the governing body. (Ord. 6735, 2006).

18.11.190 Zoning board of appeals. The zoning board of appeals, created under s. 62.23(7)(e), Wis. Stats., is hereby authorized or shall be appointed to act for the purposes of this chapter. The board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the board.

A. Powers and duties. The zoning board of appeals shall:

1. Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter.

2. Boundary disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

3. Variances - Hear and decide, upon appeal, variances from the ordinance standards.

B. Appeals to the board. 1. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

2. Notice and hearing for appeals, including variances.

a. Notice. The board shall:

i. Fix a reasonable time for the hearing;

ii. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;

iii. Assure that notice shall be mailed to the parties in interest and the Department regional office at least 10 days in advance of the hearing.

b. Hearing. Any party may appear in person or by agent. The board shall:

i. Resolve boundary disputes according to s. 18.11.190 C..

ii. Decide variance applications according to s. 18.11.190 D..

iii. Decide appeals of permit denials according to s. 18.11.200.

3. Decision. The final decision regarding the appeal or variance application shall:

a. Be made within a reasonable time.

b. Be sent to the Department regional office within 10 days of the decision.

c. Be a written determination signed by the chairman or secretary of the board.

d. State the specific facts which are the basis for the board's decision.

e. Either affirm, reverse, vary, or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction, or grant or deny the variance application.

f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

C. Boundary disputes. The following procedure shall be used by the board in hearing disputes concerning floodplain district boundaries:

1. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

2. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board.

3. If the boundary is incorrectly mapped, the board should inform the plan commission or the person contesting the boundary location to petition the governing body for a map amendment according to s. 18.11.230.

D. Variance. 1. The board may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that:

a. Literal enforcement of the ordinance provisions will cause unnecessary hardship;

b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case this chapter or map must be amended;

c. The variance is not contrary to the public interest; and

d. The variance is consistent with the purpose of this chapter in s. 18.11.030.

2. In addition to the criteria in subd. 1., to qualify for a variance under FEMA regulations, the following criteria must be met:

a. The variance may not cause any increase in the regional flood elevation.

b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the regional flood elevation.

c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of this chapter.

3. A variance shall not:

a. Grant, extend or increase any use prohibited in the zoning district.

b. Be granted for a hardship based solely on an economic gain or loss.

c. Be granted for a hardship which is self-created.

d. Damage the rights or property values of other persons in the area.

e. Allow actions without the amendments to this chapter or map(s) required in s. 18.11.230 A..

f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

4. When a floodplain variance is granted, the board shall notify the applicant in writing that it may increase flood insurance premiums up to $25 per $100 of coverage and risks to life and property. A copy shall be maintained with the variance record. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.200 Review of appeals or permit denials. A. The zoning board of appeals shall review all data related to the appeal. This may include:

1. Permit application data listed in s. 18.11.170 A.;
2. Floodway/floodfringe determination data in s. 18.11.120 D.;
3. Data listed in s. 18.11.090 A. 2. where the applicant has not submitted this information to the zoning administrator.
4. Other data submitted with the application, or submitted to the board with the appeal.

B. For appeals of all denied permits the board shall:

1. Follow the procedures of s. 18.11.190;
2. Consider plan commission recommendations; and
3. Either uphold the denial or grant the appeal.

C. For appeals concerning increases in regional flood elevation the board shall:

1. Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 18.11.230 Amendments; and

2. Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.210 Floodproofing. A. No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

B. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

1. Certified by a registered professional engineer or architect; or
2. Meets or exceeds the following standards:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

b. The bottom of all openings shall be no higher than one foot above grade; and

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

C. Floodproofing measures shall be designed, as appropriate, to:

1. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
2. Protect structures to the flood protection elevation;
3. Anchor structures to foundations to resist flotation and lateral movement;
4. Minimize or eliminate infiltration of flood waters; and
5. Minimize or eliminate discharges into flood waters. (Ord. 7083, 2014; Ord. 6735, 2006).

18.11.220 Public information. A. Place marks on structures to show the depth of inundation during the regional flood.

B. All maps, engineering data and regulations shall be available and widely distributed.

C. All real estate transfers should show what floodplain zoning district any real property is in. (Ord. 6735, 2006).

18.11.230 Amendments. A. Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines, and water surface profiles, in accordance with s. 18.11.230 B.

In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines, and water surface profiles, in accordance with s. 18.11.230 B. Any such alterations must be reviewed and approved by FEMA and the DNR.

In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 18.11.230 B.

B. General. The governing body may change or supplement the floodplain zoning district boundaries and this chapter in the manner outlined in s. 18.11.230. C below. Actions that require an amendment to the ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

1. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height.

2. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM.

3. Any changes to any other officially adopted floodplain maps listed in 18.11.060 B.

3. Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.

4. Correction of discrepancies between the water surface profiles and floodplain maps.

5. Any upgrade to a floodplain zoning ordinance text required by S. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.

6. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a flood insurance rate map requires prior approval by FEMA.

C. Procedures. Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Wis. Stats. The petitions shall include all data required by ss. 18.11.120 D. and 18.11.170 A. The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

1. The proposed amendment shall be referred to the plan commission for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Wis. Stats.

2. No amendments shall become effective until reviewed and approved by the Department.

3. All persons petitioning for a map amendment that obstructs flow, causing any increase in the regional flood shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

D. Letter amendments. Any FIRM adopted as an official map herein may be amended by FEMA through a Letter of Map Amendment (LOMA), Letter of Map Revision-Fill (LOMR-F), or other applicable provisions to amend individual sites. If granted by FEMA, said amendments do not require approval by the governing body. (Ord. 7083, 2014; Ord. 6735, 2006).

Note: Consult the FEMA web site - www.fema.gov - for the letter map amendment procedure.

18.11.240 Enforcement and penalties. Any violation of the provisions of this chapter by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of no more than $50/day, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Wis. Stats. (Ord. 7083, 2014; Ord. 6735, 2006).

Chapter 18.12

SW - SHORELAND-WETLANDS OVERLAY DISTRICT

Sections:

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18.12.010 Statutory Authorization. This chapter is adopted pursuant to the authorization in sections 62.23, 62.231, 87.30 and 144.26, Wis. Stats. (Ord. 5037, 1990).

18.12.020 Findings of Fact and Purpose. Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the City of Eau Claire 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:

A. Promote the public health, safety, convenience and general welfare;

B. Maintain the storm and flood water storage capacity of wetlands;

C. Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

D. Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;

E. Prohibit certain uses detrimental to the shoreland-wetland area; and

F. Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.
(Ord. 5037, 1990).

18.12.030 Definitions. A. For the purpose of administering and enforcing this chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.

B. The following terms used in this chapter mean:

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

3. "Class 2 public notice" means publication of a public hearing notice under chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on 2 consecutive weeks, the last at least 7 days prior to the hearing.

4. "Conditional use" means a use which is permitted by this chapter provided that certain conditions specified in the chapter are met and that a permit is granted by the plan commission.

5. "Department" means the Wisconsin Department of Natural Resources.

6. "Development" means 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.

7. "Drainage system" means one or more artificial ditch, tile drain or similar device which collects surface runoff or groundwater and conveys it to a point of discharge.

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

9. "Fixed houseboat" as defined in section 30.121(1), Wis. Stats., means 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 spudpoles attached to the bed of the waterway.

10. "Navigable waters" means 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 section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under sections 61.351 or 62.221, Wis. Stats., and chapter NR 117, Wis. Adm. Code, 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; and

c) Such lands are maintained in nonstructural agricultural use. Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis (Muench v. Public Service Commission, 261 Wis. 492 [1952] and DeGaynor and Co., Inc. v. Department of Natural Resources, 70 Wis.2d 936 [1975]). For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons.

11. "Ordinary high-water mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

12. "Planning agency" means the city plan commission.

13. "Shorelands" means 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 a river or stream or to the landward side of the floodplain, whichever distance is greater.

14. "Shoreland-wetland district" means the zoning district, created in this shoreland-wetland zoning chapter, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this chapter.

15. "Unnecessary hardship" means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

16. "Variance" means an authorization granted by the board of zoning appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this chapter.

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

18. "Wetland alteration" means any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area. (Ord. 5037, 1990).

18.12.040 Compliance. The use of wetlands and the alteration of wetlands within the shoreland area of the City of Eau Claire shall be in full compliance with the terms of this chapter and other applicable local, state or federal regulations. (However, see section 18.12.110 of this chapter 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 chapter. (Ord. 5037, 1990).

18.12.050 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 necessary permits. State agencies are required to comply if section 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when section 30.12(4)(a), Wis. Stats., applies. (Ord. 5037, 1990).

18.12.060 Abrogation and Greater Restrictions. A. This chapter supersedes all the provisions of any municipal zoning ordinance enacted under sections 62.23 or 87.30, Wis. Stats., which relate to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

B. This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. (Ord. 5037, 1990).

18.12.070 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 powers granted by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in chapter NR 117, Wis. Adm. Code, and where the said provision is unclear, the provision shall be interpreted in light of the chapter NR 117 standards in effect on the date of the adoption of this chapter, or in effect on the date of the most recent text amendment to this chapter. (Ord. 5037, 1990).

18.12.080 Shoreland-Wetland Zoning District. A. Shoreland-Wetland Zoning Maps. The following maps are hereby adopted and made a part of this chapter and are on file in the office of the city clerk:

1. Wisconsin wetland inventory maps stamped "FINAL" on December 20, 1985.
2. Floodplain zoning maps titled "City of Eau Claire Official Floodplain Zoning Map" and dated January 1, 1985.
3. United States geological survey maps titled "Eau Claire, East and West Quadrangle".
4. Zoning maps titled "Eau Claire Zoning Maps".

B. District Boundaries. The shoreland-wetland zoning district includes all wetlands in the City of Eau Claire which are shown on the final wetland inventory map that has been adopted and made a part of this chapter 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 of Eau Claire shall be presumed to be navigable if they are listed in the department publication "Surface Water Resources of Eau Claire County" or "Surface Water Resources of Chippewa 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 chapter.
2. Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, 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 or other zoning base maps which have been incorporated by reference and made a part of this chapter. Floodplain zoning maps adopted in section 18.12.080 A. shall be used to determine the extent of floodplain areas.

C. Determinations of navigability and ordinary high-water mark location 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 maps and 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 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 zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official shoreland-wetland zoning maps, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period. (Ord. 5037, 1990).

18.12.090 Permitted Uses. A. The following activities and uses which do not require the issuance of a zoning permit are permitted subject to the provisions of chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable, provided that no wetland alteration occurs:

1. Hiking, fishing, trapping, hunting, 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 pasturing of livestock; and
5. The cultivation of agricultural crops.

B. The following uses which do not require the issuance of a zoning permit and which may involve wetland alterations are permitted 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;

3. The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible 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, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;

6. The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in subsection 18.12.140 B. of this chapter; and

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. The following conditional uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below:

1. The construction of and maintenance of roads which are necessary for the continuity of the municipal street systems, the provision of essential utility and emergency services or to provide access to uses permitted under section 18.12.090, provided that:

a) The road cannot, as a practical matter, be located outside the wetland;

b) The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in subsection 18.12.140 B. of this chapter;

c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;

d) Road construction activities are carried out in the immediate area of the roadbed only; and

e) Any wetland alteration must be necessary for the construction or maintenance of the road.

2. The construction and maintenance of nonresidential buildings provided that:

a) The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;

b) The building cannot, as a practical matter, be located outside the wetland;

c) The building does not exceed 500 square feet in floor area; and

d) Only limited filling and excavating necessary to provide structural support for the building is allowed.

3. The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

a) Any private development allowed under this 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 subsection 18.12.090 C.1. of this chapter; and

d) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

4. The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided that:

a) The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;

b) Only limited filling or excavating necessary for such construction or maintenance is allowed; and

c) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in subsection 18.12.140 B. (Ord. 5037, 1990).

18.12.100 Prohibited Uses. A. Any use not listed in section 18.12.090 is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this chapter in accordance with section 18.12.140.

B. The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited. (Ord. 5037, 1990).

18.12.110 Nonconforming Structures and Uses. A. The lawful use of a building, structure or property which existed at the time this chapter, or an applicable amendment to this chapter, took effect and which is not in conformity with the provisions of the chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions: Notwithstanding section 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 chapter adopted under section 62.231, Wis. Stats., or of an environmental control facility in existence on May 7, 1982, related to that structure, is permitted under section 62.231(5), Wis. Stats. Section 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 chapter or amendment. All other modifications to nonconforming structures are subject to s. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs or alterations to 50% of current fair market value.

B. 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 this chapter.

C. 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 chapter, adopted under section 62.231, Wis. Stats., may be continued although such use does not conform with the provisions of the chapter. However, such nonconforming use may not be extended.

D. 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 sec. 30.121, Wis. Stats.

E. Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses. (Ord. 5037, 1990).

18.12.120 Administrative Provisions. A. Zoning Administrator. The administrator shall have the following duties and powers:

1. Advise applicants as to the provisions of this chapter and assist them in preparing permit applications and appeal forms.

2. Issue permits and certificates of compliance and inspect properties for compliance with this chapter.

3. Keep records of all permits issued, inspections made, work approved and other official actions.

4. Have access to structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.

5. 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.

6. Investigate and report violations of this chapter to the commission and the city attorney.

B. Zoning Permits. 1. When Required. Unless another section of this chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any new development, as determined by section 18.12.030 6. of this chapter, or any change in the use of an existing building or structure is initiated.

2. Application. An application for a zoning permit shall be made to the zoning administrator upon forms furnished by the municipality and shall include, for the purpose of proper enforcement of these regulations, the following information:

a) General Information.

1) Name, address, and telephone number of applicant, property owner and contractor, where applicable.

2) Legal description of the property and a general description of the proposed use or development.

3) Whether or not a private water supply or sewage system is to be installed.

b) Site Development Plan. The site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

1) Dimensions and area of the lot;

2) Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;

3) Description of any existing or proposed on-site sewage systems or private water supply systems;

4) Location of the ordinary high-water mark of any abutting navigable waterways;

5) Boundaries of all wetlands;

6) Existing and proposed topographic and drainage features and vegetative cover;

7) Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;

8) Location of existing or future access roads; and

9) Specifications and dimensions for areas of proposed wetland alteration.

3. Expiration. All permits issued under the authority of this chapter shall expire 6 months from the date of issuance.

C. Certificates of Compliance. 1. Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator subject to the following provisions:

a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this chapter.

b) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.

c) The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning or conditional use permit, providing the building or premises and proposed use thereof conform with all the provisions of this chapter.

2. The administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the municipal governing board.

3. Upon written request from the owner, the administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this chapter, certifying after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this chapter.

D. Conditional Use Permits. 1. Application. Any use listed as a conditional use in this chapter shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the commission pursuant to chapter 18.35. The department shall be notified 10 days prior to Commission hearing thereon and any commission decision shall be submitted to the DNR within 10 days.

2. Conditions. Upon consideration of the permit application and the standards applicable to the permitted uses in section 18.12.090, the commission shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the commission may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this chapter.

E. Fees. Fees may be established and charged by the council for the following:

1. Zoning permits.
2. Certificates of compliance.
3. Public hearings.
4. Legal notice publications.
5. Conditional use permits.
6. Rezoning petitions.

F. Recording. Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the administrator of the land use and structures permitted.

G. Revocation. Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the board or commission, respectively. (Ord. 5037, 1990).

18.12.130 Board of Appeals. The Board established under section 18.55 shall exercise the duties and fulfill the responsibilities and obligations under this section.

A. Powers and Duties. The board:

1. Shall 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 chapter.

2. May authorize, upon appeal in specific cases, such variance from the dimensional terms of this chapter as shall not be contrary to the public interest, where, owing to special conditions unique to a property, a literal enforcement of the chapter will result in unnecessary hardship. In the issuance of a variance, the purpose of the chapter shall be observed and substantial justice done. 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 chapter.

B. Appeals to the Board. Appeals to the board may be taken by any person aggrieved or by an officer, department, board or bureau of the city affected by any order, requirement, decision, or determination of the 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 whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The administrator or other official whose decision is in question shall transmit to the board all the papers constituting the record on the matter appealed.

C. Public Hearings. 1. Before making a decision on an appeal or application, the board 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, 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 present testimony in person, by agent or by attorney.

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 shoreland-wetland zoning.

D. Decisions. 1. The final disposition of an appeal before the board shall be in the form of a written decision, made within a reasonable time after the public hearing. 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. (Ord. 5037, 1990).

18.12.140 Amending Shoreland-Wetland Zoning Regulations. A. The Council may alter, supplement or change the district boundaries and the regulations contained in this chapter in accordance with the requirements of section 62.23(7)(d)2., Wis. Stats., NR 117, Wis. Adm. Code, 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 commission.

2. All proposed text and map amendments shall be referred to the plan commission, and a public hearing shall be held, after giving a class 2 notice, as required by section 62.23(7)(d)2., Wis. Stats. The appropriate district office of the department shall be provided with written notice of the hearing at least 10 days prior to such hearing.

B. In order to ensure that this chapter will remain consistent with the shoreland protection objectives of section 144.26, Wis. Stats., the municipal governing body 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 wetland functions:

1. Storm and flood water storage capacity;

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

3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

4. Shoreline protection against erosion;

5. Fish spawning, breeding, nursery or feeding grounds;

6. Wildlife habitat; or

7. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

C. 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 subsection 18.12.140 B., the department shall so notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.

D. The appropriate district office of the department shall be provided with:

1. A copy of the recommendation and report, if any, of the municipal planning agency on a proposed text or map amendment, within 10 days after the submission of those recommendations to the municipal governing body.

2. Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.

E. If the department notifies the commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in subsection 18.12.140 B., that proposed amendment, if approved by the municipal governing body, shall not become effective until more than 30 days have elapsed since written notice of the municipal approval was mailed to the department, as required by subsection 18.12.140 D.2. If within the 30 day period the department notifies the municipality that the department intends to adopt a superseding shoreland-wetland ordinance for the municipality as provided by section 62.231(6), Wis. Stats., the proposed amendment shall not become effective until the ordinance adoption procedure under section 62.231(6), Wis. Stats., is completed or otherwise terminated. (Ord. 5037, 1990).

18.12.150 Enforcement and Penalties. Any development, building or structure, or any accessory building or structure constructed, altered, added to, modified, rebuilt or replaced or any use or accessory use established after the effective date of this chapter in violation of the provisions of this chapter, by any person, shall be deemed a violation. The zoning administrator shall refer violations to the plan commission and the city attorney who shall prosecute such violations. Any person who violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture of not less than $10 nor more than $100 per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to section 87.30(2), Wis. Stats. (Ord. 5037, 1990).

Chapter 18.13

R-1B -- MOBILE HOME PARK DISTRICT

Sections:

18.13.010 Purpose.
18.13.020 Uses Permitted.
18.13.030 Conditional Uses.
18.13.040 Building Height Limit.
18.13.050 Density.
18.13.060 Required Separation Between Mobile Homes.
18.13.065 Detached Accessory Structures.
18.13.070 Setback Required.
18.13.080 Minimum Spaces and Facilities.
18.13.090 Recreation Area.
18.13.100 Off-Street Parking Requirements.
18.13.110 Non-Conforming Mobile Homes.

18.13.010 Purpose. The mobile home park district is established in order to provide areas within the city which are appropriate for locating mobile homes. Development of a mobile home park and placement of a mobile home within such area shall comply with the provisions of this chapter and Chapter 16.12. (Ord. 5037, 1990).

18.13.020 Uses Permitted. The following uses shall be permitted:

A. Mobile homes in mobile home parks for single-family residence;

B. Playgrounds, community centers and recreational uses that are for private recreation purposes;

C. Family day care homes;

D. Accessory uses determined to be customarily incidental to a mobile home or mobile home park. (Ord. 5037, 1990).

18.13.030 Conditional Uses. The following conditional use may be allowed in an R-1B district subject to the provisions of chapters 18.35 and 18.13 and the following standards:

A. Duplex mobile home units, subject to the following standards:

1. Each such duplex unit shall be a mobile home.

2. Duplex mobile home units shall be grouped together in one location, either on adjoining lots adjacent to the corner or periphery of the mobile home park or at a totally distinct and separate location within the mobile home park, apart from single unit mobile homes.

3. A minimum of 3 parking spaces shall be provided for each duplex mobile home stand.

4. The minimum open space distance between duplex mobile home units or between duplex mobile home units and single units shall be 30 feet, except that 20 feet will be allowed from the narrow ends of two structures. Requirements for attached and detached accessory structures shall be the same as set forth in sections 18.13.060 and 18.13.065. (Ord. 5280 §11, 1992; Ord. 5037, 1990).

18.13.040 Building Height Limit. Building height limits shall be one story, but not to exceed fifteen feet in height from ground level. (Ord. 5037, 1990).

18.13.050 Density. The maximum allowable density in mobile home parks shall be eight units per acre and each mobile home site shall conform to the requirements of Wisconsin Administrative Code Section HSS. 177.07. (Ord. 5037, 1990).

18.13.060 Required Separation Between Mobile Homes. The minimum open space distance between homes shall be 20 feet, except that 16 feet will be allowed from the narrow ends of two homes. An attached accessory structure such as an awning, cabana, storage cabinet, carport, windbreak, porch or any other covered or enclosed addition to the mobile home shall, for purposes of separation requirements, be considered a part of the mobile home. Uncovered porches, patios, decks and steps to mobile home entrances may extend 8 feet into the required open space distance. Enclosed porches, windbreaks, storage areas or other non-habitable areas adjacent to the main entrance may extend 4 feet into the required open space distance, provided that not more than 32 square feet of such area is within such space. (Ord. 5280 §12, 1992; Ord. 5037, 1990).

18.13.065 Detached accessory structures. Detached accessory structures shall be included and approved as part of the original or revised mobile home park plan. If such plan has not been approved, a maximum of one accessory structure not exceeding 100 square feet in size per mobile home stand will be allowed if a setback of 10 feet is maintained to adjacent homes and 5 feet to the site's home and to any other accessory structure. Detached accessory structures shall also meet the setback requirements of s. 18.13.070. (Ord. 5280 §13, 1992).

18.13.070 Setback Required. A. There shall be a minimum distance of twenty-five feet from any mobile home to any mobile home park property boundary line, including boundary lines along streets. This distance may be reduced to 20 feet in existing parks where existing mobile homes have already established a distance of less than 25 feet.

B. There shall be a minimum distance of twenty-five feet from the mobile home stand and the face of the curb of the abutting mobile home park street. This distance may be reduced to 20 feet when the distance between sides of homes is increased to 27 feet.

C. No mobile home shall be located closer than sixty feet from any community building, including any washrooms, toilet or laundry facilities within the mobile home park. (Ord. 5280 §14, 1992; Ord. 5037, 1990).

18.13.080 Minimum Spaces and Facilities. All mobile home parks shall be provided with solid, effective screening of trees, shrubs, or fences along the property boundary line separating the park and such adjacent properties, unless waived by the Plan Commission. If the screening is trees or shrubs, there shall be established within six months after issuance of the license for the occupation of such mobile home park the following plantings: a permanent planting of trees and shrubs so arranged and in sufficient numbers so as to form a solid wall of plant material. Such planting shall be a minimum height of two feet at the original time of planting and shall be grown or maintained at a height of not less than eight feet except where line of sight vision is necessary for pedestrian or vehicular traffic safety. Fences shall be erected to a height of 6 feet except where line of sight is necessary for pedestrian or vehicular traffic safety. (Ord. 5280 §15, 1992; Ord. 5037, 1990).

18.13.090 Recreation Area. At least ten percent of a mobile home park shall be devoted to recreational or common open space use for the enjoyment of the occupants of the park. Such open space should, where conditions permit, be centrally located so as to be free from traffic hazards. (Ord. 5280 §16, 1992; Ord. 5037, 1990).

18.13.100 Off-Street Parking Requirements. A. **Occupant Parking**. A minimum of two parking spaces shall be provided for each mobile home stand, and this space shall be located within thirty feet of the mobile home stand. Parking in tandem is not permitted.

B. **Parking Restrictions**. Parking of boats, trailers, campers, snowmobiles or other similar vehicles shall be restricted to an area provided by the park management specifically for that purpose. (Ord. 5280 §17, 1992; Ord. 5037, 1990).

18.13.110 Non-conforming mobile homes. A. A legal non-conforming mobile home may be replaced with another mobile home of any size as long as all existing non-conformities are not increased and there are no new non-conformities created.

B. All other legal non-conforming buildings and structures shall comply with chapter 18.40. (Ord. 5280 §18, 1992).

Chapter 18.14

TND – TRADITIONAL NEIGHBORHOOD DEVELOPMENT

Sections:

18.14.010 General provisions.
18.14.020 Definitions.
18.14.030 Procedures.
18.14.040 Review criteria.
18.14.050 Design standards.

18.14.010 General provisions. A. **Statutory authorization**. This chapter is adopted pursuant to the authority contained in sections 62.23 and 66.1027 of the Wisconsin Statutes.

B. **Purpose**. The purpose of this chapter is to allow the optional development and redevelopment of land in the city of Eau Claire consistent with the design principles of traditional neighborhoods. A traditional neighborhood:

1. Is compact;
2. Is designed for the human scale;
3. Provides a mix of uses, including residential, commercial, civic, and open space uses in close proximity to one another within the neighborhood;
4. Provides a mix of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes;
5. Incorporates a system of relatively narrow, interconnected streets with sidewalks, bikeways, and transit that offer multiple routes for motorists, pedestrians, and bicyclists and provides for the connections of those streets to existing and future developments;
6. Retains existing buildings with historical or architectural features that enhance the visual character of the community;
7. Incorporates significant environmental features into the design;
8. Is consistent with the city of Eau Claire's comprehensive plan.

C. **Applicability**. The traditional neighborhood development district is an alternative set of standards for development within the city of Eau Claire for new development of 15 acres or more contiguous to existing development or for redevelopment or infill development of 10 acres or more. Areas zoned traditional neighborhood development under the provisions of this chapter shall be designated TND on the zoning map.

D. The fees for a TND – Traditional Neighborhood Development application shall be the same as the fees for a PD – Planned Development.

E. Traditional neighborhood development that requires the subdivision of land may also have applications for each processed concurrently. A general development plan may serve as a preliminary plat if concurrent processing is desired. In no instance shall the platting requirements for subdivisions, as set forth in state law and Title 17 of the municipal code, be waived as a result of this concurrent processing provision.

1. It is the intent of this provision that if plat review is required under Title 17 of the municipal code, that it be accomplished simultaneously with the review of the general development plan under this chapter.
2. If simultaneous review is desired, the general development plan shall be submitted in a form that is in accordance with the requirements of Title 17 of the municipal code relative to preliminary plats, where applicable. Review fees for preliminary plats shall be waived for applications that are submitted concurrently.
3. If there is a conflict between the design standards of Title 17 and the design standards of this chapter, the provisions of this chapter shall apply.

F. Dedication, or offers to dedicate, interest in real property for specific public purposes shall be shown on the general development plan. Such dedications may be made a condition of approval of a traditional neighborhood development if the council finds that:

1. Such additional facilities would serve the public interest in such location;
2. Such facilities would be in accord with the comprehensive plan or component thereof; and
3. The amount and location of land to be dedicated bears a reasonable relationship to the demand generated by the proposed development.

G. Improvements, consistent with city standards or as shown on the comprehensive plan or component thereof, may be required as a condition of approval of a traditional neighborhood development. Improvements may include, but are not limited to paving, curbs, gutters, sidewalks, bikeways, water lines, sewer lines, drainage works, bus turnouts, street lights, and landscaping. Improvement requirements for multi-phased projects shall be applied to each final implementation plan as finalized and shall not consider future phases. (Ord. 6263, 2002).

18.14.020 Definitions. A. The following definitions shall apply for TND requests:

1. Affordable housing – housing in which mortgage, amortization, taxes, insurance, and condominium and association fees, if any, constitute no more than 28% of gross household income for a household of the size which would occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of gross annual household income for a household of the size that would occupy the unit.
2. Building scale – the relationship between the mass of a building and its surroundings, including the width of street, open space, and mass of surrounding buildings. Mass is determined by the three-dimensional bulk of a structure: height, width, and depth.
3. Secondary dwelling unit – An additional dwelling unit located within the principal dwelling on the lot, in a freestanding building, or above a residential garage.
4. Traditional neighborhood – a compact, mixed-use neighborhood where residential, commercial, and civic buildings are within close proximity to each other. (Ord. 6263, 2002).

18.14.030 Procedures. The procedures for review of a TND–Traditional Neighborhood Development shall be the same as the procedures for review as PD–Planned Developments. Section 18.10.030 and section 18.10.040 B., C., D., and E. of the municipal code. (Ord. 6263, 2002).

18.14.040 Review criteria. A. The following general provisions shall be considered by the plan commission and city council in their review of a traditional neighborhood development.

1. Conformance with the design standards of this chapter;
2. Conformance with the review criteria of the site plan chapter of this title;
3. Suitability of the site itself for development as proposed;
4. Compatibility of the proposed development with adjacent and nearby existing or planned development in terms of scale, mass, height, bulk, uses, activities, traffic, design, structure placement, privacy, views, and similar concerns;
5. Utilization of site planning principles common to high quality development;
6. Conformance with city development and design standards and policies;
7. Availability, both on and off the site, of adequate public utilities and services, including water, sanitary sewer, storm sewer, or other means of surface drainage, streets, sidewalks, traffic control, fire protection, and police protection;
8. Effective mitigation of any potential negative impacts of the proposed development, either on the site itself or off the site;
9. Adequate provision for preservation and maintenance of areas set aside for common ownership;
10. Conformance with the comprehensive plan.

The commission, in making its recommendation to the council, shall consider said criteria as noted above and also take into consideration the recommendations of the department and the comments received at its public hearing. (Ord. 6263, 2002).

<u>18.14.050 Design standards</u>. A. In order to achieve the proximity necessary to make neighborhoods walkable, it is important to mix land uses. A traditional neighborhood development shall consist of a mix of residential uses, a mixed-use area, and open space as provided herein:

1. A mix of residential uses of the following types can occur anywhere in the traditional neighborhood development. For infill development, the mix of residential uses may be satisfied by existing residential uses adjacent to the traditional neighborhood development, provided that such existing uses shall not exceed 25% of the total project area.

a. Single-family detached dwellings, including manufactured homes;
b. Single-family attached dwellings, including duplexes, townhouses, row houses;
c. Multi-family dwellings, including senior housing;
d. Secondary dwelling units ("granny flats");
e. "Special needs" housing, such as community living arrangements and assisted living facilities.

2. A mixed-use area of commercial, residential, civic or institutional, and open space uses shall be provided within a TND. All residents should be within approximately ¼ mile or a 5-minute walk from existing or proposed commercial, civic, and open space area. Individual businesses should provide service to the TND area and not exceed 6,000 square feet in size, unless approved by the plan commission as being compatible within the TND area.

a. Commercial uses.
i. Office activities (see s. 18.05.040 B.)
ii. Personal service (see s. 18.05.040 C.)
iii. Retail sales and service (see s. 18.05.040 D.)
iv. Accommodations (bed and breakfast establishments, small hotels or inns).

b. Residential uses.
i. Single-family attached dwellings, including duplexes, townhouses, row houses;
ii. Multi-family dwellings, including senior housing;
iii. Residential units located on upper floors above commercial uses or to the rear of storefronts;
iv. "Live/work" units that combine a residence and the resident's workplace;
v. "Special needs" housing, such as community living arrangements and assisted living facilities.

c. Civic or institutional uses.
i. Municipal office, fire stations, libraries, museums, community meeting facilities, and post offices;
ii. Transit shelters;
iii. Churches;
iv. Schools.

d. Open space uses.
i. Central square;
ii. Neighborhood park;
iii. Playground.

3. Open space uses identified below should be incorporated in the traditional neighborhood development as appropriate. Large outdoor recreation areas should be located at the periphery of neighborhoods rather than central locations.

a. Environmental corridors;
b. Protected natural areas;
c. Community parks;
d. Streams, ponds, and other water bodies;
e. Stormwater detention/retention facilities.

B. **Development units**. The number of residential dwelling units and the amount of non-residential development (excluding open spaces) shall be determined as follows:

1. In areas devoted to mixed residential uses:

a. The number of single-family attached and detached units permitted shall be between 4-8 dwelling units per acre;

b. The number of multi-family units shall be between 8-21 dwelling units per acre.

c. Secondary dwelling units shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of secondary dwelling units shall not be more than 10% of the total number of single-family attached and detached units.

d. For each affordable housing unit provided under this section, one additional dwelling unit shall be permitted, up to a maximum 15% increase in dwelling units.

2. In mixed-use areas:

a. The number of single-family and multi-family dwelling units permitted shall be calculated the same as above, plus an additional number of units not to exceed 10% of the amount permitted above.

b. All dwelling units constructed above commercial uses shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of dwelling units shall not be increased by more than 10 dwelling units or 10%, whichever is greater.

c. The total ground floor area of non-residential development uses, including off-street parking areas, shall not exceed 25% of the traditional neighborhood development.

C**. Open space**. At least 15% of the gross acreage of the traditional neighborhood development must be common, open space as defined by section 18.10.050 H. of this title. At least 25% of the common open space must be dedicated to the public for parkland. Ninety percent of the lots within the areas devoted to mixed residential uses shall be within a ¼ mile or a 5-minute walk from common open space.

D. **Lot and block standards**. 1. Street layouts should provide for perimeter blocks that are generally in the range of 200-400 feet deep by 400-800 feet long. A variety of lot sizes should be provided to facilitate housing diversity and choice and meet the projected requirements of people with different housing needs.

2. Lot widths. Lot widths should create a relatively symmetrical street cross-section that reinforces the public space of the street as a simple, unified public space. A minimum lot width of 60 feet shall be provided.

3. Building setback, front, and side street - mixed-use area. Structures in the mixed-use area have no minimum setback. Commercial and civic or institutional buildings should abut the public sidewalks in the mixed-use area.

4. Building setback, front, and side street - areas of mixed residential uses. Single-family detached residences shall have a building setback in the front between 20-30 feet. Single-family attached residences and multi-family residences shall have a building setback in the front between 10-30 feet.

5. Building setback, rear - areas of mixed residential uses. The principal building on lots devoted to single-family detached residences shall be set back no less than 25 feet from the rear lot line and on lots devoted to multi-family residences a 20 foot setback shall be provided from the rear lot line.

6. Accessory building setbacks shall be provided as per section 18.30.030 of this title except if an accessory building contains a dwelling unit, in which case a 10-foot setback shall be provided from the side and rear lot lines.

7. Side setbacks. An 8-foot side yard is required for one- and two-family dwellings. A 10-foot side yard is required for all other residential units. Zero lot line single-family dwellings are allowed provided that a reciprocal access easement is recorded for both lots and townhouses or other attached dwellings, and provided that all dwellings have pedestrian access to the rear yard through means other than the principal structure.

8. Lot coverage. Building lot coverage shall not exceed 35% in any area in a traditional neighborhood district.

E. **Circulation standards**. The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed-use area, and open space of the traditional neighborhood development and shall be connected to existing and proposed external development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes (especially off-street bicycle or multi-use paths), control through traffic, limit lot access to streets of higher traffic volumes, and promote safe and efficient mobility through the traditional neighborhood development.

1. Pedestrian circulation. Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the traditional neighborhood development. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced. All streets shall be bordered by sidewalks on both sides except when topographic or other conditions prohibit. The following provisions also apply:

a. Sidewalks in residential areas. Clear and well-lighted sidewalks, 5 feet or wider, shall connect all dwelling entrances to the adjacent public sidewalk.

b. Sidewalks in mixed-use areas. Clear and well-lighted walkways shall connect building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum of 5 feet in width.

c. Disabled accessibility. Sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act.

d. Crosswalks. Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be well lit and clearly marked with contrasting paving materials at the edges or with striping.

2. Bicycle circulation. Bicycle circulation shall be accommodated on streets and/or dedicated bicycle paths. Where feasible, any existing bicycle routes through the site shall be preserved and enhanced.

3. Public transit access. Where public transit service is available or planned, convenient access to transit stops shall be provided. Where transit shelters are provided, they shall be placed in highly visible locations that promote security through surveillance and shall be well lighted.

4. Motor vehicle circulation. Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as narrower streets, curb extensions, traffic circles, and medians shall be used to encourage slow traffic speeds.

a. Streets.

i. Arterial streets should not bisect a traditional neighborhood development.

ii. Collector streets should provide access to commercial or mixed-use buildings, but are also part of the city's major street network. On-street parking, whether diagonal or parallel, is encouraged to slow traffic.

iii. Local streets should provide primary access to individual residential properties. Traffic volumes are relatively low, with a design speed of 25 miles per hour.

iv. Alleys should provide secondary access to residential properties where street frontages are narrow, where the street is designed with a narrow width to provide limited on-street parking, or where alley access development is desired to increase residential densities. Alleys may also provide delivery access or alternate parking access to commercial properties.

b. Street layout. The traditional neighborhood development should maintain the existing street grid, where present, and restore any disrupted street grid where feasible. In addition:

i. Intersections shall be at right angles whenever possible, but in no case less than 75 degrees. Low volume streets may form three-way intersections creating an inherent right-of-way assignment, which significantly reduces accidents without the use of traffic controls.

ii. Corner radii. The roadway edge at street intersections shall be rounded to encourage safe and easy pedestrian crossing.

iii. Circulation. Vehicular access to lots or parcels fronting on a principal arterial street shall be via a service or frontage road. Curb cuts shall not be allowed within 115 feet of the intersection of 2 principal arterial streets, 75 feet from the intersection of 2 minor arterial streets, and 50 feet from the intersection of 2 collector streets. When a combination of the above street classifications intersects, the more restrictive requirement shall apply. This requirement may be waived or modified by the council where it would constitute an unreasonable requirement and would not create a traffic hazard.

iv. The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when there is a connection to the pedestrian and bicycle path network at the terminus.

c. Parking requirements. Parking areas for shared or community use should be encouraged. In addition:

i. In the mixed-use area, any parking lot shall be located at the rear or side of a building. Screening shall be provided as per landscape manual standards.

ii. The parking requirements of chapter 18.25 shall apply with a 25% reduction in required parking allowed in the mixed-use area.

F**. Architectural standards**. A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character.

1. Guidelines for existing structures:

a. Existing structures, if determined to be landmarked or national register properties, shall be protected from demolition or encroachment by incompatible structures or landscape development.

b. The landmarks ordinance (chapter 2.65 of the municipal code) shall be used as the criteria for renovating historic or architecturally significant structures.

c. The policies of neighborhood plans for architectural standards shall be considered for renovation projects to ensure neighborhood compatibility.

2. Guidelines for new structures:

a. Height. New structures within a traditional neighborhood development shall be no more than 2½ stories for single-family residential, or 5 stories for commercial, multi-family residential, or mixed-use.

b. To create a visually unified building mass, buildings shall be no more than 30% taller or 30% shorter than the average building height on the block within the mixed-use area.

c. Entries and facades.

i. The architectural features, materials, and the articulation of a facade of a building shall be continued on all sides visible from a public street.

ii. The front facade of the principal building on any lot in a traditional neighborhood development shall face onto a public street.

iii. The front facade shall not be oriented to face directly toward a parking lot.

iv. Porches, pent roofs, roof overhangs, hooded front doors, or other similar architectural elements shall define the front entrance to all residences.

v. For commercial buildings, a minimum of 50% of the front facade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior.

vi. New structures on opposite sides of the same street should follow similar design guidelines. This provision shall not apply to buildings bordering civic uses.

3. Guidelines for garages and secondary dwelling units. Garages and secondary dwelling units may be placed on a single-family detached residential lot within the principal building or an accessory building, provided that the secondary dwelling unit shall not exceed 800 square feet.

4. Guidelines for exterior signage. A comprehensive sign program is required for the entire traditional neighborhood development that establishes a uniform sign theme. Signs shall share a common style (e.g., size, shape, material). In the mixed-use area, all signs shall be wall signs or canopy signs. The standards of the C-2 district shall apply to the mixed-use area and the R-3 district for the mixed residential area.

5. Guidelines for lighting:

a. Street lighting shall be provided along all streets. Generally, more, smaller lights, as opposed to fewer, high-intensity lights, should be used. Street lights shall be installed on both sides of the street at intervals of no greater than 75 feet. Street lighting design shall meet the minimum standards developed by the illumination engineering society.

b. Exterior lighting shall be provided for all entryways, parking lots, and exterior activity areas and shall be directed downward in order to reduce glare onto adjacent properties.

G. Landscaping and screening shall be provided as per landscape manual standards. The TND shall be designed to preserve existing vegetation as is practicable.

H. **Utilities and drainage**. All utilities and drainage improvements shall be provided in accordance with the municipal code and shall be shown on the final site plan.

I. **TND Perimeter**. The TND perimeter shall be designed and used in such a way as to harmonize uses, scale, structure heights, setbacks and mass with existing or planned adjacent or nearby development. Reasonable provisions relating to lighting; landscaping; screening; buffering; activity areas; land uses; setbacks; structure height, width, length, orientation; or similar characteristics of the development may be imposed to assure this compatibility. (Ord. 6263, 2002).

Chapter 18.15

MX – Mixed-use Development Overlay District

Sections:

18.15.010 Purpose.
18.15.020 General Provisions.
18.15.030 Procedure.
18.15.040 Review Criteria.
18.15.050 Standards and Special Requirements for a MX District.

18.15.010 Purpose. The Mixed-use Development Overlay District allows for more efficient and flexible use of land by combining both commercial and residential uses within a site or building. The purposes of the MX District are to:

A. Provide areas for mixed-use development that are carefully planned to promote efficient use of the land and roadway system;
B. Ensure sensitivity to the surrounding neighborhood;
C. Provide appropriate transitions between uses;
D. Encourage reductions in impervious surface by minimizing surface parking;
E. Retain open space by encouraging buildings with high-density uses;
F. Ensure high quality architectural design and materials;
G. Provide good pedestrian, bicycle, and transit access; and
H. Promote innovative site design.

18.15.020 General Provisions. A. The MX District may be applied as an overlay zoning district to C-3, Community Commercial District property.

B. When the MX District has been applied to a site, the C-3 zoning classification for the land shall thereafter be signified as a C-3 MX zoning.

C. The MX District shall have the effect of allowing development to be designed, reviewed, approved, constructed, and used according to the provisions of this chapter, rather than as required by the underlying C-3 District.

D. The MX District follows the provisions and procedures of Chapter 18.10 – Planned Development. All applicable provisions of Section 18.10.020 – General Provisions, shall apply to a MX District.

18.15.030 Procedure. The procedures for review of a MX – Mixed-use Development District shall follow the PD – Planned Development procedures of Section 18.10.030.

18.15.040 Review Criteria. The review criteria and provisions for a Mix Mixed-use Development shall follow the PD-Planned Development procedures of Section 18.10.040.

18.15.050 Standards and Special Requirements for a MX District. The following provisions shall be applied by the commission and council in their consideration of a MX – Mixed-use project:

A. **Permitted Uses**:

1. Institutional
2. Office activities
3. Personal services
4. Retail sales and service
5. Commercial recreational uses
6. All day care centers
7. Dwelling units
8. Essential services

B. **Conditional Uses**:

1. Vehicle services
2. Motels
3. Non-accessory parking
4. Public utility facilities
5. Storage facilities
6. Taverns

C. **Dwelling Density**. A project density of up to 21 units per acre is allowed. A 25% increase in said density may be allowed as per the provisions of 18.10.050 C.

D. **Open Space/Environmental Design**. The site shall include a minimum of 15% common open space or outdoor recreational space. The site shall be designed to preserve existing significant natural features. The commission may impose conditions relating to the preservation of these features.

E. **Setbacks**. Setbacks shall be established by the Site Plan or General Development Plan and shall be based upon the following standards:

1. Setbacks may vary within a mixed-use project consistent with the purpose of the provisions. Setbacks shall maintain and enhance the character of the neighborhood in which the site is located.
2. Setbacks should be 20' from a street and shall be increased for arterial and collector streets. A 50' setback shall be provided from State right-of-way.
3. Perimeter setbacks from the edge of the site shall be similar to the required setbacks of adjacent properties.
4. Adequate vision triangles shall be provided from all street and driveway intersections.

F. **Parking**. The Mixed-use provisions of 18.25.020 E. shall apply to a mixed-use project. Parking in the front yard area is discouraged. Underground or structured parking is encouraged. Surface parking shall be set back a minimum of 5' from a ROW for landscaping and screening. A 10% reduction in parking may be allowed by the commission if the site is near a transit route and a 5% reduction may be allowed for adding bike racks.

G. **Building Material and Arrangement**. A minimum of 50% of the combined area of all building facades shall have an exterior finish of brick, stucco, and/or natural or artificial stone. Buildings shall be arranged in orderly manner with fronts facing streets and rears of buildings towards the interior of the site.

H. **Building Height and Size**. Developments containing buildings greater than one-story in height are required to achieve mixed-use development. The height of the building should be no greater than 40' when adjacent an R-1A, R-1, R-2, or RM District. Buildings greater than 40' in height may be allowed by the commission when judged to be compatible with surrounding development. The ground floor footprint of any commercial space within a building shall not exceed 10,000 square feet, unless the Plan Commission finds the larger footprint is compatible with the proposed development and surrounding area.

I. **Screening, Landscaping, and Buffering**. Screening shall be required for all trash/recycling areas, mechanical equipment, and loading areas. Screening or buffering may be required to provide protection to adjacent residential uses as determined by the Plan Commission. Landscaping shall be required as per the City's Landscape Manual.

J. **Transit**. Mixed-use projects next to transit routes may be required to provide transit stops with shelters as determined by the Plan Commission, with recommendation from the Transit Manager.

K. **Bicycle and Pedestrian Access**. Projects shall provide sidewalks and/or bikeways along all public and private streets as determined appropriate and shall provide on-site bicycle and pedestrian ways to provide logical connections from each building to the street sidewalks to adjacent pathways, and/or bikeways.

L. **Signs**. A master sign plan shall be provided that integrates the design of the project with the sign theme as follows:

1. Pole signs are not permitted.
2. Monument signs shall utilize similar exterior materials as the buildings for the project.
3. Pedestrian-scale signs visible from public streets and sidewalks will be encouraged.
4. Signs will not interfere with automobile circulation and visibility, nor with bike or pedestrian safety.
5. Signs shall meet C-2 District standards.

M. **Lighting**. Exterior lighting shall be provided to address safety concerns on the site and shall comply with the City's Exterior Lighting Manual standards.

N. **Streets, Utilities, and Drainage**. All public streets and utilities shall be designed to meet City standards. Drainage shall be provided to comply with City Code and policy. Private streets shall only be allowed for unique situations where public streets will not fit the site. (Ord. 7068, 2013; Ord. 6999, 2012).

Chapter 18.20

SPECIAL PROVISIONS

Sections:

18.20.010 Unsafe Building.
18.20.020 One Building Per Lot.
18.20.030 Access to a Street.
18.20.040 Splitting of Two-Family Residential Lots.
18.20.050 Allocation of Lot Area.
18.20.060 Yard Encroachments Permitted.
18.20.070 Vision Triangle.
18.20.080 Front Yard.
18.20.090 Rear Yard.
18.20.100 Requirements for Lake and River Frontage Lots.
18.20.110 Requirements for Double Frontage Lots.
18.20.120 Requirements for Side Yards on Corner Lots.
18.20.130 Height Requirements Exception.
18.20.140 Use of Temporary Buildings and Structures.
18.20.150 Temporary Sales Areas.
18.20.160 Use of Flag Lots.
18.20.170 Screening Between Districts.
18.20.180 Rooming Houses and Lodging Houses.
18.20.190 Special Setbacks.
18.20.200 Adult Book Store and Adult Motion Picture Theater.
18.20.210 Recycling Facilities.
18.20.220 Manufactured Homes.

The following special provisions establish miscellaneous regulations which have not been specifically provided for in other portions of this title, yet are applicable to all zoning districts unless otherwise indicated:

18.20.010 Unsafe Building. Nothing in this title shall prevent compliance with an order by the zoning administrator or other appropriate authority to correct, improve, or strengthen, or restore to a safe condition any building or any part of a building declared to be unsafe. (Ord. 5037, 1990).

18.20.020 One Building Per Lot. No more than one principal building shall be permitted on a lot or parcel, unless specifically provided for elsewhere in this title. (Ord. 5037, 1990).

18.20.030 Access to a Street. Any lot upon which a principal building is constructed shall have access and at least 25 foot frontage on a public street or along a permanent, unobstructed easement of access to the lot from a public street which has been approved by the zoning administrator as being adequate for that purpose. (Ord. 5037, 1990).

18.20.040 Splitting of Two-Family Residential Lots. A. A two-family dwelling lot which contains or will contain a two-family dwelling may be divided into two separate ownerships, with each resulting lot containing one dwelling unit of the two-family dwelling, provided each such resulting lot contains at least five thousand square feet.

B. A joint cross-access and maintenance agreement will be submitted with this land division application, subject to review and approval by the City, and then shall be recorded by applicant with the land division. (Ord. 7265, 2018; Ord. 5037, 1990).

18.20.050 Allocation of Lot Area. A. No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

B. In computing required lot area, one-half of the width, but not exceeding 10 feet, of any alley abutting any lot may be included as part of the lot area. (Ord. 5037, 1990).

18.20.060 Yard Encroachments Permitted. The following elements of structures may extend or project into a required yard area:

A. Certain architectural features such as cornices, eaves, gutters, chimneys, bay windows, and similar features not to exceed 3 feet provided at least a 1 foot setback is maintained from any property line.

B. Fire escapes, open stairways and fire balconies, all required by a building code, not to exceed 3 1/2 feet.

C. Uncovered porches, patios, paved terraces, decks and steps to building entrances all located less than 3 feet above the ground, not to exceed 10 feet in the front or rear yard and 3 feet in any side yard.

D. Walks, retaining walls, hedges, fences, paved areas, structures used ornamentally or for gardening, certain recreational structures, and essential service structures, all of which are accessory to and normally incidental to the principal use; provided that a 2 foot setback for impervious surfaces which may drain onto abutting properties is maintained.

E. Tennis courts and propane tanks shall be restricted to rear yards or interior side yards and shall meet all required setbacks for accessory buildings.

F. Certain signs as provided in chapter 16.16. (Ord. 5037, 1990).

18.20.070 Vision Triangle. No fence, walk, sign, screen or any planting or other landscape feature shall be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility on a horizontal curve having less sight distance than the minimum standards of chapter 17, or within 20 feet of the corner point of intersection of two streets. Normal vision triangle is the area between 3 feet and 10 feet in height as measured from the street curb. (Ord. 5037, 1990).

18.20.080 Front Yards. A. The front yard shall be as indicated on the plat regardless of the location or facing of any building or structure on the lot. In general, the narrower width of a lot abutting a street for unplatted property or for platted property where the front yard has not been indicated on such plat shall be considered the front yard.

B. Where a line designating a future width of a street is shown on the official map or is otherwise established, the front yard depth shall be measured from such line instead of from the front line of the lot.

C. Residential Front Yards. The purpose of this subsection is to encourage buildings to be in general alignment with each other along a street on a block and to prevent the location of buildings a substantial distance behind the front yard setback of buildings on abutting lots. It is recognized that existing factors, including development, topography and others, have resulted in front yard setbacks which are different from these provisions. Such existing factors shall be considered by the board in its consideration of variances under paragraph 3.

1. In a block where the average of the front yard setbacks of existing buildings within a distance of 100 feet of a building to be erected, repaired or enlarged is up to 10 feet less than the front yard setback required for the district in which such block is located, the minimum front yard setback for such building to be erected, repaired or enlarged may be less than the required setback, but shall not be less than such average setback.

2. Where setbacks are desired to be greater than the minimum required setbacks of a residential district, the following standards shall be used by the zoning administrator in making such determinations:

a) such setback shall not exceed the least side yard setback of the building to be erected, plus either the minimum front yard setback required for such building or the average of the front yard setbacks for buildings on abutting lots, whichever is greater.

b) in instances where side yard setbacks, for a building to be erected, are greater than 20 feet or vary on each side of such building or where the average front yard setback of buildings on abutting lots is less than 30 feet or is more than 60 feet, the zoning administrator shall determine the maximum front yard setback for a building to be erected in a manner consistent with the purpose of these provisions.

3. Erection of a building at a front yard setback which is greater than the standards allowed in paragraph 2 shall require approval of a variance from the board as provided in chapter 18.55.

4. The commission may establish setbacks from a street which are greater than the minimum front yard setbacks of a district in its approval of a plat under chapter 17. (Ord. 5037, 1990).

18.20.090 Rear Yards. In computing the depth of a rear yard for any building where the rear line of the lot adjoins an alley, one-half of the width of such alley may be included as rear yard depth; provided that the depth of the rear yard lying between the alley and the building shall be not less than 15 feet in any residential district and not less than ten feet in any other district. On corner lots the rear yard shall be not less than 8 feet. (Ord. 5037, 1990).

18.20.100 Requirements for Lake and River Frontage Lots. A. Accessory buildings on residential lots may be located in a front yard when such lot has frontage on a lake or river, provided that such accessory building shall be subject to all yard setback requirements of the principal building.

B. The provisions of the Development Guidelines for Waterway and Greenway Areas, which is adopted by reference herein, shall apply in the development of all buildings, parking lots, and other improvements for lots adjacent any lake or river frontage.

C. No development shall occur on lake or river shorelines as defined in such policies exceeding 12 percent in slope. (Ord. 7090, §1, 2014, Ord. 5037, 1990).

18.20.110 Requirements for Double Frontage Lots. In the case of double frontage lots (interior lots having frontages on two more or less parallel streets):

A. All sides of said lots adjacent to streets shall be considered frontage and front yards shall be provided as required.

B. Detached accessory structures shall be only allowed in the yard opposite the front yard from which the principle structure is addressed. (Ord. 5037, 1990).

18.20.120 Requirements for Side Yards on Corner Lots. A. The side yard width for a dwelling on the street side of a corner lot shall comply with the following table:

Width of Lot	Side Yard Width
40 feet	10 feet
45 feet	13 feet
50 feet	16 feet
55 feet	19 feet
60 feet	22 feet
66 feet	26 feet
70 feet	28 feet

except that in R-3 and R-4 districts a maximum of 20 feet is required.

B. Attached or detached garages shall not be located closer to the street line than the side yard setback requirements of the dwelling upon corner lots.

C. For the purpose of side yard regulations, any two-family dwelling or any multiple dwelling shall be considered as one building occupying one lot.

D. The side yard width for a dwelling on the street side of a corner lot shall not be less than six feet and in no case shall any portion of a building be closer than 15 feet from the intersection of the street right-of-way. (Ord. 5037, 1990).

18.20.130 Height Requirements Exceptions. The following are exempted from height limit requirements, provided that no portion of the exempted structure may be used for human occupancy:

A. Those purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments.

B. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, private antennas, masts and aerials, television antennas, fire and hose towers, wire transmission structures, cooling towers, or other structures where the manufacturing process requires a greater height.

C. Those structural extensions deemed necessary for appropriate building design such as cornices and parapet walls may extend a maximum of 5 feet above height limitations.

D. Public utility structures.

E. Agriculture-related structures, such as but not limited to, barns, silos, and elevators. (Ord. 5037, 1990).

18.20.140 Use of Temporary Buildings and Structures. Temporary buildings and structures may be placed on a lot and occupied only under the following conditions:

A. A temporary building or structure may be utilized during renovation and repair of damage to a permanent building. Temporary buildings or structures used in conjunction therewith shall be removed when repair of damage is complete.

B. For new construction, temporary buildings and structures incidental to such construction work shall be permitted, provided that such temporary building does not include a dwelling unit and that any temporary building shall be removed within 15 days after construction is complete, but in no case shall the building or structure be allowed for more than 12 months, unless expressly authorized by the department.

C. Temporary buildings which are incidental to and used as a part of a church or school will require site plan approval as provided in this title.

D. Temporary dwellings and campers which are used for new construction of a church or school and are incidental to such construction work may be allowed with plan commission review of a site plan. Such dwelling and campers shall be removed after construction is complete and are allowed for a time frame as approved by the plan commission. All permits from the health department for sewer, water and other facilities must be obtained.* (Ord. 5726, 1997; Ord. 5037, 1990).

18.20.150 Temporary Sales Areas. A. Christmas tree sales, firework stands or other similar sales areas for special holiday items and any use involving a direct seller's permit as provided in Chapter 5.34 shall be restricted to locate in commercial or industrial districts or in residential areas with an institutional use such as, but not limited to, churches and schools.

B. Any use described in subsection A. shall comply with the following standards:

1. Shall not be located within a required setback.
2. Shall not be located on the lot in a manner which would reduce required parking for the principal use on the property.
3. Shall not be located within a vision triangle nor within 20 feet of a driveway or access point to a property.
4. Shall not be located on a lot in a manner which would interfere with traffic circulation or vehicle or pedestrian safety.

C. Christmas tree sales on residential lots other than institutional uses may be allowed as a conditional use per chapter 18.35. (Ord. 5454 §2, 1994; Ord. 5037, 1990).

*Editor's Note: Ordinance 5726 provided as follows: This ordinance shall expire and shall be null and void after November 1, 1997.

18.20.160 Use of Flag Lots. A flag lot may be used for residential purposes without the minimum required frontage on a street, in the following instances and with the following stipulations:

A. The flag lot makes it possible to better utilize irregularly shaped properties or areas with design limitations.

B. Where flag lots are utilized to eliminate direct access to major roadways.

C. Stipulations:

1. Access shall be provided by a right-of-way, no less than 25 feet wide.
2. No more than one lot may be served by such an access route.
3. All site development standards of the applicable zoning district shall be met. The "pole" portion of the flag lot shall not be considered as part of a lot in application of said development standards. (Ord. 5037, 1990).

18.20.170 Screening Between Districts. A. Statement of Purpose. This section is established to recognize the public and private benefits accrued from functional and aesthetic screening between areas of incompatible land uses, the increasing demand for active and passive recreational areas, the desirability of providing visual screening of certain parking lots, commercial and industrial areas, and the necessity of providing adequate vehicular vision clearance.

B. District Boundary Lines. Any property located in a commercial or industrial district shall have effective solid screening along all lot lines adjoining any residential district, unless waived by the commission as provided herein. Said solid screening shall be not less than 6 feet in height or more than 8 feet in height in any rear yard or any side yard, or more than 5 feet in height in any front yard. Such screening requirement may be waived by the commission in those cases where the commission finds that:

1. A reasonable probability exists that, within the near future, such adjoining residence district will be zoned for a commercial or industrial use; or
2. A natural topographic barrier or existing screening exists which negates the need for further screening; or
3. Screening is unnecessary to obtain the purposes as set forth under subsection A, is impracticable, or is impossible of performance.

C. Vision Clearance. On a corner lot in any district, no solid screening shall be erected, placed, maintained or grown at a height exceeding 3 feet above the curb level or its equivalent in the front yard within 20 feet of the corner of such lot that is at the street intersection. Solid screening in the front yard of a lot within a commercial or industrial district within 15 feet of any driveway or alley shall not be more than 3 feet above the curb level or its equivalent. (Ord. 5037, 1990).

18.20.180 Rooming Houses and Lodging Houses. A. Conversion of one-family dwellings to rooming houses in the RM district shall only be allowed if properties have 6,000 square feet of lot size and 60 feet of lot width.

B. Conversion of one-family dwellings to rooming houses in the R-3 and R-4 districts are allowed without meeting minimum lot size or lot width standards.

C. Conversion of one-family dwellings to rooming houses requires compliance with state building code standards, which includes but is not limited to 10 foot side yard setbacks, except as provided within such code.

D. Conversion of one-family dwellings to lodging houses in the RM, R-3 or R-4 district is allowed without meeting minimum lot size or lot width standards of the district.

E. Since lodging houses are allowed in a RM, R-3 and R-4 district, 3 unrelated people and a family are allowed per dwelling unit in such districts. In all other residential districts only 2 unrelated people and a family are allowed per dwelling unit.

F. In commercial districts, the term dwelling units shall include rooming house and lodging house. (Ord. 5037, 1990).

18.20.190 Special Setbacks. A. The commission or council in its review of site plans, conditional uses, rezonings, planned developments, plats or other development applications may require setbacks from any public street which differ from the setback for such property as required elsewhere in this title. Designation of a special setback in connection with such review shall require an amendment to this title as provided in chapter 18.65, if such setback applies generally to the entire length of a street and not specifically to the application being considered. Generally, such setbacks will correspond to the following street classification but may be varied depending on need for setback or existing development along such streets:

1. Local street - 30 feet
2. Collector street - 40 feet
3. Minor arterial street - 50 feet
4. Major arterial street - 60 feet
5. Controlled access highway - 70 feet

B. The following special minimum setbacks are established for each street as described and shall supersede any other setback provided in this title:

1. Piedmont Road from Starr Avenue to Mercury Avenue, 23 feet from the south side of the street and 29 feet from the north side of the street.

2. Lexington Boulevard from Nimitz Street to May Street, 20 feet on the south side of the street.

3. South Hastings Way from Badger Avenue to Highland Avenue, 70 feet on the east side of the street.

4. South Hastings Way from Valmont Avenue to Fenwick Avenue, 70 feet on the east side of the street.

5. Former Town of Washington. All land between London Road on the west, Clairemont Avenue on the north, Highways 53 and 93 on the east, Highway 93 and E. Hamilton Avenue on the south, shall provide a 50 foot building setback line along that part abutting on Highways 93 and 53 and Clairemont Avenue; a 20 foot building setback line along that part abutting on London Road, Henry Avenue and E. Hamilton Avenue west of Mall Drive; a 30 foot building setback line along E. Hamilton Avenue between Mall Drive and Highway 93; and a 15 foot building setback line along the westerly side of Highway 93, extending 270 feet from the E. Hamilton Avenue right-of-way line.

6. Mall Drive from E. Hamilton Avenue to E. Clairemont Avenue, 30 feet on both sides of the street measured from the 136 foot street right-of-way.

7. Skeels Avenue from Mall Drive to London Road, 20 feet on both sides of the street measured from a 75 foot street right-of-way.

8. Drummond 2nd Addition 30 feet for Lots 5, 6, 7, 8 and 9, Block 1, Drummond 2nd Addition.

9. Highway 37 from proposed MacArthur Avenue south to the city limits, 30 feet on the east side of the street.

10. Malden Avenue from Seymour Road to Gala Street, 20 feet on the west side of the street.

11. North Clairemont Avenue from Heimstead Road to Vine Street, 20 feet on the east side of the street.

12. East Clairemont Avenue from Fairfax Street to South Hastings Way, 70 feet on the north side of the street.

13. Fairfax Street from East Clairemont Avenue to Ridge Road, 30 feet on the east side of the street.

14. Highland Avenue from South Hastings Way to Fairfax Street, 20 feet on the south side of the street.

15. Fairfax Avenue from Highland Avenue to the north line of vacated Badger Avenue, 20 feet on the west side of the street.

16. London Road from East Clairemont Avenue to E. Lexington Boulevard, 20 feet on the west side of the street which is within the City of Eau Claire.

17. Highway 53 East Frontage Road from northbound Highway 53, south of Highway 12, 30 feet on the north and east side of the off-ramp.

18. State Street for property addressed 1302 State Street, 75 feet from State Street, 35 feet from Oakwood Place and 30 feet from Gilbert Avenue; and for property addressed 1310 State Street, 25 feet from Summit Avenue, 55 feet from State Street, and 25 feet from Oakwood Place.

19. Freedom Drive for Lots 50 through 67, Independence Park Third Addition, 15 feet from Freedom Drive.

20. Starr Avenue from Redwood Drive south 1,235 feet, 20 feet on the east side of the street.

21. West Clairemont Avenue from the Holiday Inn property line which is zoned C-3 district to the Chippewa River, 30 feet on the northeast side of the street.

22. Hendrickson Drive from West Clairemont Avenue to Heights Drive, 30 feet on the west side of the street.

23. An Area North of Nicholas Drive shown as Lots 1 and 2 of a preliminary Certified Survey Map, and Lot 23 of the preliminary plat of West Cliff Heights, 20 feet, and Lot 3 of such preliminary Certified Survey Map, 25 feet.

24. Lots 1 through 22, East Meadows Subdivision, 20 ft. for the front yard area. Prior to issuance of a building permit for any homes on these lots, applicant shall provide a copy of a recorded common maintenance agreement for this property for staff approval addressing snow removal and lawn maintenance (File #Z-1065-98).

25. Lots 1, 2 and 3 of Certified Survey Map #572629, recorded in Volume 6, Pages 301-302, 150 to 200 ft. for the front yard area. A 30 ft. wide buffer yard is required along the north lot line of Lot 1 as shown on the site plan (File #Z-1066-98).

26. Lot 1 of CSM #688405, recorded as Vol. 6, pages 204-205, 20 ft. along London Road and Damon Street. (Ord. 6523, 2004; Ord. 5840, 1998; Ord. 5839, 1998; Ord. 5621, 1996; Ord. 5325, 1993; Ord. 5037, 1990).

18.20.200 Adult Book Store or Adult Cabaret. A. Findings and Purpose. The council finds that, due to their nature, the existence of adult book stores and adult cabarets in the city has serious objectionable operational characteristics, such as an effect upon property values, local commerce and crime. Due to the deleterious combined effect on adjacent areas when such uses are concentrated, they should not be permitted to be located in close proximity to each other. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. Such regulations are contained in these standards. These standards are designed to protect the city's retail trade, maintain property values, prevent crime, and, in general, protect and preserve the quality of the city's neighborhoods, commercial districts and the quality of urban life.

B. Standards. An adult book store or adult cabaret is permitted in the C-3 or CBD District, provided that:

1) Such use shall not be located within 1,000 feet of any residential district as designated within this title with an "R" designation.

2) Such use shall not be located within 1,000 feet of a public or private school.

3) Such use shall not be located within 1,000 feet of another adult bookstore or adult cabaret.

4) The distances provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the lot upon which the proposed use is to be located, to the nearest point of the zoning district boundary line or the lot from which the proposed use is to be separated.

5) Violation of these provisions is declared to be a public nuisance per se.

6) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any city ordinance or statute of the State of Wisconsin regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof. (Ord. 5973, 1999; Ord. 5955 §3, 1999; Ord. 5037, 1990).

18.20.210 Recycling Facilities. The following provisions shall apply in the location and use of these various types of recycling facilities:

A. Small Collection Facilities. Small collection facilities may be sited in commercial and industrial districts with a certificate of zoning compliance provided they comply with the following conditions:

1. Shall be established in conjunction with an existing commercial or industrial use or community service facility which is allowed within the district;

2. Shall be no larger than 300 square feet and occupy no more than 3 parking spaces not including space that will be periodically needed for removal of materials or exchange of containers;

3. Shall be setback at least 10 feet from any street right-of-way and shall not obstruct pedestrian or vehicular circulation;

4. Shall accept only glass, metals, plastic containers, papers and reusable items. Used motor oil may be accepted with permission of the local public health official and fire department;

5. Shall use no power-driven processing equipment except for bulk reverse vending machines;

6. Shall use containers that are constructed and maintained with durable waterproof and rustproof material, covered when the site is not attended, secured from unauthorized entry or removal of material, and will be of a capacity sufficient to accommodate materials collected during the collection schedule;

7. Shall store all recyclable material in containers and shall not leave materials outside of containers when attendant is not present;

8. Shall be maintained free of litter and any other undesirable materials which are removed at the end of each collection day;

9. Shall not exceed noise levels of 60 dBA as measured at the property line;

10. Attended facilities located within 100 feet of a property zoned or occupied for residential use will operate only during the hours between 8:00 a.m. and 7:00 p.m.;

11. Containers for the 24-hour donation of materials shall be at least 100 feet from any property zoned or occupied for residential use unless there is an acoustical shielding between the containers and the residential use;

12. Containers shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material will be left outside the recycling enclosure or containers;

13. Recycling facilities may have identification signs with a maximum of 20 percent per side or 16 square feet, whichever is larger, for each side of the facility which faces a street or parking area. Directional signs, bearing no advertising message may be installed with the approval of the department if necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way;

14. The facility shall not impair the landscaping required by site plans for any principle use;

15. No additional parking spaces shall be required for customers of a small collection facility located at the established parking lot of a principle use. One space shall be provided for the attendant, if needed.

B. Large Collection Facilities. A large collection facility is one that is larger than 300 square feet, or is on a separate property not accessory to a principle use, and which may have a permanent building. A large collection facility is a permitted use in industrial districts with site plan approval and in a C-3 district with a conditional use permit; provided the facility meets the following standards:

1. The facility does not abut a property zoned or planned for residential use;

2. The facility shall be screened from the public right-of-way by operating in an enclosed building or;

a) in an industrial district within an area enclosed by an opaque fence at least six (6) feet in height with landscaping;

b) at least 150 feet from property zoned or planned for residential use; and

c) meets all applicable noise standards in this subsection.

3. Setbacks and landscape requirements shall be those provided for the zoning district in which the facility is located;

4. All exterior storage of material shall be in sturdy containers or enclosures which are covered, secured, and maintained in good condition. Storage containers for flammable material shall be constructed of non-flammable material. Oil storage shall be in containers approved by the fire department. No storage shall be visible above the height of the fencing;

5. The site shall be maintained free of litter and any other undesirable materials, and shall be cleaned of loose debris on a daily basis;

6. Stacking space shall be provided on site for 6 vehicles or the anticipated peak customer load, whichever is higher, to circulate and to deposit recyclable materials;

7. One parking space shall be provided for each commercial vehicle operated by the recycling facility. Parking requirements for employees will be provided as required by chapter 18.25;

8. Noise levels shall not exceed 60 dBA as measured at the property line of any nearby residentially zoned property;

9. If the facility is located within 500 feet of property zoned, planned or occupied for residential use, it shall not be in operation between 7:00 p.m. and 7:00 a.m., unless approved by the Commission.

C. Processing Facilities. A processing facility is allowed in light industrial districts with a conditional use permit and are permitted in heavy industrial districts with site plan approval. A processing facility shall meet the following conditions:

1. The facility does not abut a property zoned or planned for residential use;

2. In light industrial district, processors shall operate in a wholly enclosed building except for incidental storage, or;

a) within an area enclosed on all sides by an opaque fence or wall not less than 8 feet in height and landscaped on all street frontages; and

b) located at least 150 feet from property zoned or planned for residential use;

3. Setbacks and landscaping requirements shall be those provided for the zoning district in which the facility is located;

4. All exterior storage of material shall be in sturdy containers or fenced enclosures which are secured and maintained in good condition. Storage containers for flammable material shall be constructed of non-flammable material. Oil storage shall be in containers approved by the fire department. No storage shall be visible above the height of the fencing;

5. The site shall be maintained free of litter and any other undesirable materials, and shall be cleaned of loose debris on a daily basis and shall be secured from unauthorized entry and removal of materials when attendants are not present;

6. Space shall be provided on site for the anticipated peak load of customers to circulate, park and deposit recyclable materials. If the facility is open to the public, space shall be provided for a minimum of 10 customers or the peak load, whichever is higher;

7. One parking space shall be provided for each commercial vehicle operated by the processing center. Parking requirements shall otherwise be as provided as stated in chapter 18.25;

8. Noise levels shall not exceed 60 dBA as measured at the property line of nearby residentially zoned or occupied property;

9. If the facility is located within 500 feet of property zoned or planned for residential use, it shall not be in operation between 7:00 p.m. and 7:00 a.m., unless approved by the Commission. (Ord. 5120, 1991; Ord. 5037, 1990).

18.20.220 Manufactured Homes. A. Purpose. The purpose of these provisions is to establish standards governing the appearance and location of manufactured homes. These regulations are intended to allow a mixture of housing types in a manner which will not adversely affect existing neighborhoods. For this reason, standards have been established which regulate the appearance of manufactured homes, allowing in residential zoning districts only those that are acceptably similar in appearance to site-built dwellings on individual lots.

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B. Standards. Manufactured homes shall be considered one-family dwellings for the purpose of this title, provided such structures:

1. Consist of more than one section, with a combined width of at least 24 feet, having a minimum floor area of 900 square feet.

2. Have a non-metallic, wood shake, asphalt or fiberglass shingle roof with a minimum slope of 3:12.

3. Have a minimum 8" eave attached to at least 50% of the perimeter of the roof.

4. Have exterior wall coverings consisting of any of the following materials or combinations thereof:

a. Horizontal aluminum, steel or vinyl siding;

b. Wood or simulated wood; or

c. Brick or stone.

5. Have a permanent foundation meeting the requirements of the state uniform dwelling code and approved by the zoning administrator, which surrounds the entire perimeter of the structure and completely encloses the space between the siding and the finished grade.

6. Are permanently affixed to the foundation with the running gear and towing hitch removed, and have an anchoring system that is totally concealed under the structure.

7. Are constructed and installed pursuant to a building permit and subject to all required inspections to insure that the foundation and all on-site work is constructed to minimum standards and that the manufactured home is assembled on-site to assure that it is in compliance with standards regulating the anchoring of the structure to its foundation and other building requirements. Permit fees shall be as provided in section 16.04.090 of the city building code. All manufactured homes shall comply with section 16.04.100 of the city building code and with all erosion control requirements of the state uniform dwelling code.

8. Comply with all other applicable requirements of the zoning district in which the manufactured home is located, such as, but not limited to, lot size and setback requirements.

C. Accessory Structures. An attached accessory structure, as permitted in the zoning district in which the manufactured home is to be located, shall be similar in material and design as that of the manufactured home. Accessory structures, additions, and all on-site improvements shall meet zoning code and state uniform dwelling code standards.

D. Administration. Applications for approval of manufactured homes on individual lots in residential districts shall be submitted to the zoning administrator on a standard prescribed form. Such applications shall include all information necessary to determine the manufactured home's conformity with the standards of this section. Applicant shall sign the application, pay all necessary fees, provide all information necessary to verify that the manufactured home meets the standards for manufactured homes, and be issued a building permit prior to moving the structure to the building site. The zoning administrator, following issuance of a building permit, and upon inspection of the site for the attachment of the structure to a foundation, shall verify that all standards for manufactured homes have been met, as certified in the signed application form. (Ord. 5446 §3, 1994).

Chapter 18.25

OFF-STREET PARKING AND LOADING REQUIREMENTS

Sections:

18.25.010 Purpose.
18.25.020 General Provisions.
18.25.030 Minimum Off-Street Parking Requirements.
18.25.031 Bicycle Parking Requirements.
18.25.035 Maximum Off-Street Parking Requirements
18.25.040 Off-Street Parking Design Standards.
18.25.050 Residential Off-Street Parking.
18.25.060 Off-Street Loading Requirements.
18.25.070 Off-Street Stacking Requirements.
18.25.080 Minimum Improvement and Maintenance Standards.

18.25.010 Purpose. A. It is the purpose of these requirements that parking and loading space shall be provided and adequately maintained by each property owner in every zoning district for the off-street

storage of vehicles used by the occupants, employees or patrons of each building or use constructed or altered under the provisions of this title.

B. Whenever any ordinance, regulation or plan, enacted or adopted by the council is for the purpose of providing off-street automobile parking spaces or for establishing requirements that such spaces be provided within any section of the city, then such plan or requirements shall govern within such section. Otherwise off-street automobile parking spaces shall be provided as required herein, applicable to buildings hereafter erected and uses hereafter established, to such nonconforming uses as may be required to conform to the regulations hereof, and to extensions and enlargements of buildings and uses. (Ord. 5037, 1990).

18.25.020 General Provision. A. General Requirement. All required parking spaces shall be provided on the same parcel as the use for which they are required ("development site"), except as otherwise provided.

B. Exceptions. 1. Off-street parking for non-residential uses may be located within 500 feet of the development site for which it is required.

2. Off-street parking for residential uses may be located within 500 feet of the development site for which it is required with approval of a conditional use permit. The Commission, in reviewing such request, shall consider the likelihood that such spaces will be used by the residence and will not result in vehicles being parked on the street.

3. Off-street parking for nonresidential uses in the CBD central business district may be located within 800 feet of the parcel for which it is required. Residential uses in the CBD may be allowed parking as provided in subsection 2.

4. For any development site with residential or office activities use, as defined by Title 18 of the City code, and for which parking is not on the same development site as the residential or office activities use, the Commission may require a contract for such off-site parking, signed by the parties concerned, and subject to review and approval by the City. Notice of any default, non-performance, or termination of such contract shall immediately be given to the City and shall require submission of a new parking plan for Commission approval.

C. Reductions. 1. Off-street parking requirements for any use located within 500 feet of a regular, established city transit route may be reduced by up to 10 percent by the Commission.

2. Off-street parking requirements in a CBD central business district may be reduced by 5 percent by providing the bicycle spaces required in 18.25.031 by the Commission.

3. Off-street parking requirements of more than 100 stalls may be reduced by the Commission if, based on written certification provided by the applicant, an applicant provides proof of a ride-share program or group transit passes for employees, in the case of an employer.

4. In the case where a parking study clearly shows that the provisions of the amount of space required herein for parking stalls, due to the particular nature of a proposed use or other condition, would be unnecessary or a practical difficulty or would create an unnecessary hardship, the Commission may reduce the requirements contained herein.

5. The Commission may reduce the required parking for joint use of parking areas as provided herein. The parking spaces for churches, religious meeting halls or temples, auditoriums, theaters, or places of public assembly may be provided and used jointly by other establishments not normally open, used, or operated during the same hours as those listed above. A written agreement submitted to the City for approval shall be required for such joint parking.

6. The Commission may reduce the parking requirement for mixed-use development, where it can be shown by a parking analysis deemed acceptable by the City that the types of uses within a mixed-use development will not have peak parking needs at the same time and a reduction in the parking requirement is reasonable.

D. Determination of Required Spaces. In computing the number of parking spaces required by this code, the following shall apply:

1. Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross leasable horizontal area of all floors of a nonresidential building, not including storage or mechanical space.

2. Where seating capacity is designated as the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated for, or for each twenty-four (24) lineal inches of seating facilities.

3. Where the number of employees is designated as the standard for determining parking space requirements, the number of employees on the largest shift shall be used for calculation purposes.

4. Fractional numbers shall be increased to the next highest whole number.

5. Parking space requirements for a use not specifically mentioned in this code shall be

determined by using the most similar and restrictive parking space requirement as specified by the Director based on the intended use, the location of the use, and the expected patronage or use by individuals operating motor vehicles. (Ord. 7195 §1, 2016; Ord. 7020 §1, 2012; Ord. 6762 §1, 2, 2007; Ord. 5037, 1990).

18.25.030 Minimum Off-Street Parking Requirements. A. Except as otherwise provided in this chapter, off-street parking spaces shall be provided as follows:

1. One-family and two-family dwellings: 2 spaces for each dwelling unit.
2. Multiple dwellings: 1 space for each bedroom in a dwelling unit.
3. Multiple dwellings for the elderly and handicapped: .75 spaces for each dwelling unit.
4. Rooming houses, lodging houses, sororities and fraternities: 1 space per bedroom.
5. Private club or lodge: 1 space for each 200 square feet of floor area.
6. Church, religious meeting hall, or temple: 1 space for each 6 seats in the main auditorium.
7. School:
   a) Colleges and universities: because of the unique car parking needs of colleges and universities, a permit application for new construction shall include a parking study prepared by the applicant of the parking needs of the entire campus including the new use and the study shall address a plan to meet the parking needs of the staff and students.
   b) High schools: 1 space for each 3 students based on the building's design capacity.
   c) Junior high school: 25 spaces plus 1 space for each teacher and staff member.
   d) Elementary school: 5 spaces plus one space for each teacher and staff member.
8. Hospital: 1 1/2 spaces for each bed.
9. Sanitarium or institutional home: 1 space for every 3 beds.
10. Funeral Home: 1 space for every 4 seats in a chapel, hall or other gathering area.
11. Auditoriums, theaters, other places of public assembly: 1 space for every 4 seats.
12. Community center, library, museum or similar public or semi- public buildings: 10 spaces plus 1 additional space for each additional 300 square feet of floor area in excess of 2,000 square feet.
13. Hotel or motel: 5 spaces plus 1 space for each sleeping room or suite. For a hotel or motel with convention centers or conference rooms: .7 per guest room plus 10 per 1,000 square feet of gross floor area which is non-guest room.
14. Medical office building: buildings in which 20 percent or more of the gross area is occupied by members of a healing profession. One space for every 200 square feet of the gross area used for medical purposes.
15. Manufacturing or industrial establishments, research or testing laboratory, warehouse, or other similar establishments: 2 spaces for each 3 employees on the highest shift, plus space to accommodate all trucks and other vehicles used in connection therewith.
16. Restaurant, bar, cafe or recreation or amusement establishment not specified herein: 1 space for every 100 square feet of floor area or 1 space per 3 fixed seats, whichever is greater.
17. Bowling alley: 3 spaces per alley.
18. Golf Courses: 4 spaces per hole.
19. Personal services: 1 space for every 200 square feet of floor area.
20. Retail stores selling furniture, appliance, or home improvement products (i.e., carpet, paint, wall paper, etc.): 1 space for every 500 square feet of floor area.
21. Other retail uses: 4 spaces for every 1,000 square feet of gross floor area.
22. Shopping centers: 5.5 spaces for every 1,000 square feet of gross leasable area.
23. All day care centers: 1 space for every staff member plus child drop-off and pick-up area.
24. Office and banks: 1 space for every 300 square feet of gross floor area.
25. Service stations or convenience stores: 4 spaces for every 1,000 square feet of gross floor area; each parking area adjacent to a pump island or fuel area may count as one parking space.
26. All other nonresidential buildings, except those specified above: 1 space for each 300 square feet of floor area.
27. Telemarketing/Call Center: 1 space per employee on the highest shift.
28. Automobile repair: 2 spaces per bay plus 1 space per 250 square feet. (Ord. 7195 §2, 2016; Ord. 6762 §1, 2007; Ord. 5037, 1990).

18.25.031 Bicycle Parking Requirements. A. Off-street bicycle parking facilities shall be provided for new structures and additions as provided in this section.

1. Off-street bicycle parking shall be made available in bicycle racks or equivalent structures to which the bicycle may be locked by the user. Such racks shall support the bicycle upright by its frame

in two places and prevent the wheels from tilting or twisting. Structures that require a user-supplied locking device shall be designed to accommodate U-shaped locking devices. When approved by the commission to be located on a public sidewalk, the design of such rack shall match any existing design standard approved by the applicable Business Improvement District.

2. All required racks shall be securely anchored to the ground or the building to prevent removal. The surfacing of such facilities shall be designed and maintained to be mud, snow, and obstruction-free year-round.

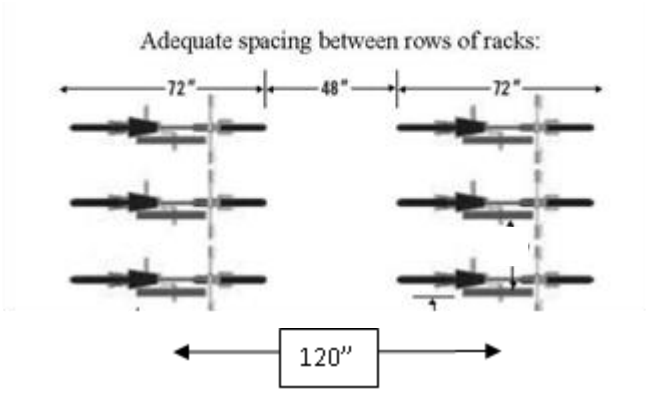
3. Bicycle parking facilities shall be located in a clearly designated, lighted, convenient location; being at least as convenient as the majority of the auto parking spaces provided, and where possible, in a location sheltered from the weather.

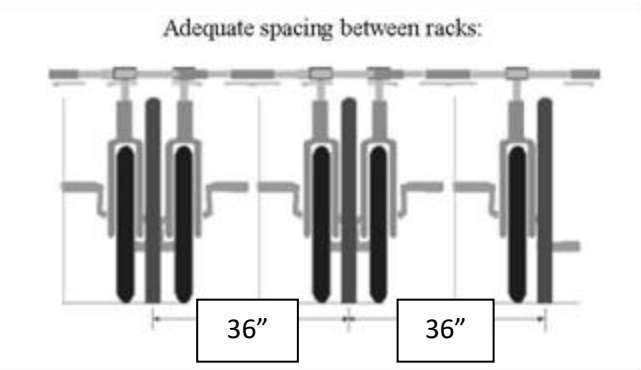
4. Each required space shall be accessible without having to move another bicycle, and parking a bicycle in any space in the parking facility shall not result in a bicycle obstructing a required walkway or building entry.

5. Bicycle racks shall be installed to conform to the manufacturer's spacing specifications or the following, whichever is greater. The minimum area of at least 24 inches by 72 inches shall be provided per bicycle. Where multiple racks are installed in rows with access aisles separating the rows, the following minimums shall apply:

a) Minimum spacing horizontally between racks shall be 120 inches on center (see larger sized diagram in Index under Zoning-Parking and Loading Requirements).

b) Minimum spacing side-by-side between racks shall be 36 inches (see larger sized diagram in Index under Zoning-Parking and Loading Requirements).





6. Off-street bicycle parking shall be provided as required herein, with the required number of bicycle spaces rounded to the greater even number:

a) Single and two-family dwellings: 0

b) Multiple-family dwellings: 1 bicycle space per dwelling unit; 0 for dwellings where a garage is provided for such units.

c) Rooming houses, lodging houses: 1 bicycle space per four bedrooms

d) Non-residential uses: 1 bicycle space per 10 required automobile spaces, except for schools which shall use the following standards: elementary: sufficient bicycle spaces to accommodate 10 percent of the school design population, middle and high school: sufficient bicycle spaces to accommodate 5 percent of the school design population, and post-secondary schools as determined by the commission based on a plan submitted by the applicant.

In all cases where non-residential bicycle parking is required, no fewer than 4 spaces shall be provided. In addition, non-residential uses having less than 1,000 square feet of gross floor area shall be exempt from the bicycle parking requirements.

7. Required bicycle parking shall be provided within 500 feet of the site for which it is required.

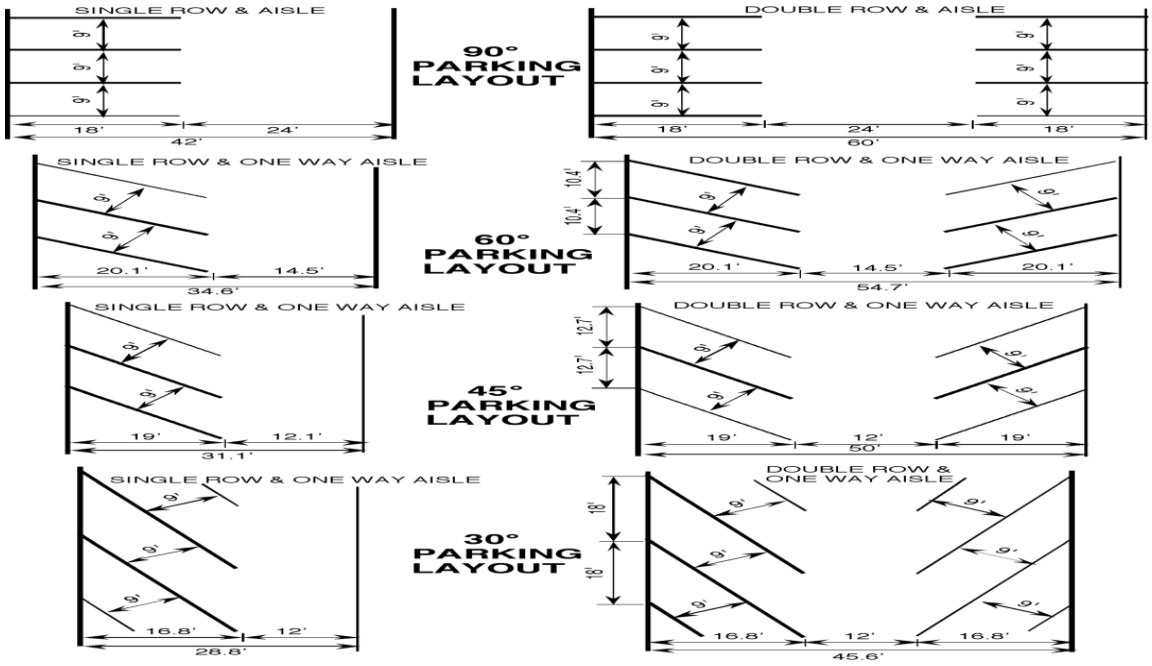
8. After the first 50-bicycle required parking spaces are provided, additional required bicycle parking spaces shall be provided at one half-space per unit listed.

9. The commission can reduce the required bicycle parking spaces by up to 50 percent but any such reduction shall not reduce the number of spaces below 4 except as provided in subsection 10. To justify a reduction in the number of spaces required, the applicant shall demonstrate to the reasonable satisfaction of the commission that extraordinary circumstances exist that the required number of spaces are disproportionate to the expected demand due to reasons such as: accessibility constraints to a parcel for bicyclists, proximity to public bicycle parking, and nature of a business and likelihood customers or clientele would utilize bicycles to travel to the business.

10. The commission may waive the required bicycle parking when there is no reasonable location to provide the bicycle spaces due to physical constraints of the site and the provisions of subsection 7 cannot be met. (Ord. 7020 §2, 2012).

18.25.035 Maximum Off-Street Parking Requirements. In order to prevent excessive lot coverage with pavement or similar hard surfaces and to reduce the heat and surface water run-off from excessive parking areas, the off-street parking area for nonresidential uses shall not exceed the minimum number of spaces required by more than 25%, except as approved by the Commission, based on a parking analysis that shows the need for the extra parking. (Ord. 6762 §3, 2007).

18.25.040 Off-Street Parking Design Standards. The following table contains the minimum standards for parking lot design with 60-foot bay width minimum and with which the design and construction of all parking lots shall comply. The Commission may allow a 5% reduction in distance for any of these standards for long-term parking areas. (Ord. 7195 §3, 2016; Ord. 5037, 1990). (see larger sized diagram in Index under Zoning-Parking and Loading Requirements).



18.25.050 Residential Off-Street Parking. A. It is recognized that uncontrolled residential off-street parking, specifically in residential front yards, is a public nuisance. The purpose of this section is to provide for the regulation of residential off-street parking and to specify the requirements for residential off-street parking as they pertain to the appearance and the health, safety and welfare of the city.

B. Personal Vehicles. It is permissible to park a personal vehicle, including a passenger car, recreation vehicle, van, or pickup truck in the residential districts under the following conditions.

1. Parking is permitted anywhere in the rear yard or interior side yard on an improved surface, as defined in chapter 16.36.

2. Parking is permitted outside of the structure in the front yard or corner side yard on a driveway if space is unavailable or there is no reasonable access to the rear yard or interior side yard. Reasonable access means any 8 ft. or wider area which can be graded to 15% slope or less to provide access to a parking area. Any decision concerning front yard or corner side yard parking under this subsection may be appealed to the plan commission.

3. The vehicle shall be parked a minimum of 2 feet from all property lines.

C. Driveway Standards. Driveway widths shall not exceed 30% of the lot width or 30 feet, whichever is less. The plan commission may waive this standard by applying the provisions set forth in section 16.36.120 c.

D. Front Yard Paved Areas. 1. No parking pad used for parking motor vehicles shall be allowed in the front yard or corner side yard of a residential district if sufficient space is available in any rear yard or interior side yard as provided in subsection B. Sufficient space means a 10 ft. by 20 ft. area per vehicle with reasonable access.

2. Parking in the front yard for new multi-family dwellings is allowed provided the total paved area (parking pad and driveway) for the front yard of the lot shall not exceed 35% of such area in an RM or R-3 district and 50% of such area in an R-4 district. (Ord. 6685 §3, 2006; Ord. 5037, 1990).

18.25.060 Off-Street Loading Requirements. A. There shall be provided at the time any building is erected or subject to structural alteration, off-street loading spaces in accordance with the following requirements:

1. Office Buildings:
5,000 to 25,000 sq. ft. of gross floor area . . one 12' x 20' loading space
25,001 to 50,000 sq. ft. of gross floor area . . one 14' x 35' loading space
50,001 to 200,000 sq. ft. of gross floor area . . two 14' x 35' loading space
Add one additional 14' x 35' loading space for each 75,000 square feet of gross floor area above 200,000 square feet.

2. Retail or Service Establishment:
Less than 5,000 sq. ft. of gross floor area . . one 12' x 20' loading space
5,001 to 20,000 sq. ft. of gross floor area . . one 14' x 35' loading space
20,001 to 100,000 sq. ft. of gross floor area . . two 14' x 35' loading space
Add one additional space for each 75,000 square feet of gross floor area above 100,000 square feet.

3. Industrial and Wholesale Commercial Use:
2,000 to 20,000 sq. ft. of gross floor area . . one 14' x 35' loading space
20,001 to 100,000 sq. ft. of gross floor area . . two 14' x 35' loading space
Add one additional space for each 75,000 square feet of gross floor area above 100,000 square feet.

4. EXCEPTION: Any building in the CBD central business district shall be exempt from providing loading spaces as required in this section.

B. Loading spaces shall be provided on each lot in compliance with the following requirements:

1. The loading space shall be completely contained on the lot it is intended to serve.

2. The loading space shall be arranged on the lot in such a way as to allow normal movement of traffic in and around the loading area.

3. No loading space shall be permitted to extend over any pedestrian sidewalk or bicycle path. (Ord. 5037, 1990).

18.25.070 Off-Street Stacking Requirements. Uses which have drive-up service windows or devices shall provide on-site parking spaces to stack vehicles waiting to reach the drive-up service window or device in accordance with the following:

A. Restaurant: 6 storage spaces for each service window or device.

B. Banks: 4 storage spaces for each service window or device.

C. Drive-in theater: 10 percent of the spaces provided within the drive-in theater divided by the number of cashiers to be provided in the approach lanes to the cashiers provided such storage does not interfere with other required off-street parking.

D. Car wash: 6 storage spaces for each service bay for automatic car washes and 3 storage spaces for each service bay for manual car washes.

E. All other: 3 storage spaces for each service window or device.

Each space shall measure 9' x 20' and shall not interfere with other required off-street parking. (Ord. 5037, 1990).

18.25.080 Minimum Improvement and Maintenance Standards. A. All new or renovated parking lots shall be hard surfaced with concrete or asphalt and said surfacing shall meet the minimum specifications set forth, except that, upon written permission of the Commission, this requirement can be waived temporarily or permanently provided that the reasons for approving such a waiver are specified in writing.

1. Temporary waivers may be allowed by the commission where it finds that future development or change in use of the property would remove or change the parking area planned for paving.

2. Permanent waivers may be allowed by the commission where it finds that the limited use of the parking area does not warrant the need for a hard surface, the parking area is not required parking or is a storage yard area, or where other existing parking in the vicinity is not hard surfaced and requiring such a hard surface for the property in question would result in a hardship.

B. Adequate provisions shall be made for the disposal of storm water from the lot. The city engineer shall approve plans which show such water shall not flow onto adjoining property or adjacent sidewalks in a quantity or manner that would be dangerous or detrimental thereto, or dangerous or inconvenient to persons using the sidewalk.

C. A structurally sound abutment, including but not limited to bumper blocks, continuous curb or a retaining wall, shall be installed around each side of the parking lot. An adequate retaining wall shall be constructed wherever necessary to prevent the washing of soil to and from adjoining property.

D. An opaque fence, wall, berm, or landscaping 6 feet in height and of a character necessary for adequate screening of the parking lot from adjacent residentially used property shall be provided. Where the residential used property is across public right-of-way from the parking lot, screening 2 to 3 feet in height must be provided in all cases except when the right-of-way is an officially designated arterial street.

E. The parking spaces and their locations, and the locations and widths of entrances and exits to and from any parking lot or parking ramp shall be designed to provide appropriate circulation of traffic within the parking area and onto the street.

F. The location of each parking space and the location and direction of movement along the driveways providing access thereto shall be indicated by painting upon the surface, by raised directional signs or by markers or other similar measures placed in the surfacing of any parking lot which is greater than 5 stalls in size.

G. Any parking lot or ramp shall be adequately maintained, keeping it as free as possible from snow and ice. All signs, markers or painting or any other methods used to indicate direction of traffic movement and location of parking spaces shall be maintained in a neat and legible condition. Walls, trees, and shrubbery, as well as the surface of the parking lot or ramp, shall be maintained in a good condition throughout its use for parking purposes.

H. Handicap parking stalls will be required and signed as per state building code standards. (Ord. 5037, 1990).

Chapter 18.30

ACCESSORY USES

Sections:

18.30.010 Purpose.
18.30.020 Determination.
18.30.030 One- and Two-Family Dwelling Accessory Building Standards.
18.30.040 Specific Standards.

18.30.010 Purpose. An accessory use is a building, structure or use which is allowed in addition to principal uses if customarily accessory to and incidental to the conduct of the principal use. Such building or structure shall be built upon, and the use conducted upon, the same lot as the principal use. (Ord. 5037, 1990).

18.30.020 Determination. A. The zoning administrator shall make the initial determination as to whether a building, structure or use is accessory to a principal use, and shall issue a certificate of zoning compliance for those which are determined to be accessory and which comply with the provisions of this title.

B. The accessory use determination shall be based upon the relationship of the building, structure or use to the principal use. An accessory use shall be habitually or commonly established as reasonably incidental to the principal use and located and conducted on the same lot as the principal use. In determining whether a use is accessory, the following factors shall be used:

- the size of the lot in question;
- the nature of the principal use;
- the use made of adjacent lots;
- the actual incidence of similar use in the area; and
- the potential for adverse impact on adjacent property.

C. The zoning administrator shall apply the standards set forth in subsection 18.30.040, where applicable, in the review procedures. (Ord. 5037, 1990).

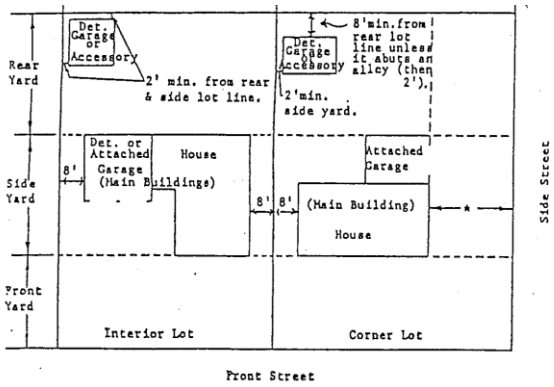
18.30.030 One- and Two-Family Dwelling Accessory Building Standards. The provisions of this section shall apply to all one- and two-family dwelling residential accessory buildings.

A. An accessory building may be erected if separated from the principal building on the lot by 10 feet or as provided in the Wisconsin uniform dwelling code.

B. No accessory building shall be erected in any required yard other than the rear yard, except an accessory building may be located between the front and rear building lines subject to the side yard setback requirements of the principal building and all other dimensional standards of the district in which it is located.

C. The height of an accessory building shall not exceed 18 feet measured from the grade to the top of the building.

D. If located in the rear yard, detached accessory buildings shall be subject to the following requirements:

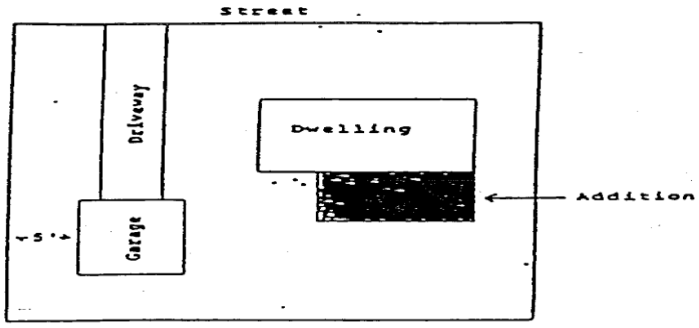


1. The setbacks from all lot lines shall be at least 2 feet provided the building is at least 10 feet from the main building on an adjacent lot.

2. All other setbacks pertaining to side streets on corner lots or rear streets on double-frontage lots shall be complied with.

3. The aggregate area of accessory buildings in the required rear yard area shall not exceed 35 percent of the required rear yard area.

4. Any addition to a main building which would cause part of an existing accessory building to be in a side yard shall not cause such accessory building to be nonconforming if its setback is less than that required of the main building, provided all other provisions of this title are met (see sketch). (Ord. 6672 §1, 2006; Ord. 5037, 1990).



<u>18.30.040 Specific Standards</u>. The following specific standards shall apply to the specific accessory use as listed.

A. <u>Accessory Dwelling Units, Detached</u>. 1. Are allowed only if for use by persons regularly employed on the premise and their immediate family.

2. Are allowed if appurtenant to a principal agricultural use.

B. <u>Agricultural Uses</u>. 1. Buildings or structures used for the shelter or feeding of livestock shall be located not less than 200 feet from any adjoining lot in a residential district.

2. Allowed only in the R-1A district.

C. <u>Antennas, Private</u>. 1. The purpose of the provisions is to protect the community's health, safety and aesthetic values by reducing the visual impact of antennas due to their height and obstructive appearance. The city will regulate the height and location of antennas to minimize their visual impact on neighborhoods and the natural environment. This purpose will accommodate federal communication commission rules which allow reasonable reception of antenna delivered signals.

2. Except as provided in section 18.35.050, only one private antenna support structure shall be allowed on a residential lot and shall not exceed, excluding mounting mast, 75 feet in height.

3. Antenna support structures detached from the principal building on the lot shall only be located in a rear yard and shall be setback from all property lines one-third the height of such structure; except as provided in section 18.35.050. All guy wires or other supports shall be setback as required for accessory buildings.

4. Electrical installations with an antenna shall be properly grounded and in accordance with the city electrical code and the cable used to conduct current or signals from the station to the building shall be buried.

5. Federal communication commission standards shall apply for interference with radio and television reception on adjacent properties.

6. An installation permit for an antenna from the building inspector shall be obtained at a fee as stated in the City of Eau Claire Fees and Licenses Schedule.

D. Fences. 1. In a rear yard or a side yard adjacent to a street behind the rear wall of the principal building, the maximum height of a fence shall be 6 feet.

2. In a side yard of an interior lot, the maximum height of a fence shall be 6 feet.

3. In a front yard or a side yard adjacent to a street in front of the rear wall of the principal building, the maximum height of a fence shall be 4 feet.

4. On corner lots, within 20 feet of the lot corner adjacent the street intersection, no fence shall exceed 3 feet in height above the curb level directly opposite. Chainlink fences with a mesh of 2 inches or more may be permitted within such area to a maximum height of 4 feet.

5. Within 5 feet of any driveway access to a street or alley no fence shall exceed 3 feet in height, except chainlink fences with a mesh of 2 inches or more.

6. When fencing height requirements for one lot are more restrictive than such requirements for an abutting lot with the same lot line, the more restrictive of the two requirements shall apply for that common lot line and for any front yard or side yard adjacent a street for both lots.

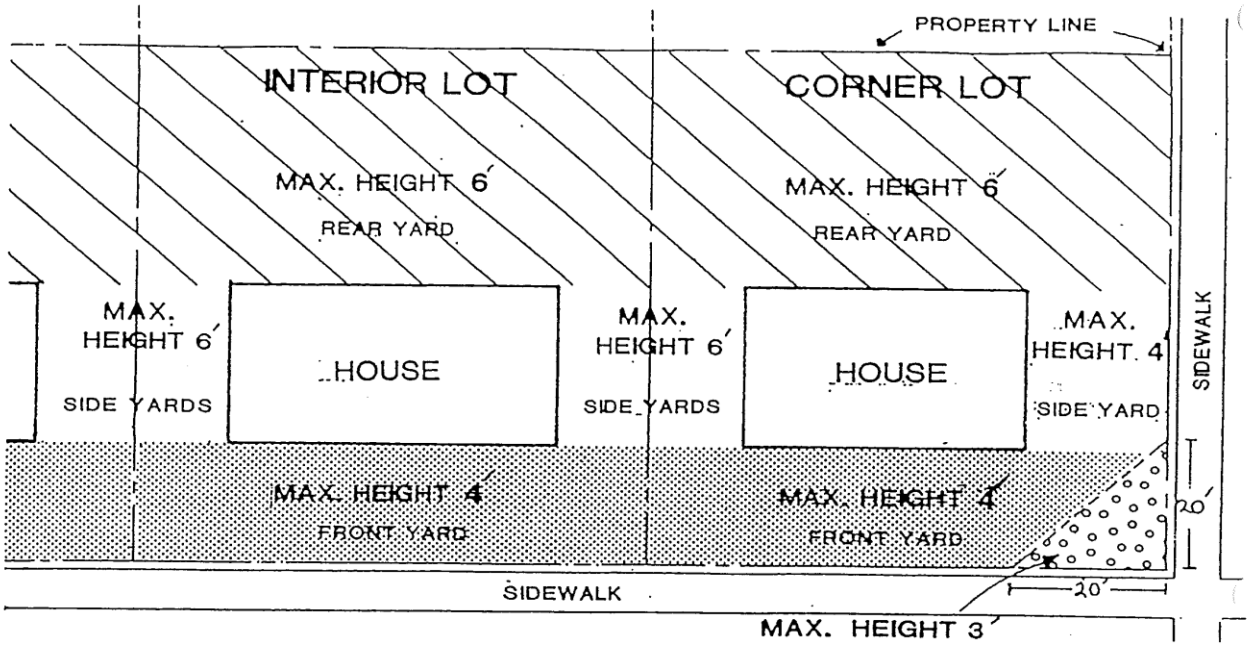
7. All fences shall be constructed of appropriate materials manufactured for such purpose and shall be maintained in a condition of good repair.

8. Fences in commercial or industrial districts may exceed the height requirements stated herein, if required for screening between districts or for screening of storage yards or similar exterior activities. Such fences shall be approved by the department or as part of a site plan.

9. Temporary fences such as snow fences or others of similar materials may only be allowed with approval of the department for a period of time not to exceed 6 months.

10. Barb wire fence shall not be allowed except for tops of security fences at heights greater than 6 feet for industrial and commercial uses or for agricultural purposes.

11. A wood or screening fence shall be installed in such a manner so that it has a finished surface that faces the exterior of the lot upon which the fence is located. In this paragraph, "finished surface" means that side of a fence which does not contain any exposed supporting posts or framing members; provided that, in the case of a double-sided fence, where an equal amount of supporting posts and framing members are visible on both sides of the fence, each side shall be considered to be a "finished surface".



E. Garages, private. 1. One private garage, attached or detached, or combination thereof, shall be permitted as an accessory use on any lot in a residential district. No more than 4 parking stalls shall be permitted within any garage or for all garages in combination without approval of a conditional use permit from the commission. Under this subsection, a parking stall shall not exceed 250 square feet of garage area, and shall have reasonable vehicular access.

2. Any storage building having a floor area in excess of 200 square feet shall be deemed to be a private garage under this subsection.

3. No private garage on a lot shall exceed 1,000 square feet in floor area (except as provided in subsection 6 hereof), and no combination of attached and detached private garages on a lot shall exceed 1,500 square feet in floor area without approval of a conditional use permit from the commission.

4. No detached private garage shall exceed 18 feet in height above the existing grade of the lot without approval of a conditional use permit from the commission.

5. No part of the wall of a private garage which contains a vehicle entry door shall be located within 15 feet of a street or alley.

6. As an accessory use, a private garage on a lot may exceed 1,000 square feet in floor area by 10 square feet for every 1 foot of additional setback the structure is from the required setback for principal structures on the lot, up to 1,500 square feet.

7. A second detached accessory garage may be allowed with approval of a conditional use permit by the commission, provided that the lot for such request is at least 1 acre.

F. Horses. Horses are allowed for private use only within the R-1A District under the following standards:

1. The lot area shall not be less than one-half acre.

2. Adequate area for pasture shall be provided within a reasonable distance.

3. Overgrazing of a lot causing erosion or exposed soils shall not be allowed.

4. Accessory buildings which quarter horses shall be setback from any adjacent lot in a residential district a minimum of 25 feet from any side yard lot line and 10 feet from any rear yard lot line.

G. Reverse Vending Machine. A reverse vending machine may be permitted in all commercial and industrial districts provided that they comply with the following standards:

1. Shall be established in conjunction with a commercial or industrial use or community service facility which is allowed within the zoning district;

2. Shall be located within 30 feet of the entrance to the principle structure and shall not obstruct pedestrian or vehicular circulation;

3. Shall not occupy parking spaces required by the principle use;

4. Shall occupy no more than 50 square feet of floor space per installation, including any protective enclosure, and shall be no more than 8 feet in height;

5. Shall be constructed and maintained with durable waterproof and rustproof material;

6. Shall be clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative;

7. Shall have a sign area of a maximum of 4 square feet per machine, exclusive of operating instructions;

8. Shall be maintained in a clean, litter-free condition on a daily basis;

9. Operating hours shall be at least the operating hours of the principle use;

10. Shall be illuminated to ensure comfortable and safe operation if operating hours are between dusk and dawn.

H. Swimming Pools. All provisions relating to swimming pools of chapter 16.04 shall be complied with.

1. Swimming pools are allowed only in a rear yard or interior side yard and must meet all required setbacks for detached accessory buildings.

I. Satellite Dishes, Private. 1. The purpose of these provisions is to protect the community's health, safety and aesthetic values by reducing the visual impact of satellite dishes due to their large bulk and obstructive appearance when compared to other antenna facilities. The city will regulate the size, height and location of satellite dishes to minimize their visual impact on neighborhoods and the natural environment. This purpose will accommodate federal communication commission rules which allow reasonable reception of antenna or satellite delivered signals.

2. On a residential lot, a ground mounted satellite dish is allowed as an accessory use subject to the following standards:

a. Only one such dish is allowed per lot;

b. Such dish shall not exceed 12' in diameter and 15' in height;

c. Such dish shall be located in a rear yard and meet all setback requirements of accessory building;

d. An installation permit for accessory satellite dishes from the building inspector shall be obtained at a fee as stated in the City of Eau Claire Fees and Licenses Schedule.

3. On a residential lot, a roof mounted satellite dish is allowed as an accessory use subject to the following standards:

a. Only one such dish is allowed per lot;

b. Such dish shall not exceed 3' in diameter and the height limit of the district in which it is located.

4. In the event that usable satellite signals cannot be received by locating the dish in accordance with paragraphs 2. and 3. above, an administrative permit may be obtained for a fee as stated in the City of Eau Claire Fees and Licenses Schedule to locate the dish subject to the following standards:

a. A ground mounted satellite dish may be located in an interior side yard subject to the setback requirements for accessory buildings;

b. A ground mounted satellite dish may be an additional 10' in height above the accessory use standards in a rear yard;

c. A roof mounted satellite dish may be up to 7' in diameter;

d. The zoning administrator, in allowing these additional standards, shall determine that a usable satellite signal cannot be received from a satellite dish located in conformance with the accessory use standards. Usable satellite signals are satellite signals from all major communications satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations or by way of cable television.

5. In the event that usable satellite signals cannot be received by locating the satellite dish in compliance with paragraphs 2., 3. or 4., the plan commission may issue a conditional use permit to locate the dish in other locations on the lot. In reviewing such permit requests, the commission shall use the general provisions of section 18.35.040.

6. All satellite dishes shall meet a minimum wind-load design of 30 lbs./square foot.

7. No advertising message shall be allowed on any satellite dish or its framework.

8. Portable or trailer-mounted satellite dishes shall only be allowed for on-site testing and demonstrations within a 48 hour time limit.

9. Electrical installations with all satellite dishes shall be properly grounded and in accordance with the city electrical code and the cable used to conduct current or signals from the ground mounted station to the building shall be buried.

10. Federal communication commission standards shall apply for interference with radio and television reception on adjacent properties.

11. Abandoned, unmaintained or unsafe satellite dishes shall be moved from a property upon notice from the zoning administrator.

J. Solar Arrays. That are accessory and incidental and designed primarily for serving on-site needs or a use that is related to the principal use of the property.

1. A solar array shall follow building setback and height requirements for accessory structures within the zoning district it is proposed.

2. Accessory solar arrays have no size limits except that in residential zones for buildings with 4 dwelling units or less, the maximum size is 1,000 square feet. Larger arrays in these districts may be allowed by conditional use permit.

3. In all zoning districts accessory solar arrays exceeding height standards may be allowed by conditional use permit under provisions listed in Chapter 18.35. (Ord. 7212 §7, 2016; Ord. 6672 §1, 2006; Ord. 6363 §38, 2002; Ord. 5427 §§1, 3, 1994; Ord. 5153 §1, 1991; Ord. 5121 §2, 1991; Ord. 5098, 1990; Ord 5037, 1990).

Chapter 18.35

CONDITIONAL USES

Sections:

18.35.010 Purpose.
18.35.020 Procedure.
18.35.030 Authority to Impose Conditions.
18.35.040 General Provisions.
18.35.050 Specific Provisions.

18.35.010 Purpose. The conditional use procedure is established to provide an appropriate review of certain uses herein listed which may be detrimental to adjacent property, the general neighborhood or the comprehensive plan. (Ord. 5037, 1990).

18.35.020 Procedure. A. Prior to the issuance of a conditional use permit for the establishment or construction of a conditional use, the applicant shall obtain approval from the commission in accordance with the procedures and rules set forth in this chapter.

B. An application for a conditional use along with a fee as stated in the City of Eau Claire Fees and Licenses Schedule shall be submitted with forms and other required items to the department. A list of the required items to be submitted for a conditional use is available at the main counter of such department, located in City Hall, 203 S. Farwell Street, Eau Claire. Applicant is encouraged to discuss with the responsible staff persons the suitability of the conditional use.

C. The application shall be scheduled for public hearing before the commission in accordance with the procedures established in Section 62.23 of the Wisconsin Statutes. Notice shall be provided to all persons within 300 feet or, in the case of an application involving a heavy manufacturing and production use as defined by Section 18.06.040, 500 feet of the property and to the city newspaper. A Zoning Hearing Notice sign shall be posted on the property by the department.

D. The commission shall review the application in accordance with the general provisions of section 18.35.040 and the applicable specific provisions of section 18.35.050. The Commission shall approve, approve with conditions, or deny the application in accordance with such provisions.

E. A conditional use shall lapse and become void one year after approval by the commission unless substantial construction or use of the permit has actually occurred. The commission may extend this time as a condition of approval for the application or applicant may request extension of this time from the commission prior to the one year expiration date. The commission, in reviewing such time extensions, shall consider any changes in city policy or regulations, or in conditions of the site or area that may warrant additional conditions of approval or denial of the time extension. Time extensions shall be on a year-by-year basis.

F. If the terms of a conditional use have been violated, or the use is substantially detrimental to persons or property in the neighborhood, the commission shall hold a hearing on the revocation of the conditional use. Such hearing shall be preceded by due notice to the permittee and shall be held in accordance with Section 62.23 of the Wisconsin Statutes. If the commission finds the terms of the conditional use have been violated or the use is detrimental to the area, it may revoke, modify or leave such conditional use unchanged.

G. Unless otherwise specified in the conditions of approval, a conditional use issued under this section shall remain in effect as long as the authorized use continues. Any use which is discontinued for 12 consecutive months shall be deemed to be abandoned. Prior to the re-establishment of an abandoned use, a new conditional use shall be obtained under the terms of this chapter.

H. No application for a conditional use permit which has been denied wholly or in part by the commission shall be resubmitted for a period of one year from the date of said denial, except on the grounds of new evidence or proof of change of conditions is found to be valid by the commission. (Ord. 7051 §1, 2013; Ord. 6363 §38, 2002; Ord. 5037, 1990).

18.35.030 Authority to Impose Conditions. The commission, in order to achieve the provisions of this chapter, may attach certain conditions to the conditional use, including:

A. Limiting the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

B. Establishing a special yard or other open space or lot area or dimension.

C. Limiting the height, size or location of a building or other structure.

D. Designating the size, number, location or nature of vehicle access points.

E. Increasing the amount of street dedication, roadway width, or improvements within the street right-of-way.

F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading area.

G. Limiting or otherwise designating the number, size, location, height or lighting of signs.

H. Limiting the location and intensity of outdoor lighting or requiring its shielding.

I. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for installation or maintenance of the facility.

J. Designating the size, height, location or materials for a fence.

K. Protecting existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

L. Specifying other conditions to permit development of the city in conformity with the intent and purpose of the comprehensive plan. (Ord. 5037, 1990).

18.35.040 General Provisions. No application for a conditional use shall be granted by the commission unless the commission finds all of the following general provisions, applicable to all conditional uses, are present:

A. That the establishment, maintenance, or operation of the conditional use will not be materially detrimental to or endanger the public health, safety, morals, or general welfare;

B. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use;

C. That the establishment of the conditional use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

D. That adequate utilities, access road, off-street parking, drainage and other necessary site improvements have been or are being provided;

E. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard in the public streets;

F. That the conditional use shall conform to all applicable regulations of the district in which it is located;

G. That the proposed use is in conformance with the purpose of the zoning district in which it is located and complies with the provisions and policies of the comprehensive plan; and

H. That the specific provisions applicable to the conditional use listed in this chapter are or will be satisfied. (Ord. 5037, 1990).

18.35.050 Specific Provisions. The following specific provisions, applicable to specific conditional uses as listed, shall be considered by the Commission, in addition to provisions included under section 18.35.040:

A. Agricultural Uses, Commercial. Districts permitted: R-1A. Buildings or structures used for the shelter or feeding of livestock shall be located not less than 200 feet from any adjoining lot in a residential district.

B. Antennas, Private (in excess of accessory use standards). Districts permitted: all residential districts. Private antennas in excess of accessory use standards for: number allowed per residential lot, height allowed for antenna support structures, or setbacks required based on the height of the antenna support structure, may be allowed by the commission subject to the general provision herein, all other related provisions of 18.30.040 and the related provision of the federal communications commission.

C. Bed and Breakfast House. Districts allowed: all residential. Provisions:

1. These provisions are intended to allow alternative uses for older or larger dwellings which have a unique character or historic value to the community, as a means of preserving or enhancing such structures.

2. No additions to such dwellings shall be allowed unless approved by the commission.

3. The appearance of the dwelling shall be maintained or restored to its original condition, except for changes required by building, housing or other codes or as determined by the commission.

4. Parking areas and trash storage areas shall be screened from view. Other screening may be required for the property by the Commission to protect adjacent residential uses.

5. Parking shall be provided at 1 stall per guest room plus 2 stalls.

6. The number of guest rooms shall not exceed 9 and the Commission may restrict this number to 5 or fewer in areas which are primarily single-family neighborhoods or which do not have direct access to collector or arterial streets.

D. Repealed by ord. 6683.

E. Conversion of One-Family Dwelling to Duplex. Districts allowed: R-2. Provisions:

1. The appearance of the dwelling, including but not limited to facades and roof lines, shall be maintained in or restored to its original condition, except as required by building, housing or other codes or as approved by the commission.

2. No increase in the finished floor area of any dwelling granted a conditional use under this section shall be made except by approval of the commission.

3. Screening of trash areas, appropriate parking areas and completion of other site improvements shall be provided.

4. Minimum lot area shall be 10,000 square feet, except the commission may reduce such lot area to 8,000 square feet upon finding:

a) Compliance with the policies of the applicable neighborhood plan or area plan;

b) The dwelling shall have a minimum of 2,000 square feet of finished floor area, excluding basement, as of January 1, 1980;

c) Compatibility with adjacent land uses, including consideration of other two-family dwellings or multi-family dwellings immediately adjacent to the dwelling proposed for conversion;

d) The lot area for the dwelling proposed for conversion or the size of such dwelling does not apply generally to other lots or dwellings in the vicinity. The lot or dwelling must demonstrate an unusual circumstance, which justifies the conversion, when compared to other lots or dwellings in the vicinity.

F. Conversion of One- or Two-Family Dwelling to 3-6 Unit Dwelling. Districts allowed: R-2. Provisions:

1. Structures shown to have substantial economic unsuitability for one-and two-family dwelling use may be considered for approval for conversion to multiple-family dwellings. It is the intent of this section that any increase in density, where approved, shall be mitigated to the extent possible by building and site design improvement, and justified by demonstrated benefits to the neighborhood. No conditional use permit may be granted for such conversions unless the commission finds all of the following standards are met:

a) The following limits in number of units shall apply:

# of Units/ Structure	Required Square Footage of Finished Floor Area*	Required Square Footage of Lot Area
3	2,500	10,000
4	3,300	13,000
5	4,100	16,000
6	4,900	19,000

More than 6 units are not allowed.

b) That no increase in the finished floor area of any structure granted a conditional use under this section shall be made after December 1, 1982, except by approval of the Commission.

c) That the structure was constructed before January 1, 1940.

d) That the structure is designated as a local landmark.

e) That the appearance of the dwelling, including but not limited to facades and roof lines, as viewed from public streets, will be maintained in or restored to its original condition as determined by the Landmarks Commission.

* Finished floor area shall exclude basement, porches and attic areas of structure and any floor area which cannot be legally occupied or used as part of the multiple family dwelling.

f) Evidence that the structure cannot reasonably be continued to be used as a single-family dwelling or two-family dwelling, including evidence of reasonable, unsuccessful efforts in good faith to find and attract a buyer willing to preserve the structure as a one- or two-family dwelling. It is the intent of this criterion that such a reasonable effort to find and attract a buyer may involve substantial reduction in the selling price of the structure.

g) Parking areas and trash storage areas shall be screened from adjoining residences. The Commission may also require other screening as necessary to protect adjacent properties.

h) Approval of a site plan by the commission.

G. Conversion of One-Family Dwelling to Duplex on Lots 6,000-8,000 Square Feet in Size. Districts allowed: RM. Provisions:

1. The dwelling shall have a minimum of 2,000 square feet of finished floor area, excluding basement, as of January 1, 1980;

2. The appearance of the dwelling, including but not limited to facades and roof lines, shall be maintained in or restored to its original condition, except as required by building, housing or other codes or as approved by the Commission;

3. No increase in the finished floor area of any dwelling granted a conditional use under this section shall be made except by approval of the commission;

4. Screening of trash areas, appropriate parking areas and completion of other site improvements shall be provided;

5. Compliance with the policies of the applicable neighborhood plan or area plan shall be required;

6. Compatibility with adjacent land uses shall be required, including consideration of other two-family dwellings or multi-family dwellings immediately adjacent to the dwelling proposed for conversion;

7. The lot area for the dwelling proposed for conversion or the size of such dwelling shall not apply generally to other lots or dwellings in the vicinity. The lot or dwelling must demonstrate an unusual circumstance, which justifies the conversion, when compared to other lots or dwellings in the vicinity.

H. Damaged Landmarked Properties. Districts allowed: all residential districts. Provisions:

1. The purpose of these provisions is to allow and encourage the repair and preservation of landmarked residential property substantially damaged by fire, natural disaster, neglect, or third party action while maintaining the original structure to the maximum extent possible, but not the replacement of the structure, in furtherance of the purpose of this Title and Chapter 2.65.

2. These provisions shall only apply to individual landmarked properties and properties within a landmarked district that are pivotal or contributing, but shall not apply to non-contributing properties as defined in Chapter 2.65.

3. Applicant shall apply for and must receive Landmarks Commission approval of the repairs to the damaged property pursuant to Chapter 2.65 either prior to application to the Commission or as a condition of the grant of the conditional use.

4. Applicant shall not raze the structure nor deconstruct any more of the structure than is reasonably necessary to allow for the overall repair.

5. Applicant may not extend or intensify any nonconforming use through the repair and reuse of the damaged property, but may, or, if made a condition by the Commission, shall change the use to one that is more restrictive based on the provisions of Section 18.40.020 E.

I. Day Care Centers. Districts allowed: R-1A, R-1, R-2, RM, R-3, R-4, C-1, C-2, C-3, CBD. Provisions:

1. Applicant shall secure and maintain a child care license from the State of Wisconsin.

2. All structures and facilities shall be designed and used in such manner as not to be detrimental to adjacent and surrounding property nor to the safety and welfare of the children. The commission may require additional screening, setbacks or other design considerations to prevent adverse impacts between the day care center and adjacent properties.

3. Minimum parking shall be one space/staff person, two space minimum.

4. Applicant shall provide a child pick-up area located off of public streets with an adequate vehicle turn-around area.

5. Lot size shall be adequate to provide for parking, child pick-up area, vehicle turn-around area, play area, screening and setbacks.

J. Dwelling Units in Commercial Districts. Districts allowed: C-1A, C-1, C-2, CBD. Provisions:

1. Dwelling units in a C-1A, C-1 or C-2 district are restricted to a total gross floor area of 5,000 square feet above the ground floor of a commercial building and also to the rear of such buildings, provided that such ground floor dwelling units shall not be closer than 28 feet to any public street.

2. Dwelling units in the CBD are allowed on the ground floor in newly constructed buildings, provided that all applicable yard setback regulations required for the R-4 district are met.

3. Dwelling units are a permitted use above the ground floor of commercial buildings in the CBD with no setback restrictions.

4. In the C-1A, C-1 and C-2 districts, there shall be provided a usable open space of not less than 100 square feet for each bedroom in a dwelling unit.

5. Minimum lot size shall be 6,000 square feet and minimum lot width shall be 60 feet for buildings containing dwelling units in a C-1A, C-1 or C-2 district.

6. A side yard setback of 10 feet shall be provided for any building containing a dwelling unit in a C-1A, C-1 or C-2 district.

7. A rear yard setback of 20 feet shall be provided for any building containing a dwelling unit in a C-1A, C-1 or C-2 district.

K. Garage, Private. Districts allowed: all residential. Provisions:

1. Any attached or detached private garage, on a lot, having a floor area in excess of the accessory use standards for private garages in Chapter 18.30, requires a conditional use permit.

2. Any combination of attached or detached garages, on a lot, having in excess of 1,500 square feet of floor area or more than 4 parking stalls, requires a conditional use permit.

3. Any detached garage in excess of 18 feet in height above the existing grade of the lot requires a conditional use permit.

4. A second detached garage on a lot requires a conditional use permit, provided that the lot for such request shall be at least 1 acre.

5. The commission, in considering a request under this subsection, shall apply the provisions for determination of accessory uses under Chapter 18.30 and the general provisions of this chapter.

L. Golf Courses. Districts allowed: all residential. Provisions:

1. Shall not include commercially operated miniature golf courses or golf driving ranges unless clearly accessory to the golf course.

2. Clubhouses and maintenance buildings shall be located not less than 200 feet from any adjacent lot in an adjoining residential district.

3. A minimum setback of 100 feet shall be provided from any street for any main or accessory building.

4. These provisions shall not require any change in an existing clubhouse or maintenance building for which a building permit has been issued in the event of a change in the boundary of an adjacent residential district.

5. Parking shall be provided at 4 stalls per hole.

M. Home Occupation. Districts allowed: R-1A, R-1, R-2, RM, R-3, R-4. Provisions:

1. That except for articles produced on the premises, no stock in trade will be displayed or sold on the premises.

2. That the home occupation will be conducted entirely within the enclosed living area of the dwelling unit or the enclosed portion of an accessory building.

3. That no person other than members of the immediate family occupying such dwelling shall be employed in the home occupation.

4. That the establishment, conduct and total floor area devoted to the home occupation will not change the principal, residential character of the use and appearance of the dwelling unit and accessory building involved.

5. That there will be only 1 sign, non-illuminated, not exceeding one square foot in area, containing only the name of the owner(s) and home occupation, mounted flat against the wall of the dwelling or accessory building or visible through a window.

6. That there will be no outside storage or exterior evidence of the conduct of a home occupation except as otherwise permitted by the commission upon such conditions as the commission deems necessary.

7. That the home occupation will not cause a public nuisance.

8. That the conduct of the home occupation, including but not limited to the storage of goods and equipment, shall not reduce or render unusable areas provided for the required off-street parking.

9. That no more than one vehicle will be used in the home occupation, said vehicle being no larger than a three-quarter ton pick-up or panel truck, and that said vehicle will be parked off-street.

10. That any parking demand generated by the home occupation will not cause undue interference with the movement of traffic or parking normally expected in the neighborhood.

11. That no electrical, mechanical or other equipment or processes will be used in the home occupation which creates visible or audible interference in radio or television receivers or causes fluctuations in line voltage outside the dwelling unit or accessory buildings, or which creates an unreasonable level of noise, dust, heat, vibration, odor or smoke, or which would create a fire hazard.

12. That the building used for the home occupation will be in full compliance with all applicable codes.

13. That the home occupation does not involve group meetings or a private school whose attendance exceeds five persons at any given time, except as otherwise permitted by the commission upon such conditions as the commission deems necessary.

14. That the proposed home occupation is not among the following prohibited uses:

a) antique shops;
b) dry cleaning establishments;
c) furniture refinishing using a manufacturing or chemical dripping process;
d) gift shops;
e) ice cream shops;
f) repair or painting of motor vehicles, including body work;
g) restaurants;
h) service and repair shops, except for the service and repair of small electrical appliances, typewriters, cameras, lawn mowers and similar small equipment;
i) veterinary clinic.

N. Machinery and Equipment Sales and Service. District allowed: C-3.

1. Machinery and equipment sold or serviced shall be limited to that weighing less than 5 tons.
2. Display lots shall be paved.
3. Outdoor servicing shall not be allowed.

O. Model Home. Districts allowed: all residential. Provisions: The use of the dwelling as a model home shall not exceed a time period of one year.

P. Pigeon Lofts. In the R-1A, R-1 and R-2 districts, a conditional use permit is required if the requirements of s. 6.16.060 G., H., I. or J. are exceeded or modified. In the R-M, R-3 and R-4 districts, the conditional use permit may allow the requirements of s. 6.16.060 G., H., I. or J. to be exceeded or modified.

Q. Recycling Facilities. Districts allowed: all industrial and commercial. A conditional use permit is required for large collection facilities in a C-3 district and for processing facilities in an I-1 district. Such facilities shall comply with all applicable standards of Section 18.20.210.

R. Retail Building Material or Lumber Yard. District allowed: C-3. Provisions:

1. Outdoor storage yards shall not be allowed within 100 feet of a residential district.
2. Such yards shall be effectively screened from view on all sides with appropriate materials 6 to 8 feet in height.
3. The height of storage within such yards shall not exceed the height of the fence.

S. Wind Energy Conversion System. Districts allowed: all districts. Provisions:

1. Submit all information required on forms available at the department.
2. The height of the wind energy conversion system, including the rotor, shall not exceed the height limits for the district in which it is located nor shall the height exceed the distance of the base of such system to any lot line for the property.
3. The location of the system shall comply with all setbacks for the district in which it is located and shall not adversely impact adjacent land uses.
4. Appropriate maintenance and abandonment agreements shall be provided.

5. The relationship of the system to public utility structures shall be considered and adequate provisions for interconnection with, and parallel generation in connection with, the public electric utility shall be required where applicable.

6. Noise and electromagnetic interference created by the system shall not adversely impact surrounding uses.

7. The safety of the system, including, but not limited to, its structural integrity, sufficient overspeed control limiting the speed of blade rotation to below the design limits of the system, limitation on unauthorized access to the structure, height of rotor sweep from ground level, and appropriate protection from electrical hazard shall be ensured. One or more signs may be required to be installed at the base of the system warning of high voltage and including an emergency phone number and emergency shutdown procedure.

8. Compliance with all applicable city, state or federal safety, construction and electrical codes and other laws, rules and regulation containing requirements for wind energy conversion.

9. Liability insurance to be obtained and maintained in force covering the installation and operation of the wind energy conversion system, having a single limit coverage in the amount of at least $300,000.

T. Processing of Food-Related Products. Districts allowed: C-3, CBD. Provisions:

1. Firms shall be limited to start-up or small businesses with few employees, minimal equipment needed for operation, and minimal outdoor activities.

2. Parking shall be provided at 1 stall per employee, 1 stall per business vehicle at the site, and customer parking as needed.

3. Outdoor activities shall be limited to employee and customer parking, loading and unloading of products and supplies, and other activities which are not detrimental to surrounding properties as determined by the commission.

4. The commission may restrict such uses to a temporary time frame to limit the potential size of the business at such location.

5. The commission may limit the size and number of business vehicles at the site.

6. The processing of food-related products shall be limited to food for human consumption only, involving no raw product processing.

7. The commission shall take into consideration the distance the proposed use is from residential or certain commercial districts which may be impacted by such use and may place reasonable conditions on the use to limit its hours of operation or potential impacts from noise or odor.

U. Satellite Dishes, Private. (In excess of accessory use standards). Districts permitted: all residential districts. Private satellite dishes in excess of accessory use standards may be allowed by the commission subject to the general provisions herein, all other related provisions of s. 18.30.040, and other related provisions of the federal communications commission.

V. Christmas Tree Sales. Districts allowed: all residential. Provisions:

1. Such use shall only be allowed from November 15 through December 25.
2. Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m.
3. Signs are restricted to 12 square feet, 6 feet in height, at a 10-foot setback.
4. Clean up of the site is required by December 27.
5. Parking for at least 4 vehicles will be provided on the site or be available on the street.
6. Outside lighting must be shielded to prevent glare on adjacent residential properties.

W. Public Utility Tower. Districts Allowed: all districts.

1. Purpose. In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the council finds that these regulations are necessary in order to:

a. Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;

b. Minimize adverse visual effects of public utility towers through careful design and siting standards;

c. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and

d. Maximize the use of existing and approved public utility towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of public utility towers needed to serve the community.

2. A proposal for a new public utility tower shall not be approved unless the telecommunications equipment planned for the proposed tower cannot be collocated on an existing or approved tower or building as provided by the applicant in a sworn statement required by section 66.0404(2)(b)6. of the Wisconsin Statutes, and any amendments thereto. Provision of a sworn statement shall not preclude the City hiring a 3rd party consultant to review the feasibility of collocation on an existing or approved tower or building, with all costs charged to the new public utility tower applicant, with the exclusion of travel expenses.

3. Any proposed public utility tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is 60 to 100 feet in height. Public utility towers shall be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. It is the intent of this provision to maximize the number of antennas that can be added to a proposed public utility tower.

4. The use of guyed public utility towers is prohibited. Public utility towers shall be self-supporting without the use of wires, cables, beams, or other means. The design shall utilize an open framework or monopole configuration. A monopole tower is preferred over other self-supporting public utility towers. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited.

5. The public utility tower shall be no more than 200 feet in height in any district, and height alone shall not be a reason to prohibit a public utility tower.

6. In residential districts, a public utility tower shall be set back from all property lines a distance equal to or greater than the height of the tower. In other districts, the location of the public utility tower shall comply with the minimum setback requirements of the district in which it is to be located. In non-residential districts, public utility towers located closer to a property line than a distance equal to the height of the public utility tower shall be designed and engineered to collapse progressively within the distance between the public utility tower and the property line. In all districts, if a public utility tower is designed to collapse within a smaller area than the setback distance would otherwise require, as stated in an engineering certification, such district-required setback distance shall not apply unless the engineering certification is flawed.

7. Public utility tower locations shall provide the maximum amount of screening possible for off-site views of the facility. Existing on-site vegetation shall be preserved to the maximum extent practicable around the base of the public utility tower.

8. The installation of the public utility tower and related structures shall be designed to be compatible with the underlying site plan. The base of the tower and any accessory structures shall be landscaped and screened where practical. Accessory structures shall be designed to be architecturally compatible with principal structures on and adjacent the public utility tower site.

9. The public utility tower shall be light blue, gray, or other colors that are demonstrated to minimize visibility. The use of mottling as a camouflage technique is encouraged. No advertising or identification visible off-site shall be placed on the public utility tower or antennas.

10. Public utility towers and their antennas shall not be lighted except as required by the Federal Aviation Administration or other authority.

11. The priority for locating antennas shall be in the following order of ranking (highest preference to lowest preference):

a. Existing structures;

b. Public lands and other parks where compatible surrounding uses;

c. Industrial areas, where compatible with surrounding uses;

d. Commercial areas where compatible with surrounding uses;

e. Residential areas and public parks where compatible with surrounding uses and only if such towers are uniquely designed to be consistent with other improvement on the site, typical to permitted uses in the zoning district and located no closer than 500 feet to an existing public utility tower. Examples of such unique towers would include steeples or bell towers for churches, light poles for athletic fields, light poles for parking lots, or similar camouflaging techniques.

12. Public utility towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the state building code and all other

applicable standards. Metal public utility towers shall be constructed of, or treated with, a corrosive resistant material.

13. All obsolete or unused public utility towers and accompanying accessory facilities shall be removed by the owner within 12 months of the cessation of operations at the site unless a time extension is approved by the Commission. After the facilities are removed, the site shall be restored to its original or an improved state.

14. In addition to the submittal requirements required elsewhere in this code, applications for conditional use permits for public utility towers and their antennas shall be accompanied by the following information:

a. Written statements that the proposed public utility tower complies with regulations administered by the Federal Aviation Administration, Federal Communications Commission, and any appropriate state review authority, or that the public utility tower is exempt from those regulations;

b. A description of the public utility tower height and design, including a cross section and elevation;

c. A report that demonstrates the public utility tower's compliance with all applicable structural and electrical standards and codes;

d. A drawing which documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;

e. A description of the public utility tower's capacity, including the number and type of antennas that it can accommodate;

f. A report that documents the steps the applicant will take to avoid interference with established public safety communications; and

g. A letter of intent committing the public utility tower owner and his or her successors to allow the shared use of the public utility tower, as long as there is no negative structural impact upon the public utility tower, and there is no disruption to the service provided.

15. Within 90 days of receipt of a complete application, the City shall notify the applicant in writing of a final decision. If the application is denied, the City shall include with the written notification substantial evidence supporting the denial.

X. Catering Businesses in Churches. Districts allowed: all residential. Provisions:

1. The catering business shall operate from the kitchen of the church and shall be licensed by the city-county health department.

2. No stock in trade shall be displayed or sold on the premises, except for articles produced on the premises.

3. No more than 4 employees of the catering business shall be present on the premises.

4. No sign associated with the business shall be displayed on the premises.

5. No equipment, materials, or supplies associated with the business shall be stored outside.

6. Staff parking shall be provided on the premises.

7. Only one vehicle, no larger than a 3/4-ton pickup truck or panel truck, shall be allowed with the business, and such vehicle shall park off street.

8. The catering business shall not operate in a manner that constitutes a restaurant.

Y. Rooming Houses. Districts allowed: RM, R-3, R-4. Provisions:

1.The lot size shall be of sufficient size to provide required site improvements including parking on site and maintain green space consistent with surrounding development.

2. The size and height of the building shall be compatible with abutting and adjacent development. Larger or taller buildings shall have greater setbacks and additional buffering from smaller buildings.

3.The parking lots required for rooming houses shall be screened from abutting properties and shall be consistent in paved area with surrounding development.

Z. Solar Arrays or Solar Farms. Districts allowed: all districts. Provisions:

1. Solar farms are designed primarily for serving off-site power needs and are principal uses of the property requiring a conditional use permit. A solar farm shall follow building setback and height requirements for principal structures within the zoning district it is proposed.

2. An accessory solar array may be allowed in size over 1,000 square feet in residential zones for buildings with 4 dwelling units or less.

3. Height standards in all districts may be exceeded for both solar arrays and solar farms so long as the standards of this chapter are met.

4. Ground mounted solar arrays or solar farms considered by the Zoning Administrator to create impervious surface above lot restrictions for improved surfaces, shall only be conditionally approved if appropriate mitigation measures for storm water runoff can be demonstrated.

(Ord. 7212 §8, 2016; Ord. 7185, 2016; Ord. 7156 §2, 2015; Ord. 6929 §2, 2010; Ord. 6754 §2, 2007; Ord. 6683 §3, 2006; Ord. 6672 §2, 2006; Ord. 5872 §6, 1998; Ord. 5454 §3, 1994; Ord. 5427 §§2, 4, 1994; Ord. 5207 §7, 1992; Ord. 5153 §2, 1991; Ord. 5152 §2, 1991; Ord. 5121 §3, 1991; Ord. 5037, 1990).

Chapter 18.40

NONCONFORMING USES, STRUCTURES AND LOTS

Sections:

18.40.010 Purpose.
18.40.020 Nonconforming Uses.
18.40.030 Nonconforming Structures.
18.40.040 Nonconforming Lots.
18.40.050 Applicability.
18.40.060 Grandfather Rights

18.40.010 Purpose. A. Within the districts established by this title or amendments hereto, there exist uses, structures or lots which were lawful prior to the adoption of this title but would be prohibited or more greatly restricted under the terms of this title. These uses, structures and lots are declared legal nonconformities as provided for in this chapter.

B. It is the intent of this chapter to permit lawful nonconformities until they are changed to conform with the provisions of this title, but not to encourage their continuation. Such uses, structures and lots are declared by this title to be incompatible with permitted uses, conforming structures and lots in the district in which they are located. (Ord. 5037, 1990).

18.40.020 Nonconforming Uses. A nonconforming use which existed at the time of adoption of this title, or amendments hereto, may be continued, but shall comply with the following provisions:

A. Only that portion of a structure, land or water in actual use may be continued to be used. The nonconforming use shall not be extended, enlarged, substituted, or moved in a manner to increase its nonconformity, except when required by law or order or to bring the use into conformity with the provisions of this title.

B. Enlargements or extensions designed exclusively to permit conformity by providing required off-street parking spaces on the same lot as the use to which such spaces are accessory, are not subject to the restrictions of subsection A.

C. If the nonconforming use has been discontinued for a period of 12 consecutive months, it shall not be resumed, and any future use of the structure, land or water shall conform to the provisions of this title.

D. The total structural repairs or alterations to a building or structure containing a nonconforming use shall not during its life exceed 50 percent of the fair market value of the building or structure unless the use of the building or structure is changed to a conforming use.

E. A nonconforming use may be changed to a use of the same or a more restrictive zoning classification, provided that such use shall not thereafter be changed to a use of a less restrictive classification. For the purpose of this section, uses in the following zoning districts are classified from the most restrictive to the least restrictive: R-1A, R-1, R-2, RM, R-3, R-4, C-1A, C-1 C-2, CBD, C-3, I-1, I-2. If such use is allowed in more than one district, the most restrictive district shall apply. (Ord. 5037, 1990).

18.40.030 Nonconforming structures. A nonconforming structure that existed at the time of adoption of this title or amendments thereto may be continued, but shall comply with the following provisions:

A. Ordinary maintenance and repair made to a nonconforming structure may be allowed as determined by the zoning administrator. Ordinary maintenance and repair includes internal and external painting, decorating, paneling, and the repair or replacement (similar size) of doors, windows, nonbearing walls (not changing location or room arrangements), fixtures, heating components, wiring, plumbing, siding, roofing, and other nonstructural components. Ordinary maintenance and repair does not include any costs associated with the repair of a damaged structure.

B. Substantial improvements (repairs/alterations) within the footprint of the existing nonconforming structure may be allowed, provided that the total cost of such improvements shall not, during the life of the nonconforming structure, exceed 50% of the fair market value of the structure unless it is changed to be a conforming structure.

1. Substantial improvements mean any structural repair, reconstruction, modification, alteration, or improvement of a structure as determined by the zoning administrator. Substantial improvements also mean changes that affect room arrangement, light and ventilation, exiting, and fire protection. Replacing more than 25% of a building's interior wall and ceiling plaster, gypsum wallboard, or similar wall surfaces shall be considered substantial improvement.

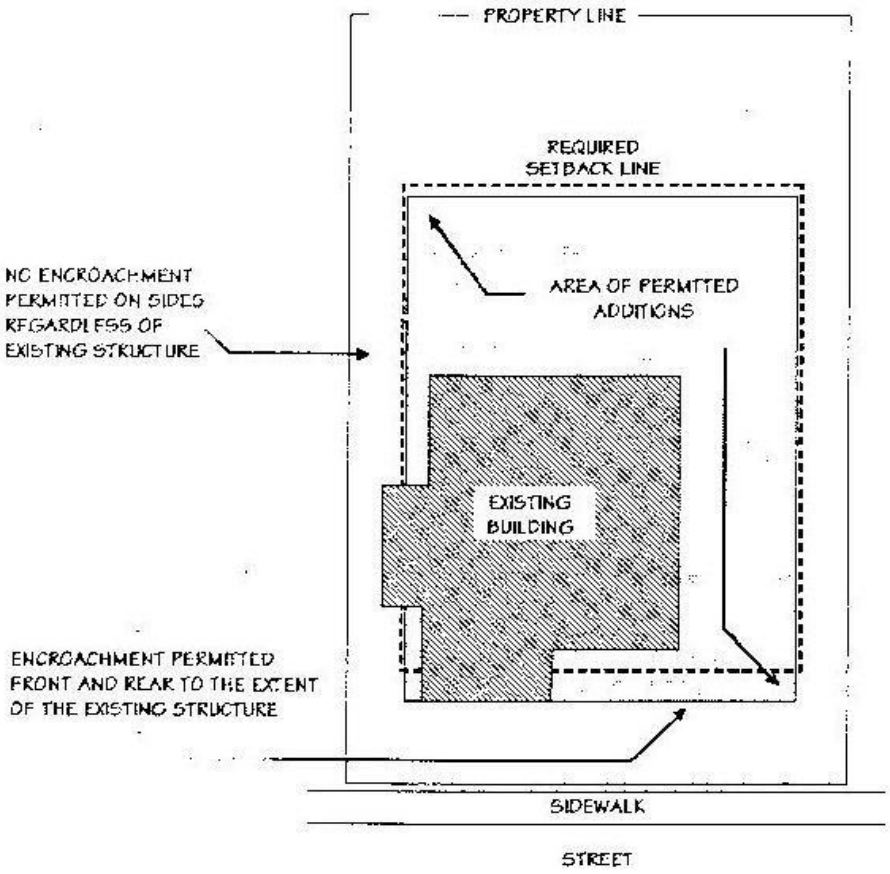
2. A variance from this provision may be allowed by the zoning board of appeals based on the provisions of subsection H. herein and the procedures of chapter 18.55. An administrative variance may be allowed by the zoning administrator for substantial improvements that exceed the 50% standard to structures with "minor" nonconformities. A minor nonconformity exists when the existing nonconforming standard is only 10% or less of the required standard of this title. The zoning administrator, in considering an administrative variance, shall base such decision on the provisions of subsection H. and follow the procedures of subsection J. herein.

C. Additions to a nonconforming structure that conform to all standards of this title may be allowed, provided the cost of these additions and all other additions and substantial improvements shall not, during the life of such nonconforming structure, exceed 50% of the fair market value of the nonconforming structure. A variance from this provision may be allowed by the zoning board of appeals based on the provisions of subsections H. and I. herein and the procedures of chapter 18.55. An administrative variance may be allowed by the zoning administrator for additions to structures with "minor" nonconformities. A minor nonconformity exists when the existing structure has an existing nonconformity that is 10% or less of the required standard of this title. The zoning administrator, in considering an administrative variance, shall base such decision on the provisions of subsections H. and I. and follow the procedures of subsection J. herein.

D. Additions to a nonconforming structure that do not conform to the standards of this title require a variance from the zoning board of appeals. The board shall base its review of such variances on the provisions of subsections H. and I. herein and the procedures of section 18.55.040.

1. It is the intent of this provision to allow consideration of additions to nonconforming structures that do not further encroach into the established nonconforming setback of the structure. Additions that further encroach beyond the established nonconforming setback shall be reviewed based on the provisions of section 18.55.050 B.

2. An administrative variance may be allowed by the zoning administrator for additions to structures with "minor" nonconformities as defined herein. Up to an additional 3 feet of setback closer from required front or side yards on corner lots or rear yards on interior lots only is allowed. Such addition shall not further encroach into the established nonconforming front corner, side, or rear yard setbacks of the existing nonconforming structure (illustrated below).



3. The zoning administrator, in considering an administrative variance, shall base such decision on the provisions of subsections H. and I., and follow the procedures of subsection J. herein.

E. Additions to conforming structures that do not conform to the standards of this title require a variance from the zoning board of appeals. The board shall base its review of such variances on the provisions of section 18.55.050 B. and on the procedures of section 18.55.040.

F. Repair of a nonconforming structure that is damaged to the extent of less than 50% of the fair market value of the structure may be repaired, provided that the nonconforming structure does not further encroach into any established nonconforming setback.

G. Repair of a nonconforming structure that is damaged to the extent of more than 50% of the fair market value of the structure may only be repaired in conformance to all provisions of this title. The zoning board of appeals may grant variances to this provision based on the degree of nonconformity that exists with the property in terms of setbacks, appearance, and location of the structure in relation to other structures in the area. The board will base this review on the provisions of subsections H. and I. herein and the procedures of chapter 18.55.

H. The zoning board of appeals shall use the following provisions in review of variances for substantial improvements, additions, and repairs:

1. The degree of nonconformity of the existing structure.

2. Health and safety codes (i.e., minimum spacing requirements from adjacent structures, height and length of walls, number of windows in walls).

3. The structural integrity of the structure (i.e., is the building in sound condition).

4. The compatibility of the use and structure in relation to other uses and structures within the area.

5. Special consideration may be allowed for locally or nationally designated historic buildings and contributing properties in landmark districts. The zoning board of appeals shall consider any recommendation from the landmarks commission in its review of these requests.

I. The zoning board of appeals shall use the following additional provisions in review of variances for additions and repairs:

1. The addition or repair is not an attempt to effectuate a replacement of the structure that would not normally be allowed.

2. The addition or repair does not surround or encase the existing structure as a means of replacing it.

J. The zoning administrator shall follow the following procedure in review of an administrative variance:

1. Applications for an administrative variance shall be filed on forms provided by the department with the same fee as is required for a standard variance and shall include all information necessary for the zoning administrator to adequately make a determination.

2. The zoning administrator shall prepare a record that will include all information provided by the applicant and a determination as to whether the application complies with the provisions of this title.

3. For requests that are determined to not comply with the provisions of this title for administrative variances, the matter will be referred to the board per the procedures of section 18.55.040.

4. For requests that are determined to be in compliance with the provisions of this title for administrative variances, notice of the zoning administrator's determination shall be given to all property owners within a distance of 175 ft. of the request. The notice shall allow 7 days for a person that does not agree with the determination to contact the zoning administrator and request a hearing on the matter.

5. If a hearing is requested within the 7 day time period, the zoning administrator will refer the request to the board per the procedures of section 18.55.040.

6. If a hearing is not requested, the zoning administrator shall refund half of the fee and the determination shall be final. (Ord. 6731 §1, 2006; Ord. 5037, 1990).

18.40.040 Nonconforming Lots. A. A nonconforming lot may be used for a one-family dwelling if such use is allowed within the district in which that lot is located, provided all structures shall meet the setback, lot coverage, height and other requirements of this title (excluding lot area and width), except as otherwise provided.

B. Nonconforming vacant lots which are contiguous and held in the same ownership shall be considered as one lot for development purposes and shall be combined to create conforming lots. (Ord. 5037, 1990).

18.40.050 Applicability. A. All uses and structures which were nonconforming immediately prior to the effective date of this amendment (April 16, 1990) shall continue to be nonconforming and shall not become or be deemed to be conforming uses, and their nonconformity shall not be affected in any way as a result of this amendment. The provisions of this amendment shall be supplemental and cumulative to the provisions of former chapter 18.96, which is repealed and recreated by this amendment, and the existing status of all nonconforming uses shall remain unchanged by the adoption of this amendment.

B. The provisions of this chapter shall apply to any use that becomes nonconforming due to a change in the classification of any zoning district, from the effective date of the title making the change. (Ord. 5037, 1990).

18.40.060 Grandfather Rights. A. Any person may request from the zoning administrator a written statement describing the "grandfather rights" of any nonconforming use, structure or lot.

B. A "grandfather right" is the allowed use of a nonconforming use, structure or lot as provided by the provisions of this chapter.

C. The zoning administrator in reviewing requests for "grandfather rights" shall consider any written documentation provided by the applicant which provides evidence that a "grandfather right" does exist under the provisions of this chapter.

D. Where there is doubt as to the interpretation of such written documentation or its applicability to the provisions of this chapter, the zoning administrator may request an interpretation of such matter as provided in chapter 18.55.

E. Any person aggrieved by a decision of the zoning administrator on a matter involving "grandfather rights" may appeal such decision as provided in chapter 18.55. (Ord. 5037, 1990).

Chapter 18.45

SITE PLANS

Sections:

18.45.010 Purpose.
18.45.020 When Required.
18.45.030 Procedure.
18.45.040 Submittal Requirements.
18.45.050 Review Criteria.
18.45.060 Pedestrian and Bicycle Access and Circulation Standards.

18.45.010 Purpose. The purpose of the site plan requirements set forth below are as follows:

A. To maintain and improve the quality of the urban environment;

B. To encourage the compatibility of the design and construction of new development with adjacent and nearby land uses;

C. To identify and resolve potential site planning problems prior to the preparation of final construction plans;

D. To provide that new development is approved and constructed in accordance with the availability of public facilities;

E. To administer effectively all adopted city ordinances and standards with respect to new development;

F. To provide clear and uniform site plan submittal and review procedures and requirements for applicants and the general public;

G. To provide the commission with the relevant information required to evaluate proposed site plans effectively;

H. To facilitate the efficient and effective public review of site plans. (Ord. 5037, 1990).

18.45.020 When Required. A. Site plans shall be submitted, reviewed and approved by the commission prior to the issuance of a building permit for all "new development" as defined herein. Minor site plans may be approved by the Zoning Administrator consistent with the provisions of this chapter, or the applicant may request review by the commission. No certificate of occupancy shall be issued until all of the requirements of this chapter and all other applicable provisions of this title and building codes have been met.

B. The specific site plan details and information required for submittal shall depend upon the nature or type of "new development" being proposed.

1. Major site plans shall be required for "new development" defined as follows:

a) any construction, addition, alteration or change in use or occupancy which increases the parking requirement by 5 parking stalls or more; or

b) any development or use wherein by ordinance or otherwise a site plan is required as a condition of approval by the commission or council.

c) conversion of any structure or portion thereof to a licensed rooming house.

2. Minor site plans shall be required for "new development" defined as follows:

a) any construction, addition, alteration or change in use or occupancy which increases the parking requirement by 2 parking stalls or more but less than 5 stalls;

b) any construction, addition, alteration or change in use or occupancy which increases the parking requirement by less than 2 stalls, but provides additional temporary storage of vehicles, such as may be used by drive-through facilities; or

c) any construction or paving of privately owned parking areas containing more than 10 parking stalls and not otherwise part of an approved site plan.

C. All site plans required under this section shall comply with Title 19 of the Code of Ordinances of the City of Eau Claire. (Ord. 7239 §2, 2017; Ord. 7214 §1, 2016; Ord. 7079, 2014; Ord. 5832 §3, 1998; Ord. 5037, 1990).

18.45.030 Procedure. A. An application for site plan approval and the applicable fee shall be submitted to the department no less than 10 working days prior to the commission meeting at which the application shall be considered. The application shall be accompanied by 12 copies of the site plan, written material, and other information required in section 18.45.040 and one 8 1/2" x 11" reduction of the site plan.

B. The department shall review the site plan and accompanying material for conformance to this title and shall coordinate additional review as may be appropriate by other city departments. The department shall prepare a report and recommendation to the commission for its consideration of the application.

C. When acting upon an application, the Commission shall consider the proposed site plan in relation to the staff report and the review criteria of section 18.45.050. The immediate action of the commission shall be to approve the site plan with or without conditions, deny it, or defer it for further study subject to the limitations of 18.45.050.

D. Following approval of a site plan and prior to issuance of a building permit, the applicant shall be responsible for submittal to the department 4 copies of the final approved site plan which shall include all changes or other pertinent information required by the Commission.

E. An applicant who wishes to change an approved site plan must contact the department. If the proposed changes are of a nature that the revised site plan will be substantially similar to the approved plan, the director may approve the site plan change. If the proposed changes increase the parking requirement by 2 spaces or more, increase density, or otherwise substantially alter parking, principal uses, drainage, or similar principal site plan elements, then the changes shall be reviewed and decided upon in the same procedure as set forth herein in section 18.45.030.

F. An approved site plan shall only be valid for three years from the date of approval. The applicant or property owner must begin and have building permits issued (if applicable) for the project work within three years or the site plan approval is null and void. Once expired, site plans may only be re-issued following the same procedures as for original approval with those laws and code requirements in place at the time of re-issuance fully applicable and any and all grandfather rights terminated. (Ord. 6937 §1, 2010; Ord. 6896, 2009; Ord. 5037, 1990).

18.45.040 Submittal Requirements. The submittal requirements for site plan applications shall be in two categories, depending upon the nature and extent of proposed development or use, and as defined in section 18.45.020(B). A list of items to be submitted with either a major or minor site plan can be obtained from the department. (Ord. 5037, 1990).

18.45.050 Review Criteria. Within ninety 90 days of the receipt of the application by the department, the commission shall render a decision. If no decision is made by the commission within said 90 day period, the site plan shall be considered approved. The commission shall approve, deny, or approve subject to compliance with such modifications or conditions as it may deem necessary to carry out the purpose of these regulations and insure that the external design and site plan for all developments are in accordance with the provisions of this title. The commission shall impose such conditions as are necessary to carry out policies adopted by ordinance or resolution of the council.

When acting upon an application, the commission shall rely upon generally accepted site planning and design principles. In addition to the provisions and intent of this title, the comprehensive plan, and such policies as may be adopted by the commission or council, the commission shall also give important consideration during the review process to the following criteria for approval:

A. The existing natural topographic and landscape features of a site shall be incorporated into a development plan. Such plan shall include all prudent and necessary steps required to protect the natural environment of the site and surrounding areas during and after construction.

B. Site coverage, paved areas, lawn areas, building scale, setbacks, and open spaces shall be in proportion with existing and planned structures and spaces in the surrounding area.

C. Buildings shall be sited in an orderly, non-random fashion. Excessively long, unbroken building facades shall be avoided. Building materials and design features shall be consistent with the general design theme of the development.

D. All areas not otherwise occupied by structures or paved areas shall be landscaped as per provisions of the City of Eau Claire landscape manual updated December 13, 2016, which is adopted by reference herein. Landscape plans for developments with ground floor areas in excess of 10,000 square feet shall be prepared by a professional landscape architect or an experienced landscaper.

E. Access to the site shall be provided by curb cuts which are limited and located in a manner to minimize traffic congestion and difficult turning movements.

F. The interior circulation of the site shall be designed to provide for the convenient and safe flow of pedestrians and non-pedestrian traffic on the site and onto and from public streets or sidewalks. The provisions of Section 18.45.060, “Pedestrian and Bicycle Access and Circulation Standards,” shall apply.

G. Sites shall be lighted with fixtures, when required, which relate to the scale and design of the development and which have an intensity high enough to maintain security and low enough to avoid being a nuisance. The standards of chapter 16.26, “Outdoor lighting,” shall apply.

H. Paved areas shall be only as large as necessary to serve parking, circulation, and open space needs. The appearance of paved areas shall be enhanced by landscaping. Monotonous, extended, or unbroken parking areas, driveways, and carport or garage structures shall be avoided. Parking structures and areas shall be separated from residential buildings by landscaped areas.

I. Outdoor activity areas, parking lots, storage yards, trash areas and other exterior features or uses shall be adequately landscaped or screened to minimize any potential nuisance features of the use of the site on existing or potential adjacent land uses.

J. Recyclable materials storage areas will be provided for any use which generates significant amounts of recyclable materials and such area will be appropriately screened.

In addition to the above criteria, review of a site plan shall also include consideration of the conformance of the site plan with the ability of the city to provide in a timely and efficient fashion the needed public services and facilities required to adequately serve the proposed development. Public services reviewed shall include, but not be limited to, water, sanitary sewer, storm sewer, streets, sidewalks, traffic control, fire and police protection.

K. The City of Eau Claire Multi-family Housing Design Manual dated January 1, 2011, on file in the office of Community Development, is adopted by reference.

L. The City of Eau Claire Development Guidelines for Waterway and Greenway Areas dated May 13, 2014 and on file in the office of Community Development is adopted by reference.
(Ord. 7214 §2, 2016; Ord. 7117, §1 2015; Ord. 7090 §2, 2014; Ord. 6939, 2010; Ord. 6893, 2009; Ord. 6682, 2006; Ord. 5832 §4, 1998; Ord. 5037, 1990).

18.45.060 Pedestrian and Bicycle Access and Circulation Standards. A. Pedestrian, bicycle, and other non-motorized vehicular circulation shall be designed to provide a logical, convenient, and safe flow within a site and provide connections to and from public streets, sidewalks and trails. As reasonably practical, this circulation system shall provide connections to building entrances, parking areas and public streets in order to achieve a method of minimizing conflicts with motorized vehicular traffic, giving equal consideration to the pedestrian, bicycle, and motorized vehicular traffic. Such accommodations shall be designed and maintained for year-round use.

In review of site plans, the Commission shall consider:

1. Direct, safe, and logical on-site connections from parking areas to building entrances;
2. Connections between buildings within the development and connections to adjacent developments;
3. Connections to the street, public sidewalks, multi-use trails, and transit stop locations (if located in the vicinity of the parcel);
4. Sidewalks in the front of buildings on the site;

5. Marked or striped crosswalks or pathways where appropriate, such as where vehicle conflicts exist with walkways;
6. Minimizing vehicular encroachments into pathways and walkways;
7. The avoidance of curb impediments along designated circulation routes through the use of curb ramps or curb-cuts and the avoidance of placing obstacles such as posts and other structures that may hinder such circulation;
8. The width of the sidewalk or connections on site;
9. Phasing for larger master planned developments;
10. Signage, lighting, and maintenance needs;
11. Access from bicycle parking areas to the buildings and related facilities.

B. When applying these provisions to existing developments, the Plan Commission shall require appropriate improvements commensurate with the scope of the building, site, or use changes that are proposed, with an emphasis on addressing both significant conflicts that may exist and important connections that may be lacking. (Ord. 7117, §2 2015)

Chapter 18.50

ADMINISTRATION AND ENFORCEMENT

Sections:

18.50.010 Administration.
18.50.020 Duties of Zoning Administrator.
18.50.030 Certificate of Zoning Compliance.
18.50.040 Building Permits.
18.50.050 Certificate of Occupancy.
18.50.060 Temporary Certificate of Occupancy.
18.50.070 Enforcement and Violation.
18.50.080 Fees.

18.50.010 Administration. The administration and enforcement of this title shall be the responsibility of the director with the aid of the city attorney and Chief of Police. The director shall have the right to delegate said responsibility to appropriate employees who shall be known as the zoning administrators. Said zoning administrator shall have the power of a public officer in the enforcement of this title. (Ord. 5037, 1990).

18.50.020 Duties of the Zoning Administrator. A. The zoning administrator shall have the power to issue certificates of zoning compliance and to make inspections on premises and to collect such investigative data deemed necessary to carry out his or her duties in the enforcement of this title. No person shall refuse to permit the zoning administrator, having reasonable cause therefore, to inspect any premise at reasonable times, nor shall any person molest or resist the zoning administrator in the discharge of his duties.

B. If the zoning administrator finds that any provision of this title is being violated, he or she shall order discontinuance of any work being done, or shall take such action as authorized by the chapter to ensure compliance with, or to prevent violation of the provisions of, this title.

C. The zoning administrator shall not vary, change, or grant exceptions to any of the requirements of this title.

D. It shall be unlawful for the zoning administrator to issue certificates of zoning compliance or other such permits, for any construction or use until he or she has inspected such plans and found them to conform with this title.

E. An administrative review may be made as to the applicability of this title to specific situations by the zoning administrator with the assistance of the city attorney. Such review shall be in written form and a record shall be maintained so as to establish a consistent administration of this title. (Ord. 5037, 1990).

18.50.030 Certificate of Zoning Compliance. A. A building permit for erection, alteration, moving, or repair of any building shall not be issued until a certificate of zoning compliance has been issued therefore. Issuance of such certificate shall indicate that the plans for which the building permit is requested complies with this title. For the convenience of any applicant or the City of Eau Claire, the zoning administrator may combine a certificate of zoning compliance with a building permit.

B. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partially altered, or enlarged in its use or structure until a certificate of zoning compliance has been issued by the zoning administrator. This certificate shall state that the building, structure, and lot, and use thereof, conform to the requirements of this title.

C. The zoning administrator shall maintain a record of all certificates of zoning compliance and said records shall be open for public inspection. Failure to obtain a certificate of zoning compliance shall be a violation of this title.

D. It shall not be necessary for a nonconforming use or structure existing on the effective date of this title to obtain certificates of zoning compliance in order to maintain its legal, nonconforming status. However, no nonconforming structure or use shall be renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the zoning administrator. This certificate shall state specifically wherein the nonconforming structure or use differs from the provisions of this title. (Ord. 5037, 1990).

18.50.040 Building Permits. A. No building permit for erection, alteration, moving, or repair of any building shall be issued until a certificate of zoning compliance has been issued.

B. No building or other structure shall be erected, moved, added to, or structurally altered without a building permit issued by the building inspector.

C. No building permit shall be issued by the building inspector except in conformity with this title, unless he or she receives a written notice from the board or zoning administrator in the form of an administrative review, interpretation, appeals or a variance, as provided by this title.

D. All plans submitted in application for a building permit shall contain information necessary for determining conformity with this title, including site plans or any other information deemed necessary by the zoning administrator. (Ord. 5037, 1990).

18.50.050 Certificate of Occupancy. A. A certificate of occupancy, stating that all provisions of this title have been fully complied with, shall be issued by the zoning administrator before:

1. Any structure for which a building permit is required is used or occupied, including any conversion of any building to provide additional dwelling units. The certificate of occupancy may be waived for accessory buildings and structures, small additions, minor alterations, or those projects where no zoning ordinance requirements are affected;
2. Any use of an existing structure is changed to a use of a different classification;
3. Any nonconforming use is changed to another use.

B. In the case of a structure or use established, altered, enlarged, or moved after conditional approval thereof by the board, commission, or council, such certificate of occupancy shall be issued only if all conditions thereof shall have been satisfied.

C. Application for a certificate of occupancy shall be made and filed with the zoning administrator when any structure or use for which such certificate is required is ready for occupancy. Within 3 days after the filing thereof, the zoning administrator shall inspect such structure or use, including all required site improvements. If the zoning administrator finds the structure or use to be in conformity with all provisions of this title, he or she shall sign and issue a certificate of occupancy. For the convenience of any applicant or the City of Eau Claire, the zoning administrator may combine a certificate of occupancy with the occupancy permit required by the building code.

D. No permit or license required by the city or other governmental agency shall be issued by any department, office, or employee of the city or such governmental agency, unless the application for such permit or license is accompanied by certificate of occupancy issued by the zoning administrator. (Ord. 5333, 1993; Ord. 5037, 1990).

18.50.060 Temporary Certificate of Occupancy. A. Whenever the building, addition, alteration or use for which a certificate of occupancy is required is substantially completed and ready for occupancy, in the opinion of the zoning administrator, but part of the building or site is not fully completed according to the approved site plan or other approval of the city, a temporary certificate of occupancy may be issued.

B. The zoning administrator may issue, upon prior written application of the owner or developer of the property, a temporary certificate of occupancy which shall permit occupancy of the building or site, in whole or in part, and for such time necessary for full completion of all required improvements, but not to exceed 12 months.

C. If the building or site is not fully completed according to the approved site plan or other city approval within such 12 month period, occupancy of the building or site shall be unlawful and prohibited until full compliance is attained and a certificate of occupancy is issued.

D. A temporary certificate of occupancy shall contain a statement of the items which are not completed, the time for completion, the owner's or developer's signature and such other information necessary for the zoning administrator to enforce these provisions.

E. Only one temporary certificate of occupancy for each site for each occupancy or use is permitted. (Ord. 5037, 1990).

18.50.070 Enforcement and Violation. A. Notice of violation.

1. Whenever the zoning administrator determines that a violation of this title exists, that person shall issue a notice of violation.

2. Such notice shall be directed to each owner or a party in interest in whose name the property appears on the local tax assessment records.

3. All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by regular mail, addressed to such owner or party in interest at the address shown on the local tax records.

4. All violations shall be corrected within the period of time as specified on the notice of violation. A violation not corrected within this time period may result in prosecution.

5. Subsections 1 through 4 above shall not apply to the enforcement of subsection 18.20.180 E. which regulates the number of persons residing in dwelling units. Tenants, property owners, and parties in interest may be prosecuted for this violation. However, a property owner or party in interest may not be prosecuted for a violation of subsection 18.20.180 E. if it is established that said person had no knowledge of the violation, and if that person assists enforcement authorities to ensure that any violation is abated.

B. All departments, officials, and employees of the City who are invested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure, or purpose if the same would not conform to the provisions of this title.

C. Any building erected, constructed, or reconstructed in violation of the provisions hereof shall be deemed an unlawful structure, and the zoning administrator or city attorney or other official designated by the council may bring action to enjoin such erection, construction, or reconstruction, or cause such structure to be vacated or removed. It is unlawful to erect, construct, or reconstruct any building or structure in violation of the provisions hereof.

D. Any person violating any provisions of this title for which no other penalty is provided shall, upon conviction thereof, forfeit not less than $25 nor more than $500 and the cost of prosecution, and in default of payment thereof shall be imprisoned in the county jail not to exceed 30 days. Each day any violation of this title is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 5958, 1999; Ord. 5037, 1990).

18.50.080 Fees. A. Fees for various applications as identified by this title shall be as stated in the City of Eau Claire Fees and Licenses Schedule. (Ord. 6363 §38, 2002; Ord. 6243 §2, 2001; Ord. 5037, 1990).

Chapter 18.55

BOARD OF APPEALS

Sections:

18.55.010 Board of Appeals Created.
18.55.020 Membership.
18.55.030 Organization and Rules.
18.55.040 Notice of Hearing.
18.55.050 Powers.
18.55.060 Board Decision - When Final.
18.55.070 Court Review.

18.55.010 Board of Appeals Created. A board of appeals is created under the provisions of Wisconsin Statutes 62.23(7)(e). (Ord. 5037, 1990).

18.55.020 Membership. A. The board shall consist of 5 members shall be recommended by the advisory committee on appointments and confirmed by the city council for terms of 3 years. The members of the board shall be removable by the council cause. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. Board members shall be limited to 2 three year terms, the calculation of which shall not include service performed in filling an unexpired term.

B. The city manager shall appoint, with confirmation from council, 2 alternate board members for a term of 3 years. Annually, the city manager shall designate one of the alternates as the first alternate, the other as the second alternate. The first alternate shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the Board so refuses or is absent. The provisions in subsection A. pertaining to removal and vacancies shall apply to each alternate. (Charter Ord. 6935, 2010; Ord. 5037, 1990).

18.55.030 Organization and Rules. A. The city manager shall designate one of the members chairperson whose duties shall be:

1. To determine dates and times for special meetings or hearings of the board;
2. To preside at all meetings of the board;
3. To decide all points of procedure, unless otherwise directed by a majority vote of the board, and to call for the vote of each member on each question;
4. To supervise the work of the secretary, including keeping of records and compliance with the Wisconsin public records law; and
5. To administer oaths and compel the attendance of witnesses when necessary.

B. The board shall elect by majority vote its own vice chairperson and secretary. The vice chairperson shall act in absence of the chairperson. The secretary shall sign the minutes of the board meetings and the performance of the following duties by staff:

1. To conduct all correspondence of the board;
2. To receive, file and provide public access to all appeals, applications, papers and records;
3. To prepare, publish and mail all notices required by law, ordinance, rule or request of the Board or chairperson;
4. To prepare and keep calendars, dockets and minutes of board proceedings;

5. When required, to arrange for a stenographic record of hearings;

6. To keep a record of all board actions, showing the vote of each member on every appeal, the reasons for the board's determination, its findings of fact and conclusions of law; and

7. To prepare and mail to each person who appears in support of or opposition to an appeal or variance, the board's decision, and its findings in support of that decision.

C. The board shall meet, whenever feasible, the first Tuesday of each month or at special meetings or hearings called by the chairperson or the board.

D. The board shall adopt its own rules for conducting business in accordance with the provisions of this chapter. (Ord. 5037, 1990).

18.55.040 Procedures - Notice of Hearings. The board shall fix a reasonable time for the hearing of an appeal, variance or other matter referred to it and shall provide public notice and notice to parties of interest as provided herein.

1. Applications for appeals or variances shall be filed on forms provided by the department with a fee as stated in the City of Eau Claire Fees and Licenses Schedule and shall include all information necessary for the board to adequately make a determination.

2. The zoning administrator shall prepare a staff report which will include all information provided by the applicant and an analysis of the application as it relates to applicable provisions of this title.

3. Notice to the appellant shall be given not less than 7 days prior to the date of the hearing.

4. Notice to all property owners within a distance of 300 feet or, in the case of an application involving a heavy manufacturing and production use as defined by Section 18.06.040, 500 feet of the property concerned shall be given not less than 7 days prior to the date of the hearing. A Zoning Hearing Notice sign shall be posted on the property by the department.

5. The zoning administrator shall cause one publication of notice in the official city newspaper of the hearing of cases on the calendar of the board at least 10 days prior to the date of hearing. (Ord. 7051, §2, 2013; Ord. 6363 §38, 2002; Ord. 5037, 1990).

18.55.050 Powers. A. Appeals. The board shall hear and decide appeals where it has been alleged there is an error in any order, requirement, decision or determination made by the zoning administrator in the enforcement or administration of Wisconsin Statutes S. 62.23 or this title:

1. Appeals to the board may be made by any person aggrieved, or by any officer, department, board or bureau of the city affected by any decision of the zoning administrator. Such appeal shall be made within a reasonable time, as provided by the rules of the board, by filing with the zoning administrator a notice specifying the grounds of the appeal. The zoning administrator shall transmit to the board all the papers constituting the record upon which the appeal was made.

2. An appeal shall stay all legal proceedings in the action appealed from, unless the zoning administrator certifies to the board, after the notice of appeal has been filed with him, that, by reason of facts in the certificate, a stay would cause imminent peril to life or property. In such cases, proceedings shall not be stayed except by a restraining order from the board or by a court of record on application, on notice to the zoning administrator, and on due cause shown.

3. The concurring vote of a majority of a quorum of the board shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this title. The final disposition of an appeal shall be in the form of a written resolution or order signed by the secretary of the board. Such resolution or order shall state the specific facts which are the basis for the board's determination, and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or part, or shall dismiss the appeal for lack of jurisdiction or prosecution.

B. Variances. The board may grant variances from the terms of this title as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this title will result in practical difficulty or unnecessary hardship, so that the spirit of this title shall be observed, public safety and welfare secured, and substantial justice done.

1. "Practical difficulty and unnecessary hardship", as used in this section and as applied to area variances, means that difficulty or hardship which results when compliance with the strict letter of this title governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2. Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for granting a variance.

3. Self-imposed hardship shall not be a ground for granting a variance.

4. Violations existing on, or variances granted to, neighboring properties shall not require the granting of a variance.

5. The hardship cannot be one that would have existed in the absence of a zoning ordinance.

6. Use variances shall not be granted by the board. A change in use requires a zoning map amendment.

7. The variance shall not be unduly detrimental to adjacent properties.

8. A variance granted shall be the minimum necessary to grant relief.

9. No variance shall conflict with the purpose or intent of this title or with the policies of the comprehensive plan.

10. The concurring vote of a majority of a quorum of the board shall be necessary to grant a variance. The final disposition of a variance shall be in the form of a written resolution or order signed by the secretary of the board which shall state the specific findings which are the basis for the board's determination.

11. If a variance is granted, it shall run with the land if all the conditions that are attached are met.

12. In granting variances, the board may impose reasonable special conditions to ensure that the purpose of this title is met. Violations of such conditions, when made part of the terms under which the variance is granted, shall be deemed a violation of this title, and, in addition to other applicable sanctions, may result in revocation of the variance by the board following notice and hearing.

C. Interpretations. The zoning administrator may, where there is doubt as to the meaning thereof, present to the board for their interpretation the words, terms, rules, regulations, provisions and restrictions of this title. The board's interpretation shall be binding on the zoning administrator.

1. In exercising its power of interpretation, the board's action shall not change or have the effect of changing any rule, regulation, provisions or restriction of this title, but shall only affect its application to the specific case before the board.

2. The board shall determine the location of boundaries of zoning districts where uncertainty exists.

3. Interpretation by the board may be made without hearing and shall require the concurring vote of a majority of a quorum of the board. (Ord. 6694, 2006; Ord. 5037, 1990).

18.55.060 Board Decision - When Final. The board shall decide on any matter within a reasonable time after date of hearing thereon. Decision in favor of any applicant shall be approval, or conditional approval of the matter applied for and shall be an order to the zoning administrator to carry out such action, subject to any such conditions. (Ord. 5037, 1990).

18.55.070 Court Review. Review by a court of record of any decision by the board of appeals, upon petition to said court by any person or persons, jointly or severally aggrieved by any decision, shall be as provided by law. (Ord. 5037, 1990).

Chapter 18.60

OFFICIAL MAP

Sections:

18.60.010 Purpose.
18.60.020 Official Map Established.
18.60.030 Filing.
18.60.040 Effect.
18.60.050 Changes and Additions.
18.60.060 Subdivision Plat Conformity.
18.60.070 Building Permits.
18.60.080 Violations and Penalty.

18.60.010 Purpose. A. Pursuant to section 62.23(6), the regulations and restrictions established herein have been made in accordance with the comprehensive plan, which plan and these regulations and restrictions are designed to:

1. Lessen congestion in the streets;
2. Secure safety from fire, panic and other dangers;
3. Promote health and the general welfare;
4. Provide adequate light and air;
5. Prevent the overcrowding of land;
6. Avoid undue concentration of population; and
7. Facilitate adequate provisions for transportation, water, sewage, schools, parks, park ways, and other public requirements.

B. Such regulations and restrictions have further been made with reasonable consideration of the character of each zoning district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city. (Ord. 5037, 1990).

18.60.020 Official Map Established. To conserve and promote the public health, safety, convenience and general welfare, there is established an official map of the city and its extraterritorial plat approval jurisdiction, said map being incorporated herein as though fully set forth. (Ord. 5037, 1990).

18.60.030 Filing. Immediately upon this chapter becoming effective, the city clerk shall file a certificate with the register of deeds for Eau Claire and Chippewa counties that the city has established an official map. (Ord. 5037, 1990).

18.60.040 Effect. The official map shall be deemed to be final and conclusive with respect to the location and width of streets, highways, waterways, railroad rights-of-way, public transit facilities, parks or playgrounds shown thereon. (Ord. 5037, 1990).

18.60.050 Changes and Additions. The council, whenever and as often as it may deem it for the public interest, may change or add to the official map so as to establish the exterior lines of planned new streets, highways, waterways, railroad rights-of-way, public transit facilities, parkways, parks or playgrounds, or to widen, narrow, extend or close existing streets, highways, railroad rights-of-way, public transit facilities, parkways, parks or playgrounds. Any change or addition may be made only in the manner prescribed in section 62.23(6) of the Wisconsin Statutes. (Ord. 5037, 1990).

18.60.060 Subdivision Plat Conformity. The commission shall require conformity with the official map in recommending approval of any subdivision plat. (Ord. 5037, 1990).

18.60.070 Building Permits. For the purpose of preserving the integrity of such official map, no permit shall hereafter be issued for any building in the bed of any street, highway, waterway, railroad rights-of-way, public transit facilities or parkway shown or laid out on such map, and no permit for the erection of any building shall be issued unless a street, highway or parkway giving access to such proposed structure has been duly placed on such map, except as provided in section 62.23(6)(e) and (h), Wisconsin Statutes. The building inspector shall require each applicant to submit a plot plan, certified by a registered surveyor, showing accurately the location of any proposed building with reference to any street, highway, waterway, railroad rights-of-way, public transit facilities, parkway, park or playground shown on the official map. Only the board may grant such building permits and then only in accordance with the standards set forth in section 62.23(6), Wisconsin Statutes. (Ord. 5037, 1990).

18.60.080 Violations and Penalty. Any person who fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit not less than $25 nor more than $500 and the costs of prosecution, and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding thirty days for each violation. Each day a violation exists or continues shall constitute a separate offense. (Ord. 5037, 1990).

Chapter 18.65

AMENDMENTS AND REZONING

Sections:

18.65.010 Purpose.
18.65.020 Amendment Initiation.
18.65.030 Procedure.
18.65.040 Conditions May be Attached.
18.65.050 Fact Finding.
18.65.060 Community Living Arrangements.

18.65.010 Purpose. For the purpose of establishing and maintaining sound, stable and desirable development within the city limits of Eau Claire, this title shall not be amended except to correct an error in the text, or because of changed or changing conditions in a particular area in the city generally, to rezone an area, extend the boundary of an existing district, or to change the regulations and restrictions thereof. (Ord. 5037, 1990).

18.65.020 Amendment Initiation. Only the council may amend this Title. Proposals for amendments or rezonings may be initiated by the council on its own motion, by the commission, or by petition of one or more owners of property or persons showing proprietary interest in the proposed amendment or rezoning. (Ord. 5037, 1990).

18.65.030 Procedure. A. A petition for amendment or rezoning, together with a completed and signed application and fee, shall be filed with the department.

B. The department shall transmit such application to the city clerk who shall cause a hearing to be held upon such proposed amendment following publication of a class 2 notice under Chapter 985 of the Wisconsin Statutes. The city clerk shall also provide notice to all property owners within 300 feet or, in the case of an application involving a heavy manufacturing and production use as defined in Section 18.06.040, 500 feet of the property involving a rezoning. A Zoning Hearing Notice sign shall be posted on the property by the department or, if multiple properties are involved, the Plan Commission may direct an alternate means of notice.

C. The commission shall hold a hearing on the proposed amendment or rezoning and submit its recommendation and report to the council within 60 days from hearing the petition.

D. The council either enacts or rejects petitions as an ordinance amendment, or the council may consider amendments, changes, additions, or departures advisable to the petition provisions. If the council makes such changes, it shall refer the petition back to the commission for rehearing and notice shall again be given as provided in subsection B.

E. No petition for rezoning which has been denied by the council shall be resubmitted in substantially the same form within a one year period from the date of denial, unless a change in condition of the site or the surrounding area exists.

F. If a valid protest petition is timely filed, as provided in section 62.23(7)(d)2m. a., Wisconsin Statutes, rezonings shall require a three-fourths favorable vote of the members of the council voting on the proposed change. (Ord. 7126, 2015; Ord. 7051 §3, 2013; Ord. 5037, 1990).

18.65.040 Conditions May Be Attached. In the case of a rezoning, the commission may recommend and the council may approve such petitions with conditions of approval that may include any of the provisions found in section 18.35.030, provided that the same does not constitute unlawful spot zoning. (Ord. 5037, 1990).

18.65.050 Fact Finding. A. In reviewing any petition for an amendment or rezoning, the commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the council.

B. The facts to be considered by the commission and council shall include, but not be limited to, the following:

1. Whether the requested amendment is justified by a change in conditions since the original title was adopted or by an error in the original text.

2. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition.

3. The ability of the city or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.

4. The possibility of any significant and negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting permitted structures were built; including but not limited to, surface water drainage problems, wastewater disposal problems, or the loss of locally valuable natural resources.

5. The compatibility of the proposed uses associated with the petitioned zoning change to existing or planned uses with the immediate area.

6. The effect of approval of the petition on adopted development policies of City of Eau Claire.

7. The compliance of the proposed rezoning with the policies of the comprehensive plan. (Ord. 5037, 1990).

18.65.060 Community Living Arrangements - Special Zoning Permission; Distance Exception.

A. The procedure and the fee for review of requests for special zoning permission for any community living arrangement pursuant to Wisconsin Statutes s. 62.23(7)(i) shall be the same as required for an amendment to this title as provided in this chapter, except that such special zoning permission may be granted by resolution. Special zoning permission for a community living arrangement shall be granted only if the city council determines that all of the following conditions are present:

1. That the establishment, maintenance, or operation of the community living arrangement will not be materially detrimental to or endanger the public health, safety, morals, or general welfare;

2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the community living arrangement;

3. That the establishment of the community living arrangement will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

4. That adequate utilities, access road, off-street parking, drainage, and other necessary site improvements have been or will be provided to the community living arrangement;

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard in the public streets;

6. That the community living arrangement shall conform to all applicable regulations of the district in which it is located;

7. That the community living arrangement is in conformance with the purpose of the zoning district in which it is located and complies with the provisions and policies of the comprehensive plan.

B. Application for exception from the 2,500 foot limitation contained in Wisconsin Statutes 62.23(7)(i) shall be considered in the same manner as a zoning ordinance amendment as provided in this chapter, except only a class 1 notice under chapter 985 of the Wisconsin Statutes need be provided. Such exception from the 2,500 foot limitation may be granted by resolution. (Ord. 5943, 1999; Ord. 5037, 1990).

Chapter 18.70

PLAN COMMISSION

Sections:

18.70.010 Authority and Functions.
18.70.020 Specific Duties and Powers.

18.70.010 Authority and Functions. The commission shall exercise all authority and functions as provided in section 62.23, Wisconsin Statutes. (Ord. 5037, 1990).

18.70.020 Specific Duties and Powers. The commission shall perform the following duties and exercise the following powers:

A. To conduct studies and prepare recommendations for amendments to the comprehensive plan.

B. To conduct studies and prepare recommendations for updates to the zoning ordinance.

C. To hear applications for rezoning for individual properties or for larger areas and to make recommendations on such matters to the council.

D. To hear applications for changes to the text of the zoning ordinance and to make recommendations on such matters to the council.

E. To hear and decide on conditional use permit requests.

F. To hear and decide on preliminary plat requests and to recommend to council requests on final plats.

G. To review and decide on site plan requests.

H. To hear and make recommendations to the council on matters pertaining to official mapping, planned developments, community living arrangements and other matters as provided in Wisconsin Statutes.

I. To hear and to act on such other matters as may be referred to the commission by the council. (Ord. 5037, 1990).