MUNICIPAL CODE

OF THE CITY OF

CUDAHY, WISCONSIN

Published in 2016 by Order of the City Council

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of the

CITY OF

CUDAHY, WISCONSIN

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City Attorney

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City Clerk/Treasurer

James Williamson
City Comptroller

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the City of Cudahy, Wisconsin.

Source materials used in the preparation of the Code were the 2004 Code, as supplemented through February 19, 2014, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2004 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of

the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

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SPECIAL ACTS	SA:1
CHARTER COMPARATIVE TABLE	CHTCT:1
RELATED LAWS COMPARATIVE TABLE	RLCT:1
SPECIAL ACTS COMPARATIVE TABLE	SACT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself that stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Sandra S. Fox, Senior Code Attorney, and Jean Lindsay, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to James ("Jim") Williamson, City Comptroller, and Paul Eberhardy, City Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the city readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the city's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the City of Cudahy, Wisconsin. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the City of Cudahy, Wisconsin.

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CODE OF ORDINANCES

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Sec. 1-1. Title; effective date; citation.

This compilation of ordinances shall be known as the "Municipal Code of the City of Cudahy, Wisconsin" and may also be referred to by the shortened title "Cudahy Municipal Code" and shall take effect from and after passage and publication as provided in Wis. Stats. § 66.035. All references thereto shall be cited by section number (example: section 12-6, Municipal Code of the City of Cudahy).
(Code 2004, § 25.07)

State law references—Authority to codify ordinances, Wis. Stats. § 66.0103; citation of statutes, Wis. Stats. § 991.12.

Sec. 1-2. Rules of construction.

(a) *Rules.* In the construction of this Code of general ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

(1) *Generally.* In the interpretation and construction of this Code, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the city council or the context clearly requires otherwise.

(2) *Joint authority.* Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

(b) *Statutes, regulations, etc.* Whenever this Code contains a reference to a provision of a statute, regulation, ordinance, or other similar enactment of a governmental body, or a reference to a provision of a code or standard adopted or promulgated by any nongovernmental body, the referenced provision shall be construed as follows:

(1) *Nonspecific edition.* If the referenced provision fails to mention any specific prior edition, the reference is to the current text of the referenced provision and includes any changes, interpretations, or adopted methods of construction made to the referenced provision since the reference was first incorporated into this Code. Future changes to any referenced provision are hereby adopted and incorporated herein as if fully set forth herein as of the effective date of such future change.

(2) *Specific prior edition* or *original enactment.* If the referenced provision specifies a prior edition of the compilation or an original enactment the reference does not include any changes to the referenced provision since the reference was first incorporated into this Code, and does not include any future changes.

(c) *Gender, singular and plural*. Every word in this Code and in any ordinance imparting the masculine gender may extend and be applied to females as well as males, and every word imparting the singular number only may extend and be applied to several persons or things as

well as to one person or thing; provided these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.

(d) *Tense.* Words used in the past or present tense include the future as well as the past and present.

(e) *Person.* The term "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and all entities capable of being sued, unless plainly inapplicable.

(f) *Acts of agents.* When a provision requires an act to be done which may, by law, as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(g) *Time; how computed.* The time within which an act is to be done as provided in any of the provisions of this Code when expressed in days shall be computed by excluding the first day and including the last; except if the last day is Sunday, it shall be excluded; and when any such time is expressed in hours, the whole of Sunday from midnight to midnight shall be excluded.

(h) *Reasonable time or notice.* When an enactment requires any act to be done in a "reasonable time" or a "reasonable notice" is to be given to any person, such reasonable time or notice shall mean such time only as may be necessary for the prompt execution of such duty or compliance with such notice.
(Code 2004, § 25.01; Ord. No. 2365, 7-19-2011)

Sec. 1-3. Definitions.

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

City. The term "city" means the city of Cudahy, Wisconsin, and shall extend to and include its several officers, agents and employees.

City clerk, city treasurer, and city clerk-treasurer. The city has the authority under state law to combine the offices of city clerk and treasurer. When the offices are combined and filled by a single officer, references to the city clerk, treasurer and clerk-treasurer shall be construed to mean the person appointed to hold the dual office.

City council; council; common council. The terms "city council," "council" and "common council" mean the city council of the city of Cudahy, Wisconsin.

City officers or departments. The terms "city clerk," "chief of police" or "other city officers or departments," when referred to by title only, mean the city clerk, chief of police or such other municipal officers or departments, respectively, of the city.

Code. The term "Code" means the provisions of this Code as amended form time to time.

County. The term "county" means Milwaukee County, Wisconsin.

Fee schedule. The term "fee schedule" means the official consolidated list maintained in the city clerk's office that includes rates for utility or other public enterprises, city fees of any nature, deposit amounts and various charges as determined from time to time by the city council.

Governing authority, governing body. The terms "governing authority" or "governing body" mean the city council.

Law. The term "law" means any statute, ordinance or regulation promulgated by the state, the United States, the county, the city or any of their agencies, as well as the rules and regulations of other bodies politic that may be appropriate.

May. The term "may" is to be construed as being permissive.

Ordinance. The term "ordinance" means a legislative act of the municipal governing body of a general and permanent nature.

Person The term "person" includes all firms, partnerships, associations, corporations and natural persons.

Resolution. The term "resolution" means a legislative act of the county governing authority of a special or temporary character.

Shall. The term "shall" is mandatory.

State. The term "the state" or "this state" means the State of Wisconsin.

Statute. The term "statute," unless otherwise specifically stated, refers to the indicated portion of the Wisconsin statutes.

Wisconsin Administrative Code. The terms "Wisconsin Administrative Code" or "Wis. Admin. Code" mean the current edition of the Wisconsin Administrative Code.

Wisconsin Statutes. All references to the terms "Wisconsin Statutes" or "Wis. Stats." mean the current edition of Wisconsin Statutes.

Sec. 1-4. Conflict and separability.

(a) *Conflict of provisions.* If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of the chapter.

(b) *Separability of code provisions.* If any section, subsection, sentence, clause or phrase of the Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause, phrase or portion thereof. The city council hereby declares

that they would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.
(Code 2004, § 25.02)

Sec. 1-5. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any such sections, including the catchlines, are amended or reenacted.

Sec. 1-6. References to chapters or sections.

All references to chapters, articles, divisions, subdivisions or sections are to the chapters, articles, divisions, subdivisions and sections of this Code unless otherwise specified.

Sec. 1-7. History notes, editor's notes, and other editorial references.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section. References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

Sec. 1-8. Provisions considered as continuation of existing ordinances.

The provisions appearing in this Code so far as they are the same as those of the city's prior code and of ordinances existing at the time of adoption of this Code shall be considered as continuations and not new enactments.

Sec. 1-9. Code does not affect prior offenses, rights, penalties.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

Sec. 1-10. Clerk to file documents incorporated by reference.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the clerk shall file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept

shall be public records open for examination with proper care by any person during the clerk's office hours, subject to such orders or regulations which the clerk may prescribe for their preservation.
(Code 2004, § 25.03)

Sec. 1-11. Repeal of general ordinances.

All ordinances heretofore adopted by the city council are hereby repealed, except all ordinances or parts of ordinances relating to the following subjects and not conflicting with any of the provisions of this Code:

(1) The issuance of corporate bonds and notes of the city of whatever name or description.

(2) The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.

(3) The fixing of salaries of public officials and employees.

(4) Rights, licenses or franchises or the creation of any contract with the city.

(5) The lighting of streets and alleys.

(6) The annexation of territory to the city.

(7) The naming and changing of names of streets, alleys, public grounds and parks.

(8) The letting of contracts without bids.

(9) The establishment of aldermanic districts, aldermanic district boundaries and election precincts.

(10) Tax and special assessment levies.

(11) Release of persons, firms or corporations from liability.

(12) Construction of any public works.

(13) Water, sewer and electric rates, rules and regulations, and sewer and water main construction.

(14) Budget ordinances, resolutions and actions.

(15) Police and Firefighter's Pension Funds.

(Code 2004, § 25.05)

Sec. 1-12. Effect of repeals.

The repeal or amendment of any section or provision of this Code or of any other ordinances or resolutions of the city council shall not:

(1) By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes effect.

(2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the city.

(3) Affect any offense committed, or penalty or forfeiture incurred, previous to the time when any ordinance is repealed or amended; except when any forfeiture or penalty has been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.

(4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance aforesaid is repealed or amended; but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinance, and such prosecution shall proceed, in all respects, as if such ordinance had not been repealed; except all such proceedings had after the time this Code takes effect shall be conducted according to the provisions of this Code.

(Code 2004, § 25.06)

Sec. 1-13. Amendments; language of amendments; new material; repeals.

(a) All ordinances passed subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion of a chapter, article, division, section or subsection, such repealed portions may be excluded from the Code by omission from affected reprinted pages; and the subsequent ordinances, as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the council.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Municipal Code of the City of Cudahy, Wisconsin is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Municipal Code of the City of Cudahy, Wisconsin is amended by adding a section to be numbered _____, which section reads as follows: . . . ." The new section may then be set out in full as desired.

(d) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-14. Keeping Code current; revisor's amendments.

As each ordinance or resolution affecting this Code becomes effective, the city clerk shall forward such ordinance or resolution to the revisor, who shall incorporate same into this Code. The revisor shall make no substantive changes to such ordinances and resolutions but may renumber, rearrange and edit them without first submitting them to the city council; and such rearranging, renumbering and editing shall not affect the validity of such ordinances and resolutions or the provisions of this Code affected thereby.
(Code 2004, § 25.08)

Sec. 1-15. General penalty.

(a) *Fines and imprisonment.* Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty forfeiture, which shall be as follows:

(1) Any person who shall violate the provisions of this Code that are an adoption of any state statute or county ordinance shall be subject to the penalty provisions for fine or forfeiture that are provided for in the statute or ordinance that is adopted by this Code and if no penalty has elsewhere been adopted in this Code then the forfeiture shall be not less than $5.00 nor more than $2,000.00, plus costs.

(2) Any person found guilty of a violation of this Code that are not state statutes or county ordinances shall forfeit not less than $5.00 nor more than $2,000.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned until such forfeiture and costs of prosecution are paid but not exceeding 90 days.

(b) *Continued violations.* Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the city from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(c) *Execution against defendant's property.* Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the city, the court may, in lieu of ordering imprisonment of the defendant or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.
(Code 2004, § 25.04; Ord. No. 1422, 4-19-1988; Ord. No. 2032, 8-20-2002)

Sec. 1-16. Failure of officers to perform duties.

The failure of any officer or employee of the city to perform an official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code unless otherwise specifically provided in this Code.

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ARTICLE I. IN GENERAL

Sec. 2-1. Form of government.

The city is a third class city, and shall be organized as a mayor-councilmember governed city under the provisions of Wis. Stats. ch. 62, with the common council consisting of the mayor and five councilmembers, one elected from each of the city's five aldermanic districts.
(Code 2004, § 1.01)

Sec. 2-2. Benchmarks.

The official city benchmarks, with their location and elevation, are on file in the office of the director of public works. The elevations of the benchmarks on file as provided in this section are in feet and are established from a stone monument set at the southwest corner of South Fourth Street and West Bruce Street in the city of Milwaukee, Wisconsin, such monument being the benchmark for the south side of the city of Milwaukee, the elevation of which is assumed to be 24.95 feet above the Milwaukee River as it was in the month of March, 1836.
(Code 2004, § 1.60)

Sec. 2-3. City boundaries.

The city boundaries shall be as described by metes and bounds description, as amended from time to time, on file in the office of the city clerk.
(Code 2004, § 1.50)

Sec. 2-4. Council memberic district and ward descriptions.

(a) *First district.* The first council memberic district shall consist of three wards bounded and described as follows:

(1) Wards 1, 2 and 3.

(2) Commencing at the intersection of the centerline of the intersections of S. Lake Drive and E. Lunham Avenue, thence westerly along the centerline of E. Lunham Avenue (North city limits) to the intersection of the centerline of S. Nicholson Avenue, thence southerly along the centerline of S. Nicholson Avenue (West city limits) to the intersection of the centerline of E. Layton Avenue, thence easterly along the centerline of E. Layton Avenue to the intersection of the centerline of S. Swift Avenue; thence northerly along the centerline of S. Swift Avenue to the intersection of the centerline of E. Plankinton Avenue, thence easterly along the centerline of E. Plankinton Avenue, to the intersection of the centerline of S. Lake Drive, thence southerly along the centerline of S. Lake Drive to the intersection of the centerline of E. Patrick War Memorial Boulevard, thence easterly along the centerline of E. Patrick War Memorial Boulevard, to the intersection of the centerline of S. Sheridan Drive, thence northerly along the centerline of S. Sheridan Drive to the intersection of the centerline of E. Bottsford

Avenue, thence westerly along the centerline of E. Bottsford Avenue to the intersection of the centerline of S. Lake Drive, thence northerly along the centerline of S. Lake Drive to the place of commencement (North city limits).

(b) *Second district.* The second council memberic district shall consist of three wards bounded and described as follows:

(1) Wards 4, 5 and 6.

(2) Commencing at the intersection of the centerlines of S. Sheridan Drive and E. Patrick War Memorial Boulevard, and commencing westerly along the centerline of E. Patrick War Memorial Boulevard, to the intersection of the centerline of S. Lake Drive, thence northerly along the centerline of S. Lake Drive to the intersection of the centerline of E. Plankinton Avenue, thence westerly along the centerline of E. Plankinton Avenue to the intersection of the centerline of S. Swift Avenue, thence southerly along the centerline of S. Swift Avenue to the intersection of the centerline of E. Layton Avenue, thence westerly along the centerline of E. Layton Avenue to the intersection of the centerline of S. Packard Avenue, thence southerly along the centerline of S. Packard Avenue to the intersection of the centerline of E. Barnard Avenue, thence easterly along the centerline of E. Barnard Avenue to the intersection of the centerline of S. Kirkwood Avenue, thence southerly along the centerline of S. Kirkwood Avenue to the intersection of the centerline of E. Grange Avenue, thence easterly along the centerline of E. Grange Avenue to the intersection of the centerline of S. Lake Drive, thence northerly along the centerline of S. Lake Drive to the intersection of the centerline of E. Pulaski Avenue, thence easterly along the centerline of E. Pulaski Avenue to the intersection of the centerline of S. Sheridan Drive, thence northerly along the centerline of S. Sheridan Drive to the place of commencement.

(c) *Third district.* The third council memberic district shall consist of three wards bounded and described as follows:

(1) Wards 7, 8 and 9.

(2) Commencing at the intersection of the centerlines of S. Packard Avenue and E. Layton Avenue, thence westerly along the centerline of E. Layton Avenue to the railroad right-of-way (West city limits), thence southerly along the railroad right-of-way to the intersection of the centerline of E. Grange Avenue, thence easterly along the centerline of E. Grange Avenue to the intersection of the centerline of S. Pennsylvania Avenue, thence southerly along the centerline of S. Pennsylvania Avenue to the intersection of the centerline of E. Birchwood Avenue and S. Nicholson Avenue, thence northeasterly along the centerline of S. Nicholson Avenue to the intersection of the centerline of E. Dale Avenue, thence easterly along the centerline of E. Dale Avenue to the intersection of the centerline of S. Indiana Avenue, thence northerly along the centerline of S. Indiana Avenue to the intersection of centerline of S. Nicholson Avenue, thence

northeasterly along the centerline of S. Nicholson Avenue to the intersection of the centerline of E. Grange Avenue, thence easterly along the centerline of E. Grange Avenue to the intersection of the centerline of S. Whitnall Avenue, thence southeasterly along the centerline of S. Whitnall Avenue to the intersection of the centerline of E. Ladish Avenue, thence easterly along the centerline of E. Ladish Avenue to the intersection of the centerline of S. Packard Avenue, thence southerly along the centerline of S. Packard Avenue to the intersection of the centerline of E. Wanda Avenue, thence easterly along the centerline of E. Wanda Avenue to the intersection of the centerline of S. Kirkwood Avenue, thence northerly along the centerline of S. Kirkwood Avenue to the intersection of the centerline of E. Barnard Avenue, thence westerly along the centerline of E. Barnard Avenue to the intersection of the centerline of S. Packard Avenue, thence northerly along the centerline of S. Packard Avenue to the place of commencement.

(d) *Fourth district.* The fourth council memberic district shall consist of three wards bounded and described as follows:

(1) Wards 10, 11 and 12.

(2) Commencing at the intersection of the centerline of E. Grange Avenue and S. Lake Drive, thence westerly along the centerline of E. Grange Avenue to the intersection of the centerline of S. Kirkwood Avenue, thence southerly to the intersection of the centerline of E. Wanda Avenue, thence westerly along the centerline of E. Wanda Avenue to the intersection of the centerline of S. Packard Avenue, thence northerly to the centerline of the intersection of E. Ladish Avenue, thence westerly along the centerline of E. Ladish Avenue to the intersection of the centerline of S. Whitnall Avenue, thence northwesterly along the centerline of S. Whitnall Avenue to the intersection of the centerline of E. Grange Avenue, thence westerly along the centerline of E. Grange Avenue to the centerline of the intersection of S. Nicholson Avenue, thence southwesterly along the centerline of S. Nicholson Avenue to the intersection of the centerline of S. Indiana Avenue, thence southerly along the centerline of S. Indiana Avenue to the centerline of the intersection of E. Dale Avenue, thence westerly along the centerline of E. Dale Avenue to the intersection of the centerline of S. Nicholson Avenue, thence southwesterly along the centerline of S. Nicholson Avenue to the centerline of the intersection of S. Pennsylvania Avenue, thence northerly along the centerline of S. Pennsylvania Avenue to the intersection of the centerline of E. Grange Avenue, thence westerly along the centerline of E. Grange Avenue to the railroad right-of-way (West city limits), thence southerly along the railroad right-of-way to the intersection of the centerline of E. College Avenue (South city limits), thence easterly along the centerline of E. College Avenue to the intersection of the centerline of S. Ace Industrial Drive, thence northerly along the centerline of Ace Industrial Drive to the intersection of the centerline of E. Norse Avenue, thence easterly along the centerline of

E. Norse Avenue to the intersection of the centerline of S. Pennsylvania Avenue, thence northerly along the centerline of S. Pennsylvania Avenue to the intersection of the centerline of E. Ramsey Avenue, thence easterly along the centerline of E. Ramsey Avenue to the intersection of the centerline of S. Barland Avenue, thence southerly along the centerline of S. Barland Avenue to the intersection of the centerline of E. Donald Avenue, thence easterly along the centerline of E. Donald Avenue to the intersection of the centerline of S. Crosswinds Dr., thence northerly along the centerline of S. Crosswinds Dr. to the intersection of the centerline of E. Henry Avenue, thence easterly to the intersection of the centerline of S. Buckhorn Avenue, thence northerly along the centerline of S. Buckhorn Avenue to the intersection of the centerline of E. Ramsey Avenue, thence easterly along the centerline of E. Ramsey Avenue to the intersection of the centerline of S. Lake Drive, thence northerly along the centerline of S. Lake Drive to the place of commencement.

(e) *Fifth district.* The fifth council memberic district shall consist of three wards bounded and described as follows:

(1) Wards 13, 14 and 15.

(2) Commencing at the intersection of the Centerline of E. Lunham Avenue and the West Shoreline of Lake Michigan (East city limits), thence easterly along the centerline of E. Lunham Avenue to the intersection of the centerline of S. Lake Drive, thence southerly along the centerline of S. Lake Drive to the intersection of the centerline of E. Bottsford Avenue, thence easterly along the centerline of E. Bottsford Avenue to the intersection of the centerline of S. Sheridan Drive, thence southerly along the centerline of S. Sheridan Drive to the intersection of the centerlines of E. Pulaski Avenue, thence westerly along the centerline of E. Pulaski Avenue to the intersection of the centerline of S. Lake Drive, thence southerly along the centerline of S. Lake Drive to the intersection of the centerline of E. Ramsey Avenue, thence westerly along the centerline of E. Ramsey Avenue to the intersection of the centerline of S. Buckhorn Avenue, thence southerly along the centerline of S. Buckhorn Avenue to the intersection of the centerline of E. Henry Avenue, thence westerly along the centerline of E. Henry Avenue to the intersection of the centerline of S. Crosswinds Drive, thence southerly along the centerline of S. Crosswinds Drive to the intersection of the centerline of E. Donald Avenue, thence westerly along the centerline of E. Donald Avenue to the intersection of the centerline of S. Barland Avenue, thence northerly along the centerline of S. Barland Avenue to the intersection of the centerline of E. Ramsey Avenue, thence westerly along the centerline of E. Ramsey Avenue to the intersection of the centerline of S. Pennsylvania Avenue, thence southerly along the centerline of S. Pennsylvania Avenue to the intersection of the centerline of E. Norse Avenue, thence westerly along the centerline of E. Norse Avenue to the intersection of the centerline of S. Ace Industrial Drive, thence southerly along the centerline of Ace Industrial Drive to the intersection of the

centerline of E. College Avenue, thence easterly along the centerline of E. College Avenue (South city limits) to the West shore of Lake Michigan (East city limits) thence northerly along the West Shore of Lake Michigan to the place of commencement.

(Code 2004, § 1.51; Ord. No. 1995, 7-17-2001; Ord. No. 2367.2, 10-4-2011)

Sec. 2-5. Business days and office hours.

The municipal building offices shall be open for business from 7:30 a.m. to 4:30 p.m., Monday through Friday; and closed on Saturdays, Sundays, New Year's Day, Memorial Day, Independence Day (July 4), Labor Day, Thanksgiving Day, the day after Thanksgiving, December 24, Christmas Day, December 31, and Good Friday.

(Code 2004, § 1.08; Ord. No. 2406, § 1, 8-5-2014)

Secs. 2-6—2-28. Reserved.

ARTICLE II. COMMON COUNCIL

DIVISION 1. GENERALLY

Secs. 2-29—2-59. Reserved.

DIVISION 2. MEETINGS

Sec. 2-60. Regular meetings.

(a) The regular meeting of the city council shall be held at the council chambers of the municipal building in the city on the first and third Tuesday of each month at a time noticed by a call of the chair but not earlier than 6:00 p.m. or later than 8:00 p.m., except when the day for holding any regular meeting is a legal holiday or election day, the regular meeting shall be held at the same time and place on the following day; provided, however, that:

(1) The council may, by motion duly passed, direct that in any stated month there shall be only one meeting and shall designate the Tuesday when such meeting is to be held.

(2) When circumstances are such that the mayor deems a council meeting is not of essence to the city, after considering the likely or proposed agenda, inconvenience to citizens and others who may have anticipated a meeting, all other pertinent factors and length of advance notice to be given of cancellation, the mayor may elect to cancel one regularly scheduled council meeting in any month by giving written notice to each councilmember at least 24 hours in advance of the meeting; and otherwise giving notice in similar fashion as to calling a meeting as provided in Wis. Stats. §§ 19.81 through 19.88.

(b) Nothing contained in this section shall abrogate the provisions of this section regarding call of special meetings of the city council.
(Code 2004, § 2.01(1); Ord. No. 1899, 7-6-1999)

State law reference—Regular meetings of common council, Wis. Stats. § 62.11(2).

Sec. 2-61. Special meetings.

Special meetings of the city council may be called by the mayor or, in his absence, the president of the council, at such time as he may appoint, by written notice of the purpose and time thereof to each member, delivered to him personally or left at his usual place of abode at least 24 hours before the meeting. Upon petition of three or more members of the council, the mayor or, in his absence, the president of the council shall call a special meeting of the council. No other business shall be considered or transacted at any special meeting other than that for which the special meeting was called.
(Code 2004, § 2.01(2); Ord. No. 1496, 5-1-1990)

State law reference—Special meetings of common council, Wis. Stats. § 62.11(2).

Sec. 2-62. Adjournments.

Any regular or special meeting may be adjourned by a majority of the members present.
(Code 2004, § 2.01(3))

Sec. 2-63. Meetings to be public.

All meetings of the council shall be open and public as provided in Wis. Stats. §§ 19.81 through 19.88 and all of its procedure shall be recorded by the city clerk or under his authorization in record books kept for that purpose.
(Code 2004, § 2.01(4))

Sec. 2-64. Call to order.

The mayor or president of the council, as the case may be, shall promptly call each meeting of the council to order at the hour fixed for the holding of such meeting. If the mayor and president are absent, the city clerk shall call the meeting to order and the councilmembers present shall elect one of their number president pro tem.
(Code 2004, § 2.01(5))

Sec. 2-65. Roll call and quorum.

Before proceeding to business, the roll of the members of the council shall be called in district order and the names of those present and those absent shall be recorded in the proceedings of

the council. Three members shall constitute a quorum for transaction of business, but a lesser number may adjourn and may compel the attendance of absent members. The mayor shall not be counted in determining whether a quorum is present.
(Code 2004, § 2.01(6); Ord. No. 1117, 3-21-1978)

Sec. 2-66. Attendance; leave of absence.

No member of the council, the city clerk, chief of police or police officer whose duty it is to attend shall absent himself from the meetings of the council, unless for illness or other good cause, without first having obtained leave of absence from the mayor or presiding officer.
(Code 2004, § 2.01(7))

Sec. 2-67. Disturbance; how suppressed.

(a) Whenever any disturbance or disorderly conduct occurs in the council chambers or rooms or halls adjacent thereto, the mayor or presiding officer of the council may, by and with the aid of the chief of police or other police officer in attendance upon the meeting of the council, cause the same to be cleared of all persons except members and officers of the council.

(b) The council may punish by forfeiture members or other persons present for disorderly behavior. Any person proposed to be punished hereunder shall be given an opportunity to be heard in his defense.
(Code 2004, § 2.01; Ord. No. 1117, 3-21-1978; Ord. No. 1496, 5-1-1990; Ord. No. 1899, 7-6-1999)

Sec. 2-68. Agenda.

(a) *Creation.* The mayor shall submit to the common council an agenda which shall contain all of the items of business to be considered by the council at its regular meetings, including the order of business and any other provisions to allow for smooth functioning of council meetings. The meeting shall follow the provisions of the agenda without additions or exceptions unless so authorized by a majority vote of the members present at the meeting.

(b) *Consent agenda.* The mayor may create a consent agenda as a subsection on any common council agenda in which the mayor shall place routine and noncontroversial matters, which do not require a special vote or action to be taken by the common council. No separate discussion or debate shall be permitted on any matters which have been included in the consent agenda. A single motion, seconded and adopted by a majority vote of the common council shall be sufficient to approve, adopt, enact or otherwise favorably resolve any matter listed on the consent agenda without the requirement of separate discussion thereof. At such time during a common council meeting when the consent agenda is reached, any councilmember may request removal of any item or part thereof previously included in the consent agenda and such item or

part thereof shall be removed without debate or vote. Any item or part thereof removed from the consent agenda by action of the common council shall be separately considered immediately after consent agenda items are resolved.
(Code 2004, § 2.02(2))

Secs. 2-69—2-94. Reserved.

DIVISION 3. RULES OF PROCEDURE

Sec. 2-95. Introduction of business.

No business shall be introduced to the council unless presented by a member of the council or the presiding officer.
(Code 2004, § 2.04(1))

Sec. 2-96. Order of business.

At all regular meetings of the common council, the order of business shall be conducted as follows, unless the same shall be temporarily suspended by unanimous vote of the council:

(1) Certification of the open meeting law requirements and approval of the agenda.

(2) Call of roll and announcement of presence or absence of a quorum.

(3) Pledge of allegiance.

(4) Moment of silence.

(5) Public hearings and presentations.

(6) Public comment (on agenda items).

(7) Consent agenda.

(8) Items removed from consent agenda (as necessary).

(9) Old business.

(10) New business, including items for future agenda consideration or committee assignment.

(11) Department manager or elected official updates.

(12) Introduction of ordinances.

(13) Passage of ordinances.

(14) Introduction of resolutions.

(15) Passage of resolutions.

(16) Public comment (on any subject items).

(17) Adjournment.

(Code 2004, § 2.02(1); Ord. No. 2370, 12-20-2011)

Sec. 2-97. Presiding officer; duties.

The mayor or other presiding officer of the council:

(1) Shall preserve order and decorum and may speak to points of order in preference to others, rising from his seat for that purpose;

(2) Shall decide questions of order, subject to an appeal by any member, on which appeal no member shall speak more than once, unless by leave of the council, and on appeal being taken, the question shall be, "Shall the decision of the chair stand as the judgment of the council?" which question and the action thereon shall be entered in the journal.

(3) Shall inform the council when necessary, or when referred to for that purpose, on any point of order or practice.

(4) Shall authenticate, by his signature, when necessary, all ordinances, resolutions, orders and proceedings of the meetings of the council over which he presides.

(5) May call a member to the chair, but such substitution shall not extend beyond an adjournment.

(Code 2004, § 2.06)

Sec. 2-98. Motions.

(a) *Motions to be stated before debates; reducing to writing.* When a motion is made and seconded, it shall be stated by the member making the same or by the presiding officer or be read by the clerk before being debated. If any member requires it, all motions (except to adjourn, postpone or commit) shall be reduced to writing.

(b) *Motions in order during debate.* When a question is under debate, no motion shall be received except:

(1) To adjourn.

(2) To lay on the table.

(3) For the previous question.

(4) To postpone to a certain day.

(5) To commit to a standing committee.

(6) To commit to select committee.

(7) To amend.

(8) To postpone indefinitely.

These several motions shall have precedence in the order in which they stand in this rule.

(c) *Motion to adjourn; lay on table.* A motion to adjourn shall always be in order, and a motion to adjourn, to lay on the table, and call for the previous question, shall be decided without debate.

(d) *Motion for reconsideration.* Any member voting in the majority may move reconsideration of the vote on any question at the same or next succeeding meeting. A motion to reconsider being put and lost shall not be renewed.

(e) *Moving previous question.* Any member wishing to terminate debate may call the previous question. The question to be announced by the presiding officer shall be "Shall the main question now be put?" Such motion shall be decided without debate. If a majority of the members present vote in the affirmative, the main question shall be taken without further debate, and its effect shall be to put an end to all debate and bring the council to a direct vote, first upon the pending amendment, if any, and then upon the main question.
(Code 2004, § 2.04(2))

Sec. 2-99. Debate.

(a) *Recognition for debate.* When a member is to speak in debate or deliver any matter to the council, he shall be recognized by the chair and confine his remarks to the question under debate, and avoid personalities.

(b) *Presiding officer to name first to speak.* When two or more members request to speak at the same time, the presiding officer shall name the member who is first to speak.

(c) *Member may speak twice.* No member shall speak more than twice on any question except by leave of the council.
(Code 2004, § 2.04(3))

Sec. 2-100. Voting.

(a) *Members shall vote.* Every member, when a question is put, shall vote unless the council shall, for special cause, excuse him, but no member shall be excused after the council has commenced voting.

(b) *Tie vote; mayor to vote.* The mayor shall not vote on the call of ayes and noes except in the case of a tie vote, when he shall cast the deciding vote.

(c) *Ayes and noes vote.* The ayes and noes may be required by any member of the council on confirmation. On adoption of any measure assessing or levying taxes, appropriating or disbursing money, or creating any liability or charge against the city or any fund thereof, the vote shall be ayes and noes. All aye and no votes shall be recorded in the journal.
(Code 2004, § 2.04(4); Ord. No. 770, 4-18-1967)

Sec. 2-101. Call of the house.

(a) *Who may call.* Any three members of the council may make a call of the house and require absent members to be sent for, but a call of the house cannot be made after the voting has commenced.

(b) *Putting question on call of the house.* On a call of the house being moved, the presiding officer shall say: "It requires three members to order the call of the house," and if three or more shall rise, the call shall thereby be ordered.

(c) *Doors to be closed.* The officer acting as sergeant-at-arms shall close the doors and no member shall leave the room.

(d) *Absentees, how brought in.* The clerk shall immediately call the roll and furnish a list of the absentees without leave to the sergeant-at-arms, who shall forthwith proceed to find and bring in such absentees.

(e) *Procedure while under call.* While the council is under call no business shall be transacted except to receive and act on the report of the sergeant-at-arms, and no other motion shall be in order except to adjourn and motion to suspend further proceedings under the call, which motions shall be determined by ayes and noes, and the motion to suspend further proceedings under the call shall not be adopted unless a majority of the members-elect vote in favor thereof, but a majority of those present may adjourn.
(Code 2004, § 2.04(5))

Sec. 2-102. Resolution of questions not covered in this division.

At any time when a question arises which is not covered by these rules, Robert's Rules of Order, Newly Revised, shall apply, unless otherwise required by ordinance or statute, with the exception that all motions requiring a two-thirds vote as designated in Robert's Rules of Order, Newly Revised, shall require a three-fourths vote of the council.
(Code 2004, § 2.04(6))

Sec. 2-103. Suspension and amendment.

These rules may be suspended temporarily and may be amended or changed at any time by a three-fourths vote of all members present.
(Code 2004, § 2.04(7), (8))

Sec. 2-104. Sergeant-at-arms.

The chief of police or police officer designated to attend the council meetings shall act as sergeant-at-arms.
(Code 2004, § 2.04(9))

Sec. 2-105. Ordinances and resolutions.

(a) *Publication.* All ordinances, rules, regulations and bylaws required to be published, shall be published in the official newspaper within 15 days of passage, and shall not be in effect until so published.

(b) *Approval of ordinances by mayor; vetoes.* All ordinances, resolutions and acts subject to the veto power of the mayor shall be submitted to him by the clerk and shall be in force upon his approval evidenced by his signature, or upon his failing to approve or disapprove within five days, which fact shall be certified thereon by the clerk. If the mayor disapproves, he shall file his objections with the clerk, who shall present them to the council at its next meeting. A two-thirds vote of all members of the council shall make the act effective notwithstanding the objections of the mayor.
(Code 2004, § 2.05)

Secs. 2-106—2-123. Reserved.

DIVISION 4. COMMITTEES

Sec. 2-124. Standing.

The following standing committees of the council shall be appointed by the mayor and shall consist of three or more members each. The mayor may designate the chair and vice-chair of each committee and in the absence thereof, the first named appointee shall serve as chair and the second named appointee shall serve as vice-chair.

(1) *Finance committee.* The finance committee shall consist of five city councilmembers, the city clerk-treasurer, comptroller, and finance director. The city clerk-treasurer, comptroller, and finance director shall be nonvoting members. The finance committee shall receive applications for municipal industrial bonds and present a recommendation to the council which shall include a proposed agreement with the applicant naming the bond underwriter and bond legal counsel to handle the bonding procedures if the application is approved by the council. The costs, disbursement and fees incurred during the bonding procedures shall be borne by the industrial bonding applicant. The committee shall submit its recommendation to the council no later than 30 days after the date upon which the applicant has been referred to the committee by the council. If no recommendation is received by the council within the 30 days, the council shall consider the application as being denied by the committee. The council may consider a request from the finance committee for an extension of the time for consideration by the committee, which shall not exceed 60 days.

(2) *Personnel committee.* The personnel committee shall be composed of the elected city councilmembers. The members of the committee shall be responsible for all labor

negotiations between the city and its employees under Wis. Stats. ch. 111 and all other personnel matters. This committee shall from time to time report to the council concerning the performance of their duties.

(3) *Rules, laws and licensing committee.* The rules laws and licensing committee shall consist of six members serving three-year terms. The membership shall consist of two councilmembers, three citizen members and the city attorney. The councilmember and citizen member shall be appointed by the mayor and confirmed by the city council. The city attorney shall be a nonvoting member. The committee will be responsible for all rules, laws, ordinances and resolutions that affect the city and shall review and recommend action to the common council for all licensing matters.

(4) *Board of public works.* The board of public works shall consist of two councilmembers and three citizen members appointed by the mayor and confirmed by the city council for three-year terms. The director of public works is a nonvoting member. The board shall have powers and duties as prescribed in Wis. Stats. §§ 62.14 to 62.19. The board of public works shall also act as the city's tree board whose duties shall include the protection and preservation of the city's urban forest.

(Code 2004, § 2.03(1); Ord. No. 1848, 7-7-1998; Ord. No. 2287, 3-18-2008; Ord. No. 2316, 1-20-2009; Ord. No. 2321, 2-3-2009; Ord.No. 2287, 2, 2-19-2014)

Sec. 2-125. Special.

Select or special committees may be provided for by motion or resolution, designating the number and object, and, unless otherwise ordered, shall be appointed by mayor or other presiding officer of the council.

(Code 2004, § 2.03(2))

Sec. 2-126. Meetings.

Committee meetings shall be held at the call of the chairperson, or as provided herein.

(Code 2004, § 2.03(3))

Sec. 2-127. Referral of ordinances, resolutions, and similar documents.

Every paper or writing that goes before the council for action shall be either acted upon by the council or referred to the appropriate committee by the presiding officer without motion unless objected to by some member.

(Code 2004, § 2.03(4))

Sec. 2-128. Reports.

All matters referred to a committee shall be reported back to the regular meeting of the council when that committee has finished with it. If not disposed of in a timely manner, the

council may fix a time within which the committee shall make its report to the council. The chairperson of each committee shall make a report of all matters still pending before the committee whenever required to do so by any member of the council.
(Code 2004, § 2.03(5))

Sec. 2-129. Reports of dissenting members or committees.

If all members of any committee required or entitled to report on any subject referred to them cannot agree upon a report, the majority and minority of such committee may each make a separate report, and any member dissenting in whole or in part from the reasoning and conclusions of both majority and minority may also present a statement of his reasons and conclusions, and all such reports, decorous in language and respectful to the council, shall be entered at length in the journal.
(Code 2004, § 2.03(6))

Sec. 2-130. Adoption of reports and recommendations.

To approve actions by the committees, boards and commissions and accept their recommendations, the council shall by motion adopt the committee, board or commission report, action or recommendation. If certain actions or recommendations of the committees, boards and commissions are not adopted, accepted or approved, the motion for adoption shall specify the specific part, act or recommendation excepted. All motions for adoption, or motions for adoption with exceptions, shall be subject to amendment according to the rules for amendment contained in Robert's Rules of Order, Newly Revised.
(Code 2004, § 2.03(7); Ord. No. 770, 4-18-1916)

Sec. 2-131. Committee members to remain at council meetings.

No member of any committee shall, during a meeting of the council, absent himself from such meeting by reason of membership in such committee, except by special leave.
(Code 2004, § 2.03(8))

Sec. 2-132. Defunct committee duties to be assumed by common council.

Any reference in this Code to or any duty or function imposed upon any committee, commission or board which may no longer be in existence shall be assumed by the city council acting as the committee as a whole or referred out by it to an appropriate department, committee, commission or board.
(Code 2004, § 2.03(9))

Secs. 2-133—2-162. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-163. Elected officials.

(a) *Which officials elected.* The elective officials shall be a mayor, one councilmember from each council memberic district, a city clerk-treasurer, city comptroller, city attorney, municipal judge and seven school directors.

(b) *Eligibility.* No person shall be elected by the people to a city office who is not at the time of his election 18 years of age, a citizen of the United States and of this state and an elector of the city, and in case of a council memberic district office, of the council memberic district, and actually residing therein.

(c) *City attorney and municipal judge must be licensed attorneys.* In addition to other qualifications for eligibility, the offices of city attorney and municipal judge shall require that a person for either of those offices be an attorney-at-law licensed as such by this state.
(Code 2004, § 1.02; Charter Ord. No. 1458, 7-5-1989; Ord. No. 1841, 6-2-1998; Charter Ord. No. 2170, 12-20-2005)

Sec. 2-164. Appointed officials.

All officials appointed for positions designated as classified in the city's civil service regulations shall be selected from an eligible list as provided in city civil service regulations. The appointing power shall be the city council except the city health officer, who shall be appointed as provided in section 2-198, and the city librarian who shall be appointed by the library board.
(Code 2004, § 1.03; Ord. No. 1814, 10-7-1997)

Sec. 2-165. Terms of office.

(a) *Elected officials.* The terms of the mayor, alderpersons, clerk-treasurer, comptroller, attorney, and school directors shall be for three years. Two of the school directors shall be elected each year, except three school directors shall be elected each third year. The term of the municipal judge shall be for four years.

(b) *Appointed officials.* All appointed officials, except as otherwise provided, shall hold their office for a term of two years or until their successors are appointed and qualified.

(c) *Time of taking office.* The regular term of office of the mayor and council members shall commence on the third Tuesday in April succeeding their election. The regular term of all other elected and appointed officials shall commence on May 1 following their election or appointment, unless otherwise specifically provided.
(Code 2004, § 1.04; Ord. No. 1786, 4-15-1997; Ord. No. 1814, 10-7-1997; Charter Ord. No. 2170, 12-20-2005)

Sec. 2-166. Oaths and bonds.

(a) *Oath.* Every person elected or appointed to an office shall take and file the oath within ten days after notice of his election or appointment.

(b) *Official bonds.* The clerk-treasurer, chief of police and such others as the statutes or the council may direct shall execute and file an official bond in such sum as the council may determine with two or more sureties, provided the bond of the treasurer may be furnished by a surety company pursuant to Wis. Stats. § 627.06. The council may at any time require new and additional bonds of any official. All official bonds must be approved by the mayor and when so approved shall be filed within ten days after the officer executing the same shall be notified of his election or appointment; the official bonds filed with the city clerk-treasurer and comptroller shall be recorded by him in a book kept for that purpose.
(Code 2004, § 1.05(1), (2); Charter Ord. No. 2170, 12-20-2005)

Sec. 2-167. Certificate of appointment.

When an appointed official has filed the oath and bond as required, the clerk-treasurer shall issue to him a certificate of appointment. If the appointment is to a board or commission, the appointee shall file the certificate with the secretary thereof.
(Code 2004, § 1.05(3); Charter Ord. No. 2170, 12-20-2005)

Sec. 2-168. Vacancies.

(a) *Elected officers.* Vacancies in the elected officers of the city shall be filled as follows:

(1) *Mayor.* In the office of mayor, except as provided in Wis. Stats. § 9.10, vacancies shall be filled by appointment by the council.

(2) *Councilmembers-special elections.*

a. If any councilmember shall resign or die, or remove from the council memberic district represented by him, or shall engage or continue in any service, business or employment causing a continuous absence from the city for more than four months, his office shall thereby become vacant; a special election shall be held to elect a successor to fill any council memberic vacancy for the remainder of such term.

b. The special election for councilmember shall be ordered by the president of the council, or if that office is vacant, then by the chairperson of the committee on finance. The order issued shall be filed in the office of the city clerk.

c. Notice of any special election shall be given upon the filing of the order under subsection b of this section by publication in a newspaper as a class two notice under Wis. Stats. ch. 985.

d. The order and notice shall specify the office to be filled, the name of the officer before the vacancy, how the vacancy occurred, the expiration date of the remaining term of office, the date of the election, the earliest day for circulating and date for filing nomination papers, and the area involved in the election.

e. The date for the special election shall be not less than 55 nor more than 70 days from the date of the order except when the special election is held on the day of the general election or general primary.

f. The primary shall be on the day four weeks before the day of the special election, except when the special election is held on the same day as the general election, the special primary shall be held on the same day as the general primary. The special election may take place on the day of the general primary.

g. Nomination papers shall be circulated no sooner than the day the order for the special election is filed and shall be filed at least ten days before the day of the special primary.

h. No special election shall be ordered if such vacancy occurs less than 170 days before the regular city election for such office.

(3) *All other elected officials.* Vacancies in all other elected offices shall be filled by appointment by the mayor subject to the confirmation of the council. A person so appointed shall hold office until his successor is elected and qualified. His successor shall be elected for the balance of the unexpired term on the first Tuesday of April next after the vacancy happens if it happens 90 days or more before such day, but if such vacancy happens within 90 days before such first Tuesday of April, such successor shall be elected on the first Tuesday of April in the next ensuing year, but no election to fill a vacancy in such office shall be held at the time of holding the regular election for such office.

(b) *Appointed offices.* Vacancies in appointed offices shall be filled by appointment for the remainder of the unexpired term by the appointing power and in a manner prescribed by law for making regular full term appointments. When vacancies occur in offices subject to civil service regulations, the same shall be filled in accordance with such regulations.

(c) *Vacancy, when occurring.* A vacancy shall occur in case of the dismissal or death of any official, or in case of the removal of any officer from the city, or when any officer elected or appointed in, for or from any council memberic district shall remove his residence from such district, when any official shall refuse or neglect for 20 days after notice of his election or appointment to qualify and enter upon the discharge of his duties, or when any office shall become vacant pursuant to civil service regulations.
(Code 2004, § 1.06; Ord. No. 1010, 5-21-1974)

Sec. 2-169. Salaries.

The compensation paid all elective and appointive officials and employees shall be determined at such times and in such manner as prescribed by law.
(Code 2004, § 1.07)

Secs. 2-170—2-191. Reserved.

DIVISION 2. SPECIFIC OFFICES AND POSITIONS

Sec. 2-192. Mayor.

(a) *Chief executive officer.* The mayor shall be chief executive officer. He shall take care that city ordinances and state laws are observed and enforced and that all city officers and employees discharge their duties.

(b) *Fire and police departments.* The mayor shall be the head of the fire department and the police department.

(c) *Manager and purchasing agent.* The mayor shall act as manager for the city and as purchasing agent for the council and shall purchase all things necessary and as ordered by the council in the open market not to exceed $500.00 between regular council meetings.

(d) *Recommendations to council*. The mayor shall from time to time give the council such information and recommend such measures as he may deem advantageous to the city.

(e) *Veto power*. The mayor shall have the veto power as to all acts of the council, except such as to which it is expressly or by necessary implication otherwise provided by state law.
(Code 2004, § 1.10)

Sec. 2-193. Clerk-treasurer and comptroller.

The position of city clerk-comptroller and treasurer is separated into two distinct offices, the officer of the clerk-treasurer and the office of the city comptroller.
(Code 2004, § 1.11; Charter Ord. No. 1458, 7-5-1989; Charter Ord. No. 2170, 12-20-2005)

Sec. 2-194. City assessor.

The city assessor's duties shall be performed by a corporation or an independent contractor as provided for by Wis. Stats. § 62.09(1)(c). Appointment shall be made by the mayor and confirmed by the city council.
(Code 2004, § 1.13; Ord. No. 1501, 6-6-1990)

Sec. 2-195. Public works director.

(a) *Classified service position; appointment.* The public works director shall be a member of the classified service of the city subject to all of the civil service rules and regulations and shall be appointed by a majority vote of the total members of common council.

(b) *Chain of command; conflicts with state law or rules.* The director shall report to the mayor. Direction shall be given by the board of public works, water commission and common council to the public works director; however, state law and licensing requirements shall prevail.

(c) *Qualifications.* The public works director must hold a B.S.C.E. certification from an ABET-accredited engineering school with additional credentials or degrees in management or a certificate in supervision. The applicant must be licensed to practice in the State of Wisconsin either at the time of appointment or within six months of appointment. The applicant shall also have had a minimum of seven years' practical engineering experience with a minimum of at least two years at a management level, courtesy, industry, tact, supervisory ability, and the ability to work effectively and harmoniously with others. Additional qualifications may be prescribed by the board of public works, water commission and the common council.

(d) *Departments supervised.* The public works director shall be head of the department of public works, which shall include all functions within the current or former city departments or divisions: engineering, public works, refuse and recycling, forestry, sanitary and stormwater utilities, and water utility.

(e) *Duties.* The public works director shall have, among others, the following powers and duties:

(1) Subject to the direction of the board of public works, be responsible for the administration of all public works, and have general charge and supervision of all maintenance and repair of city owned infrastructure including city buildings and structures and all machinery and equipment used in any activity under his control.

(2) Be in charge of such public services as garbage and refuse collection and disposal, snow and ice removal, street cleaning and flushing, and such other activities as may be assigned to him from time to time by the common council.

(3) Under the direction of the water utility commission, oversee the water utility including the distribution and filtration systems.

(4) Have direct administrative and technical charge of the engineering department, act as technical consultant to all city departments, act as the city representative at meetings regarding infrastructure and engineering related issues, serve as advisor to the traffic and safety committee and the plan commission as needed, and carry out the duties specified in Wis. Stats. § 62.14.

(5) Appoint all heads and other personnel of all departments that make up the department of public works including engineering, public works, sanitary and stormwater utilities and the water utility.

(6) Attend all meetings of the board of public works and submit from time to time to the board or common council, such suggestions and recommendations that, in his opinion, are necessary or desirable for the more efficient operation of the various departments and activities under his supervision.

(7) Exercise administrative control over all ordinary business operations of the departments by preparing the work program and budget estimates.

(8) Attend, and participate as a management representative, all meetings regarding any and all grievances, disciplinary hearings or changes, involving or impacting employees from the department of public works.

(9) Hire, fire, promote, lay off, discipline, suspend, adjust grievances and transfer employees.

Sec. 2-196. Water utility superintendent.

(a) *Appointment.* The water utility superintendent shall be appointed by the public works director after review by him and by the civil service commission. The appointment must be confirmed by the water utility commission.

(b) *Term.* The office of water utility superintendent shall come within the category of classified service under civil service and shall be subject to all regulations governing the same that are not in conflict with this section and the rules and regulations of the water utility commission.

(c) *Qualifications.*

(1) *Training and experience*. The water utility superintendent shall have a minimum of an associate's degree in water technology and have attended waterworks training courses accredited by the state department of natural resources or A.W.W.A.. He shall also have a certificate in supervision. The applicant must be able to obtain an S-1 operator certificate within one year of acceptance as water works superintendent, must be capable of keeping the plant in operation due to emergencies, and must have at least five years' experience in water plant operation and water distribution and at least three years of current experience in a supervisory capacity.

(2) *General duties.* Under the direction of the public works director, the superintendent shall perform duties necessary for the overall management, operation, maintenance

and supervision of the pump station, purification plant, distribution system, billing and general water department, and any related work as required, including the following:

a. The superintendent shall direct the operation of all work done at the pump station and purification plant, relating to pumps, chemical feed machines, heating equipment, filter beds and controls, settling, flocculation and mixing basins, electrical equipment, valves, gauges and all recording instruments and maintenance of buildings and grounds.

b. The shall supervise work to be done in the distribution system regarding maintenance, meters and water breaks, and purchase materials necessary for the operation of the water utility. He shall provide general supervision and direction of work done in the distribution system and research and develop methods for maintaining and operating the water utility in a more efficient and effective manner.

1. The superintendent shall obtain and analyze the necessary water samples on both filtered and raw water for coliform bacteria and run plate counts on same. He shall check and determine proper dosages of all chemicals added to water such as chlorine, fluoride, alum, carbon, etc., and maintain laboratory for approval and inspection by the state board of health.

2. The superintendent shall make individual assignments of work to the employees, direct and evaluate the work activities of the employees and prepare the employees' work schedules, and receive employee complaints and handle personnel problems. He shall prepare employee evaluations and make recommendations to the public works director relative to hiring and promotions, and recommend appropriate disciplinary action when necessary, and shall orient and train new employees in the operation of the water utility, direct all on-the-job training, and conduct special instructions and training sessions when new methods or facilities are introduced.

3. The superintendent shall have a working knowledge of the city billing and collections system, shall direct the utility billing and collection system, and shall keep records and make reports when necessary. The superintendent shall check on all customer complaints and take corrective action.

4. The superintendent shall prepare necessary reports and instruct office help as to the maintaining and filing of same, and direct the purchasing of material and payment thereof.

(Code 2004, § 1.33(5))

Sec. 2-197. Sealer of weights and measures.

The city sealer of weights and measures shall be appointed by the council in accordance with civil service procedures. The duties of this office may be performed by the sanitary inspector, unless otherwise provided by the city council.
(Code 2004, § 1.16)

Sec. 2-198. Health officer.

(a) The health officer shall be appointed for a two-year term by the board of health at a regular meeting of the board held no later than May 30 of each even-numbered year. He shall be a person with the training and experience in public health administration which shall meet training and experience requirements established by the department, as provided in Wis. Stats. § 251.06.

(b) The health officer may consult with the city physician and shall make such reports as are required by Wis. Stats. ch. 251 and this Code to the mayor and council. He shall turn over to the city treasurer at least monthly the receipts and earnings of the health department.

(c) The health officer shall have those additional powers set forth in section 18-2.
(Code 2004, § 1.17; Ord. No. 1443, 2-21-1989)

Sec. 2-199. Chief inspector.

(a) *Appointment.* The chief inspector shall be the superintendent of all the inspectors of the city and shall be appointed pursuant to civil service procedure, which appointment shall be subject to confirmation by the council. He shall also perform the duties of one of the other inspection departments.

(b) *Compensation.* He shall receive such compensation and expense allowances as the council shall prescribe.

(c) *Powers and duties.* The chief inspector shall have, among others, the following powers and duties:

(1) He shall have direct administrative and technical charge of the inspection departments.

(2) He shall act as technical inspection consultant to all city departments.

(3) He shall serve as an advisor to the council on inspection matters and shall exercise administrative control over all of the ordinary requisitions for supplies, payrolls, vouchers and other routine documents and preparing the work program and budget estimates for the Inspection department.

(4) Subject to the direction of the council, he shall be responsible for the administration of all inspection programs.

(Code 2004, § 1.18; Ord. No. 887, 5-5-1970)

Sec. 2-200. Sanitary inspector.

The sanitary inspector shall be appointed by the council in accordance with civil service procedure. The salary of the sanitary inspector shall be established by the council and included in the annual budget of the chief inspector.
(Code 2004, § 1.19; Ord. No. 887, 5-5-1970)

Sec. 2-201. Electrical inspector.

The person chosen to fill the office of electrical inspector shall be versed in approved methods of electrical construction for safety of life and property, state law relating to electrical work, the rules and regulations issued by the state department of labor, industry and human relations, and the safety code of the federal bureau of standards. HHe shall have had at least six years' experience as a journeyman electrician and be qualified for a certified master electrician license in accordance with Wis. Admin. Code § SPS 305.43. He shall also possess all other qualifications and have all other duties as required by the civil service commission.
(Code 2004, § 1.20; Ord. No. 887, 5-5-1970; Ord. No. 1499, 5-1-1990)

Sec. 2-202. Plumbing inspector.

The plumbing inspector position is a civil service position. The inspector shall be appointed by the council in accordance with civil service procedure. He shall be a journeyman or master plumber. The salary of the plumbing inspector shall be established by the council and included in the annual budget of the chief inspector. The plumbing inspector shall have control of the supervision and inspection of plumbing, drainage and drain laying and shall faithfully enforce all state and federal law and rules and this Code pertaining thereto.
(Code 2004, § 1.21; Ord. No. 887, 5-5-1970)

Sec. 2-203. Building inspector.

The building inspector shall be appointed to a full-time position by the council from an eligible list prepared pursuant to civil service procedures. The building inspector shall be a member of the classified service and hold office until removed for cause. He shall have such duties as are assigned from time to time by the city council.
(Code 2004, § 1.22; Ord. No. 760, 2-1-1967)

Sec. 2-204. Police chief.

The police chief shall be appointed by the police and fire commission and shall hold office during good behavior, subject to suspension or removal by such commission. He shall perform such duties as are prescribed by state law and this Code, including the following:

(1) The police chief shall turn over at least monthly to the city treasurer all fees, fines, receipts and all other monies received by his department.

(2) He shall also make annual reports to the council and all such other reports that are required of him by state law and city ordinance. At the time of making his report to the council as to the efficiency of the police force, number of arrests made and the occasions therefor, and such other matters as he shall embody in his reports, he shall make and attach to each report a brief summary or recapitulation showing the number of police officers and their respective salaries, total number of arrests made and the occasions therefor, and such other matters in brief as he shall deem to be important.

(Code 2004, § 1.23)

Sec. 2-205. Fire chief.

The fire chief shall be a full-time office and shall be appointed by the police and fire commission and shall hold office during good behavior subject to suspension or removal by such commission. He shall perform such duties as are prescribed by state law and this Code and shall make annual reports to the council of the condition of the fire department and recommend the purchase of such supplies and apparatus for the fire department as he may deem necessary and perform such other duties as may be required of him by the council. The fire chief shall make and attach to each report a brief summary or recapitulation, showing the number of fire alarms given to which the department responded during the previous year as well as the number of salaries of the members of the department for the previous annual period.

(Code 2004, § 1.24; Ord. No. 742, 6-21-1966)

Sec. 2-206. Accounting supervisor and deputy comptroller.

The accounting supervisor and deputy comptroller position shall be one of classified service, with the person filling such position appointed by the council in accordance with civil service procedure. The accounting supervisor and deputy comptroller shall supervise and perform all the accounting and tabulating work for the city and the school system, including the library and water utility, and he shall perform related work as required.

(Code 2004, § 1.25)

Sec. 2-207. City attorney.

The city attorney shall be elected in the manner and for such term as is provided in this chapter. The city attorney may inspect at any time any records kept by the police department. He shall be the legal advisor and the attorney for the board of trustees of the Firemen's Pension Fund. In addition, the city attorney shall have such additional powers and duties granted and assigned by state law, including Wis. Stats. § 62.09(12), and by the city council from time to time.

(Code 2004, § 1.26)

Sec. 2-208. Library director.

The library board, pursuant to this Code and Wis. Stats. § 43.58(4), shall appoint a librarian to serve as the library director who shall appoint such other assistants and employees as the board deems necessary and prescribe their duties. The library director shall serve for a term and at a compensation to be established by a majority vote of the library board
(Code 2004, § 1.31; Ord. No. 1163, 12-18-1979; Charter Ord. 1469, 8-1-1989)

Sec. 2-209. City arborist.

(a) *Qualifications.* The city arborist shall be ISA (International Society of Arboriculture) certified.

(b) *Powers and duties.* The city arborist, under direction of the public works director, shall have full power and authority over all trees and shrubs located within street rights-of-way, parks, and other public places in the city and trees and shrubs located on private property that constitute a hazard or threat, including specifically the authority and duty to:

(1) Direct, manage, supervise and control the city street tree program including all planting, removal, maintenance and protection of all trees and shrubs on all public areas.

(2) Supervise city personnel in the planting, removal, maintenance and protection of said trees and shrubs.

(3) Guard all trees and shrubs within the city so as to prevent the spread of disease or pests and to eliminate dangerous conditions which may affect the life, health or safety of persons or property.

(4) Prepare and maintain an inventory of trees located on public lands within the city.

(5) Prepare and recommend to the board of public works a plan for the planting, care and maintenance of trees in the city, including the number, species and location.

(6) Apply for state and federal grants for the preparation and implementation of the city's tree plans and programs.

(7) Retain such persons or firms who are qualified in urban forestry as the council shall authorize to assist in the development of urban forestry management for the city.

(8) Provide a forum for and encourage public comments on city tree plans and programs.

(9) Annually conduct Arbor Day observance and ceremonies.

(10) Determine which trees are removed, what tree species is planted and where trees are planted.

(Code 2004, § 1.44(6))

Secs. 2-210—2-226. Reserved.

ARTICLE IV. ELECTIONS

Sec. 2-227. Election officials.

(a) *Qualifications.* At every election held in the city, there shall be in each polling place of each council memberic district three inspectors and two clerks of election. The inspectors and clerks of election need not reside in the council memberic district in which they are selected to act but shall be entitled to vote in the city at the next election, and shall not hold any public office or public employment nor be candidates for public election while acting as such.

(b) *Appointment.* The election officials herein shall be chosen in accordance with Wis. Stats. § 7.30(4).

(c) *Chairpersons.* Prior to the first election following the appointment of the inspectors, the municipal clerk shall appoint one of the inspectors at each polling place, other than an inspector who is appointed under Wis. Stats. § 7.30(1)(b), to serve as chief inspector. The chief inspector at any election shall be certified by the board under Wis. Stats. § 7.31 at the time of the election. The chief inspector shall hold the position for the remainder of the term unless the inspector is removed by the clerk or the inspector ceases to be certified under Wis. Stats. § 7.31, except for those issues enumerated within Wis. Stats. § 5.15 and Wis. Stats. § 7.31. If a vacancy occurs in the position of chief inspector at any polling place, the municipal clerk shall appoint one of the other inspectors who is certified under Wis. Stats. § 7.31 to fill the vacancy.

(d) *Vacancies.* When an election official is unable to be present on election day, the election official shall notify the city clerk immediately. Failure to do so constitutes forfeiture of office. The city clerk shall fill vacancies from an eligible list on file in his office as required by statute.

(e) *Compensation.* The compensation for services rendered by each of the inspectors and election clerks shall be at such times and in such manner as prescribed by law.
(Code 2004, § 1.45; Ord. No. 1235, 1-5-1982; Ord. No. 2402, § 1, 4-2-2014)

Sec. 2-228. Hours for voting.

The polls on each election day shall remain open for voting from 7:00 a.m. until 8:00 p.m.
(Code 2004, § 1.46)

Sec. 2-229. Polling places.

(a) *First council memberic district*. Cudahy Family Library, Winter Garden Room, located at 3500 Library Drive.

(b) *Second council memberic district.* Cudahy Municipal Building located at 5050 S. Lake Drive.

(1) Wards 4 and 5 at Kosciuszko School located at 5252 S. Kirkwood Ave.

(2) Ward 6 at Park View School located at 5555 S. Nicholson Ave.

(c) *Third council memberic district.* Park View School located at 5555 S. Nicholson Ave.

(1) Wards 7 and 8 at municipal building located at 5050 S. Lake Dr.

(2) Ward 9 at Park View School located at 5555 S. Nicholson Ave.

(d) *Fourth council memberic district.* Wards 10, 11 and 12 at General Mitchell Elementary School located at 5950 S. Illinois Ave.

(e) *Fifth council memberic district.* Wards 13, 14, and 15 at General Mitchell Elementary School located at 5950 S. Illinois Ave.
(Code 2004, § 1.47; Ord. No. 1547, 10-1-1991; Ord. No. 1917, 12-7-1999; Ord. No. 2402, § 1, 4-2-2014; Ord. No. 2317, 1-20-2009; Ord. No. 2317.2, § 1, 12-16-2014; Ord. No. 2317.3, § 1, 2-17-2016)

Secs. 2-230—2-251. Reserved.

ARTICLE V. BOARDS, COMMISSIONS AND NONSTANDING COMMITTEES*

Sec. 2-252. Board of education.

The board of education shall consist of seven members elected from the city at large and shall have the duties and powers as prescribed by Wis. Stats. § 120.12. The members of the board shall meet at a place and on any day as the board by its own rules shall prescribe. The secretary of the board shall maintain an index of all important documents. Upon a change in secretary, the incoming secretary shall give the outgoing secretary a receipt for all documents given to his possession and shall be responsible for these documents during his term of office. The board may employ a superintendent of schools, but for not longer than three years at a time, to supervise and manage the schools under the direction of the board.
(Code 2004, § 1.30)

Sec. 2-253. Library board.

The library board shall consist of nine members appointed by the mayor, subject to the approval of the city council. The board shall be divided into three equal classes serving staggered terms of three years. Each term shall commence July 1 in the year of appointment. Not more than one member of the city council shall at any one time be a member of the board, and the superintendent of schools or his representative shall be a member of such board. The library board, pursuant to this Code and Wis. Stats. § 43.58(4), shall appoint a librarian to serve as the library director.
(Code 2004, § 1.31; Ord. No. 1163, 12-18-1979; Charter Ord. 1469, 8-1-1989)

***Editor's note—**For provisions regarding the board of appeals see § 14-31. For provisions regarding the board of public works see § 2-124(4).

Sec. 2-254. Board of health.

(a) *How constituted.* The board of health shall consist of nine members composed of six citizen members, who have a demonstrated interest or competence in the field of public health or community health. In appointing the members who are not elected officials or employees, a good faith effort shall be made to appoint a registered nurse and a physician. Members of the local board of health shall reflect the diversity of the community. One board of education member and one common councilmember shall be appointed to the board.

(b) *Appointment and term.* The members of the board of health shall be appointed by the mayor, subject to confirmation by the council at its first regular meeting in May of every even-numbered year for a two-year term. The board of education shall submit their recommendation as to which member of the board of education shall be their representative on the board of health prior to the council meeting.

(c) *Meeting attendance.* More than two consecutive unexcused absences of a member may be grounds for dismissal from the board; such matter being initiated by board of health chairperson recommendation to the mayor who shall proceed in the same manner provided in subsection (b) of this section to fulfill the outgoing member's term.

(d) *Powers and duties.* The board of health shall perform all such duties as are prescribed to it by law and may draft and approve bylaws for procedural matters not in conflict with rules and regulations of state and federal law, state department of health, and city ordinances, particularly chapter 18.
(Code 2004, § 1.32; Ord. No. 1127, 5-16-1978; Ord. No. 2354, 12-7-2010; Ord. No. 2354.3, 3-17-2015)

Sec. 2-255. Water utility commission.

(a) *Appointment, term and compensation.* The water utility commission shall be nonpartisan and shall consist of five members to be known as water utility commissioners. The commissioners shall be appointed by the council for five-year terms commencing October 1 in the year in which they are appointed in such a manner as to effect the appointment of one member each year. The commissioners shall receive no compensation, except expenses, unless otherwise provided by ordinance.

(b) *Officers and meetings.* The commission shall choose from among its members a president and secretary annually at the first meeting in October in each year. Monthly meetings shall be held at such times as shall be designated by the commission.

(c) *Duties.* The water utility commission shall take entire charge and management of the water utility, shall supervise the operation of the water utility under the general supervision of the council, and shall make rules for its own proceedings and for the operation of the water utility. The commission shall have complete charge of construction, extension, improvement

and operation of the water utility and its power shall be limited only if a capital investment requiring the borrowing of money and issuing of bonds is required, and also the further limitation that actual construction work shall be under the supervision of the council and shall have such other further powers and duties as may be granted to it by statute or ordinance.

(d) *Rates, rules and regulations.* The council shall, from time to time by resolution, establish rates for water users in the city and for water users outside of the city who are connected with the systems, and shall establish rules and regulations for the supply and maintenance of water services, subject to the approval of the state public service commission. Such rates, rules and regulations shall be established in the manner provided by law and shall be strictly adhered to as long as the same are in force.

(1) *Expenditures; audit; records.* Water department expenditures shall be audited quarterly and paid in the same manner as all other city expenditures. The city treasurer shall be the cashier for the commission and all water accounts shall be payable at his office. The city clerk shall keep all utility account records in the manner provided by the public service commission, which records shall be open for public inspection to the extent required by state law.

(2) *Authority to declare and provide rules for water emergencies; penalty for failure to abide by rules.* The water utility commission may declare water emergencies and shall provide rules and regulations for the use of water upon their determining such emergency exists. Any person who shall violate any of the rules and regulations set by the water utility commission and published once in the official newspaper, shall be subject to a forfeiture as provided in section 1-15.

(Code 2004, § 1.33(1), (2), (3), (5); Ord. No. 1667, 9-6-1994; Ord. No. 1962, 6-20-2000)

Sec. 2-256. Plan commission.

(a) The plan commission shall at all times consist of seven members. All members of the commission shall be appointed by the mayor. The mayor shall also choose the presiding officer. All member appointments by the mayor shall be subject to confirmation by the council.

(b) The mayor may appoint city elected or appointed officials to the commission, except that the commission shall always have at least three citizen members who are not city officials.

(c) Citizen members shall be persons of recognized experience and qualifications and will not receive compensation for commission service.

(d) The mayor will appoint members during the month of April for terms that expire in April. Citizen members shall be appointed by the mayor for three-year terms in such manner so as to effect the appointment of one of their number every year.

(e) The director of economic development, inspections and zoning shall attend all commission meetings for advisory purposes only.

(f) The plan commission shall have such powers and duties as are provided by state law and by chapter 44.
(Code 2004, § 1.34; Ord. No. 2321, 2-3-2009)

Sec. 2-257. Board of review.

(a) The board of review shall consist of five residents of the city, none of whom shall occupy any public office or be publicly employed. The members shall be appointed by the mayor and approved by the council to serve five-year terms in such a manner as to effect the appointment of one member every year. Each member shall receive such compensation as shall be established by the council. The city assessor shall attend all meetings of the board without compensation. The board shall have the duties and functions provided in Wis. Stats. § 70.47.

(b) The board shall meet annually shall meet annually at any time during the 30-day period beginning on the second Monday of May at the council chambers from 10:00 a.m. to 4:00 p.m., except for a one-hour recess for lunch, for taxpayers to appear and examine the assessment roll and other assessment data and be heard in relation thereto. A majority of the members of the board shall constitute a quorum.
(Code 2004, § 1.35; Ord. No. 2401, § 1, 4-2-2014)

Sec. 2-258. Board of zoning appeals.

The board of zoning appeals is addressed in article XII, division 2, of chapter 44.
(Code 2004, § 1.36)

Sec. 2-259. Board of police and fire commissioners.

The board of police and fire commissioners shall consist of five citizens, three of whom shall constitute a quorum. The mayor shall appoint annually, between April 30 and the first Monday of May, one member for a five-year term. The appointment shall be in writing and filed with the secretary of the board. All members shall be subject to confirmation of the council. No appointment shall be made which will result in more than three members of the board belonging to the same political party. The board shall serve without compensation except for the secretary, who may receive such compensation as shall be set by the council. The board shall submit proceeding minutes to the common council on a quarterly basis.
(Code 2004, § 1.37; Ord. No. 2321, 2-3-2009)

Sec. 2-260. Board of claims.

(a) The board of claims shall consist of the mayor, finance director and comptroller (chair). The comptroller shall be the chairperson and the recording secretary. Meetings of the board shall be at the call of the chairperson and at such time as the board may determine, and all meetings shall be open to the public, unless the subject of the meeting is exempt pursuant to Wis. Stats. § 19.85.

(b) The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk and shall be a public record.

(c) The board shall have the power to investigate, negotiate and settle any liability claims covered by the policy of the Cities and Villages Mutual Insurance Company (CVMIC) for property damage claims against the city in the amount of $5,000.00 or less. The board shall refer all claims recommended for disallowance to the common council for a denial of claim in accordance with Wis. Stats. § 893.80(1)(b) after which the claim shall be administered by the board in accordance with the disallowance decision of the common council. The board shall have authority to incur expenses for filing fees or other costs of litigation upon disallowance of any claim by the common council.
(Code 2004, § 1.75; Ord. No. 1584, 7-7-1992)

Sec. 2-261. Civil service commission.

(a) *Membership.* The commission shall consist of five members appointed by the mayor for staggered three-year terms the vacancy created by the expired term. All appointments subsequent to the original appointment shall be for three years each. All members so appointed shall be residents of the city. All appointments shall be subject to confirmation by the council.

(b) *Organization.* At the commission's first meeting each year, it shall elect one of its members as chairperson, who shall preside at meetings of the commission, supervise all examinations, and conduct disciplinary hearings upon charges filed against employees in accordance with the rules of the commission. At the same meeting each year, the commission shall elect one of its members to act as vice-chairperson who will preside at the meetings of the commission in the absence of the elected chairperson and a secretary who shall maintain adequate minutes reflecting all transactions taking place at such meeting.

(c) *Quorum.* A quorum shall consist of any three members of the commission who shall act upon any business before the commission.

(d) *Compensation; reimbursements.* The commission shall be paid such salary as may be fixed from time to time by the council and in addition shall be reimbursed for expenses necessarily incurred in the conduct of commission business.

(e) *Procedural rules and regulations*. The commission shall adopt such procedural rules as in its judgment are adapted to secure the best service in employment in positions of the classified service. Such procedural rules shall take effect upon adoption and shall be posted in conspicuous places so as to give notice thereof to all employees in the classified service. Such procedural rules may be amended from time to time by a majority vote of the commission. Amendments to the rules shall be posted in the same manner as the original rules.
(Code 2004, §§ 1.38, 7.02)

Sec. 2-262. Electrical license examining board.

(a) *How constituted.* The electrical license examining board shall consist of five members appointed by the mayor and confirmed by the council to serve staggered five-year terms or until their successors are appointed and qualified. All members shall be city residents or employed in the city. The board shall consist of one member of the city council, one general electrical contractor, one member of the fire department, one licensed plant electrician, and one city resident who is a registered voter.

(b) *Organization; rules and regulations; meetings.* The board shall elect a chairperson and vice-chairperson for two-year terms, and shall adopt reasonable rules and regulations in conducting its meetings, hearings, examinations and investigations. The electrical inspector and maintenance officer shall be secretary of the board, and he shall serve in an advisory capacity. All minutes and records of the board shall be filed in the electrical department. The board shall meet when the chairperson or secretary deems it necessary. Three members of the board constitute a quorum.
(Code 2004, § 1.39; Ord. No. 1358, 9-17-1985)

Sec. 2-263. Celebrations commmittee.

(a) *Appointment, term, vacancies, officers.* The celebrations committee shall consist of six members including the mayor and five city residents. The citizen members shall be appointed by the mayor in May every three years and confirmed by the city council. Any midterm vacancies on the committee shall be filled by the same appointing procedure for the balance of the unexpired term. After their appointment to the committee, the appointed members shall choose, from among their number, a chairperson and secretary who shall perform their tasks throughout the full terms of the committee.

(b) *Duties.* The committee shall plan and provide for safe and wholesome activities and entertainment for city residents.

(c) *Rules; meetings.* The committee shall provide and submit for approval of the city council, by resolution, all rules and regulations concerning their procedures and activities. Meetings shall be called by the chairperson and shall be conducted in conformance with the provisions of Wis. Stats. ch. 19 regarding open meetings.

(d) *Subordinate members, activity assistance.* The committee may designate in writing, and file with the city clerk, the names and addresses of activity assistants who will participate in the celebration activities. The list shall be filed not less than three days prior to the day of the celebration activities.
(Code 2004, § 1.43; Ord. No. 2342, 5-18-2010)

Secs. 2-264—2-291. Reserved.

ARTICLE VI. FINANCE AND TAXATION

DIVISION 1. GENERALLY

Sec. 2-292. Fiscal year.

The calendar year shall be the city fiscal year.
(Code 2004, § 3.02)

Sec. 2-293. Confidentiality of personal information provided for tax purposes.

Whenever the assessor, in the performance of his duties requests or obtains income and expense information pursuant to Wis. Stats. § 70.47(7)(af), such income and expenses information that is provided to the assessor shall be held by the assessor on a confidential basis, except, however, that said information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office including, but not limited to, use by the assessor in performance of official duties of the assessor's office and use by the board of review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the assessor under Wis. Stats. § 70.47(7)(af), unless a court determines that it is inaccurate per Wis. Stats. § 70.47(7)(af), not subject to the right of inspection and copying under Wis. Stats. § 19.35(1).
(Code 2004, § 3.09)

Sec. 2-294. Fee schedule.

The city council adopts the city fee schedule, as amended from time to time, on file in the office of the city clerk.

Secs. 2-295—2-321. Reserved.

DIVISION 2. BUDGET AND EXPENDITURES

Sec. 2-322. Budget.

(a) *Preparation of budget.*

(1) *Annual budget.* Each year, the finance committee shall approve and present a budget timetable to the common council no later than their first regular meeting in September, for the review and approval of the common council. Each year, the mayor shall be responsible for the preparation of the city's proposed annual budget, presenting a financial plan for conducting the affairs of the city for the ensuing calendar year, and shall submit same to the finance committee no later than October 10 for its review and recommendation. Upon its review of the proposed budget, the finance committee shall

submit same, together with the finance committee's recommendations thereon, to the common council for its review and approval. The budget shall include the following information:

a. The expense of conducting each department and activity of the city for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for increase and decrease recommended as compared with appropriations for the current year.

b. An itemization of all anticipated income of the city from sources other than general property taxes and bond issued, with a comparative statement of the amounts received by the city from each of the same or similar sources for the last preceding and current fiscal year.

c. An itemization of the amount of money to be raised from general property taxes, which, with income from other sources, will be necessary to meet the proposed expenditures.

d. Such other information as may be required by the council and state law.

(2) *Citizen copies.* The city shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

(b) *Yearly fiscal oversight of specific departmental concerns.*

(1) When a major account listed within subsection (b)(3) of this section has actual spending at 95 pecent of annual budgeted amount, written notification shall be provided by either the mayor, clerk/treasurer or finance director to the finance committee with a meeting of the finance committee to be held as promptly as possible by the call of the finance committee chairperson.

(2) When a major account listed within subsection (b)(3) of this section has actual spending at 100 percent of annual budgeted amount, the finance committee shall recommend through budget resolution transfer of funds within the department in which the overage expense has occurred when actual annual spending achieves 100 percent or over of projected yearly budgeted amount.

(3) Fiscal oversight major accounts.

Account Number	
101.5114.503.011	Other Boards and Commissions/Sane 4th Commission
101.5165	Professional Fees
	Labor Negotiations
	Other Legal Costs
	Auditing Fees
101.5195	Employee Welfare
	Retiree Health Insurance

Account Number	
	Retirement Payouts
101.5210.501.000	Police Department/Salary and Wage
101.5210.501.001	Police Department/Overtime
101.5210.503.089	Police Department/Gas and Oil
101.5210.503.088	Police Department/Computer Updates
101.5220.501.000	Emergency Dispatch/Salary and Wage
101.5220.501.001	Emergency Dispatch/Overtime
101.5220.503.088	Emergency Dispatch/Computer Updates
101.5235.501.000	Fire Department/Salary and Wage
101.5235.501.001	Fire Department/Overtime
101.5235.501.002	Fire Department/FLSA Pay
101.5435.501.001	Snow and Ice Removal/Salary and Wage
101.5435.503.078	Snow and Ice Removal/Ice Control Supplies
101.5442.503.035	Street Lighting/Electricity
101.5473.503.000	Garbage Refuse Disposal/Contracted Services

(c) *Yearly budget hearing.* The council shall hold a public hearing on the budget as required by law. Following the public hearing the proposed budget may be changed or amended and shall take the same course in the council as ordinances.

(d) *Yearly budget post-approval transfer.* Approval of finance committee recommendation by resolution for intra-departmental transfer per subsection (b)(2) of this section shall follow procedural requirements found in section 2-323.
(Code 2004, § 3.03; Ord. No. 2295, 10-21-2008; Ord. No. 2393, 10-15-2013; Ord. No. 2426, § 1, 11-17-2015)

Sec. 2-323. Changes in budget.

The amount of the tax to be levied or certified, the amounts of the various appropriations, and the purposes thereof shall not be changed after approval of the budget except by a two-thirds vote of the entire membership of the council. Notice of such transfer shall be given by publication within 15 days thereafter in the official city newspaper.
(Code 2004, § 3.04)

Sec. 2-324. City funds to be spent in accordance with appropriation.

No money shall be drawn from the treasury nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by section 2-323. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the council to be paid out of the income

of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.
(Code 2004, § 3.05)

Sec. 2-325. System of approving financial claims.

(a) *Alternative procedure adopted.* Wis. Stats. § 66.0609 providing for an alternative system of approving financial claims is adopted.

(b) *Conditions of approval.* Payment for all financial claims may be made from the city treasury after the city clerk has audited and approved each such claim as a proper charge against the treasury and has endorsed his approval thereon after having determined that the following conditions have been complied with:

(1) That funds are available therefore pursuant to the budget adopted by the council.

(2) That the item or service covered by such claim has been duly authorized by the proper official department head, or board or commission.

(3) That the item or service has been actually supplied or rendered in conformity with such authorization.

(4) That the claim is just and valid pursuant to law. The comptroller or clerk may require the submission of such proof and evidence to support the foregoing as in his discretion he may deem necessary.

(c) *Filing with council.* The city clerk shall file with the council at each regular meeting thereof a list of the claims approved, showing the date paid, name of claimant, purpose and amount.

(d) *Annual audit.* The council shall authorize an annual detailed audit of its financial transactions and accounts by a public accountant licensed under Wis. Stats. ch. 442, the designation to be made by the council.

(e) *Bond.* The city clerk or comptroller shall obtain and maintain in force a fidelity bond of not less than $10,000.00 approved by the council.

(f) *Submission.* The city clerk or comptroller shall forward to the council any claim he feels is doubtful, irregular or unusual for formal approval or denial by the council.
(Code 2004, § 3.06)

Secs. 2-326—2-353. Reserved.

DIVISION 3. PROPERTY TAXES

Sec. 2-354. Aggregate tax stated on roll.

Pursuant to Wis. Stats. § 70.65(2) the clerk shall, in computing the tax roll, insert only the aggregate amount of state, county, local, school and other general property taxes minus credits applied under Wis. Stats. § 79.10(9) except credits determined under Wis. Stats. § 79.10(7m) in a single column in the roll opposite the parcel or tract of land against which the tax is levied or, in the case of personal property, in a single column opposite the name of the person against whom the tax is levied. Each tax bill or receipt shall show the purpose for which the taxes are to be used giving the breakdown for state, county, local, school and other general property taxes. The tax roll shall indicate all corrections made under Wis. Stats. §§ 70.43 and 70.44.
(Code 2004, § 3.01(1))

Sec. 2-355. Tax receipts.

Pursuant to Wis. Stats. § 74.19 the city treasurer shall enter in each tax receipt given by the county clerk for the payment of taxes the name of the person paying the taxes, if that person is not the owner of the property taxed, the date of payment and the aggregate amount of taxes paid. Tax receipts shall be signed, and a duplicate kept, by the city treasurer after noting the payment of taxes upon the tax roll. The treasurer shall then deliver the receipt to the appropriate person.
(Code 2004, § 3.01(2))

Sec. 2-356. Payment of personal property taxes.

Taxes on personal property shall be paid in full on or before January 31 and any amounts unpaid as of that date are delinquent as of February 1.
(Code 2004, § 3.01(3)(d); Ord. No. 1466, 7-18-1989)

Sec. 2-357. Payment of real property taxes.

(a) *Payment schedule.* Real property taxes shall be paid in full on or before January 31 or in installments as provided in this section. If paid in installments, the taxes shall be paid in three installments with an installment being due on January 31, March 31 and May 31. The minimum payment amount for installments is $100.00 and the taxpayer must pay the remaining unpaid balance on any installment date.

(b) *Special assessments, charges or taxes.* All special charges, special assessments and special taxes that are placed on the tax roll shall be paid in full on or before January 31 and any amounts unpaid as of that date are delinquent as of February 1. If any special assessments, special charges or special taxes are entered in the tax roll as charges against a parcel of real property and are delinquent the entire annual amount of real property taxes on that parcel which is unpaid is delinquent as of February 1.

(c) *Late payments.* If the first installment of real property taxes, all of the special assessments and all of the special charges are not paid on or before January 31, the entire amount of the remaining unpaid taxes, special charges and assessments on that parcel is delinquent as of February 1. If the second or any subsequent installment payment of real property taxes are not paid by the due date, the entire amount of the taxes that remain unpaid on that parcel are delinquent as of the first day of the month after the payment is due.

(d) *Interest and penalties.* All general property taxes, special assessments, special charges and special taxes that become delinquent and are paid on or before July 31 shall be paid, together with interest and penalties charged from the preceding February 1, to the city treasurer. All general property taxes, special assessments, special charges and special taxes that become delinquent shall be paid, together with interest and penalties charged from the preceding February 1, to the county treasurer.

(e) C*ity treasurer to retain tax roll.* The city treasurer shall retain the tax roll and make collections through July 31. On or before August 15 the city treasurer shall return the tax roll to the county treasurer. The county treasurer shall collect all returned delinquent real property taxes, special assessments, special charges and special taxes, together with interest and penalty assessed from the previous February 1, as provided in Wis. Stats. § 74.63.

(f) *Payment priority.* If the city treasurer receives a payment from a taxpayer which is not sufficient to pay all general property taxes, special charges, special assessments and special taxes due, the treasurer shall apply the payment to the amounts due, including interest and penalties, first to special charges, then to special assessments, then to special taxes, and then to general property taxes. The allocation of payment pursuant to this subsection is conclusive for purposes of settlement under Wis. Stats. §§ 74.25 to 74.31 and for determining delinquencies under this section.
(Code 2004, § 3.01(3); Ord. No. 1466, 7-18-1989)

Secs. 2-358—2-387. Reserved.

DIVISION 4. SPECIAL ASSESSMENTS

Sec. 2-388. Streets, alleys and sidewalks; proration of construction cost.

For the purpose of encouraging the paving of streets, alleys and sidewalks in the city and having the cost of these improvements equitably apportioned between the city and the abutting property owners, the cost shall be prorated as follows:

(1) *Intersections.* The cost of paving or opening of all street and alley intersections shall be borne as a total project cost and shall be made a part of the total cost of such project being equally distributed to all assessable frontage.

(2) *Sidewalk.* The cost of the sidewalk portion of handicap ramp paving and all sidewalk radius paving within intersections shall be borne by the city.

(3) *Damages.* The cost of any damages arising from such improvement shall be borne by the city at large.

(4) *Engineering.* The cost of such improvement shall be considered to include an engineering fee as provided in the city fee schedule.

(5) *Front foot assessments.* The amount which the owner shall pay shall be based upon the ratio of each owner's number of feet fronting upon the improvement to the entire number of feet assessable for such improvement.

a. *Unit base assessment*. The amount which the owner shall pay based on the number of residential units. The city may choose to assess based on the number of residential units on a property for streets or alleys since the improvement benefits vehicular users and there are more vehicles for a multifamily dwelling per property than for a single-family unit.

b. *Assessment method.* When the city deems it to be appropriate in order to accomplish a fair apportionment of the cost of a project among benefiting properties, it may employ other methods of assessment based on area, weighted area, unit, anticipated use of reserve capacity assessment based on residential equivalency (RCA/RE), land value, traffic generated, or any combination of the foregoing methods.

(6) *Oversizing.*

a. *Typical street*. The cost for all street pavement in excess of 41 feet in width, as measured from back of curb to back of curb, shall be considered oversizing and shall be borne by the city.

b. *Boulevard streets*. The total project cost for boulevard type street pavements shall include the cost of an equivalent typical 41-foot street pavement, as measured from back of curb to back of curb. The cost of all boulevard street paving in excess of that required for a typical 41-foot pavement shall be considered oversizing and shall be borne by the city.

c. *Boundary streets and service drives*. The total project cost for boundary streets and service drives shall include the cost of one-half of an equivalent 41-foot street pavement, as measured from back of curb to centerline. The cost of all boundary street paving and service drive paving in excess of that required for one-half of a typical 41-foot pavement shall be considered oversizing and shall be borne by the city.

(7) *Proration between city and owner.* Where streets, alleys or sidewalks are to be paved with concrete or other similar material or where a street or alley is to be opened, the cost of such improvement shall be prorated between the city and the abutting property owners in the following manner:

a. *Alleys.* For purposes of this section, the term "pavement improvement" means partial replacement of asphalt or concrete overlay, full removal of and placement of pavement, and placement of pavement on gravel base.

1. Where the short side of lots abut the alley: city, 15 percent; property owner, 85 percent. Where unit assessment is used, it must equal the allocation provided in this subsection (7)a.1.

2. Where the long side of lots abut a "T" alley: city, 66⅔ percent; property owner, 33⅓ percent.

3. If a lot has only the long side abutting an alley: city, 50 percent; property owner, 50 percent.

4. Driveway apron: 100 percent, property owner.

b. *Sidewalks and separate curb and gutter*. Both long and short sides of abutting property: city, none; property owner, 100 percent.

c. *Streets.* For purposes of this section, the term "reconstruction" means at a minimum the removal and replacement of the pavement, regrading of the base and replacement of 80 percent of the curb.

1. Where the short side of lots abut the street: city, 20 percent; property owner, 80 percent.

2. The long side of corner lots: city, 66⅔ percent; property owner, 33⅓ percent.

d. *Opening of street or alley*. For the purposes of this section, the term "opening of street or alley" means: Grading street or alley to grade, placing a gravel base of thickness required by design section and three-inch asphalt pavement. Assessments shall be as follows:

1. Where the short side of a lot abuts street or alley: city, none; property owner, 100 percent.

2. Where a lot abuts street or alley on two sides, the long side of the lot: city 50 percent; property owner, 50 percent.

3. Where only the long side of a lot abuts an alley: city, 25 percent; property owner, 75 percent.

(Code 2004, § 3.08(1); Ord. No. 1429, 7-5-1988; Ord. No. 1705, 6-6-1995)

Sec. 2-389. Sanitary sewers.

For the purpose of having the cost of sanitary sewers equitably apportioned between the city and the property owners the cost of same shall be prorated as follow:

(1) *Damages.* The cost of any damages arising from such improvement shall be borne by the city at large pursuant to state statutes.

(2) *Front foot assessments.*

a. The amount which the owner shall pay shall be based upon the ratio of each owner's number of feet fronting upon the improvement to the entire number of feet assessable for such improvement.

b. When the city deems it to be appropriate in order to accomplish a fair apportionment of the cost of a project among benefiting properties, it may employ other methods of assessment based on area, weighted area, unit, anticipated use of reserve capacity assessment based on residential equivalency (RCA/RE), land value, traffic generated, or any combination of the foregoing methods.

(3) *Intersections.* The cost of sanitary sewers laid in street and alley intersections shall be borne as a project cost as defined above.

(4) *Engineering.* The cost of such improvement shall be considered to include an engineering fee of ten percent.

(5) *Proration.* The cost of such improvement shall be assessed in the following manner:

a. *Residential*. Property owner: 100 percent of a normal eight-inch equivalent sanitary sewer installation.

b. *Nonresidential*. Property owner: 100 percent of a normal ten-inch equivalent sanitary sewer installation.

c. *City cost*. City cost shall be that project cost that exceeds the assessments provided for in subsections (5)a and b of this section.

(6) *Corner lots.*

a. Where a corner lot abuts such improvement, the total frontage on the side to which a lateral connection is made or contemplated in the future shall be assessed in the manner provided in subsection (5) of this section.

b. For residentially zoned property only, the first 120 feet of any side of a corner lot to which side a lateral connection will never be made, shall be considered nonassessable on a front foot basis to such corner lot. However, the cost of such 120 feet shall be considered as a part of the total project cost and shall be equally distributed to all assessable frontage.

(7) *Total cost to be assessed.* The cost per lineal foot to be assessed to abutting property shall be the ratio of the total cost of the improvement less the city's portion to the total number of feet of assessable frontage. The relief from assessment for corner lots and intersections shall be the only exceptions to the assessment of the assessable frontages.

(Code 2004, § 3.08(2))

Sec. 2-390. Water mains.

For the purpose of having the cost of water main improvements equitably apportioned between the city water utility, city, and the property owners the cost of such improvement shall be prorated as follows:

(1) *Damages.* The cost of any damages arising from such improvement shall be borne by the water utility.

(2) *Front foot assessments.* The amount which the owner shall pay shall be based upon the ratio of each owner's number of feet fronting upon the improvement to the entire number of feet assessable for such improvement. When the city deems it to be appropriate in order to accomplish a fair apportionment of the cost of a project among benefiting properties, it may employ other methods of assessment based on area, weighted area, unit, anticipated use of reserve capacity assessment based on residential equivalency (RCA/RE), land value, traffic generated, or any combination of the foregoing methods.

(3) *Intersections.* The cost of water main laid in street and alley intersections shall become part of the total project cost as defined above.

(4) *Extensions, loops, oversize cost.* The city water utility shall pay the entire cost of main extension or loops laid for the purpose of eliminating a dead end. In addition, the water utility shall also pay the entire construction cost for diameters greater than those assessed or prorated to the respective user classes.

(5) *Hydrants.* All hydrants and hydrant leads placed for the purpose of fire protection shall be made a part of the total cost of such improvement.

(6) *Engineering.* The cost of such improvement shall include an engineering fee as provided in the city fee schedule.

(7) *Proration.* The cost of such improvement shall be assessed in the following manner:

a. *Residential.* Property owner: 100 percent of a normal six-inch equivalent water main installation.

b. *Nonresidential.* Property owner: 100 percent of a normal eight-inch equivalent water main installation.

(8) *Corner lots.*

a. Where a corner lot abuts such improvement, the total frontage on the side to which a lateral connection is made or is contemplated in the future shall be assessed in the manner described in subsection (7) of this section.

b. For residentially zoned property only, the first 120 feet of any one side of a corner lot to which side a lateral connection will never be made shall be considered nonassessable on a front foot basis to such corner lot. However, the cost of such 120 feet shall be considered as a part of the total project cost and shall be made a part of the total cost of such project and shall be equally distributed to all assessable frontage.

(9) *Total cost to be assessed.* The cost per lineal foot to be assessed to the abutting property shall be the ratio of the total cost of such improvement less the city water utility's and city's portion to the total number of feet of assessable frontage. The relief from assessment provided for corner lots and intersections shall be the only exception to the assessment of the assessable frontages.

(Code 2004, § 3.08(3))

Sec. 2-391. Storm sewers.

The cost of storm sewer mains in the city shall be borne by the city at large.

(Code 2004, § 3.08(4))

Sec. 2-392. Boundary streets.

The assessment policy for public improvements of sewer and water in areas where there are boundary streets, one-half of which is in the city and the other one-half in another municipality, and in streets where the installation of sewer and water would require a double installation because it is 90 feet or greater in width shall be as follows:

(1) The installation shall be subject to an assessment rate of 60 percent of the normal cost of installation chargeable to the property owner.

(2) Forty percent of the normal cost that would be subject to special assessment shall be borne by the city.

(Code 2004, § 3.08(5))

Sec. 2-393. Subdivisions.

(a) *Inapplicability.* The assessment procedures in this section shall not apply to installations made pursuant to subdivision plats in chapter 36 and subdivision agreements.

(b) *Payment before approval of plats and maps.*

(1) Special assessments levied under Wis. Stats. ch. 66 shall be paid in full prior to the final approval by the council of any division of land that is subjected to a special assessment levy or hook-up.

(2) All final subdivision plats, certified survey maps and resolutions of approval of land divisions shall contain a certification of the city clerk that these special assessments have been paid.

(3) Any special assessment levied for sewer or water utility installations on lands capable of being divided, but upon which payments have been deferred, shall be paid in full at the time of connection or utilization of the utility installation, unless the lands were previously divided, at which time subsection (b)(2) of this section shall apply.

(Code 2004, § 3.08(6))

Sec. 2-394. Laterals.

Lateral installation cost shall be as follows:

(1) *New construction.*

a. Sanitary: 100 percent property owner main to building including the connection in the main.

b. Watermain: 100 percent property owner main to building.

c. Storm: property owner, 100 percent main to building including the connection in the main.

(2) *Repairs and replacement construction.*

a. Sanitary: 100 percent property owner main to building, including the connection in the main.

b. Watermain: 100 percent property owner stop box to building; 100 percent water utility stop box to main.

c. Storm sewer: 100 percent owner main to building, including the connection in the main.

(Code 2004, § 3.08(7))

Sec. 2-395. Streetlighting.

The cost of street lighting in the city shall be borne by the city at large.

(Code 2004, § 3.08(8))

Sec. 2-396. Redevelopment costs.

(a) *Generally.* Assessments for reconstructed utilities or pavements shall use a useful life concept when evaluating the amount of the assessment for such facility.

(b) *Sanitary sewers.* The reconstruction assessment shall be based on the equivalent cost for a new sewer installation for the respective user class (eight-inch residential; ten-inch nonresidential). The balance of the reconstruction cost will be borne by the city. Intersection facilities and appurtenances shall be considered a part of the total project cost. Reconstruction sewer assessments shall be based on a sewer life of 100 years. Sewers less than 100 years old will have assessments prorated on years of service compared to 100 years. Other elements of the reconstruction assessment shall be governed by provisions of section 2-389.
(Code 2004, § 3.08(9))

Sec. 2-397. Sidewalk replacement.

Proration of cost between city and owner. Reconstruction assessment shall be based on the following:

(1) Sidewalks ten years old and under: 100 percent replacement by the city.

(2) Sidewalks 11 to 20 years old shall be prorated at ten percent per year of responsibility of increasing accrual to the owner (i.e., 11 years old, ten percent owner, 90 percent city; 12 years old, 20 percent owner, 80 percent city, etc.). For residentially zoned property only, the city shall be responsible for the first 50 percent of the replacement cost for sidewalks abutting the "long side" of corner lots. The remainder of the cost shall be prorated as described in subsections (a)(1) and (2) of this section.

(3) Sidewalks over 20 years old: 100 percent replacement cost by owners. The city will continue to be 100 percent responsible for repair and replacement costs in city intersections and alley approaches, as well as median sidewalks. For residentially zoned property only, the replacement cost for sidewalks abutting the "long side" of corner lots shall be split 50 percent city and 50 percent owner.

(Code 2004, § 3.08(10))

Sec. 2-398. Special Assessment B Bonds.

The property owners' responsibility for payment, in accordance with the assessment procedure of this section, for public improvements financed by Special Assessment B Bonds shall be in conformance with Wis. Stats. § 66.54.
(Code 2004, § 3.08(12); Ord. No. 1246, 4-7-1982)

Secs. 2-399—2-424. Reserved.

ARTICLE VII. PUBLIC RECORDS

Sec. 2-425. Definitions.

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

Authority means any of the following city entities having custody of a city record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

Custodian means that officer, department head, division head, or employee of the city designated by ordinance or otherwise responsible by law to keep and preserve any city records or files, deposit or keep such records in his office, or is lawfully in possession or entitled to possession of such public records and who is required by this section to respond to requests for access to such records.

Record means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. The term "record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. The term "record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.
(Code 2004, § 3.07(1); Ord. No. 1268, 1-4-1983)

Sec. 2-426. Duty to maintain records.

(a) Except as otherwise provided herein, each officer and employee of the city shall safely keep and preserve all records received from his predecessor or other persons and required by law to be filed, deposited or kept in his office or which are in the lawful possession or control of the officer or employee or his deputies, or to the possession or control of which he or they may be lawfully entitled as such officers or employees.

(b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his successor all records then in his custody and the successor shall receipt therefor to the officer or employee, who shall file such receipt with the city clerk. If a

vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.
(Code 2004, § 3.07(2); Ord. No. 1268, 1-4-1983)

Sec. 2-427. Legal custodians.

(a) Each elected official is the legal custodian of his records and the records of his office, but the official may designate an employee of his staff to act as the legal custodian.

(b) Unless otherwise prohibited by law, the city clerk or the clerk's designee shall act as legal custodian for the city council and for any committees, commissions, boards or other authorities created by ordinance or resolution of the city council.

(c) For every authority not specified in subsection (a) or (b) of this section, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his absence or the absence of his designee.

(e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Wis. Stats. §§ 19.21 to 19.39 and this section. The designation of a legal custodian does not affect the powers and duties of an authority under this section.
(Code 2004, § 3.07(3); Ord. No. 1268, 1-4-1983)

Sec. 2-428. Public access to records.

(a) Except as provided in section 2-430, any person has a right to inspect a record and to make or receive a copy of any record as provided in Wis. Stats. § 19.35(1).

(b) Records will be available for inspection and copying during all regular office hours.

(c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least 48 hours' advance notice of intent to inspect or copy.

(d) A requester shall be permitted to use facilities comparable to those available to city employees to inspect, copy or abstract a record.

(e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(f) A requester shall be charged a fee to defray the cost of locating and copying records as follows:

(1) The cost of photocopying shall be as provided in the city fee schedule. Such cost has been calculated not to exceed the actual, necessary and direct cost of reproduction.

(2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.

(3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audiotapes or videotapes, shall be charged.

(4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.

(5) There shall be no charge for locating a record unless the actual cost therefor exceeds$50.00, in which case the actual cost shall be determined by the legal custodian and billed to the requester.

(6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to ensure payment, if such estimate exceeds $5.00.

(7) Elected and appointed officials of the city shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

(8) The legal custodian may provide copies of a record without charge or at a reduced charge where he determines that waiver or reduction of the fee is in the public interest.

(g) Pursuant to Wis. Stats. § 19.34 and this article, the city clerk shall prominently display and make available for inspection and copying a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to city records, make requests for records, or obtain copies of records, and the costs thereof. The city clerk shall also prominently display a copy of Wis. Stats. §§ 19.31 to 19.39.
(Code 2004, § 3.07(4); Ord. No. 1268, 1-4-1983)

Sec. 2-429. Access procedures.

(a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Wis. Stats. § 19.37. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment

of a fee is required under section 2-428(f)(6) A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the city attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his request in a manner which would permit reasonable compliance.

(c) A request for a record may be denied as provided in section 2-430. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Wis. Stats. § 19.37(1) or upon application to the attorney general or a district attorney.
(Code 2004, § 3.07(5); Ord. No. 1268, 1-4-1983)

Sec. 2-430. Limitations on right to access.

(a) As provided by Wis. Stats. § 19.36, the following records are exempt from inspection under this section:

(1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law.

(2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state.

(3) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection.

(4) A record or any portion of a record containing information qualifying as a common law trade secret.

(b) As provided by Wis. Stats. § 43.30, public library circulation records are exempt from inspection under this section.

(c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the city attorney, may deny the request, in whole or in part, only if he determines that the harm to the public interest

resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:

(1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.

(2) Records of current deliberations after a quasi-judicial hearing.

(3) Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any city officer or employee, or the investigation of charges against a city officer or employee, unless such officer or employee consents to such disclosure.

(4) Records concerning current strategy for crime detection or prevention.

(5) Records of current deliberations or negotiations on the purchase of city property, investing of city funds or other city business whenever competitive or bargaining reasons require nondisclosure.

(6) Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.

(7) Communications between legal counsel for the city and any officer, agent or employee of the city, when advice is being rendered concerning strategy with respect to current litigation in which the city or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under Wis. Stats. § 905.03.

(d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the city attorney prior to releasing any such record and shall follow the guidance of the city attorney when separating out the exempt material. If in the judgment of the custodian and the city attorney there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.
(Code 2004, § 3.07(6); Ord. No. 1268, 1-4-1983)

Sec. 2-431. Destruction of records.

(a) City officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under Wis. Stats. ch. 442, but not less than

seven years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the state public records board pursuant to Wis. Stats. § 16.61(3)(e) and then after such shorter period:

(1) Bank statements, deposit books, slips and stubs.

(2) Bonds and coupons after maturity.

(3) Cancelled checks, duplicates and check stubs.

(4) License and permit applications, stubs and duplicates.

(5) Official bonds.

(6) Payrolls and other time and employment records of personnel included under the state retirement plan.

(7) Receipt forms.

(8) Special assessment records.

(9) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.

(10) Vouchers and supporting documents pertaining to charges not included in plant accounts of municipal utilities and the sewer department.

(11) Other municipal utility and sewer department records with the written approval of the state public service commission.

(b) City officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal audit or an auditor licensed under Wis. Stats. ch. 442, subject to state public service commission regulations, but not less than seven years after the record was effective unless a shorter period has been fixed by the state public records board pursuant to Wis. Stats. § 16.61(3)(e) and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after two years:

(1) Water stubs.

(2) Sewer rental charge stubs.

(3) Receipts of current billings.

(4) Customer's ledgers.

(c) City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than seven years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the state public records board pursuant to Wis. Stats. § 16.61(3)(c) and then after such a shorter period include:

(1) Assessment rolls and related records, including board of review minutes.

(2) Contracts and papers relating thereto.

(3) Correspondence and communications.

(4) Financial reports other than annual financial reports.

(5) Insurance policies.

(6) Oaths of office.

(7) Reports of boards, commissions, committees and officials duplicated in the city council minutes.

(8) Resolutions and petitions.

(9) Voter cards.

(d) Unless notice is waived by the state historical society, at least 60 days' notice shall be given the state historical society prior to the destruction of any record as provided by Wis. Stats. § 19.21(4)(a).

(e) Any tape recordings of a governmental meeting of the city may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.
(Code 2004, § 3.07(7); Ord. No. 1268, 1-4-1983)

Sec. 2-432. Preservation through microfilm.

Any city officer or the director of any department or division of city government may keep and preserve public records in his possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in Wis. Stats. § 16.61(7)(a) and (b) and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of sections 2-428 through 2-430.
(Code 2004, § 3.07(8); Ord. No. 1268, 1-4-1983)

Chapter 3

RESERVED

Chapter 4

ANIMALS

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ARTICLE I. IN GENERAL

Sec. 4-1. Animals and birds, keeping of.

(a) *Horses, swine, cattle, etc*. No person, except a permitted slaughterhouse or meat packer, shall keep horses, swine, cattle, sheep or goats in the city, except horses for riding may be kept upon special permit of the city council after recommendation by the board of health.

(b) *Selling poultry; dyed baby chicks*. No person shall display, give, or sell dyed, colored or artificially treated baby chicks or ducklings as pets or novelties. No person shall sell, give away or distribute live chicks, ducklings, goslings, poultry or any other young of the poultry family to be used as pets or novelties.

(c) *Prohibition*. No person shall keep, feed, or breed any hares, rabbits, guinea pigs, rats, mice, gerbils, chickens, turkeys, geese, ducks, doves, pigeons, parrots of any species, game birds of any species, dogs, cats, for commercial purposes, within the residential districts.

(d) *Commercial purposes*. No person shall conduct for commercial purposes any establishment in which dogs, cats, hares, rabbits, guinea pigs, rats, mice, gerbils, chickens, turkeys, geese, ducks, doves, pigeons, parrots of any species, game birds of any species, are kept and maintained in the commercial or industrial districts without first obtaining from the department of public health a permit so to do.

(e) *Giving away animals as prizes prohibited*. It shall be unlawful for a person to raffle, sell or give away in the city any live animal, fish, bird or reptile as a novelty, prize or premium as an inducement to enter a place of amusement; or offer such animal as an incentive to enter any business establishment or enter into any business agreement whereby the offer was made for the purpose of attracting trade for business, other than establishments selling animals as their primary business.

(f) *Exceptions.* This section does not apply to the following animals which are regulated elsewhere or which the common council believes do not pose a potential danger if limited to the number specified herein. All numerical limitations apply to the building structure in which the animal is kept. Nothing in this section is intended to supersede existing regulations governing dogs and cats.

(1) Dogs (canis familiaris), cats (felis domesticus).

(2) Parakeets, cockatoos and cockatiels if not more than four in total.

(3) Tropical fish.

(4) Turtles weighing less than one pound.

(5) Parrots if not more than two in total.

(6) Nonvenomous snakes capable of growing to no more than five feet at maturity, if not more than two in total. Snakes capable of growing to more than five feet at maturity are prohibited unless permitted under section 4-2 above regardless of the current length of the snake.

(7) Nonvenomous lizards capable of growing to no more than three feet at maturity if not more than two in total. Lizards capable of growing to more than three feet at maturity are prohibited unless permitted under section 4-2 regardless of the current length of the lizard.

(8) Gerbils, guinea pigs, rabbits, rats and mice, not more than five in total.

(9) Frogs, toads, geckos, salamanders, not more than ten in total.

(10) Such other animals as the board of health may from time to time determine do not pose a danger. All such animals determined by the city council after recommendation by the board of health that do not pose a danger shall be exempt from the provisions of this section on adoption of a resolution reflecting the board's determination and publication of the board's determination on the city's web site and posting for 30 days at city hall.

(Code 2004, §§ 11.06(5), (6); Ord. No. 2284, 6-17-2008)

Sec. 4-2. Protected animals.

(a) *Possession and sale*. It shall be unlawful for any person to possess with intent to sell or offer for sale, or buy or attempt to buy or procure, within the city any of the following animals, alive or dead, or any part or product thereof: All wild cats of the family Felidae, polar bear (Thalarctos maritimus), red wolf (Canis niger), vicuna (Vicugna vicugna), or alligator, caiman or crocodile of the order of Crocodilia, gray or timber wolf (Canis lupus), sea otter (Enhydra lutris), Pacific ridley turtle (Lepidochelys olivacea), Atlantic green turtle (Chelonia mydas) and Mexican ridley turtle (Lepidochelys kempi).

(b) *Compliance with federal regulations*. It shall be unlawful for any person to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by federal law.

(c) *Regulating the importation of certain birds*. No person shall import or cause to be imported into this city any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This subsection (c) shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

(d) *Exceptions.* The provisions of this section shall not be deemed to prevent the importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a scientific collector's permit issued by the secretary of the state department of natural resources, or to any person or organization licensed to present a circus.
(Code 2004, §§ 11.06(1), (2); Ord. No. 2284, 6-17-2008)

Sec. 4-3. Wild animals.

(a) It shall be unlawful for any person to keep, maintain or have in their possession or under their control within the city any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in their possession or under their control within the city any of the following animals, reptiles or insects:

(1) All poisonous animals and reptiles including rear-fang snakes.

(2) Apes: Chimpanzees (Pan); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus).

(3) Baboons (Papoi, Mandrillus).

(4) Bears (Ursidae).

(5) Bison (Bison).

(6) Cheetahs (Acinonyx jubatus).

(7) Crocodilians (Crocodilia), 30 inches in length or more.

(8) Constrictor snakes, six feet in length or more.

(9) Coyotes (Canis latrans).

(10) Deer (Cervidae); includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.

(11) Elephants (Elephas and Loxodonta).

(12) Gamecocks and other fighting birds.

(13) Hippopotami (Hippopotamidae).

(14) Hyenas (Hyaenidae).

(15) Jaguars (Panthera onca).

(16) Leopards (Panthera pardus).

(17) Lions (Panthera leo).

(18) Lynxes (Lynx).

(19) Monkeys, old world (Cercopithecidae).

(20) Ostriches (Struthio).

(21) Pumas (Felis concolor); also known as cougars, mountain lions and panthers.

(22) Rhinoceroses (Rhinocero tidae).

(23) Sharks (class Chondrichthyes).

(24) Snow leopards (Panthera uncia).

(25) Tigers (Panthera tigris).

(26) Wolves (Canis lupus).

(27) Squirrels of flying or nonflying variety.

(28) Poisonous insects.

(29) Bees, wasps and hornets.

(30) Pigs, to include pot-bellied.

(31) Except in properly zoned districts, horses, mules, ponies, donkeys, cows, pigs, goats, sheep, chickens, ducks, or any animal raised for fur-bearing purposes, unless otherwise permitted elsewhere in this Code.

(b) Exceptions to prohibition on keeping. The prohibitions of this section shall not apply where the creatures are in the care, custody or control of a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; licensed pet shops; or zoological gardens if:

(1) Their location conforms to the provisions of chapter 44, pertaining to zoning.

(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(3) Animals are maintained in quarters so constructed as to prevent their escape.

(4) No person lives or resides within 100 feet of the quarters in which the animals are kept.

(5) No food establishment is located within 100 feet of the quarters in which the animals are kept.

(Code 2004, §§ 11.06(3), (4); Ord. No. 2284, 6-17-2008; Ord. No. 2284.3, § 1, 1-19-2016)

Sec. 4-4. Health nuisances.

The health officer may prohibit the keeping of any animal or fowl in any place, location or manner which in his judgment would constitute a health nuisance or be in violation of this section.

(Code 2004, § 11.06(7); Ord. No. 2284, 6-17-2008)

Sec. 4-5. Keeping of unhealthy animals prohibited.

No person may keep any animal in an unhealthy condition whether the animal is one permitted by virtue of this or any other ordinance or one which is permitted by permit issued by the health inspector.
(Code 2004, § 11.06(8); Ord. No. 2284, 6-17-2008)

Sec. 4-6. Animals and poultry not to run at large.

No person having in his possession or under his control any animal or fowl shall allow the same to run at large within the city.
(Code 2004, § 9.14)

Sec. 4-7. Beekeeping prohibited.

No person shall keep any bees in the city.
(Code 2004, § 9.15)

Sec. 4-8. Definitions.

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

Approved means approved by the sanitary inspector.

Dangerous animal means:

(1) Any mammal, amphibian, fish, reptile, or fowl of a species which due to size, dangerous nature, or other characteristics would constitute a danger to human life or physical well-being or to animals.

(2) Any animal which, without provocation, bites or otherwise inflicts bodily harm on a person, domestic pet or animal on public or private property.

(3) Any animal which chases or approaches a person in a menacing fashion or apparent attitude of attack without provocation upon the streets, sidewalks or any public grounds or on private property without the permission of the owner or person in lawful control of the animal.

(4) An animal with a known propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of humans or other domestic pets or animals.

(5) Any animal owned or kept primarily or in part for the purpose of fighting or any animal trained or bred for fighting.

(6) Any animal which is urged by its owner or keeper to attack, or whose owner or keeper threatens to cause such animal to attack.

(7) Any "pit bull" without proper permit under this section that includes any and all of the following dogs:

a. The Staffordshire Bull Terrier breed of dogs;

b. The American Staffordshire Terrier breed of dogs;

c. The American Pit Bull Terrier breed of dog;

d. Any other breed commonly known as Pit Bull, Pit Bull Animal or Pit Bull Terrier; or

e. Dogs that have the appearance and characteristics of being predominately of the breeds of dogs known as the Staffordshire Bull Terrier, the American Staffordshire Terrier, or the American Pit Bull Terrier.

(8) Any animal listed in section 4-3.

Director of public works means the director of public works or his authorized representative.

Dog means all domesticated members of Canis familiaris, male or female.

Domesticated means describes any bird or animal of any species which usually lives in or about the habitation of man or which is usually raised and tended by man in order to contribute to the support of a family or the wealth of a community.

Health officer means the health officer or his authorized representative.

Isolation facility means a humane society shelter, MADACC, veterinary hospital, municipal pound or other place specified by an officer which is equipped with a pen or cage which isolates the animal from contact with other animals.

Officer means a peace officer, local health officer, as defined in Wis. Stats. § 250.01(5), humane officer, warden, an employee designated by the department or other person designated by the governing body of the county, city, village or town.

Owner means any person, a member of his family of suitable age and discretion, agent, firm, corporation, association, partnership, organization, department or other entity possessing, owning, harboring or having the care or custody, whether temporarily or permanently, of a dangerous animal.

Peace officer means any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes. The term "peace officer" includes a commission warden.

Pet shop means a business establishment where domesticated mammals, birds or reptiles are kept for sale; provided kennels shall not be included within this definition.

Provoked means that an animal bites, attacks or menaces any person or animal in order to:

(1) Defend its owner, caretaker or another person from an attack by a person or animal.

(2) Protect its young or another animal.

(3) Defend itself against any person or animal which has tormented, assaulted or abused it.

(4) Defend its owner's or caretaker's property against trespassers.

(Code 2004, §§ 12.25(1), 12.26(1); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-9. Dog and cat licensing.

Wis. Stats. §§ 174.05 to 174.07 relating to licensing of dogs, Wis. Stats. § 59.79(12) relating to the licensing of cats and those rules promulgated thereunder by the county, are made a part of this section by reference.

(1) *Residence.* Every person residing in the city who owns a dog or cat more than five months of age on January 1 of any year, or five months of age within the license year, shall annually, on or before the date the dog or cat becomes five months of age, pay the dog or cat license tax and obtain an annual license for each animal at city hall or other appropriate place designated by the city and is considered delinquent on April 1.

(2) *Fees.* Such owner shall pay to the city treasurer annual fees in the amount provided in the city fee schedule, to include delinquent or fees paid untimely after April 1 of that year. At the request of the Milwaukee Area Domestic Animal Control Commission, the common council may from time to time declare periods of amnesty and waiver for late fee penalties imposed under this section for dog and cat licenses. Such periods of amnesty and the terms thereof may be established upon a finding that they are likely to have the effect of increasing compliance with one or more provisions of this chapter. The municipality may promulgate rules and procedures to implement the provisions of this section.

(3) *Issuance.* Upon payment to the city treasurer of the license fees, the treasurer shall issue to such person a license to keep such dog or cat, which license shall not be issued for less than one year. Such person shall, upon obtaining the license, place upon such dog and/or cat a collar with a tag furnished by the city treasurer or county clerk.

(Code 2004, § 12.25(2); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-10. Prohibitions.

No person shall own, harbor or keep any animal which:

(1) Is classified as a dangerous animal in this section.

(2) Habitually pursues any vehicle upon any public street, alley or highway in the city.

(3) Assaults or attacks any person more than twice within one year.

(4) The owner, a citizen, or an officer has reason to believe that the dog or cat is infected with rabies or any dog and/or cat known to have been bitten by any animal known to have been infected with rabies.

(5) Runs at large within the city. A dog and/or cat shall be running at large when it is on a public street, alley, park or other public grounds, or any premises in the city other than the premises of its owner, unless within the immediate presence and control of the owner, his servant, agent or a member of his family of suitable age and discretion.

(6) Habitually barks or howls to the annoyance of two or more persons.

(7) Is not properly licensed per section 4-36.

(8) Is listed as a prohibition elsewhere in this section.

(Code 2004, § 12.25(3); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-11. Impounding of dogs other than pit bulls and/or cats.

(a) *Discretionary impounding.* Any police officer or health department finding a dangerous animal may seize the animal and impound it, unless specific provisions providing for impoundment are itemized elsewhere.

(b) *Mandatory impounding.* A dangerous animal alleged to have two assaults or attacks upon a human being within one year shall be impounded as directed by the city police department until disposition of the charge issued by citation.

(c) *Repossession and fees.* The possession of any animal so seized or impounded may be obtained by the owner upon payment of the fee required in the city fee schedule. The possession of an unlicensed dog or cat may be obtained by the owner after he or she obtains the required license and pays the specified impoundment and daily fee for keeping the dog or cat. If necessary, dangerous animals may be disposed of in a humane manner by the department or their designee.

(d) *Report on impounded dogs and/or cats.* Any person or any officer who impounds any dog and/or cat shall, after delivery of such dog and/or cat to the police chief, make a report to the city treasurer, stating when and under what conditions he seized or impounded such dog and/or cat, and the owner's name if known. Whenever any dog and/or cat is impounded or delivered to the police department, the chief shall give notice thereof to the owner, if known, of such impoundment within 12 hours.

(Code 2004, § 12.25(4); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-12. Dogs, cats, and/or ferrets biting persons.

(a) The provisions of Wis. Stats. § 95.21 are hereby adopted and by reference made part of this Code as if fully set forth herein.

(b) Every owner or keeper of a dog, cat, and/or ferret that has bitten any person and every other person who knows that a dog, cat, and/or ferret has bitten any person shall immediately report such fact to a police officer or the health officer, and after verification of rabies shots such owner shall immediately confine such dog, cat, and/or ferret for at least ten days thereafter and shall not release such dog, cat, and/or ferret except with the written approval of the health officer. Any such dog, cat, or ferret shall be surrendered to the police or health officer, or designee for impoundment per section 4-11 upon demand.

(c) Isolation facility or on-premises owner quarantine. An officer who orders a dog, cat or ferret to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than 24 hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is currently immunized against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.

(Code 2004, § 12.25(5); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-13. Rabid dogs and/or cats.

(a) A person shall report to the police or health authorities the existence of a dog and/or cat that has contracted rabies or has been exposed to rabies or is suspected of having rabies or which has bitten any person and is capable of transmitting rabies, describing the dog and/or cat and giving the name of the owner, if known.

(b) The owner of any animal which has contracted rabies or which has been exposed to rabies or which is suspected of having rabies or which has bitten any person and is capable of transmitting rabies shall upon demand of the police or health department produce and surrender the animal to the police department or health department to be held in quarantine.

(1) If, upon investigation by the police or health department, an animal other than a dog or cat has bitten a person or appears to be infected with rabies, the animal may be destroyed as directed by the commissioner in accordance with Wis. Stats. § 95.21(4)(b).

(2) If, upon investigation by the police or health department and a determination by a veterinarian, that a dog or cat exhibits symptoms of rabies, the dog or cat may be destroyed as directed by the commissioner who shall act in accordance with Wis. Stats. § 95.21(5)(d).

(Code 2004, § 12.25(6); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-14. Commercial kennels restricted.

No person shall establish, operate or maintain a commercial kennel consisting of more than two dogs and/or cats at least five months of age within 100 feet of any church, school, hospital, sanitarium or building used wholly or partially for residential purposes in the city.
(Code 2004, § 12.25(7); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-15. Animal waste/littering.

It shall be the duty of every owner of any animal to dispose of such animal's fecal matter and other waste in a sanitary manner as often as may be necessary to prevent any unwholesome accumulation of such matter and/or waste. It shall be unlawful for any person accompanying a dog to permit the dog to defecate upon any private or public place without the consent of the owner thereof unless the person accompanying the dog immediately cleaned up and removed the defecation onto the owner's property.
(Code 2004, § 12.25(8); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-16. Maximum dogs and/or cats allowed and pet fancier's permit.

(a) The keeping of more than three dogs and/or cats in any one residential unit, any of which is over the age of five months, is prohibited unless a permit is obtained as provided herein, in addition to each pet being separately licensed.

(b) The permit required in subsection (a) of this section may be issued by the health officer or designee or by the common council to which the health department may, at its discretion refer the application for consideration. A permit once issued shall not be subject to reconsideration until it is subject to renewal, circumstances change relating thereto or there is a violation of any conditions, restrictions or other limitations imposed at time of issuance or upon reconsideration. Both the health officer or designee and the council shall have the authority to impose any restrictions deemed appropriate, including a probationary period.

(c) A pet fancier's permit may be issued after the health officer or designee has viewed the premises to be licensed and has determined that they are in a safe, sanitary and healthy condition.

(d) The permit year commences on January 1 and ends on the following December 31.

(e) The fee for the pet fancier's permit shall be as provided in the city fee schedule.

(f) Renewal of the permit is not subject to approval or disapproval by the common council if no complaints or other problems arise during the permit year.
(Code 2004, § 12.25(9); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Secs. 4-17—4-35. Reserved.

ARTICLE II. PIT BULLS, REGISTRATION AND PERMIT

Sec. 4-36. Pit bull special permit required.

A special annual permit shall be required for owning or keeping any pit bull. Permits shall be issued only to adults and only to the person who is the owner or keeper of the animal. Permits shall be granted according to the following registration procedures:

(1) An initial application for a pit bull permit pursuant to this section shall be made to the city clerk no later than 30 days following the effective date of the ordinance from which this section is derived. A permit shall be valid for 12 months. An application for a permit shall be made for each 12-month period thereafter and shall be made prior to the expiration of the previous 12-month period. Applications shall be made on a form provided by the city. No permit shall be granted to any current owner or keeper of a pit bull who has not properly applied for a permit with 30 days following the effective date of the ordinance from which this section is derived.

(2) New residents to the city shall submit an initial application for a pit bull permit pursuant to this section to the city clerk no later than 30 days following the new residents' move-in date. The new residents' move-in date shall ultimately be determined by the city clerk. A permit shall be valid for 12 months. An application for a permit shall be made for each 12-month period thereafter and shall be made prior to the expiration of the previous 12-month period. Applications shall be made on a form provided by the city. No permit shall be granted to any new resident owner or keeper of a pit bull who has not properly submitted an initial application for a pit bull permit pursuant to this section to the city clerk within 30 days following the move-in date.

(3) The application shall contain the following information:

a. The name, address, and telephone number of the applicant.

b. A statement that the applicant is the owner or the keeper of the animal.

c. The name, address, and telephone number of any other owner or keeper of the animal.

d. The address of the location where the animal will be kept.

e. A general description of the animal for which the permit is sought.

f. An acknowledgement of receipt of a copy of this article.

g. A signature by each owner or keeper of the animal.

(4) The application shall be accompanied by:

a. Proof of public liability insurance in a single incident amount of $100,000.00 for bodily injury to or death of any person or for damages to property owned by any persons that may result from owning or keeping a pit bull dog. At the time of the initial application, the owner or keeper must show proof to the city clerk of the required insurance. At the time of any subsequent application, the owner or keeper must show proof of insurance for the present application period and proof that there was insurance for the present application period and proof that there was insurance coverage throughout the period of the previous year. In the event said liability insurance is cancelled, lapsed, or for any other reason becomes nonenforceable, the owner or keeper shall be in violation of the provisions of this section.

b. Two identical color photographs of the animal taken within the previous 30 days clearly showing the color and approximate size of the animal.

c. Proof of microchipping.

d. Photo identification for each owner or keeper of the animal.

e. Annual permit fee for each pit bull shall be as set forth in the city fee schedule. Permit fees are not refundable.

(Code 2004, § 12.25(10)(a); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-37. Restrictions on permit issuance.

(a) *Owner compliance.* No permit shall be granted to any owner of any pit bull dog, as defined in this section unless the owner shall comply with all of the following:

(1) *Leash.* While leashed, no person shall permit a registered pit bull to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull to be kept on a chain, rope, or other type of leash outside its kennel or pen unless an adult person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, or buildings. While leashed, the leash shall be held by a person 16 years of age or older, who is competent to govern the animal. The leash may be held by a person younger in a sanctioned American Kennel Club show or other organized competition among trained owners and dogs.

(2) *Confinement.* All pit bulls shall be securely confined indoors and unable to exit the house or structure through doors, windows, screen doors or any other possible exits. If

outdoors, all pit bulls must be kept in a securely enclosed and locked pen or kennel, except when leashed as provided in subsection (a)(1) of this section. Such pen or kennel shall have following:

a. Secure sides and a secure top attached to the sides.

b. Secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet.

c. Locked with a key lock or combination lock when such animals are within the structure.

d. Adequate lighting and ventilation.

e. Clean and sanitary condition.

(3) *Signs.* All owners or keepers of pit bulls within the city shall, within 30 days of the effective date of the ordinance from which this section is derived, display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign shall be posted on the kennel or pen of such animal.

(4) *Special collar.* All pit bulls shall be required to wear a bright orange collar at all times when not confined indoors. The collar shall be visibly on the dogs when it is in a kennel or pen or on a leash. The collar may be removed for grooming purposes or other care when the animal is secured indoors or in an approved pen.

(5) *Microchipping.* All pit bulls shall have an identification microchip implanted. Such microchipping shall be accomplished by a licensed veterinarian.

(6) *Reporting requirements.* All owners or keepers of registered pit bull dogs must, within ten days of any of the following incidents, report in writing to the city clerk as required hereinafter:

a. The removal from the city or death of a registered pit bull;

b. The birth of offspring to a registered pit bull; or

c. The move of the owner or the move of a registered pit bull to a new location within the city limits. In such case, the new address of the registered pit bull dog and that of the owner or keeper shall also be reported to the city clerk.

(7) *Offspring.* All offspring born of a pit bull must be removed from the city within six weeks of the birth of such offspring.

(8) *Officer order.* No person shall fail to comply with an order of the police department issued pursuant to this article.

(9) *Prior violation.* No person shall return to or harbor within the city limits a pit bull whose owner has been previously found guilty by plea or trial by the municipal court for a violation of this section.

(10) *Past convictions.* No person shall own or keep a pit bull if that person has a prior conviction for the sale or delivery of an illegal controlled substance.

(b) *Violation.* Violation of any provision of this section shall comprise an individual violation and appropriate citation may be issued accordingly.
(Code 2004, § 12.25(10)(b); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-38. Notice of violation.

When the police department has knowledge of a possible violation of this article, the police department shall forthwith cause the matter to be investigated. If after investigation there are reasonable grounds to believe there has been a violation of this article, a written notice shall be delivered to the owner or keeper of the animal that is the subject of the violation requiring such person to safely remove said animal from the city within five days of the date of said notice. Such owner or keeper shall remove said animal from the city within the required time. Such a notice shall not be required when a dangerous animal has caused serious physical harm or death to any person or has escaped and is at large in which case the police department shall cause said animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person or animal.
(Code 2004, § 12.25(10)(c); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-39. Seizure and impoundment of pit bulls.

(a) Any pit bull alleged to be dangerous animal by virtue of an attack upon a human being or domestic animal shall be impounded as directed by the police department until disposition of the charge issued by citation.

(b) The owner of a pit bull found guilty at trial or by plea by virtue of an attack upon a human being or domestic animal shall be prohibited from returning that pit bull to the city.

(c) Whenever any person is charged with violation of this section an attack upon a human being or domestic animal, that person shall remove said animal from the city until the trial on the citation. If the owner fails to remove the animal within 48 hours of the service of the citation, the police department shall impound the animal until the trial on the citation.

(d) In any event, when pit bull is impounded, the impounding authority shall give notice to the owners of the impoundment and advise the owners whether and under what circumstances the animal may be redeemed. The owner of any animal impounded, confined or destroyed pursuant to the terms of this section shall be responsible for all costs of such confinement, impoundment or destruction.

(e) Within 30 days after a pit bull has been designated dangerous by virtue of an attack upon a human being or domestic animal, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.
(Code 2004, § 12.25(10)(d); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-40. Exceptions.

A person who meets any of the following qualifications shall be permitted to own or keep an unregistered pit bull within city limits:

(1) The keeping of such animal in zoos, bona fide education or medical institute, museum, or any other place where they are kept as live specimens for the public to view or for the purpose of instruction or study.

(2) The keeping of such animal for exhibition to the public by a circus, carnival, or other exhibit or show.

(3) The keeping of such animal in a bona fide, licensed veterinary hospital for treatment.

(4) Commercial establishments possessing such animal for the purpose of sale or display.

(5) Transportation through the city when the person transporting such animal has taken adequate safeguards to protect the public and has notified chief of police of the proposed route of transportation and the time thereof.

(6) By the city or its designees in the enforcement of this section or for other law enforcement purposes.

(Code 2004, § 12.25(11); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Sec. 4-41. Penalty.

(a) Any person who violates any provision of section 4-16 shall be subject to a forfeiture. The owner shall forfeit not less than $25.00 nor more than $100.00 for the first offense and not less than $50.00 nor more than $200.00 for subsequent offenses, upon default of the payment of such forfeiture and costs, shall be imprisoned in the house of correction or county jail until the payment of such forfeiture and costs of prosecution, but not exceeding 90 days for each violation. The police department, in addition, shall have the authority to impound the animals found on the premises or in the household that is in violation of the maximum number of dogs and/or cats permitted in this section, or which is in an unsafe or unsanitary condition, all in accordance with the impounding provisions of Wis. Stats. § 174.042.

(b) Any person who violates any provision of this article shall be subject to forfeiture. The owner shall forfeit not less than $250.00 nor more than $2,000.00. Maintaining or keeping a dangerous animal within the city limits after a finding in municipal court that the owner of that

animal has violated any provision of this article relating to dangerous animals or pit bulls is hereby declared to be a public nuisance. In addition to the foregoing penalties assessed by the municipal court, any person who violates this article shall pay to the city all expenses, including shelter, food, handling, veterinary care, witness fees, and expenses necessitated by the enforcement of this article. All expenses charged may be obtained through similar process as itemized in section 26-38.

(c) Except as otherwise provided in this section, any person who shall violate any provision of this article, or any regulation, rule or order made herein, or who shall fail to obtain a license or permit as required by this chapter, shall be subject to a penalty as provided in section 1-15.
(Code 2004, § 12.25(12); Ord. No. 1965, 9-5-2000; Ord. No. 2143, 3-15-2005; Ord. No. 2299.2, 12-18-2012; Ord. No. 2369, 11-15-2011; Ord. No. 2405, § 1, 7-15-2014)

Secs. 4-42—4-70. Reserved.

ARTICLE III. PET SHOPS

Sec. 4-71. Permit required.

No person shall operate a pet shop unless he holds a valid permit issued by the sanitary inspector upon approval by the health officer. When all applicable provisions of this section have been complied with by the applicant and a valid occupancy permit for this type of business has been issued by the building inspector, the sanitary inspector shall issue a permit to operate a pet shop upon the payment of a fee to the city treasurer as stated in the city fee schedule. Every such permit issued shall expire on June 30.
(Code 2004, § 12.26(2); Ord. No. 1009, 4-3-1974; Ord. No. 2369, 11-15-2011)

Sec. 4-72. Compliance required.

Pet shops shall be operated in accordance with the requirements herein set forth.
(Code 2004, § 12.26(3); Ord. No. 1009, 4-3-1974; Ord. No. 2369, 11-15-2011)

Sec. 4-73. Dogs to be immunized against rabies.

No pet shop shall sell or offer for sale any dog more than five months old unless the dog has been vaccinated against rabies by use of an approved live, attenuated rabies virus vaccine administered by a licensed veterinarian. A certificate of vaccination identifying the dog, including its approximate age and the date of vaccination, and signed by the vaccinating veterinarian shall be given the purchaser at the time the sale is made.
(Code 2004, § 12.26(4); Ord. No. 1009, 4-3-1974; Ord. No. 2369, 11-15-2011)

Sec. 4-74. Record of sale.

Every pet shop operator shall keep a record of every dog and cat sold by his establishment setting forth the date and source of acquisition, the date of rabies vaccination, if applicable, the date of sale and the name and address of the purchaser. Such records shall be maintained on the pet shop premises for at least one year following the date of sale of each dog and cat, and such records shall be open to inspection by the health officer at all times during which the pet shop is open to the public.
(Code 2004, § 12.26(5); Ord. No. 1009, 4-3-1974; Ord. No. 2369, 11-15-2011)

Sec. 4-75. Sale of bats, foxes, raccoons and skunks prohibited.

No pet shop shall engage in the purchase, keeping or sale of any species of bats, foxes, raccoons or skunks.
(Code 2004, § 12.26(6); Ord. No. 1009, 4-3-1974; Ord. No. 2369, 11-15-2011)

Sec. 4-76. Sanitary conditions.

(a) All animals shall be maintained in a healthy condition or, if ill, shall be given appropriate treatment immediately.

(b) The quarters in which the animals are kept shall be maintained in a clean condition and in a good state of repair.

(c) Animal pens or enclosures shall be large enough to provide freedom of movement to the animals contained therein.

(d) Food supplies shall be stored in rodent-proof containers, and food and water containers shall be kept clean.

(e) Litter or bedding material shall be changed as often as necessary to prevent an odor nuisance.

(f) Feces shall be removed from yards, pens and enclosures daily and stored in tightly-covered metal containers until final disposal.

(g) Yards, pens, premises and animals shall be kept free of insect infestations.

(h) No odor nuisances shall be permitted.
(Code 2004, § 12.26(7); Ord. No. 1009, 4-3-1974; Ord. No. 2369, 11-15-2011)

Sec. 4-77. Violations.

Whenever, upon inspection of any establishment or place regulated under this section, the health officer finds that conditions or practices exist which are in violation of this section, he shall issue a written order setting forth the character of the violation or violations. This order, which may be served personally or by certified or registered mail to the operator of such

establishment or place, shall direct him to correct such practices or conditions within a reasonable period of time to be determined by the health officer. Such order shall also contain the notification that if such practices or conditions are not corrected within such period of time, the permit to operate such establishment will be suspended.
(Code 2004, § 12.26(8); Ord. No. 1009, 4-3-1974; Ord. No. 2369, 11-15-2011)

Sec. 4-78. Suspension of permit.

If, at the end of such period of time, a reinspection by the health officer reveals that such practices or conditions have not been corrected, he shall suspend the permit and give notice in writing to the operator that the permit has been suspended.
(Code 2004, § 12.26(9); Ord. No. 1009, 4-3-1974; Ord. No. 2369, 11-15-2011)

Sec. 4-79. Permit revocation; hearing and appeal.

Any person whose permit to operate an establishment or place regulated under this section has been suspended, or who has received notice from the health officer that his permit is to be suspended unless existing conditions or practices at his establishment are corrected, may request and shall be granted a hearing on the matter before the health officer. If no written petition for such hearing is filed in the office of the health officer within 20 days following the day on which such permit was suspended and the violations have not been corrected, such permit shall be deemed to have been automatically revoked. Upon receipt of notice of permit revocation, the operator shall cease to operate such establishment. Upon receipt of a petition for a hearing, the health officer shall within ten days notify the petitioner of the date, time and place of the hearing. Following the hearing, the health officer may sustain, modify or withdraw the notice of permit suspension or shall revoke the permit, as in his judgment is necessary to protect the public health, safety and welfare of the citizens of the city, and shall notify the petitioner in writing of his decision. Any suspension or revocation may be appealed to the city council within ten days of notice of suspension or revocation by written notice of appeal filed with the health officer.
(Code 2004, § 12.26(10); Ord. No. 1009, 4-3-1974; Ord. No. 2369, 11-15-2011)

Chapter 5

RESERVED

Chapter 6

BUILDINGS AND CONSTRUCTION

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ARTICLE I. IN GENERAL

Sec. 6-1. Purpose.

The purpose of this chapter is to provide certain minimum standards, provisions and requirements for the safe and stable design, methods of construction and uses of materials in buildings and structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished, and to regulate the equipment, maintenance, use and occupancy of all buildings and structures.
(Code 2004, § 14.03; Ord. No. 2035, 12-3-2002)

Sec. 6-2. Scope.

The building code applies to all dwellings, commercial buildings, apartment buildings, swimming pools, garages and other outbuildings. Excepted are outbuildings used exclusively for agriculture purposes, children's play structures and dog kennels. The city adopts, by reference, the building codes of the State of Wisconsin that govern and specify the requirements for the construction, remodeling, and alteration of all structures and building components requiring a permit or otherwise regulated by the provisions of this chapter, and requires no more restrictive measures than those contained therein, specifically under Wis. Admin. Code chs. SPS 320—325, 328, 360—365 and 375—379. The director of economic development, inspections and zoning, and his designees, shall enforce the terms and requirements of this chapter. The primary department designee of the director in this regard shall be the chief building inspector.
(Code 2004, § 14.04; Ord. No. 2035, 12-3-2002)

Sec. 6-3. Building inspector.

(a) *Appointment.* The building inspector shall be certified for inspection purposes by the state in the required categories specified under Wis. Admin. Code ch. SPS 305.

(b) *Duties.* The building inspector shall enforce this chapter and all laws and orders relating to buildings and for this purpose he may at all times enter upon any public or private premises and make inspection thereof and may require the production of the permit for any building.

(c) *Records.* The building inspector shall keep a record of all applications for building permits and regularly number each permit in the order of issuance. He shall keep a record showing the number, description and size of all buildings erected during his term of office, indicating the kind of materials used, the cost of each building and the aggregate cost of all buildings of the various classes. He shall keep a record of all inspections made and of all removal and condemnation of buildings. He shall make a monthly report to the city council on the above matters.

(d) *Interference with inspector.* No person shall interfere with the building inspector while in the performance of the duties of his office.
(Code 2004, § 14.05; Ord. No. 2035, 12-3-2002; Ord. No. 2384, 2-20-2013)

Sec. 6-4. Permits.

(a) *Permit required.* No building or structure or any part thereof shall be built, enlarged, or altered, moved or demolished within the city, except as herein provided, unless a permit therefor shall be first obtained by the owner or his agent from the building inspector. This shall include the replacement of heating, ventilation, or air conditioning equipment.

(b) *Zoning requirements.* Prior to issuing any building permit, conformance to all applicable zoning requirements as stated in chapter 44.

(c) *Application for building permits.* The application for a building permit shall state the following:

(1) The name and address of the owner of the building to be erected.

(2) The name and address of the owner of the premises.

(3) The name and address of the architect or professional engineer.

(4) The name and address of the contractor.

(5) The street upon which such site is located.

(6) The size and kind of building.

(7) The intended use of the building or site.

(8) The value of the proposed project.

(9) Any other pertinent information the building inspector may require.

(d) *Survey plat requirements; registered surveyor.* All applications for a building permit shall be accompanied by a current plat of survey, in triplicate, drawn to scale, showing the lot, existing structures, proposed location and elevation of the building or buildings on the lot, accurate dimensions of building and lot, location of the centerline or lines of adjoining street or streets, existing and intended use of each building or part of a building, and such other information as may be necessary to provide for enforcement of this chapter. The survey plat shall also show the existing property corner and building corner elevations, all elevations to be based on the city datum. Except when accompanying an application for interior remodeling or for an accessory building, a registered surveyor shall certify the plat of survey. The lot corners and proposed building corners shall be staked on the ground before construction is begun. Like information shall be presented on the drawing showing the location and use of buildings, if any, on adjoining lots within 30 feet of the side lot lines.

(e) *Depth of sewer.* The builder/contractor shall check sewer depth before pouring footings to ensure that sufficient pitch is available.

(f) *Culverts.* The building inspector shall not issue a building permit to any person for the construction of any building in the city where there is not an existing curb or alley until a permit is obtained as provided by section 34-4 for the installation of a culvert at the proposed driveway in the ditchline of the abutting street if deemed necessary by the engineering department. The engineering department shall determine the size and length of culvert required, which shall not be less than 12 inches in diameter and 12 feet in length.

(g) *Submission of plans.* A minimum of two sets of building plans shall be submitted to the building inspector.

(h) *Waiver of plans.* If the building inspector finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations or repairs.

(i) *Building plan approval.* All new construction, additions and major alterations in any district other than the RS-1, RS-2, RD-1, and RD-2 shall be reviewed jointly by the plan commission and design review board. New construction, additions and major alterations of principal structures in the RS-1, RS-2 RD-1, and RD-2 districts shall be reviewed solely by the design review board.

(j) *Appeals.* Any person whose plans have been denied by the director or his designees may seek a variance to the dimensional and/or area requirements of this chapter pertaining to the construction of any structure requiring a permit by petitioning the board of zoning appeals, subject to the statutory criteria for considering such variance requests.

(k) *Issue permit, alterations; correction authority.* Upon notification from the director that all necessary city approvals, and any required state approvals, have been obtained by the applicant, the building inspector shall conditionally approve the building and site plans and issue a building permit. After being conditionally approved, the plans and specifications shall not be altered in any material or substantive manner with respect to the provisions of this Code or any of the conditions of approval by either the city or the state. Issuance of a permit shall in no way limit or constrain the building inspector's authority or prerogative to require corrections to errors in plans or specifications, nor the suspension of work or withholding of occupancy permit until such errors have been satisfactorily addressed.

(l) *Permit card.* With every permit issued, the building inspector shall issue to the applicant a permit card, properly filled out. The applicant shall place such card in a conspicuous place on the premises where the building is to be erected; the card shall be unobstructed from public view and not more than ten feet above the grade.

(m) *Lapse of permit.*

(1) A building permit shall lapse and be void unless building operations are commenced within four months from the date of issue, or if the building or work authorized by such permit is suspended for 90 days at any time after work is commenced, except for delays caused by fire, strikes, acts of God or other causes beyond the control of the permittee. The 90-day period shall be cumulative. Construction on any building shall be completed within 24 months from the date of issue of a building permit, unless the board of appeals grants an extension of time.

(2) Before any work is commenced after a permit has lapsed, a new permit shall be obtained.

(n) *Revocation of permit.* If the building inspector finds at any time that this chapter or any laws, plans, specifications or orders of the building inspector are not being complied with, he shall revoke the building permit by written notice posted at the site of the work. When any such permit is revoked, no person shall do any further work upon such building until the permit is reissued, except such work as the building inspector orders to be done as a condition of reissuance of the permit.

(o) *Enforcement.* All police officers and city employees performing citywide outside work shall report at once to the building inspector any building at which building operations are being carried on without a building permit as required by this chapter.

(p) Permit fees shall be in the amount provided in the city fee schedule.

(1) Upon failure to obtain a permit before work on a building has been started, except in emergency cases, the total applicable permit fee shall be double the amount as stated on the permit fee schedule.

(2) In determining permit fees, gross square footage calculations are based on exterior dimensions, including garage and each finished floor level. Unfinished basements or portions thereof are not included.

(3) In determining cost of construction for calculation of permit fees, all construction shall be included with the exception of heating, air conditioning, electrical or plumbing work.

(Code 2004, § 14.06; Ord. No. 2035, 12-3-2002; Ord. No. 2183, 12-20-2005)

Sec. 6-5. Inspection.

The building owner or his agent shall notify the inspection department when ready for inspection. The inspection department shall, within two business days after notification, make the following inspections for all buildings. One- and two-family dwelling inspections are required as part of the uniform dwelling code.

(1) *Footing and foundation inspection.* The excavation shall be inspected after the placement of forms, shoring and reinforcement, where required, and prior to the placement of footing materials. Where below-grade drain tiles, waterproofing or exterior insulation is required, the foundation shall be inspected prior to backfilling.

(2) *Frame inspection.* This inspection shall be made after all framing, electrical, plumbing, HVAC and all other work affecting the framing or structure is complete. No interior wall covering or any insulation shall be applied to any building until the work has been inspected and approved by the appropriate inspectors.

(3) *Insulation inspection.* Prior to any interior wall/ceiling covering being applied, insulation including vapor retarder shall be inspected.

(4) *Statement of approval and acceptance.* After each inspection, the building inspector shall approve or not approve or require any change necessary to effect compliance. Notification shall be made by posting on jobsite or verbal communication. Corrections must be effected and reinspected prior to proceeding with construction.

(5) *Order to stop work*. Whenever any building work is being done contrary to the provisions of this chapter or is being done in an unsafe or dangerous manner, the building inspector may order the work stopped by notice in writing served on any person engaged in doing or causing such work to be done, or posting on job site and any such person shall stop such work until authorized by the building inspector to proceed with the work.

(6) *Final inspection: certificate of occupancy; new construction.* The building inspector shall make a final inspection of all new buildings, additions and alterations. If no violation of this or any other chapter, law or lawful order is found, the building inspector shall issue a certificate of occupancy, stating that the purpose for which the building is to be used. No building or part thereof shall be occupied until such certificate has been issued except with the written consent of the building inspector nor shall any building be occupied in conflict with the conditions set forth in the certificate of occupancy. This certificate shall also be known as "occupancy permit."

(7) *Noncompliance to code compliance violations orders.* Failure to satisfactorily correct code violations ordered at first inspection may result in the imposition of reinspection fees.

(Code 2004, § 14.07; Ord. No. 2035, 12-3-2002)

Sec. 6-6. Adoption of codes.

The following state administrative codes and subsequent revisions are adopted for municipal enforcement:

Wis. Admin. Code chs. SPS 320—325	Uniform dwelling code
Wis. Admin. Code ch. SPS 328	Smoke detectors
Wis. Admin. Code chs. SPS 361—366	Wisconsin commercial building code
Wis. Admin. Code chs. SPS 375—379	Existing building codes

(Code 2004, § 14.08; Ord. No. 2076, 10-7-2003)

Sec. 6-7. Concrete floor.

Solid concrete floor shall be required in buildings where applicable. The floor shall be a thickness equal or greater than what will be necessary to properly carry the loads imposed on same, but in no case less than three inches. A minimum four-inch compacted granular fill shall serve as a base below the floor.
(Code 2004, § 14.10)

Sec. 6-8. Unsafe buildings.

Whenever the building inspector finds any building or part thereof within the city to be, in his judgment, so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use that it would be unreasonable to repair the same, he shall order the owner to raze and remove such building or part thereof, or if it can be made safe by repairs, to repair and make safe and sanitary or to raze and remove at the owner's option. Such order and the proceedings shall be as provided in Wis. Stats. § 66.0413 .
(Code 2004, § 14.11)

Sec. 6-9. Wrecking and demolition.

(a) *Permit required.* No building or structure larger than 500 square feet in area nor more than one story in height shall be torn down, wrecked or demolished, in whole or in part, until a permit therefor shall have been issued by the building inspector. If work requires closure of streets, alleys, public parking lots or sidewalks, the contractor or his agent shall obtain the necessary permits from the director of public works before any encumbrance of the city's right-of-way takes place. In addition an erosion control permit is required on all demolitions larger than 500 square feet.

(b) *Safety precautions; liability insurance.* Where a building or structure to be wrecked is not more than five feet from a sidewalk, all necessary precautions, such as barricades, railings, walls, lights, etc., shall be taken to safeguard and protect any person or property on or adjacent to such sidewalk. Also, in such case, no permit shall be issued until the person who will do or have charge of the work of wrecking furnishes evidence to the building inspector that he is covered by suitable liability insurance in the amount of not less than $2,000,000.00. However if a noncontractor (owner) is to do his own work, then in lieu of such coverage said owner may furnish evidence from his homeowner's coverage naming the city as an additional insured for the purpose of the project.

(c) *Protection of public.* All flying materials shall be sufficiently dampened before and during removal to minimize floating or blowing into the street or adjoining property. All adjacent streets and sidewalks shall be protected by fences and scaffolds.

(d) *Hazardous materials.* Prior to demolition, documentation shall be furnished to the building inspector indicating that all hazardous materials have been accounted for and properly disposed of. This documentation shall be supplied by a person, or company certified or authorized in the identification and handling of such hazardous materials.

(e) *Sewer and water connections.* Prior to the start of demolition, all sewer and water connections must be shut off and temporarily capped. Sanitary and storm laterals shall not be used to remove water from the site. During demolition, sewer pipes shall be protected to prevent entrance of sand, earth or other foreign materials. Upon or prior to completion of demolition, sewer and water service pipes shall be terminated and sealed in accordance with the city's plumbing code. All piping shall be sealed at the property line in accordance with the specifications of this chapter. Termination and capping of water and sewer laterals shall be performed by a licensed master plumber and under the general supervision of the director of public works, whether such termination is permitted at the lot line or required at the main in the public right-of-way.

(f) *Restoration of site.* All debris and rubbish and other materials shall be removed from the premises on completion of the demolition work. The term "completion of demolition work," for the purpose of this section, shall mean all parts of the structure removed including footings and foundation. The site shall be backfilled with approved material, compacted and graded to conform with the grade of adjoining premises maintaining a positive pitch away from any structures and be provided with a permanent means of stabilization to prevent erosion of the site. Demolition including site restoration shall be completed within 60 days of start. Restoration may be deferred with departmental approval due to seasonal weather conditions. The contractor and property owner shall safeguard the worksite and any excavations with an approved construction fencing until the site is backfilled and graded.
(Code 2004, § 14.12)

Sec. 6-10. Private garages and accessory buildings; structural requirements.

All detached garages and accessory buildings shall comply with the requirements of this chapter to the satisfaction of the building inspector.
(Code 2004, § 14.13; Ord. No. 2384, 2-20-2013)

Sec. 6-11. Swimming pools.

(a) No person shall construct, install or enlarge a swimming pool in the city without submitting a site plan and any other information requested by the building inspector prior to obtaining a permit.

(b) Exception. Temporary pools of less than 200 square feet and 42 inches in depth, which are dismantled and removed for the winter by November 1 of each year, will not require a permit, but the other regulations of this section and section 44-903(6) shall apply.
(Code 2004, § 14.14)

Sec. 6-12. Temporary structures.

No trailer, basement, tent, shack, garage, barn or other building erected in the city shall be used as a residence, temporarily or permanently. Temporary structures, their construction, placement, type of use and duration of use are regulated by this section and chapter 44.
(Code 2004, § 14.15)

Sec. 6-13. Moving buildings.

No buildings other than those designed to be transported shall be allowed to be moved into or within the city unless approved by the plan commission because of architectural qualities or historic significance that would warrant such an allowance. If any public way is to be used for the moving of a structure that exceeds the width of 14 feet or the height of 12 feet, permits and approvals from the director of public works must be obtained before the commencement.
(Code 2004, § 14.17)

Sec. 6-14. Property address signs.

All buildings located in the city shall have their property street address number clearly posted near the main entrance to the principal structure and if served by alley access, at the back portion of the building closest to the alley, facing the alley, between five feet and eight feet. from the ground level, with the size of numbers no less than three inches nor more than 12 inches in height, with proportional width, and the color of the numbers in contrast with the color of the surface they are mounted on.
(Code 2004, § 14.18; Ord. No. 2189, 2-7-2006)

Sec. 6-15. Appeal to board of zoning appeals.

Any person aggrieved by any order, ruling or determination of the director and his designees involving area or dimensional requirements, under this or any applicable chapter, regulating any structure may petition the board of zoning appeals for a variance. Any person aggrieved by an interpretation, determination or order made or issued by an inspector may request a review of such interpretation, determination or order by the department.
(Code 2004, § 14.19)

Sec. 6-16. Penalty.

Any person violating any provision of this chapter shall, upon conviction thereof, be subject to a penalty as provided in section 1-15. In any such action, the fact that a permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the building inspector constitute a defense.
(Code 2004, § 14.20)

Secs. 6-17—6-37. Reserved.

ARTICLE II. PLUMBING

Sec. 6-38. State regulations adopted.

(a) *Adopted by reference.* Wis. Stats. ch. 145 and the state plumbing code, Wis. Admin. Code chs. SPS 381 through 386, are adopted and by reference made a part of this article with the same force and effect as though set out in full. Failure to comply with any of the provisions of such regulations shall constitute a violation of this article, punishable according to the penalties provided herein.

(b) *To be on file.* A copy of the state plumbing code shall be on file in the offices of the plumbing inspector and the city clerk.
(Code 2004, § 15.01; Ord. No. 2384, 2-20-2013)

Sec. 6-39. Local rules adopted.

Chapter 3 of the Milwaukee Metropolitan Sewerage District (MMSD) rules and regulations relating to freshwater infiltration and inflow control is hereby adopted by reference. Any subsequent changes to chapter 3 by MMSD or renumberings are automatically adopted as well. A copy of chapter 3 of the MMSD Rules and Regulations shall be on file in the offices of the plumbing inspector and the city clerk.
(Code 2004, § 15.011)

Sec. 6-40. Plumbing defined.

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

Plumbing means and includes:

(1) All piping, fixtures, appliances, equipment, devices and appurtenances in connection with the water supply, water distribution and drainage systems, including hot water storage tanks, water softeners and heaters connected with such water and drainage systems and the installation thereof.

(2) The construction, connection or installation of any drain or waste piping system from the outside or proposed outside foundation walls of any building to the mains or other sewerage system terminal within bounds of or beneath an area subject to easement for highway purposes, including private domestic sewage treatment and disposal systems and the alteration of any such systems, drains or waste piping.

(3) The water service piping from the outside or proposed outside foundation walls of any building to the main or other water utility service terminal within bounds of or beneath an area subject to easement for highway purposes and its connections.

(4) The water pressure systems other than municipal systems as provided in Wis. Stats. ch. 281.

(5) A plumbing and drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement; to prevent with a margin of safety unequal air pressures of such force as might blow, siphon or affect trap seals or retard the discharge from plumbing fixtures or permit sewer air to escape into the building; to prohibit cross connection, contamination or pollution of the potable water supply and distribution systems; and to provide an adequate supply of water to properly serve, cleanse and operate all fixtures, equipment, appurtenances and appliances served by the plumbing system.

(Code 2004, § 15.02)

Sec. 6-41. Plumbing inspector.

(a) *Duties.*

(1) *Supervision and inspection.* The plumbing inspector shall have control of the supervision and inspection of plumbing and drainage and shall enforce all laws, ordinances and rules in relation thereto. Plumbing work within the public right-of-way may be inspected and approved by the director of public works or his appointee.

(2) *Preparation of forms.* The plumbing inspector shall prepare suitable forms for the applications and permits required.

(3) *Records and reports to board of health.* The plumbing inspector shall keep in his office a daily record of all the transactions of his office.

(4) *Stop work orders.* The plumbing inspector may order work stopped on the construction, installation, alteration or repair of plumbing when such work is being done in violation of this article. Work so stopped shall not be resumed except on written permission of the plumbing inspector, provided if the stop work order is an oral one it shall be followed by a written order within a reasonable period of time. The director of public works or his appointee may order work stopped within the public right-of-way or involving public utilities until such work meets the requirements of the public utility.

(b) *Bond.* The city council may require a bond of the plumbing inspector for the faithful discharge of the duties of his office.

(Code 2004, § 15.03; Ord. No. 877, 2-3-1970)

Sec. 6-42. Authority to enter premises.

The plumbing inspector may at all reasonable times for any proper purpose enter upon any private or public premises and make inspection thereof and may require any person doing plumbing work to produce the license and permit therefor.

(Code 2004, § 15.04)

Sec. 6-43. Report of existing insanitary conditions.

Whenever it is reported to the health officer by the plumbing inspector that the plumbing in any building is contrary to the ordinances of the city, or is of faulty construction and liable to breed disease or sickness, or is a menace to health, or upon complaint made to the health officer by any person that the plumbing in any building is defective, the health officer shall direct the plumbing inspector to examine all the plumbing in such building and report his findings in writing to the health officer, suggesting such changes as are necessary to put the same in proper condition.
(Code 2004, § 15.05)

Sec. 6-44. Injury to plumbing.

No person shall intentionally injure or obstruct any sewer, cesspool, catch basin or any plumbing in actual use, or any sewer, water or gas pipes or connections therewith.
(Code 2004, § 15.06)

Sec. 6-45. Duty to report violations.

Police officers, the plumbing inspector and health officer shall inquire into violations of this article and report the same for investigation and prosecution.
(Code 2004, § 15.07)

Sec. 6-46. Inspections.

(a) *Notice for inspection.* Whenever any work is ready for inspection, the plumbing inspector shall be notified by the plumber in charge or person receiving a permit, specifying the plan or permit number under which work is being done. Unless otherwise permitted by the inspector, all work shall be left uncovered for examination until examined and approved by the inspector. The inspector shall then notify the plumber or owner in charge at which time the inspection shall be made and he shall proceed at that time to make the inspection.

(b) *Access.* The plumber or owner in charge shall make such arrangements as will enable the inspector to reach all parts of the building readily and shall have present the proper apparatus and appliances for making the test and shall furnish all materials and shall perform all labor in making such tests as are required by the plumbing inspector.
(Code 2004, § 15.08)

Sec. 6-47. Plumber's license required.

Except as provided in section 6-48(a), no person shall engage in plumbing within the city without first having obtained the plumber's license required under Wis. Stats. ch. 145 and without first procuring a city permit for such work as herein required.
(Code 2004, § 15.09)

Sec. 6-48. Plumbing permits.

(a) *Permits required.* No plumbing shall be done in the city, except the removal of stoppages and repair of faucets, without a permit issued therefor by the plumbing inspector and the payment of the proper fees. Such permits may be issued only to persons licensed to do plumbing work under state law, or to a property owner for work to be done by him in a single-family dwelling owned and occupied by him as his home.

(b) *Application for permit.*

(1) Applications for permits hereunder shall be accompanied by plans and specifications, which shall be examined and approved by the plumbing department, engineering department, building inspector and other authorized departments; provided no plans shall be required for minor repairs which do not include the extension or reconstruction of soil, waste and vent pipes or supply pipes or the addition of fixtures. Plans of each floor, or typical floors, shall be presented and fully show the plumbing system, including drains, soil, waste, vent and revent pipes, traps and all plumbing fixtures and all main water supply pipes and gas lines within the building. Plans shall be legibly drawn and reproductions shall be clear at a scale of not less than one-eighth inch to the foot.

(2) If any deviations affecting plumbing plans and details are desired, a supplementary plan covering that portion of the work involved shall be filed for approval.

(3) The approval and permit may be withheld until cleared through all authorized departments.

(c) *Issuance of permit.* Upon approval by the plumbing inspector of the application and upon presentation by the applicant of the receipt of the city treasurer showing payment of the required fees, a permit shall be issued by the inspector for the work described in the application.

(d) *Plumbing permit fees schedule.* Fees are as provided in the city fee schedule.

(e) *Plumbing inspection fees schedule.* Fees are as provided in the city fee schedule.

(f) *Posting of permits.* No plumbing shall be started or continued unless the permit therefor is posted in a conspicuous place on the premises.

(g) *Restriction on issuance.*

(1) No plumbing permit shall be issued to any person who is in violation of this article until such violation has been corrected.

(2) No plumbing permit shall be issued to any person against whom an order issued by the plumbing inspector is pending.

(3) No applicant who is indebted to the city as the result of executing any plumbing under a previous permit shall be granted further permits until the indebtedness has been paid.

(h) *Expiration, suspension and revocation of permit.*

(1) If work under any permit is not started within six months after the issuance of the permit, such permit shall be void unless an extension of time is granted by the plumbing inspector.

(2) The plumbing inspector may, upon notice, suspend or revoke such permit for violation of the provisions of this article.

(i) *Failure to issue; suspension and revocation.* Any person directly interested who is aggrieved by the decision of the plumbing inspector to refuse to issue a permit or to suspend or revoke such permit shall be entitled to an appeal under Wis. Stats. ch. 68.

(j) *Reports by plumbers or home owners.* All master plumbers or home owners shall make full written returns on all work completed under any permit granted therefor. This return shall be made by the master plumber who obtained the permit within 48 hours after the completion of the work and shall be filed in the office of the plumbing inspector.
(Code 2004, § 15.10; Ord. No. 2181, 12-20-2005; Ord. No. 2384, 2-20-2013)

Sec. 6-49. Openings made in streets and sidewalks.

Section 34-4 shall apply to all plumbers where openings are to be made in streets, alleys and sidewalks.
(Code 2004, § 15.11)

Sec. 6-50. Records of sewer connections and house drains.

The plumbing inspector shall keep a record of all sewer connections and positions of all house drains, connections, junctions and other data necessary for the efficient operation of his department and shall make written reports thereon to the public works director.
(Code 2004, § 15.12)

Sec. 6-51. Rain gutter downspouts and extensions.

Downspouts shall not be extended more than six feet from any building. All extensions shall be directed to the front and/or rear of the building and discharged in a manner so as not to create a nuisance to adjoining properties. Any exceptions to the above must be granted by the plumbing inspector in writing.
(Code 2004, § 15.125; Ord. No. 1785, 4-3-1997)

Sec. 6-52. Sump pumps and sump pump discharge.

(a) *Size and design*. All sumps installed for the purpose of basement drainage and receiving clear wastes shall be at least 16 inches in diameter and 22 inches deep.

(b) *Clear water drains.*

(1) All sump pumps installed for the purpose of discharging clear waters from foundation drains and ground infiltration, where the plumbing fixtures in the building are connected to a sanitary sewer and where the building is not serviced by a storm sewer, shall be discharged onto the ground not more than six feet out from the building and one foot above the permanent grade. The sump discharge pipe shall be on the front and/or back of the building, no closer than three feet to the corner of the building and be located in such a manner that the water shall be discharged so as not to create a nuisance to adjoining properties. Where a storm sewer is available sump discharge must be connected to it.

(2) Corner buildings shall discharge on the sides of the buildings parallel with the street. No thread or fitting shall be in the sump discharge pipe exposed on the outside of the building.

(3) Any exceptions to the above must be granted by plumbing inspector in writing.

(Code 2004, § 15.13; Ord. No. 1785, 4-3-1997)

Sec. 6-53. Footing drains disconnect.

Any footing drains connected to a sanitary sewer shall be disconnected upon performance of remodeling, construction or foundation work for which a city permit is required and which disconnect would be accomplished at the same time.

(Code 2004, § 15.135; Ord. No. 1901, 10-5-1999)

Sec. 6-54. Abandonment of sewer and water laterals.

(a) *Permit required.* A plumbing permit and street excavation permit shall be procured before abandonment of any sewer or water lateral. This work shall be done by persons authorized under Wis. Stats. § 145.06 or supervised by a licensed master plumber. Before covering the excavation, the plumber shall call for inspection by the plumbing inspector or the director of public works for those laterals located in the public right-of-way.

(b) *Trench backfill requirements.* The portion of the lateral trench within pavement areas shall be backfilled with aggregate slurry backfill. Pavement restoration shall follow the required standards for street excavations promulgated by the department of public works. The contractor or plumber shall call the department of public works engineering office to arrange for pavement restoration inspection. Pavement restoration shall be done when a department of public works engineering inspector is on site.

(c) *Sewer lateral.* When a building structure is being demolished or parcels are being combined or where the existing sewer lateral will no longer be used, the sanitary lateral/building sewer shall be capped off/bulkheaded at the connection with the main. Connection with the main is within three feet of the main or at the wye (Y) or tee (T) connection. Capping of sewer

lateral shall provide a completely watertight abandonment without interfering with the main sewer flow. The director of public works has the option to allow the lateral to be capped off at the property line only if the lateral will be reused, is plastic, watertight, and in good working condition. The owner shall provide televising reports or a recent permit to show that the lateral is watertight and has been replaced.

(d) *Water service.* When a building structure is being demolished or parcels are being combined or where the existing water service will no longer be used, the water service corporation cock shall be turned off at the main and the service piping shall be properly capped or clamped within one foot of the main. The old water service piping and curb stop box shall be removed from the main to the property line. The director of public works has the option to allow the service to be capped off at the property line only if the service will be reused, has been recently replaced, and is of proper size and material.
(Code 2004, § 15.14; Ord. No. 1182, 5-20-1985; Ord. No. 2408, § 1, 10-7-2014)

Sec. 6-55. Sewer laterals and water services.

(a) *Permit required.* A plumbing permit and street excavation permit shall be procured before the installation or repair of any sewer lateral or water service. This work shall be done by persons authorized under Wis. Stats. § 145.06. Before covering the excavation, the plumber shall call for inspection by the city plumbing inspector.

(b) *New sewer and water laterals.* On all new sewer laterals and water services, the plumber shall create an as-built of the installation detailing the location of the connection (tie measurements to the main connection), depth and location at the property line, and the type of pipe; and submit that information to the office of the public works director.

(c) *Sanitary and storm laterals.* The maintenance and repair of the sanitary and storm sewer laterals from the building structure to the sewer main including the connection to the main are the responsibility of the property owner. The city may make such repairs or replace the lateral or portions thereof as part of a city-wide project. All costs and expenses incident to the installation, connection, repair and maintenance of the sewer lateral shall be borne by the property owner.

(d) *Sanitary and storm lateral construction & repair.* All material and construction shall follow the specifications as set for by the city department of public works/water utility and current requirements of the state administrative plumbing code.

(e) *Sanitary maintenance (cleaning).* To prevent downstream sewer back-ups in the main sewer, property owners are responsible to call the city department of public works to report the cleaning of their sanitary lateral.

(f) *New water service.* Any new water service pipe and private water mains shall be 1-1/4 inches minimum and shall conform to one of the standards listed in Wis. Admin. Code § SPS table 384.30-7. Pipe and tubing for water services and private water mains shall have a minimum working pressure of 150 psig at 73.4 degrees Fahrenheit.

(g) *Water services and private water mains.* All material for water services and private water mains which are to be located within or beneath a highway, street or public service right-of-way shall be approved by the water utility and conform to current requirements of the state administrative plumbing code and the water utility specifications.
(Code 2004, § 15.15; Ord. No. 2408, § 2, 10-7-2014)

Secs. 6-56—6-83. Reserved.

ARTICLE III. ELECTRICAL

Sec. 6-84. Purpose.

The purpose of this article is to safeguard life and property by regulating and providing for the inspection of the installation and condition of electrical wiring, equipment and devices; providing for the licensing of persons, firms and corporations undertaking electrical work; and fixing a penalty for violation of the provisions of this article.
(Code 2004, § 16.01)

Sec. 6-85. Adoption of the state electrical code.

(a) Wis. Admin. Code ch. SPS 316 and all amendments thereto are hereby adopted by reference and made a part of this article. The city takes the responsibility of electrical inspection of public buildings and places of employment pursuant to Wis. Admin. Code ch. SPS 316, subchapter IV. The city shall employ a state certified commercial electrical inspector (COMEL). Except as otherwise regulated by this article, all installations of electrical equipment shall conform to and comply with the state electrical code, the statutes of the state, and any orders, rules and regulations issued by authority thereof, and with approved electrical standards for safety to persons and property.

(b) In addition to the above, the following regulations shall be enforced in the city:

Service wiring. No electrical permit shall be issued for electrical service unless the outlet location letter from the serving utility documenting available shortcircuit current and service location is sent or brought along with the permit, except for residential services of 200 amperes or less.

(Code 2004, § 16.02; Ord. No. 2149, 5-3-2005; Ord. No. 2384, 2-20-2013)

Sec. 6-86. Inspection division; electrical.

(a) There is hereby created under the general supervision of the chief inspector, within the inspection division, the electrical section. The section shall be under the direct supervision of the electrical inspector. The electrical inspector shall have the general authority and control of all matters pertaining to electrical inspections and shall enforce all state laws and city ordinances relating thereto.

(b) The city electrical inspector shall not engage in the business of electrical wiring and construction either directly or indirectly in the city, and he shall have no financial interest in any concern engaged in such business in the city. He may, however, do work at the request of the city or outside of the city.

(c) In all respects, the city electrical inspector shall comply with the provisions of Wis. Admin. Code ch. SPS 316.
(Code 2004, § 16.03; Ord. No. 2384, 2-20-2013)

Sec. 6-87. Electrical inspector to be certified.

The electrical inspector shall be certified by the state as a commercial electrical inspector (COMEL). The electrical inspector shall be appointed by the common council. The electrical inspector shall inspect or cause to be inspected all electrical work as outlined in this article within the city.
(Code 2004, § 16.04)

Sec. 6-88. Authority to enter premises.

The electrical inspector or his authorized agent may enter any building or premises in the discharge of his official duties for the purpose of making any inspection or test of the electrical wires, equipment or devices contained therein. The electrical inspector or his authorized agent shall be given access to any premises upon request made to the owner or person in immediate charge of the premises.
(Code 2004, § 16.05)

Sec. 6-89. Records.

(a) There shall be kept in the division of inspection a complete record of all applications and permits regularly numbered in the order of their issue, of all inspections made and other official work performed under the provisions of this article, so arranged to promptly afford information concerning electrical installation.

(b) The electrical inspector shall prepare a monthly report summarizing the number of inspections made and the activities of the division and file copies of such report with the chief inspector.
(Code 2004, § 16.06)

Sec. 6-90. Inspections.

(a) The electrical inspector periodically shall make a thorough examination of all the electrical wires and appliances installed within the city and, when such wires or appliances are found to be in a dangerous or unsafe condition, the inspector shall notify the person owning, using, operating or installing the same to place them in a safe condition.

(b) Upon completion of the wiring on any building or before any wiring is to be hidden from view, it shall be the duty of the person doing the same to notify the electrical inspector who shall inspect the installation within two business days of the time such notice is received. If, upon inspection, it is found that such installation is fully in compliance with this article and does not constitute a hazard to life or property, the inspector shall approve the same and authorize concealment of such wiring or connection for electrical service. If the installation is incomplete or not strictly in accordance with this article, the inspector shall issue orders to the person installing the same to remove all hazards and make the necessary changes or additions.

(c) Current shall not be turned on any electrical installation until a certificate of inspection has been issued by the electrical inspector.

(d) The inspector shall notify the contractor or owner of any electrical violations observed during an inspection by posting on the job site or verbal communication and establish a time period for compliance based on severity of the violation with a maximum of 30 days to comply.
(Code 2004, § 16.07)

Sec. 6-91. Power to stop electrical work.

Whenever any electrical work is being done contrary to the provision of this article, the electrical inspector may order the work stopped by notice in writing served on any person or firm engaged in the doing or causing such work to be done, and any such person or firm shall forthwith stop such work until authorized by the electrical inspector to commence and proceed with the work.
(Code 2004, § 16.08)

Sec. 6-92. Authority to discontinue electrical system.

The electrical inspector may order the cutting off of all electrical current from any electrical system which is found to be in an unsafe condition and order the cutting off of electrical current in cases of emergency and where such electrical currents are dangerous to life or property or may interfere with the work of the fire department. No person shall reconnect any equipment thus cut off until permission is given by the electrical inspector.
(Code 2004, § 16.09)

Sec. 6-93. Information.

All requests for information pertaining to and involving an interpretation of this article shall be submitted in detail to the electrical inspector. The electrical inspector shall not design or lay out any electrical installation or act in the capacity of a consulting engineer or designer.
(Code 2004, § 16.10)

Sec. 6-94. City not liable.

This article shall not be construed to relieve from or lesson the responsibility or liability of any person supplying electricity to, or selling, renting, leasing, owning, using, operating, controlling, installation, altering, repairing, removing, replacing, disturbing, connecting, disconnecting or maintaining any electrical wiring, device or equipment, for damages to persons or property caused by any defect therein in therefrom; nor shall the city be held as assuming any such responsibility or liability by reason of the issuance or revocation of any license, permit or certificate, or the inspection or reinspection authorized by the code, or by reason of the approval or disapproval of any electrical equipment, sales, rentals, drawings, plans, specifications, materials, samples, test reports, literature, information or schedules authorized in this article. Nor shall the city be held liable for any damages resulting from the enforcement of this article.
(Code 2004, § 16.11)

Sec. 6-95. Electrical inspector not liable.

(a) Where any action is taken by the electrical inspector to enforce the regulations of this article, such actions shall be considered as done on behalf of the city.

(b) The electrical inspector in so acting for the city shall not be judged liable for any damage that may accrue to persons or property as the result of any such action committed in the discharge of his duties; and any lawsuit or action brought against the electrical inspector by reason thereof shall be defended by the city attorney until final termination of the proceedings contained therein.
(Code 2004, § 16.12)

Sec. 6-96. Licensing for electrical work.

No person shall engage in electrical wiring within the city without first having obtained the electrical contractor license required under Wis. Stats. § 101.862. A person that holds an electrical contractor license shall include his license number on all construction documents.
(Code 2004, § 16.14; Ord. No. 2384, 2-20-2013; Ord. No. 2384.2, 3-19-2013)

Sec. 6-97. Maintenance license.

Pursuant to Wis. Stats. § 101.862 no person, as of April 1, 2013, may engage in the business or offer to engage in the business of installing, repairing, or maintaining electrical wiring unless

the person or entity holds a license or certification issued by the department as a licensed electrical contractor, except as provided under Wis. Stats. § 101.862(4). A person that holds an electrical contractor license shall include his license number on all construction documents. (Code 2004, § 16.15; Ord. No. 2384, 2-20-2013; Ord. No. 2384.2, 3-19-2013)

Sec. 6-98. Permits for light, heat and power installations.

(a) *Application.*

(1) The electrical inspector shall issue permits for the erection of electrical installations for light, heat, power, communication, signal, alarm, coaxial and data cabling as covered within the scope of the state electrical code, upon the filing of proper applications, which shall be made on forms furnished by the electrical inspector and shall prescribe the nature of the work as well as such other information as may be required for inspection. In no case shall any such electrical work be done unless a permit has been obtained.

(2) The following are exceptions:

a. Any person manufacturing or repairing electrical apparatus and equipment and employing a competent electrician shall not be required to have a permit for their testing equipment.

b. No permit shall be required for portable devices such as grinders, drills, indoor portable signs, washing machines, vacuum cleaners, radios, electric refrigerators, and similar devices not permanently wired but intended to be connected to the circuit by a flexible cord and plug. However, proper approved wiring is to be installed, together with approved receptacle and attachment plug.

c. No permit shall be required for minor repair work such as repairing drop cords, flush and snap switches, replacing fuses or changing lamp sockets.

d. No permit shall be required for the installation, alteration or repair of electrical generation, transmission or distribution equipment owned and operated by an electrical utility company or the city.

e. No permit shall be required for the installation, alteration or repair of signal or communication equipment where such equipment is owned and operated by a public utility or the city.

f. One- and two-family dwellings are exempt from permitting communication, signal, alarm, coaxial and data cabling, however state electrical code compliance will be the owner's responsibility.

(b) *Permit fees.* Fees for permits for electrical installation, except for electrical installation done by the city for which no permit fee is to be charged, shall be as provided in the city fee schedule. For purposes of interpreting the fee schedule, the following shall apply:

(1) Where the licensee requires additional permits for the same job are necessary and the nature of the work is the same as that of the original permit, the minimum or base fee does not apply.

(2) Wiring for light, heat or power in any one building or structure. As used in the city fee schedule, the term "outlet" means any opening for connection of current consuming or controlling devices generally. Where outlets are installed in common or "in gang," the outlets shall be counted individually.

(3) If the licensee shall fail to obtain a permit before an electrical installation has been started, except in emergency cases, the total fees for such permit shall be double the regular fee. If the licensee shall fail to obtain a permit before an electrical installation has been completed, the total fees for such permit shall be triple the regular fee.

(4) Appeal fees shall be retained by the city, and no refund of an appeal fee shall be granted regardless of the outcome of the appeal.

(5) All permit fees shall be paid to the city treasurer and credited to the general fund, and no permit shall be issued or valid unless approved by an officer of the inspection department and the fee paid to the city in the amount required for such permit. The fees for permits provided by this chapter shall become the property of the city.

(6) No further permits are to be issued to any licensee until all arrears in fees have been paid and all lawful orders of the electrical inspector have been complied with.

(7) The connection of replacement appliances and equipment such as furnaces, signs, air compressors, air conditioners, water heaters and like equipment shall constitute an extension of an existing or new branch circuit. The connection shall comply with current electrical code.

(8) Existing installations which have been declared as a hazard to life and property shall be made safe. The installation of any permanent wiring and equipment to correct this hazard will constitute an extension of existing or new circuit.

(9) Sign installations. No permit for electrical installation in connection with a permit or temporary sign in this city shall be issued until the permit required by section 44-1004 has been issued by the building inspector for the erection of such sign.

(10) A regular electrical fee shall be charged for installing, repairing, or maintaining manufactured equipment or a manufactured system that is designed to provide a function that is not primarily electrical in nature if the installation, repair, or mainte-

nance does not involve the modification or installation of conductors beyond the disconnecting point or beyond the last junction, pull, or device box, whichever is nearer to the point where the person is performing the installation, repair, or maintenance.

(c) *Residential one- and two-family affidavit permit.*

(1) Any licensed electrical contractor may submit a residential affidavit permit application. The permit shall contain the signature of the supervising electrician that the covered repair, replacement finished or exposed installation of electrical equipment conforms to all existing state and local laws, ordinances and regulations and that all work described on the permit has been completed and performed in a safe, legal and workmanlike manner.

(2) The residential affidavit permit shall allow a licensed electrical contractor to perform any one of the following repairs, replacements or installations, or any combination of two items at any one address in a 12-month period, and is limited to one- and two-family residences.

a. Outlet for fixture, switch or receptacle.

b. Fixture installation (total maximum of five).

c. Motor, including disconnecting means (furnace, exhaust fan, etc.).

d. Water heater.

e. Dryer outlet.

f. Air conditioner or air conditioner outlet.

g. Range outlet.

h. Garbage disposal.

i. Dishwasher.

(3) Permit application form must be fill out completely, signed by the supervising electrician, and include the following statement clearly printed, typed or stamped in the remarks section of the permit:

IN LIEU OF PERMIT, I CERTIFY THAT THE COVERED WORK CONFORMS TO ALL REGULATIONS AND THAT ALL WORK HAS BEEN PERFORMED IN A SAFE, LEGAL AND WORKMANLIKE MANNER.

(4) Affidavit permits shall not be permitted for work orders or notice issued or work requiring rough inspections before building finish is installed.

(5) Only finished or exposed work qualifies for this type of permit, the intent is such that one inspection may occur if the electrical inspector exercises his authority. If a violation

is cited of such installation the correction shall be completed within five days of written notice and a reinspection fee shall be enforced, such fee as provided in the city fee schedule.

(6) Fee for an affidavit permit application is as provided in the city fee schedule.

(7) The fees for work started before permit, shall be as provided in the city fee schedule. The fees for work completed before permit shall be as provided in the city fee schedule.

(d) *To withdraw an electrical permit.*

a. The supervising electrician must submit to the electrical inspector a written and signed statement stating such. The statement must include the permit number, contractors name, supervising electrician's name and signature, job address and identify any work that may have been started.

b. Permit fees for the permit are not to be refunded by the city.

c. The electrical inspector shall make an inspection of any work performed by the withdrawing contractor.

d. The electrical inspector shall notify the owner in writing of the contractor's withdrawal and require the owner to secure another licensed electrical contractor to complete any work.

e. The new contractor must secure another electrical permit before any further electrical work may commence.

(e) *Permit expiration.* An electrical permit shall expire six months from the date of its issue or upon final inspection. An exception at the time of application a longer period of time is required due to the scope of the project. This would be required to be indicated in the remarks section of the original electrical permit application, with an expected completion date. Additions to the permit may be made prior to final inspection or expiration of the permit.
(Code 2004, § 16.19; Ord. No. 2149, 5-3-2005; Ord. No. 2182, 12-20-2005; Ord. No. 2384, 2-20-2013)

Sec. 6-99. Emergency work.

In emergency work, the person doing or causing such work to be done shall report the same to the electrical inspector the next business day after beginning work, and such work shall be done in accordance with the provisions of this article.
(Code 2004, § 16.21)

Sec. 6-100. Municipal electrical work.

Requirements shall be the same for any electrical work on or in any building owned by the city, except that no fee shall be charged for an electrical permit issued to the city.
(Code 2004, § 16.22)

Sec. 6-101. Unsafe equipment.

No person shall keep, offer for sale or sell, within the city any appliances, equipment or fixtures designed for or intended to be used for the production, transmission or utilization of electrical current or power unless said appliances, equipment or fixtures are approved by the electrical inspector in accordance with the requirements set forth in the state electrical code.
(Code 2004, § 16.23)

Sec. 6-102. Compliance required.

All wiring shall be done according to state electrical code, and this article.
(Code 2004, § 16.24)

Sec. 6-103. Certificate of inspection.

No certificate of inspection shall be issued unless the electric light, power or heating installation and all other electrical apparatus connected with it are in strict conformity with the provisions of this article, and the rules and regulations of the state electrical code issued by the department of commerce, under authority of the state statutes.
(Code 2004, § 16.25)

Sec. 6-104. Appeals.

Any person affected by a local order which may be in conflict with a provision of this article may appeal a local order as provided in Wis. Admin. Code ch. SPS 316.
(Code 2004, § 16.26; Ord. No. 2384, 2-20-2013)

Sec. 6-105. Building, plumbing, and electrical administrative fees.

In addition to permit fees as provided in the city fee schedule, there shall be an administrative processing fee, as provided in the city fee schedule, for each application for permit and/or inspection. City departments and the city school system shall be exempt from payment of an administrative processing fee, as provided in the city fee schedule, for each application for permit and/or inspection and additional permit fees as provided in the city fee schedule.
(Code 2004, § 12.36; Ord. No. 2384, 2-20-2013; Ord. No. 2391, 9-17-2013)

Secs. 6-106—6-125. Reserved.

ARTICLE IV. BUILDING RECORDING AND REGISTRATION

Sec. 6-126. Ownership recording of residential and commercial buildings.

(a) *Purpose.* Recording of residential and commercial buildings is essential for the proper enforcement of the city's municipal codes and for all departments to carry out their responsibilities to safeguard persons and property.

(b) *Recording required.*

(1) All owners of residential or commercial buildings shall file an application with the city on forms provided by the city. The application shall contain all information listed in subsection (d) of this section. An application of recording shall be filed with the city for each tax key-numbered parcel containing a residential or commercial building. Multiple buildings on a parcel with a single tax key number shall be recorded on one application. However, the total fee shall be based upon a per unit charge. Failure to record with the city as required in this section shall subject the owner to non-compliance fees as provided in the city fee schedule in addition to applicable penalties under section 1-15.

(2) If the address of the owner is outside of Milwaukee, Ozaukee, Kenosha, Racine, Walworth, Washington or Waukesha County, the owner shall have an operator of the building and whose business or personal address is located within any of these counties. For the purpose of applying this section, the term "operator" means any person or entity authorized to collect or receive rents or in fact otherwise manage or maintain the building on a regular basis.

(3) In the event of the death of the owner of a building required to be recorded under this section, the estate or subsequent purchaser shall have 45 calendar days after death within which to file an application for recording.

(4) The owner who conveys any ownership interest in any building regulated by this section shall notify the city within 45 calendar days of the conveyance of that ownership interest in such building and, shall provide the name and address of the buyer and the date of conveyance at no charge on forms provided by the city.

(5) In the event of a change in any owner information listed on the application for recording, a new recording application shall be filed with the city on forms provided by the city and the fee paid within 45 calendar days of such event.

(c) *Exceptions.* This section shall not apply to owners of:

(1) Owner-occupied one- and two-family buildings where the ownership is recorded with the county register of deeds, owner-occupied condominium units, jails, convents, monasteries, parish rectories, parsonages and similar facilities, hospitals and residential facilities licensed by the city or the state or government owned buildings.

(2) Newly constructed residential and commercial buildings until actual occupancy of the units in the buildings commences.

(3) Residential and commercial buildings owned for less than 30 calendar days prior to sale or other transfer of the buildings to new owners.

(d) *Application.*

(1) All owners of residential or commercial buildings shall file an application and recording forms for such buildings with the city. This shall be done within 45 calendar days of mailing notice of this new ordinance to an owner of record on forms provided by the city. The application shall be signed by at least one of the owners, notarized as an affidavit and shall contain all of the following information:

a. The tax key number of the parcel containing the residential or commercial building, the legal name of the owner of the property, a business or personal address and a business telephone number or a personal telephone number of the owner where the owner can be contacted readily by the tenant or the city. Corporations, limited partnerships, limited liability companies, limited liability partnerships, churches or other religious institutions, trusts and estates shall provide a person's name, address and telephone number for contact. A post office box number or comparable service shall not be acceptable as a required address. For the purpose of applying this section the term "owner" means each person who jointly or severally is vested with all or part of the legal title to the premises or all or part of the beneficial ownership and right to present use and enjoyment of the premises. The term "owner" includes, but is not limited to a mortgagee in possession, trustees, life estate holders, condominium associations, land contract vendors (sellers), land contract vendees (purchasers), general and limited partnerships, corporations, limited liability companies and cooperatives.

b. The legal name, business address or personal address, and business or personal telephone number of the person authorized to collect or receive rents, act as operator of the building or maintain the premises, and who can be contacted readily by the tenant or the city. Post office box numbers or comparable service shall not be acceptable as an address for personal service. A preferred mailing address such as a post office box number may be furnished to the department in addition to the addresses required in this subsection. If there is a person acting as an operator, that person shall sign a statement acknowledging acceptance of liability for a code violation and provide his business or personal telephone number.

c. The number of units or rental spaces per building.

(2) If a building has multiple owners, at least one owner is required to sign and notarize the application, except in cases where the owners are land contract vendors (sellers), and land contract vendees (purchasers) with at least one vendor (seller) and one vendee (purchaser) signing and notarizing the application. However, the application shall contain the legal names, business or personal addresses, and business or personal telephone numbers of all owners.

(3) Owners of residential or commercial buildings owned for less than 30 consecutive calendar days in a year prior to sale or other transfer of the buildings to new owners need not file an application for recording such buildings. However, the owners shall comply with the notification requirement provided in subsection (5) of this section.

(4) If the signing owner in subsection (2) of this section does not reside in the seven-county area specified in subsection (b)(2) of this section, he or she shall have an operator of the building and whose business or personal address is located within the seven-county area. No more than one operator shall be required to be designated for a building or buildings on a single tax key numbered parcel.

(5) A change in any of the general partners shall be considered a change in ownership for the purpose of the ordinance from which this section is derived.

(6) In the case of a land contract, both the land contract vendor (seller) and land contract vendee (purchaser) shall file application for the same subject property and provide the legal name, business or personal address and business or personal telephone numbers of both parties on the same application forms. Upon satisfaction of the land contract the vendor (seller) shall file a notification of the conveyance of interest as required in subsection (b)(4) of this section and the contract vendee (purchaser) who has acquired the fee interest in the building shall file an updated application as required in this subsection.

(e) *Fees.* The annual fees in this section shall be as provided in the city fee schedule, with the following exceptions:

(1) For the filing of an amendment to an existing recording where the change in information results from when a land contract holder pays off the land contract and becomes a titleholder or where the land contract relationship is otherwise extinguished.

(2) For the filing of an amendment to an existing recording where the change in information results from the sale or transfer of ownership, which is exempt from a state transfer fee under Wis. Stats. § 77.25.

(f) *Service of order.*

(1) All recordings of ownership notice and application shall be served upon an owner of record personally or by U.S. first class mail to the present address or old address for the owner in the records forwarded to the city by the register of deeds or as sent by an owner.

(2) If no mailing address of an owner is in the materials sent to the city from the register of deeds office, the notice may be mailed or personally served to either the address to which property tax bills are to be sent or to the subject premises addressed to the owner of record if known or to "owner" if not known.

(3) In addition to any other remedy and provisions herein, the city inspector, or one of his designees, may issue an order to an owner of record to comply with this section.

(4) A notice, application, or order may also be posted on the premises.

(Code 2004, § 19.12; Ord. No. 1894, 7-6-1999; Ord. No. 2360, 4-6-2011; Ord. No. 2360.2, 4-17-2012; Ord. No. 2397, 2-19-2014)

Sec. 6-127. Vacant building ownership registration.

(a) *Purpose and scope.* Registering of residential buildings or any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses is essential for the proper enforcement of the city's building, fire and zoning code and to safeguard persons, property and general welfare. Residential condominium and rental units are excluded from this section provided the vacancy rate of the building they are situated in does not exceed 95 percent.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Owner means the person in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and right to present use and enjoyment of the premises.

Secured means a building that has a permanent door or window in each appropriate building opening that is secured to prevent unauthorized entry and has all its door and window components, including frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights and panes intact and unbroken.

Unsecured means any building that does not meet the definition of secured.

Vacant means a building which lacks habitual presence of human beings who have a legal right to be on the premises, or at which substantially all lawful business or construction operation or residential occupancy is at a level of at least 95 percent vacant.

Violation means that an order has been issued by the department and the conditions forming the basis for the order have not been fully abated.

(c) *Registration required.*

(1) The owner of any building that is vacant, or has become vacant while owned by that person or entity, shall within 30 days after the building becomes vacant or within 30 days after assuming ownership, whichever is later, file a registration statement and pay a registration fee as provided in the city fee schedule for each such building with the department on forms provided by the department.

(2) In addition to other information, the registration statement shall include the name, street address and telephone number of a person 21 years of age or older, designated by

the owner or owners as the authorized agent for receiving notices of code violations and for receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of the owner or owners in connection with the enforcement of this section. This person shall reside within the seven-county area as described in section 6-126(b)(2).

(3) The owner shall be required to renew the registration for successive six-month periods as long as the building remains vacant and shall pay a registration renewal fee as provided in the city fee schedule for each registered building, or a late registration renewal fee as provided in the city fee schedule for each registered building if required registration fee is paid untimely.

(d) *Exemptions.* The following are exempt from the provisions of this section:

(1) Property owned by governmental bodies or the housing authority.

(2) Property that is vacant as a result of a natural disaster and covered by emergency response requirements issued by the inspector.

(3) Property that is undergoing an active renovation or rehabilitation.

(4) A single-family home or owner-occupied two-family dwelling residential property that has been used as a residence by the owner for a period of at least three months within the previous nine months and the owner intends to resume residing at the property.

(5) Residential condominium and rental units in buildings whose vacancy rate does not exceed 95 percent.

(6) Properties that are part of an estate that is in probate and are not subject to bankruptcy provided the personal representative resides in the seven-county area as defined in section 6-126(b)(2).

(e) *Owner responsibilities.* The owner of any building that has become vacant shall:

(1) Enclose and secure the building as provided in this subsection (e).

(2) Maintain the building in a secure and closed condition until the building is again occupied or demolished.

(3) Acquire or otherwise maintain liability insurance in an amount not less than $300,000.00 for buildings designed primarily for residential use and not less than $1,000,000.00 for any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Evidence of this insurance shall be available at the request of the department.

(f) *Minimum requirements for vacant buildings.* After filing a registration statement the building owner shall provide access to the city to conduct an exterior and interior inspection of the building to determine compliance with this section, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. Failure to provide access to the property on the scheduled time shall subject the property owner to the fees provided in the city fee schedule. In addition to any other applicable requirements, vacant buildings shall comply with all other Code requirements.

(g) *Rules and regulations.* The inspector may issue rules and regulations for the administration of this section. These rules may specify additional board up materials, which may be used when securing a building.

(h) *Penalty.*

(1) *Failure to register*. Any property owner or entity functioning as a trustee of an owner, that fails to register a vacant building as required under subsection (c) of this section shall, upon conviction, forfeit not less than $100.00 nor more than $1,000.00, together with the cost of the action, and in default of the payment of such forfeiture and costs, shall be imprisoned in the house of correction or county jail until the payment of such forfeiture and costs of prosecution, but not exceeding 90 days for each violation.

(2) *Failure to secure and maintain*. Any property owner or entity functioning as a trustee of an owner that has a duty to register a vacant building that fails its duty to secure and maintain the property as required under subsections (e) through (h) of this section shall, upon conviction, forfeit not less than $250.00 nor more than $1,500.00, together with the cost of the action, and in default of the payment of such forfeiture and costs, shall be imprisoned in the house of correction or county jail until the payment of such forfeiture and costs of prosecution, but not exceeding 90 days for each violation.

(Code 2004, § 19.13; Ord. No. 1894, 7-6-1999; Ord. No. 2360.2, 4-17-2012; Ord. No. 2397, 2-19-2014)

Secs. 6-128—6-152. Reserved.

ARTICLE V. HOUSING AND PROPERTY MAINTENANCE CODE

Sec. 6-153. Purpose and intent.

It is hereby declared that the purpose of this article is to protect, preserve, and promote the physical and mental health and social well-being of the people, to prevent and control the incidence of communicable diseases, to reduce environmental hazards to health, to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health, and to protect the safety of the people and to promote the general welfare by legislation which shall be applicable to all dwellings now in existence or hereafter constructed.

It is hereby further declared that the purpose of the ordinance from which this section is derived is to ensure that the quality of housing is adequate for protection of public health, safety and general welfare, including, establishment of minimum standards for basic equipment and facilities for light, ventilation, and thermal conditions, for safety from fire and accidents for the use and location and amount of space for human occupancy, and for an adequate level of maintenance, determination of the responsibilities of owners, operators and occupants of all dwellings, and provision for the administration and enforcement thereof.
(Code 2004, § 19.01; Ord. No. 1894, 7-6-1999; Ord. No. 2397, 2-19-2014)

Sec. 6-154. Definitions.

Whenever the terms "dwelling," "dwelling unit," "roominghouse," "rooming unit," or "premises" are used in this article, they shall be construed as though they were followed by the terms "or any part thereof." In addition, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved means an approval by the department or its authorized representative.

Basement means that portion of a dwelling below the first floor or ground floor with its entire floor below grade.

Bath means a bathtub or shower stall properly connected with both hot and cold water lines.

Bedroom means a habitable room within a dwelling unit, which is used or intended to be used primarily for the purpose of sleeping, with a door to ensure privacy and fire safety, but does not include any kitchen or dining room.

Communal means used or shared by or intended to be used or shared by the occupants of two or more rooming units or two or more dwelling units.

Dining room means a habitable room used or intended to be used for the purpose of eating but not for cooking or the preparation of meals.

Dwelling means any building or structure, except temporary housing, which is wholly or partly used or intended to be used for living or sleeping by any human occupants and includes any appurtenances attached thereto.

Dwelling unit means any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking and eating of meals.

Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food by poisoning, spraying, fumigating, trapping or any other approved pest elimination methods.

Family means any number of persons related by blood, adoption or marriage; or four or fewer unrelated persons living together in one dwelling unit as a single housekeeping entity.

Garbage means animal and vegetable waste resulting from the handling, preparation, cooking or consumption of food and combustible waste material. The term "garbage" also includes paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings and other combustible materials.

Habitable room means any room used for sleeping, living or dining purposes, excluding such enclosed places as kitchens, closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms, and similar spaces.

Health officer means the legally designated health authority or his authorized representative.

Hotel means any dwelling wherein sleeping accommodations are offered for pay to transients in five or more rooms. The term "hotel" does not include roominghouses.

Hotel unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping in a hotel, but not for cooking meals.

Infestation means the presence of any insects, rodents or other pests within a dwelling or on the dwelling premises.

Kitchen means an area used, or designed to be used, for the preparation of food.

Kitchen sink means a sink of a size and design adequate for the purpose of washing eating and drinking utensils, located in a kitchen and properly connected with a cold water line and a hot water line.

Lavatory basin means a handwashing basin which is properly connected with both hot and cold water lines and which is separate and distinct from a kitchen sink.

Living room means a habitable room within a dwelling unit which is used or intended to be used primarily for general living purposes.

Multiple dwelling means any dwelling containing three or more dwelling units.

Nondwelling structure means any structure except a dwelling, used or intended to be used for the shelter or enclosure of any person, animal or property of any kind.

Occupant means any person over one year of age, including an owner or operator, living, sleeping or cooking in or having actual possession of a dwelling, dwelling unit, rooming unit or hotel unit.

Operator means any person who rents to another or others or who has charge, care or control of a building or part thereof in which dwelling units, rooming units, hotel units or nursing units are let or who has charge, care or control of any premises upon which no structures have been erected or upon which nondwelling structures are present.

Owner means any person who alone or jointly or severally with others:

(1) Has legal title or equitable title to any premises upon which no structures have been erected or upon which nondwelling structures are present or has legal or equitable title to any dwelling, dwelling unit or rooming, hotel unit.

(2) Has charge, care or control of premises upon which no structures have been erected or upon which nondwelling structures are present, or has charge, care or control of any dwelling, dwelling unit, rooming unit, hotel unit, as personal representative, administrator, trustee or guardian of the estate of the owner.

Plumbing means and includes all of the following facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, toilets, sinks, installed dishwashers, lavatories, baths, installed clothes washing machines, catch basins, drains, vents, hot water heaters and any other similar fixtures, together with all connections to water, sewer or gas lines.

Premises means a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure.

Primary residence means the dwelling where an individual lives most of the time and to which, when temporarily away, the individual returns, except that no individual may have more than one primary residence at any time. The term "primary residence" includes a dwelling located in this state lived in by an individual for more than six months during a year in which the individual lived only part of the year in this state. Any combination of an individual's voter registration, division of motor vehicle driver's license information, and/or mailing address can be utilized to determine an individual's primary residence.

Roomer means an occupant of a roominghouse who is not a member of the family of the operator of that roominghouse, and also an occupant of a dwelling unit who is not a member of the family occupying the dwelling unit.

Roominghouse means any dwelling or that part of any dwelling containing one or more rooming units in which space is let by owner or operator to three or more roomers.

Roominghouse Type I means a roominghouse in which space is let to more than two but fewer than nine roomers.

Roominghouse Type II means a roominghouse in which space is let to nine or more roomers.

Rooming unit means any room or group of rooms forming a single habitable unit in a roominghouse, used or intended to be used for living and sleeping but not for cooking.

Supplied means paid for, furnished, provided by or under the control of the owner or operator.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

Toilet means a water closet, with a bowl and trap made in one piece, which is of such shape and form and which holds a sufficient quantity of water so no fecal matter will collect on the surface of the bowl and which is equipped with flushing rims which permit the bowl to be properly flushed and scoured when water is discharged through the flushing rims.
(Code 2004, § 19.02; Ord. No. 1894, 7-6-1999; Ord. No. 2397, 2-19-2014)

Sec. 6-155. Inspection of dwellings, dwelling units, rooming units, hotel units and premises.

(a) *Inspection and enforcement by the authority having jurisdiction (AHJ).* The term "authority having jusidiction (AHJ)," when used in this article, means a chief of police, fire chief, health officer or building inspector or their designees who shall make inspections to determine the condition of dwellings, dwelling units, rooming units, hotel units and premises located within the city to safeguard the health and welfare of the occupants of dwellings and of the general public. The AHJ shall enforce the provisions of this article. He may make or cause to be made periodical inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken to abate any violations of this article unless the AHJ has inspected or caused to be inspected the premises where the violation is alleged to exist.

(b) *Access by owner or operator*. Every occupant of a dwelling, dwelling unit, rooming unit, or hotel unit shall give the owner or operator thereof, or his agent or employee, access to any part of such dwelling, dwelling unit, rooming unit, hotel unit or its premises at all reasonable times for the purpose of effecting such maintenance, making such repairs or making such alterations as are necessary to effect compliance with the provisions of this article or with any lawful rule or regulation adopted or any lawful notice or order issued pursuant to provisions of this article.
(Code 2004, § 19.03; Ord. No. 1894, 7-6-1999; Ord. No. 2397, 2-19-2014)

Sec. 6-156. Enforcement; notices and orders.

Whenever the authority having jusidiction determines there has been a violation, or there are reasonable grounds to believe that there has been a violation of any provision of this article or of any rule or regulation adopted pursuant thereto, he shall follow the procedure as follows:

(1) *Emergency.* If the authority having jusidiction determines that an emergency exists which requires immediate action to protect the public, said officer shall cause the same to be abated, subject to section 6-168(d), as he deems necessary to meet the emergency. Notwithstanding the other provisions of this article, such order shall be effective immediately.

(2) *Nonemergency.* If the authority having jusidiction determines that the nature of the violation does not pose an emergency, the AHJ shall give notice of his order to the property owner in the format requirements itemized in subsection (3) of this section.

(3) *Notice and order.* Any notice given must be in writing and shall comply with the following:

a. Include proper information regarding the owner of the property to whom the notice is given.

b. Include a description of the real estate sufficient for identification.

c. Include a statement of the reason or reasons why the notice is being issued.

d. Require correction of alleged violation within seven days of the date listed on the notice, unless additional time up to, but not exceeding, 30 days is granted by the inspector due to extenuating circumstances. If violation is not removed or corrected within the time period given, the proper officer shall correct or remove the violation of this article as provided in section 6-168.

e. Such notice may contain an outline of remedial action, which, if taken, will effect compliance with the provisions of this article, and with rules and regulations adopted pursuant hereto.

f. Be served by first class U.S. mail or delivered to the owner or operator personally, as the case may require; such notice shall be deemed to be personally served upon such owner or operator, if not found, if a copy is left at the owner or operator usual place of abode in the presence of someone of the family of suitable age and discretion who shall be informed of the contents thereof, or by posting a copy thereof in a conspicuous place in or about the dwelling affected by the notice.

(Code 2004, § 19.04; Ord. No. 1894, 7-6-1999; Ord. No. 2397, 2-19-2014)

Sec. 6-157. Adoption of rules and regulations by the authority having jurisdiction.

(a) Rules and regulations subject to approval by city council. The authority having jusidiction shall make and adopt written rules and regulations necessary for the proper enforcement of the provisions of this article. Such rules and regulations shall be submitted by such officer to the city council and, if approved by a vote of the majority of the members thereof, shall have the same force and effect as the provisions of this chapter; and the penalty for violation thereof shall be the same as the penalty for violation of the provisions of this chapter as herein provided.

(b) A copy of such rules and regulations shall be kept on file in the city clerk's office and in the municipal reference library.

(Code 2004, § 19.05; Ord. No. 1894, 7-6-1999)

Sec. 6-158. Minimum standards for basic equipment and facilities.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living, sleeping, cooking or eating of meals therein which does not comply with the following requirements:

(1) *Kitchen sink required.* Every dwelling unit shall contain an approved kitchen sink.

(2) *Toilet required.* Every dwelling unit shall contain a toilet.

(3) *Bath required.* Every dwelling unit, shall contain a bathtub or shower.

(4) *Lavatory basin required.* Every dwelling unit, except as otherwise specified under subsection (7) of this section shall contain a lavatory basin.

(5) *Sharing a toilet and bath.* No dwelling unit may be permitted where occupants share a toilet, a bath or a lavatory basin with the occupants of another dwelling unit.

(6) *Privacy in a room containing toilet and bathtub/shower.* Every toilet and every bath shall be contained within a room or within separate rooms which afford privacy to a person within such room or rooms.

(7) *Location of toilets, bathtubs/showers.* Every toilet and bathtub shower required to be provided in accordance with the provisions of this section shall be located within a room or rooms accessible to the occupants of each dwelling unit without going through a dwelling unit of another occupant and without going outside of the dwelling; and such room or rooms shall be located on the same floor of the dwelling as, or on the floor immediately above or immediately below, the dwelling units whose occupants use such facilities.

(8) *Water heating facilities.* Every kitchen sink, bathtub/shower and communal lavatory basin required in accordance with the provisions of this article shall be supplied with hot water by supplied water heating facilities. Every kitchen sink, bath and lavatory basin required in accordance with the provisions of this article shall be properly connected with supplied hot water heating facilities. Every supplied hot water heating facility shall be properly connected with the hot water lines required under the provisions of this article and shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every kitchen sink, bath and lavatory basin at a temperature of not less than 100 degrees Fahrenheit.

(9) *Connection of sanitary facilities to water and sewer system.* Every kitchen sink, toilet, lavatory basin and bath shall be in reasonably good working condition and properly connected to an approved water and sewer system.

(10) *Garbage storage or disposal facilities.* Garbage containers, including those supplied by the city, shall not be stored in the public right-of-way. All garbage containers shall be located behind buildings or hidden by an approved fencing or other structure out of street view.

(11) *Exits.* Every exit from every dwelling shall comply with the following requirements:

a. It should be kept in a reasonably good state of repair.

b. It shall be unobstructed at all times.

(12) *Stairways and landings elevated areas.*

a. All stairways of four or more risers shall have at least one handrail, and all stairways, which are five feet or more in width, or which are open on both sides, shall have a handrail on each side. Height shall be 30 inches to 38 inches measured vertically from nosing.

b. Guardrail heights shall be measured vertically from the platform and be not less than 36 inches for one-family and two-family dwellings or within the unit of a multifamily dwelling and not less than 42 inches for the common areas in multifamily dwellings.

c. Openings below handrails and guardrails shall not allow the passage of a sphere 4 3/8 inches in diameter.

d. Handrails and guardrails shall be capable of supporting a minimum imposed load of 200 pounds in any direction.

(Code 2004, § 19.06; Ord. No. 1894, 7-6-1999; Ord. No. 2360.2, 4-17-2012; Ord. No. 2397, 2-19-2014)

Sec. 6-159. Minimum standards for light, ventilation and heating.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

(1) *Required window area.* Every habitable room shall have at least one window facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight percent of the floor area of such room. Skylight-type windows can be used to meet this requirement.

(2) *Adequate ventilation required.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least 3.5 percent of the floor area, as required in subsection (1) of this section.

(3) *Light and ventilation requirements for bathrooms and toilet rooms.* Every bathroom and toilet room shall comply with the light and ventilation requirements for habitable rooms contained in subsections (1) and (2) of this section, except no window or skylight shall be required in adequately ventilated bathrooms and toilet rooms equipped with an adequate ventilation system which is kept in continuous operation.

(4) *Electric outlets.*

a. *Required*. Every dwelling unit and all public and common areas in multiple family dwellings shall be supplied with electrical service, outlets and fixtures which shall be properly installed, shall be maintained in good and safe working condition and shall be connected to a source of electric power in a manner prescribed by the state electrical code. The minimum number of outlets and fixtures shall be as listed in subsection (c) of this section. The electrical service shall be of sufficient size to serve the load connected to it. The branch circuits shall be protected by S-type or equivalent safety type, tamper-proof fuses or circuit breakers in compliance with the state electrical code.

b. *Amount required*.

1. Every lavatory, bathroom, kitchen or kitchenette, dining room, bedroom, laundry room and furnace room shall contain at least one approved ceiling or wall type electric light fixture equipped with sufficient lamps or tubes to provide not less than five footcandles at the floor level at the center of the room. A switched receptacle outlet may be substituted for a ceiling or wall fixture in habitable rooms.

2. Convenience receptacle outlets shall be provided as follows (measurements are at room perimeter and include doors and door alcoves):

(i) *Living room.* One per 75 square feet or major fraction (minimum of two and 12 feet between outlet receptacles).

(ii) *Dining room.* One per 75 square feet or major fraction (minimum of two and 12 feet between outlet receptacles).

(iii) *Kitchen.* One per eight square feet or fraction of countertop and preparation area measured at rear (preparation area includes countertops, sinks, range tops and all other similar areas at counter height). Island type work areas shall be supplied with one outlet receptacle for each eight feet or less of length.

(iv) *Dining area in kitchen.* One per 75 square feet or major fraction.

(v) *Bedroom.* One per 75 square feet or major fraction (minimum of two and 12 feet between receptacle outlets).

(vi) *Laundry.* One (when laundry equipment is present). The laundry receptacle outlet shall be less than 66 inches from the floor and located not more than six feet horizontally from the location of the laundry appliances.

(vii) *Bathrooms and lavatories.* One.

(viii) *Other habitable rooms.* Minimum of two.

3. General electrical requirements.

(i) Convenience outlets shall be so located as to prevent use of extension cords (Wis. Admin. Code ch. SPS 316).

(ii) All cords, temporary wiring and exposed abandoned wiring shall be removed.

(iii) Switch location. Switches or equivalent devices for turning on one light in each room, stairway, or passageway shall be so located as to conveniently control the area to be lighted.

(iv) Public areas in multiple family dwellings. Public halls and stairways in multiple family dwellings shall be adequately lighted by natural or electric light so as to provide in all parts thereof at least 2½ footcandles of light at the tread or floor level. Halls and stairways in structures containing not more than three dwelling units may be supplied with conveniently located switches controlling the lighting system, which may be turned on when needed. Other occupancies shall be supplied with full-time or automatic switched lighting. Illumination at exterior entry doors shall be supplied.

(v) Specifications. Electric work shall be done shall be done in accordance with city electrical and construction codes and regulations.

(vi) GFCI protection for personnel shall be provided in all locations referenced in Wis. Admin. Code ch. SPS 316 for all dwelling units addressed by this article.

(vii) All closet light clearances shall be maintained as described in Wis. Admin. Code ch. SPS 316.

(viii) All laundry and kitchen appliances shall be grounded in accordance with Wis. Admin. Code ch. SPS 316.

(ix) All basement light fixtures shall be wired with correct polarity and metallic fixtures shall be grounded. All light fixtures near grounded objects such as kitchen sinks, bathroom sinks, shall be grounded or nonmetallic. All light fixtures shall be wired with the correct polarity.

(5) *Heating facilities.* Whenever a dwelling unit has supplied heating facilities, such facilities shall be properly installed, maintained in reasonably good working condition and capable of adequately heating all habitable rooms, bathrooms and toilet rooms contained therein or intended for use by the occupants, thereof to a temperature of at least 68 degrees Fahrenheit at a distance three feet above floor level.

a. Every supplied central heating system shall comply with the following requirements:

1. The central heating unit shall be in reasonably good operating condition.

2. Every heat duct, steam pipe and hot water pipe shall be free of leaks and shall function so an adequate amount of heat is delivered where intended.

3. Every seal between the sections of a hot air furnace shall be tight so noxious gases will not escape into heat ducts.

b. Every supplied space heater shall comply with all of the following requirements:

1. No space heater burning solid, liquid or gaseous fuels shall be a portable type.

2. Every space heater burning solid, liquid or gaseous fuels shall be properly vented to a chimney or duct leading to outdoor space.

3. Every coal burning space heater shall have a fire resistant panel beneath it.

4. Every space heater located within two feet of a wall shall be equipped with insulation sufficient to prevent overheating of the wall.

5. Every space heater smoke pipe shall be equipped with guards, properly constructed of nonflammable material, at the point where the pipe goes through a wall, ceiling or partition.

(6) *Lighting of public halls and stairways.* Lighting of public halls and stairways shall be as provided in chapter 10, section 1006, of the International Building Code (means of egress illumination).

(7) *Screens required.* At least one window in each habitable room shall be supplied with a screen covering at least 33 percent of the window area, provided, such screens shall not be required in rooms deemed by the authority having jusidiction to be located sufficiently high in the upper stores of dwellings as to be free of mosquitoes, flies and other flying insects. Such screens shall have a wire mesh of not less than No. 16.

(8) *Supplied heating to dwellings or parts thereof.* Every owner or operator of any dwelling who rents, leases or lets for human habitation any dwelling unit contained within such dwelling on terms, either expresses or implied, to supply or furnish heat to the occupants thereof shall maintain, a minimum temperature of 68 degrees Fahrenheit at all times. Whenever a dwelling is heated by means of a furnace, boiler or other heating apparatus under the control of the owner or operator of the dwelling, such owner or operator, in the absence of a written contract or agreement to the contrary, shall be deemed to have contracted, undertaken or bound himself to furnish heat in accordance with the provisions of this subsection to every dwelling unit which contains radiators, furnace heat duct outlets or other heating apparatus outlets and to every communal kitchen, dining room, bathroom and toilet room located within such dwelling.

(9) *Storm windows and doors.* Every dwelling unit shall be supplied with storm windows for every window therein and storm doors for all exterior doors.

(10) *Weatherstripping.* All exterior doors in any dwelling unit shall have weatherstripping so installed as to ensure weathertightness.

(Code 2004, § 19.07; Ord. No. 1472, 10-17-1989; Ord. No. 1894, 7-6-1999; Ord. No. 2397, 2-19-2014)

Sec. 6-160. Responsibilities of owners relating to the maintenance of dwellings and dwelling units.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling unit or portion thereof for the purpose of living therein which does not comply with the following requirements:

(1) *Maintenance of foundations, exterior walls, roofs.* Every foundation, exterior wall and roof shall be reasonably weathertight, watertight, rodentproof and insectproof and shall be kept in a reasonably good state of maintenance and repair.

(2) *Maintenance of interior walls, floors, ceilings.* Every interior partition, wall, floor and ceiling shall be capable of affording privacy, kept in a reasonably good state of repair and maintained so as to permit it to be kept in a clean, sanitary condition.

(3) *Rain water drainage from roof.* All rainwater shall be so drained and conveyed from every roof so as not to cause dampness in the walls, ceilings or floors of any habitable room or of any bathroom or toilet room.

(4) *Maintenance of windows, exterior doors, basement hatchways.* Every window, exterior door and basement hatchway shall be reasonably weathertight and rodentproof and kept in reasonably good working condition and a reasonably good state of maintenance and repair. Except for emergency or construction purposes, windows and doors are not permitted to be boarded up. If nonrequired windows or doors are to be eliminated, exterior wall coverings that are used shall match existing coverings as closely as possible.

(5) *Protection of exterior wood surfaces.* All exterior wood surfaces shall be reasonably protected from the elements and against decay by paint or other approved protective coating applied in a workmanlike fashion.

(6) *Maintenance of stairways and porches.* Every inside and outside stairway, every porch and every appurtenance thereto shall be constructed as to be reasonably safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and in a reasonably good state of maintenance and repair.

(7) *Maintenance of supplied plumbing fixtures.* Every supplied plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition.

(8) *Maintenance of chimneys and vents.* Every chimney and every vent pipe shall be adequately supported, reasonably clean and maintained in a reasonably good state of repair.

(9) *Maintenance of bathroom and toilet room floors.* Every toilet room floor surface and bathroom floor surface shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be kept in a clean and sanitary condition. No carpeting is allowed.

(10) *Safe and effective functioning of supplied facilities.* Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function properly and shall be maintained in reasonably good working condition.

(11) *Discontinuance of required services, facilities, equipment or utilities.* No owner or operator shall cause any service, facility, equipment or utility which is required to be supplied under the provisions of this article to be removed from, or shut off from, or discontinued to any occupied dwelling or dwelling unit let or occupied by him, except for such temporary interruption as may be necessary while actual repairs, replacements or alterations are being made.

(12) *Pest extermination.* Every owner of a building consisting of two or more dwelling units shall be responsible for the extermination of insects, rodents or other pests on the premises. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

(13) *Cleanliness of public areas of dwellings.* Every owner of a dwelling containing three or more dwelling units and every owner of a premises where three or more dwelling units share the same premises shall be responsible for maintaining in a clean and sanitary condition all communal, shared or public areas of the dwelling and premises thereof which are used or shared by the occupants of three or more dwelling units.

(14) *Vacant dwelling units to be clean and sanitary before being let for occupancy.* No owner shall occupy or rent to any other person for occupancy or allow any other person to occupy any vacant dwelling unit unless it is reasonably clean and sanitary and complies with all provisions of this article and all rules and regulations adopted pursuant thereto.

(Code 2004, § 19.08; Ord. No. 1894, 7-6-1999; Ord. No. 2036, 10-15-2002; Ord. No. 2397, 2-19-2014)

Sec. 6-161. Minimum space, use and location requirements.

No person shall occupy or let to another for occupancy and dwelling any unit for the purpose of living therein which does not comply with the following requirements:

(1) *Dwelling unit to be occupied by one family.* No dwelling unit shall be occupied by more than one family plus two occupants who are not members of the family.

(2) *Minimum ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(3) *Minimum floor area for dwelling unit.* Every dwelling unit consisting of only one habitable room shall contain at least 120 square feet of habitable room floor area.

(4) *Minimum floor area for occupancy by more than one occupant.* No dwelling unit containing less than 170 square feet of habitable room floor area shall be occupied by more than one occupant.

(5) *Maximum occupancy for one-room dwelling unit.* No dwelling unit consisting of only one habitable room shall be occupied by more than two occupants.

(6) *Maximum occupancy for dwelling units of two or more rooms.* No dwelling unit consisting of two or more rooms shall be occupied by more occupants than the total permissible number, calculated on the following basis:

Type of room	*Occupancy subtotal*
Kitchen	0
Each habitable room containing less than 70 square feet of floor area	0
Each habitable room containing at least 70 but less than 100 square feet of floor area	one
Each habitable room containing 100 or more square feet of floor area	two

(7) *Arrangement of sleeping, bath and toilet rooms.* No dwelling or dwelling unit containing 2 or more sleeping rooms shall have such room arrangements that access to a bathroom or toilet room intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or a toilet room.

(8) *Basement space may be habitable.* No basement space shall be used as a habitable room or dwelling unit unless:

a. The floor and walls are of waterproof and damp proof construction;

b. All applicable requirements of state law and regulations have been met.

(9) *Occupants to have access to sanitary facilities.* Every occupant of every dwelling shall have unrestricted access to a kitchen sink, toilet, bath and lavatory basin required in accordance with the provisions of section 6-158.

(Code 2004, § 19.09; Ord. No. 1894, 7-6-1999)

Sec. 6-162. Responsibilities of occupants relating to the maintenance of dwellings and dwelling units.

(a) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies or controls; and prior to moving, vacating or relinquishing occupancy or control, every occupant of a dwelling or dwelling unit shall properly dispose of all garbage and rubbish in accordance with the requirement of this section.

(b) *Disposal of garbage*. Every occupant of a dwelling or dwelling unit shall dispose of all his garbage in a clean and sanitary manner by placing it in garbage containers required by sections 6-158 and 8-244.

(c) *Hanging of screens, storm doors, and storm windows.* Every occupant of a dwelling or dwelling unit shall be responsible for hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this article or of any rule or regulation adopted pursuant hereto, except where the owner has agreed to supply such service. Screens shall be hung not later than June 1 of each year.

(d) *Extermination of pests.*

(1) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination within the unit occupied by him whenever his dwelling unit is the only one infested.

(2) Notwithstanding subsection (1) of this section whenever infestation is caused by failure of the owner to maintain a dwelling in a reasonably rodentproof or insectproof condition, extermination shall be the responsibility of the owner.

(e) *Use and operation of supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the proper use and operation thereof.

(f) *Installation and care of plumbing fixtures furnished by occupant.* Every plumbing fixture furnished by the occupant shall be properly installed and maintained in reasonably good working condition in a clean and sanitary state, and free from defects, leaks or obstructions.

(g) *Use and operation of supplied heating facilities.* Every occupant of a dwelling unit shall be responsible for the care, proper use and proper operation of supplied heating facilities.

(h) *Installation and use of heating facilities furnished by occupant.* Every space heater furnished by the occupant shall be properly installed and maintained in reasonably good working condition and shall comply with the following requirements:

(1) Each unit shall be a tested and listed appliance and shall be installed in accordance with the manufacture's installation instructions.

(2) Any solid fuel burning appliance lacking manufacturer's installation instructions as described in subsection (a) of this section shall be installed in accordance with requirements as specified in Wis. Admin. Code ch. SPS 323.

(i) *Destruction, mutilation and defacing of property.* No person shall willfully or wantonly damage, mutilate or deface any part of residential real estate, supplied fixtures, equipment and furnishings or any other property of another.
(Code 2004, § 19.095; Ord. No. 1894, 7-6-1999)

Sec. 6-163. Responsibility of owners relating to the maintenance of nondwelling structures, fences and premises.

(a) *Exterior property requirements.* No person, corporation or other entity owning or in possession or control of any vacant or improved premises in the city shall allow or permit the exterior property of their real estate to deteriorate or become a seriously blighting influence on surrounding property or neighborhood as described in this section.

(b) *General cleanliness.* All exterior property areas shall be kept in a clean and sanitary condition, free from any accumulation of combustible or noncombustible material, debris and refuse. Debris and refuse shall include, but not be limited to, broken concrete, bricks, blocks or other mineral matter; bottles, porcelain and other glass or crockery; boxes; lumber (new or used), posts, logs, sticks, or other wood; tree branches, brush, yard trimmings, grass clippings and other residues; paper rags, animal waste, cardboard, excelsior, rubber, plastic, wire, tin and metal items; discarded household goods or appliances, junk lawn mowers, tar paper, tires, or any vehicle parts, residues from burning or any similar materials which constitute health, fire or safety hazards or an unreasonable blighting influence upon the neighborhood or the city in general. The provisions of this section shall not apply to materials stored in conjunction with any mercantile, manufacturing or normal residential use, which provide no rodent harborage, and meet applicable fire and zoning restrictions.

(c) *Hard surfaces.* Sidewalks, walks, drives and other concrete, asphalt, bricked, graveled, stoned or similarly treated areas shall be kept in sound condition and good repair. Conditions resulting in dust, dirt, loose stones or other aggregate being repeatedly deposited upon the immediate adjacent public or private property shall be corrected without delay.

(d) *Lawn areas*. Lawn areas, where provided, shall be maintained. The growth of grass or weeds in excess of six inches in height not constituting a garden shall be considered a violation of the maintenance provisions of this section. A garden is a limited area devoted to flower, vegetable or fruit plants or bushes.

(e) *Natural state areas.* Areas in a natural state shall be kept free of dead or fallen trees, branches, brush debris and noxious weeds.

(f) *Erosion*. Whenever erosion of the soil repeatedly causes the same to spill over onto the sidewalk, street, alley or adjoining property, the condition shall be corrected by the construction of a suitable retaining wall, grading or sodding and/or the planting of grass or other suitable ground cover.

(g) *Vehicular placement on private property.* Vehicles including, but not limited to, automobiles, trucks, vans, boat trailers, travel trailers, utility trailers, motorcycles, recreational vehicles, ATV's or parts thereof shall be placed only upon an improved surface consisting of brick, asphalt, or concrete. The size of the improved parking surface area shall be at least equal to the vehicle size or larger and shall also include the area used for ingress and egress. Parking surfaces shall also comply with the requirement of section 44-851, pertaining to parking and storage of recreational vehicles and equipment.

(h) *Planting of grass.* Every person shall plant or sod and maintain adequate grass vegetation to control the erosion of soil to adjoining properties from rainfall and such seeding or sodding shall be done within one year after occupancy of a building, on all lands owned, occupied or controlled, including the parkway upon which lands abut.

(i) *Required front yard plantings.* As to all residential dwelling units, the area between the front setback of a home or building and the front parkway shall consist of no less than 50 percent grass with exception for shrubs or greenery. Yards not in conformity with this section shall be exempt from these requirements until otherwise materially altered at which time compliance with this section shall be required.

(j) *Maintenance of fences and accessory structures.* Every fence and accessory building shall be kept in a reasonably good state of maintenance and repair or shall be removed.

(k) *Elimination of windows and doors.* If windows and/or doors are to be eliminated, exterior wall coverings that are used shall match existing coverings as closely as possible.

(l) *Firewood storage.*

(1) This section applies to the storage or keeping of wood on residential properties within the city where the wood is not stored within an enclosure capable of protecting the wood from the elements. It shall apply to any wood or wood product usually used or intended to be used as firewood in the residence or any accessory structure. The term firewood shall mean split wood or unsplit wood logs cut into lengths not exceeding three feet for the purpose of burning in a fireplace or as a recreational fire on the property.

(2) Firewood shall be kept or stored outdoors in accordance with the following requirements:

a. Firewood shall be stored or kept in a neat and secure stack (maximum of two cords, defined as 128 cubic feet per cord), which shall be no higher than five feet.

b. Unless screened by a fence or wall, stacks shall be no closer than two feet to the property line.

c. The firewood stacks shall not be allowed to become infested with rats, rodents, or vermin.

d. Fallen, uncut trees shall be removed or cut up into firewood as soon as it is practicable, not to exceed 90 days. The city council may extend this period, upon written request by the property owner, for an additional 90 days.

(3) Any woodpile in existence as of the date of passage of this section that does not comply with the provisions of this section must be removed or placed in compliance with the terms of this section within one year after written notice to comply is given by the building inspector or his designated agent. Such notice shall be in writing and shall be served upon the property owner either in person or by certified mail.

(Code 2004, § 19.15; Ord. No. 1894, 7-6-1999; Ord. No. 1970, 9-5-2000; Ord. No. 2036, 10-15-2002; Ord. No. 2297, 10-21-2008; Ord. No. 2297.2, 10-21-2010; Ord. No. 2397, 2-19-2014)

Sec. 6-164. Property maintenance appeals board.

(a) Any person affected by a notice, order or decision of a code official issued under city property maintenance regulations may appeal to the property maintenance code appeals board. A written application for appeal shall be based on a claim that the true intent of the code has been incorrectly interpreted or is adequately satisfied by other means, or that the strict application of any requirement of this Code would cause undue hardship.

(b) The board shall consist of five members, one from each council membric district, recommended by the councilmember of each district, shall not have been cited for a property maintenance code violation for two years prior to their appointment, nor be cited during their appointment (grounds for removal from the appeals board). They shall be appointed by the mayor, and confirmed by a majority vote of the common council to serve a three-year term.

(c) The board shall serve without compensation, and shall elect a chairperson and vice-chairperson to serve annually from one of its members. A member shall not hear an appeal in which that member has a personal, professional, or financial interest.

(d) The department of building inspections shall provide support and maintain files of the board.

(e) The board shall meet monthly or as necessary. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code officials or any persons whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than three board members.

(f) The board may modify or reverse the decision of the code official by a concurring vote of a majority of the board members present. The decision of the board shall be recorded and copies furnished to the appellant. If a municipal citation has been served prior to any determination by the board then such determination shall be advisory only for consideration by the court and prosecuting attorney.

(g) Any petitioner or other person aggrieved by the decision of the board may seek relief therefrom by having the decision reviewed by the circuit court, provided such appeal is made within three days of the receipt of the board's decision.

(h) Appeals of notice and orders, other than imminent danger or emergency orders, shall stay the enforcement of the notice and order until the appeals board hears the appeal. This provision shall not absolve the owner of the property of liability during the appeals process.

(i) Persons wishing to appear before the property maintenance board of appeals shall pay a fee as provided in the city fee schedule and complete the application supplied by the city. This fee shall be kept on file with the city treasurer's office and kept by the city if the decision of the code officer is upheld, and returned to the applicant if the property maintenance code board of appeals or circuit court overturns the decision of the code officer.
(Code 2004, § 19.151; Ord. No. 1894, 7-6-1999; Ord. No. 2220, 10-3-2006; Ord. No. 2248, 1-16-2007)

Sec. 6-165. Condemnation of unfit dwellings and dwelling units.

The designation of dwellings or dwelling units as unfit for human habitation and the procedure for the condemnation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

(1) *Condemnation of dwellings and dwelling units as unfit for human habitation.*

a. Any dwelling or dwelling unit which the authority having jusidiction finds to have any of the following defects shall be condemned as unfit for human habitation:

1. One which is so damaged, decayed, dilapidated, unsanitary, difficult to heat, unsafe or vermin infested that it creates a hazard to the health or welfare of the occupants or the public;

2. One which lacks illumination, ventilation or sanitary facilities adequate to protect the health or welfare of the occupants or the public; or

3. One which, because of its general condition or location, is insanitary or otherwise dangerous to the health or welfare of the occupants or the public.

b. By the authority having jusidiction if the owner or occupant has failed to comply with any order based on the provisions of this article or rules or regulations adopted pursuant hereto, provided such dwelling or dwelling unit is, in the opinion of the AHJ, unfit for human habitation.

(2) *Notice to owner of condemnation and intent to placard.* Whenever the authority having jusidiction has condemned a dwelling or dwelling unit as unfit for human habitation, he shall give notice to the owner of such condemnation and of his intent to placard the dwelling unit as unfit for human habitation. Such notice shall:

a. Be put in writing;

b. Include a description of the real estate sufficient for identification;

c. Include a statement of the reason or reasons why it is being issued;

d. Include a description of the repairs and improvements required to bring the condemned dwelling or dwelling unit into compliance with the provisions of this article and any rules and regulations adopted pursuant hereto;

e. Include an explanation of the owner's right to seek modification or withdrawal of the notice by petition to the authority having jusidiction in accordance with the provision of section 6-156(2) and (3); and

f. Be served upon the owner; provided such notice shall be deemed to be properly served upon such owner if a copy thereof is delivered to him personally or, if not found, by leaving a copy thereof at his usual place of abode, in the presence of someone of the family of suitable age and discretion, who shall be informed of the contents thereof, or by sending a copy thereof by certified mail with return receipt requested to his last known address, or, if the certified letter with the copy is returned with a receipt showing it has not been delivered to him, by posting a copy thereof in a conspicuous place in or about the dwelling affected by the notice. Copies of all condemnation notices shall be forwarded to the building inspector shall not invalidate the condemnation procedure.

(3) *Appeal of notice relating to condemnation.* Any owner affected by any notice relating to the condemnation of a dwelling or dwelling unit as unfit for human habitation may appeal the matter to the circuit court.

(4) *Placarding or condemning dwellings and dwelling units as unfit for human habitation.* After the condemnation notice which is required under subsection (2) of this section has resulted in an order, the authority having jusidiction shall placard the affected dwelling or dwelling unit as unfit for human habitation. The AHJ shall post, in a conspicuous place or places upon the affected dwelling or dwellings unit, a placard or placards bearing the following words: "Condemned as Unfit for Human Habitation."

(5) *Vacation of condemned and placarded dwellings and dwelling units.* Any dwelling or dwelling unit, which has been condemned and placarded as unfit for human habitation by the authority having jusidiction, shall be vacated within a reasonable time as required by such officer. No owner or operator shall let to any person for human

habitation and no person shall occupy any dwelling or dwelling unit which has been condemned and placarded by the authority having jusidiction after the date on which such officer has required the affected dwelling or dwelling unit to be vacated.

(6) *Placard not to be removed until defects are eliminated.* No dwelling or dwelling unit, which has been condemned and placarded as unfit for human habitation shall be inhabited until written approval is secured from, and such placard is removed by, the authority having jusidiction. The authority having jusidiction shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(7) *Placard to be removed only by authority having jusidiction.* No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in subsection (6) of this section.

(Code 2004, § 19.16; Ord. No. 1894, 7-6-1999)

Sec. 6-166. Article does not impair authority of a city AHJ to act on nuisances.

Nothing in this article shall be constructed or interpreted to in any way impair or limit the power of the city to define and declare nuisances or the authority having jusidiction to remove or abate nuisances by summary or other appropriate proceedings.

(Code 2004, § 19.17; Ord. No. 1894, 7-6-1999)

Sec. 6-167. Article does not abrogate provisions of building code.

The provisions of this article shall not abrogate the responsibility of any person to comply with any provisions of other building and zoning codes of the city.

(Code 2004, § 19.18; Ord. No. 1894, 7-6-1999)

Sec. 6-168. Penalties and fees.

(a) *Penalties.* Any person violating any provision of this article or any order of the authority having jusidiction promulgated hereunder, or any provisions of any rule or regulation adopted by the authority having jusidiction pursuant to authority granted by this article shall, upon conviction thereof, be subject to a forfeiture as provided by section 1-15.

(b) *Fees.* If the owner fails to comply with an order issued under this article, the city may assess the owner a monthly code noncompliance enforcement fee as provided in the city fee schedule until compliance is obtained.

(c) *Special charge.* In addition to any penalties imposed under this article, failure to pay any fees under this article for registration, renewal, or failure to allow inspection may be assessed and collected against the real estate as a special charge.

(d) *City may effect compliance.* Whenever owner having charge of any lot or parcel fails or neglects to comply with this article and the provisions of section 6-156 have been complied with, the city may correct the violation subject to the following:

(1) The property shall be invoiced as soon as practical. If the owner fails to pay the invoice, the invoice shall be forwarded and the unpaid cost of the work to the clerk to be placed on the tax bill as a special charge against the lot affected.

(2) In addition to the charges levied under subsection (1) of this section, a service charge to cover processing and administrative costs shall be assessed against the property. The service fee shall be calculated annually based on actual administrative costs proposed in that year. The service fee shall be collected in the same way as the removal charges in subsection (1) of this section.

(e) *Owner/operators.* Any owner, former owner or operator of a property failing to comply with this article or who provides false, misleading or fraudulent information that would also be required per state or federal law, any fees herein shall double on a second violation by an owner within any three-year period and whether or not the second violation is at the same premises. Any fees herein shall quintuple on a third violation by an owner within any three-year period and whether or not the third violation is at the same premises.

(f) *Ongoing violations.* After conviction and punishment under subsection (a) of this section, or a noncompliance fee charge under subsection (b) of this section, if such person continues to violate any provision or order under this article, then such person shall be liable for further prosecution, conviction and punishment upon that same order, without issuance of a new order, until such order has been complied with.

(Code 2004, § 19.19; Ord. No. 1894, 7-6-1999; Ord. No. 2397, 2-19-2014)

Chapter 7

RESERVED

Chapter 8

BUSINESSES

Article I. In General

Sec. 8-1. Private business employee wage and benefit non-regulation.
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ARTICLE I. IN GENERAL

Sec. 8-1. Private business employee wage and benefit non-regulation.

No ordinance of the city nor any other municipal ordinance, rule, or regulation shall mandate that any person shall provide certain wages or benefits to its employees or set forth the amount or type of any employee wages or benefits to be provided by an employer located within the city limits.
(Code 2004, § 12.38; Ord. No. 2318, 2-17-2009)

Secs. 8-2—8-20. Reserved.

ARTICLE II. LICENSES AND PERMITS

Sec. 8-21. Business license required; exceptions; fees.

(a) A license shall be required for the sale of each of the following or the conduct of the following businesses or activities at the license fee in the amount provided in the city fee schedule. In addition to the license fee, for licenses requiring a personal background check, there shall be an additional nonrefundable clerical fee. A separate fee shall be charged for all names of applicant requiring a check, including former names, maiden name, alias and otherwise as warranted for background check.

(b) No license other than a liquor or beer license shall be required under this section for any nonprofit educational, charitable, civic, military or religious organization where the activity which would otherwise be licensed is conducted for the benefit of the members or the public generally.
(Code 2004, §§ 12.01, 12.02(12); Ord. No. 1361, 12-17-1985; Rep. No. 1580, 6-2-1992; Ord. No. 1625, 9-7-1993; Ord. No. 1887, 4-6-1999; Ord. No. 1949, 11-6-2000; Ord. No. 2025, 3-19-2002; Ord. No. 2052, 1-7-2003; Ord. No. 2142, 3-15-2005; Ord. No. 2255, 3-20-2007; Ord. No. 2311, 11-18-2008; Ord. No. 2335, 11-3-2009; Ord. No. 2341, 5-18-2010; Ord. No. 2360, 4-6-2011; Am. No. 2360.2, 4-17-2012; Ord. No. 2369, 11-15-2011)

Sec. 8-22. Revocation for failure to pay fee; reinstatement fee.

If a license under this chapter is approved and the required fee is not paid and the funds collected within 60 days after the date of approval, such failure to pay shall be grounds for denial, suspension, revocation, or nonrenewal of the approval of the license or permit in accordance with the provisions of this chapter or state law. There shall be a reinstatement fee if the entire amounts of the license or permit fees and associated fees are not paid and the funds collected by the effective date of the license or its renewal.
(Code 2004, § 12.01(60))

Sec. 8-23. Application and issuance.

(a) Application for a license under this chapter shall be made to the city clerk on a form furnished by the city. The application shall contain such information as may be required by the provisions of this chapter or as may be otherwise required by the city council.

(b) The required fee shall accompany the license application. If a license is granted, the city treasurer shall issue the applicant a receipt for his license fee. No fee paid shall be refunded unless the license is denied.

(c) All licenses under this chapter shall be must be approved by the city council prior to issuance, except for the following:

(1) The city clerk may issue, subject to the standards established by this chapter, and without prior approval of the city council, special occasion dance permits, Christmas tree dealer licenses, handbill distributor licenses, soda water beverage licenses, cigarette sales licenses, food licenses and coin-operated vending machine licenses upon approval of the health officer, and dry cleaning machine licenses upon approval of the building inspector.

(2) The city sealer may issue, subject to the standards established by this chapter, and without prior approval of the city council, closing out sale licenses.

(d) The city clerk shall keep a record of all licenses issued.
(Code 2004, § 12.02(1), (2), (3), (4), (5), (8); Ord. No. 2369, 11-15-2011)

Sec. 8-24. Term; content; display; transfer.

(a) All licenses issued hereunder shall expire on June 30 in the year of issuance unless issued for a shorter term, when they shall expire on midnight of the last effective day of the license, or unless otherwise provided by this chapter or state law. All applications for renewal of licenses hereunder shall be made to the city clerk by May 25.

(b) All licenses issued hereunder shall show the date of issue, the activity licensed and the term of the license and shall be signed by the city clerk.

(c) All licenses hereunder shall be displayed upon the premises or vehicle for which issued, or if carried on the person shall be displayed to any officer of the city upon request.

(d) All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the city council.
(Code 2004, § 12.02(6), (7), (9), (11), (13); Ord. No. 2369, 11-15-2011)

Sec. 8-25. Conditions of issuance.

It shall be a condition of holding a license under this chapter that the licensee comply with all city ordinances and state statutes. Failure to do so shall be cause for revocation of the license.

In addition, an applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the city upon licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter all things found therein in violation of this chapter or state law.
(Code 2004, § 12.02(10), (14); Ord. No. 2369, 11-15-2011)

Secs. 8-26—8-53. Reserved.

ARTICLE III. ALCOHOL BEVERAGE SALES

DIVISION 1. GENERALLY

Sec. 8-54. State law adopted.

The provisions of Wis. Stats. ch. 125, and any amendments or additions thereto, relating to the sale and consumption of alcohol beverages, inclusive of any provisions relating to the penalty to be imposed or the punishment for violation of such statutes, to the extent as such provisions are applicable within the city, are hereby adopted and made a part of this article by reference. A violation of any such provisions shall constitute a violation of this article.
(Code 2004, § 12.03(1); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-55. License fees.

(a) *Retail "Class A" license (intoxicating liquor).* Generally, authorizes retail sales of intoxicating liquor or fermented malt beverages for consumption off the premises where sold and in original packages, containers, and bottles. See the city fee schedule on file in the clerk's office.

(b) "*Retail Class B*" *license (intoxicating liquor).* Generally, authorizes the retail sale of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container. In addition, wine may be sold in the original package or container in any quantity to be consumed off the premises where sold. See the city fee schedule on file in the clerk's office.

(c) *Retail Class "A" license (fermented malt).* Generally, authorizes retail sales of fermented malt beverages for consumption off the premises where sold and in original packages, containers, and bottles. See the city fee schedule on file in the clerk's office.

(d) *Retail Class "B" license (fermented malt).* Generally, authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises. A Class "B" fermented malt beverage license may be issued to any applicant that is a group or organization, the sole purpose of which is to engage in activities wherein none of the income is distributable to its members, directors or officers. See the city fee schedule on file in the clerk's office.

(e) *Provisional retail licenses.* Authorizes only the activities that the type of retail license applied for authorizes and expires 60 days after its issuance or when the Class "A," Class "B," "Class A," "Class B" or "Class C" license is issued to the holder, whichever is sooner. A provisional retail license may be revoked if the application contains a false statement. See the city fee schedule on file in the clerk's office.

(f) *Temporary Class "B" picnic (fermented malt).* May be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. This shall include, but not be limited to, sports clubs, gun clubs, religious groups, veterans' and fraternal organizations. See the city fee schedule on file in the clerk's office.

(g) "*Class C" license (wine).* A "Class C" license authorizes the retail sale of wine by the glass or in opened original container for consumption on the premises where sold. See the city fee schedule on file in the clerk's office.

(h) *Temporary "Class B" picnic license (wine).* May be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans' organizations authorizing the sale of wine in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. This shall include, but not be limited to, sports clubs, gun clubs, religious groups, veterans and fraternal organizations. See the city fee schedule on file in the clerk's office.

(i) *Bartender's license (Class "D").* See the city fee schedule on file in the clerk's office.

(j) *Temporary bartender's license.* No person may hold more than one license of this kind per year. The license is valid for any period from one day to 14 days, and the period for which it is valid shall be stated on the license. See the city fee schedule on file in the clerk's office.

(k) *Provisional bartender's license.* A provisional license may be issued only to a person who has applied for an operator's license and expires 60 days after its issuance or when a normal operator's license is issued to the holder. See the city fee schedule on file in the clerk's office.

(l) *Manager's license.* A person may manage premises operating under a Class "B" license or permit if that person who holds it is the licensee or permittee, an agent of a corporation or appointed limited liability company, or the holder of a manager's license. See the city fee schedule on file in the clerk's office.

(m) *Special occasion dance permit.* See the city fee schedule on file in the clerk's office.

(n) *Live music permit.* See the city fee schedule on file in the clerk's office.

(o) *Live entertainment permit (floor shows, etc.).* See the city fee schedule on file in the clerk's office.

(p) *Entertainers, except musicians.* See the city fee schedule on file in the clerk's office.
(Code 2004, § 12.03(2); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-56. Part-time licenses.

Licenses for less than one year may be granted, which shall expire on June 30 following, upon payment of the full annual license fee, provided only one-half of the annual license fee shall be required for licenses granted between January 1 and June 30 of any year.
(Code 2004, § 12.03(3); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord.

No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-57. Provisional licenses.

Provisional retail alcohol beverages pursuant to Wis. Stats. § 125.185 the common council, clerk or deputy clerk are hereby authorized to issue provisional retail licenses for sale of fermented malt beverages, intoxicating liquor or wine under the following standards:

(1) It appears the applicant otherwise qualifies for the underlying license in all regards except for unavoidable delays at time of application of a nature which are routine and procedural and not purposefully caused by applicant.

(2) A nonrefundable fee is paid at time of application.

(3) Application for a provisional license shall be made on the same form as for a regular license but somewhere near the top of the first page shall be clearly designated "provisional"; the applicant, clerk or deputy clerk may, as circumstances dictate and to accomplish prompt authority to lawfully operate a business, issue a provisional license upon application for a regular like license even if the application is not designated as provisional.

(4) A provisional license shall expire 60 days after issuance or when the underlying regular license issues to the holder, whichever is sooner.

(5) If the common council, clerk or deputy clerk considering application for a provisional license has reason to believe its application is in any way intended or designed by applicant or others to circumvent otherwise normal licensing procedures or provisions, the provisional license shall not be granted. Nothing herein shall require the common council, clerk or deputy clerk to issue any provisional license under any circumstances, as it is a fully discretionary authority.

(Code 2004, § 12.03(3.1); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-58. License quotas.

(a) *Class "A" liquor licenses.*

(1) *Types.*

a. *Generally.* Types of Class "A" issued by the city are hereby issued under one of the three classes listed below:

1. *Retail Class "A."* Has full authority for alcoholic sales as prescribed under state law.

2. *Caterer Class "A."* All alcoholic sales are regulated under state statutes but are further limited as follows:

(i) A caterer holding a Class "A" license may sell alcohol beverages to customers only if the sale is consummated on the licensed premises, with the buyer and seller both physically present at the time of sale. Retail sales of alcohol beverages must be made on the licensed premises in the presence of either the licensee, the agent of the corporation if the licensee is corporate, or the holder of a valid operator's license.

(ii) State law forbids place-to-place deliveries, where the sale and delivery of alcohol beverages are made concurrently. The retailer could deliver alcohol beverages to the event as an agent of the purchaser if the alcohol beverages have been previously purchased from the retailer as provided above.

(iii) The caterer can only sell alcohol beverage to customers only in conjunction with simultaneous food sales.

(iv) Alcohol beverages sold at the caterer's licensed premises cannot be catered at another licensed premises. Alcohol beverages could be dispensed and consumed (not sold) at nonlicensed premises if the event conducted is a private function and is not open to the public.

(v) The sale of all alcohol beverages used at the function must be made at the caterer's licensed premises, at which time they become the property of the purchaser; any alcohol beverages so purchased and not used may not be returned to the caterer. Consignment sales are illegal.

(vi) The caterer may supply personnel to dispense alcohol beverages at catered functions. It is illegal to have a cash bar at events where alcohol beverages have been catered in.

(vii) Alcohol beverages can only be dispensed on the premises in the presence of either the licensee, the agent of the corporation if the licensee is corporate or the holder of a valid operator's license.

3. *Deli Class "A."* All alcoholic sales are regulated under state statutes but are further limited as follows:

   (i) A deli operator holding a Class "A" license may sell beer, malt liquor and wine, but no distilled alcohol product beverages nor any beverage or product having an alcoholic content of over 14 percent, to customers only if the sale is consummated on the licensed premises with the buyer and seller both physically present at the time of sale. Retail sales of beer, malt and wine beverages, as above, must be made on the licensed premises in the presence of either the licensee, the agent of the corporation if the licensee is corporate or the holder of a valid operator's license.

   (ii) State law forbids place-to-place deliveries, where the sale and delivery of beer, malt and wine beverages, as above, are made concurrently. The retailer could deliver beer, malt and wine beverages as above, to the event as an agent of the purchaser of the beer, malt and wine beverages, as above, have been previously purchased from the retailer as provided above.

   (iii) Beer, malt and wine beverages, sold at the deli licensed premises cannot be catered at another licensed premises. Beer, malt and wine beverages, as above, could be dispensed and consumed (not sold) at nonlicensed premises if the event conducted is a private function and is not open to the public.

   (iv) The sale of all beer, malt and wine beverages, as above, used at the function must be made at the deli's licensed premises, at which time they become the property of the purchaser; any beer, malt and wine beverages, as above, so purchased and not used may not be returned to the deli. Consignment sales are illegal.

   (v) The deli may supply personnel to dispense beer, malt and wine beverages, as above, at catered functions. It is illegal to have a cash bar at events where beer, malt and wine beverages, as above, have been catered in. Either the licensee, the agent of the corporation if the license is corporate, or a holder of a valid operations license must be present at all times while beer, malt and wine beverage, as above, is dispensed.

b. *Quota.* Not more than one of each of the following Class "A" liquor licenses shall be issued for each 2,000 population. Population shall be as defined in Wis. Stats. § 125.51(4). At no time may a license issued under one of these subclasses be used as if changed to another subclass but must be surrendered and a new license be applied for the new subclass and subject to all the rules regarding issuing a brand new liquor license. Use of one of these subclass licenses as if it was in fact issued

as a different subclass, shall be deemed a material false swearing on their license application and a forfeiture of their license and said license shall immediately be voided by the city.

1. Retail Class "A."
2. Caterer Class "A."
3. Deli Class "A."

(2) *Discontinuance of licenses.*

a. Whenever a location has been licensed as a Class "A" liquor license premises for the sale of intoxicating liquors and has been vacated with no issuance of a new license for 90 days after the June 30 expiration date of the licensing year, such license shall no longer be available for application and no new license shall be issued in its place for that location or any other location. The purpose of this provision is to reduce the number of Class "A" liquor licenses available within the city.

b. No license under this provision shall be issued a grocery/food store, unless the location of the display storage of the alcohol beverage is in a room or area separated from the other departments in the store, which area is capable of closure and nonaccess during the hours when liquor sales are not legally permitted. First time grocery/food applicants shall provide to the city council a floor plan or diagram of the proposed licensed display storage area in their stores, which plan or diagram shall become part of the application for the license. Sales and check-out of alcohol beverages may be conducted in the same area and check-out lane as other grocery items.

(b) "*Class B*" *liquor licenses.*

(1) *Quota defined*. As provided in Wis. Stats. § 125.51(4).

(2) *Discontinuance of licenses*. Whenever a location which has been licensed as a "Class B" liquor license premises for the sale of intoxicating liquors has been vacated and no new license has been issued for six months after the June 30 expiration date, such license shall no longer be available for application and no new license shall be issued in its place for that location or any other location. The purpose of this provision is to reduce the number of "Class B" liquor licenses available in the city.

(Code 2004, § 12.03(4); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord.

No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-59. License application.

Application for a license to sell or deal in intoxicating liquors shall be made in writing on the form prescribed by law and sworn to by the applicant as provided by Wis. Stats. § 887.01 and shall be filed with the city clerk not less than 15 days prior to the granting of such license. Such application shall be accompanied by the cost of publication as provided by Wis. Stats. § 125.04(3).

(Code 2004, § 12.03(5); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-60. License investigation.

The city clerk shall notify the chief of police, health officer, chief of the fire department and building inspector of each application and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants and whether the applicant is a proper recipient of a license. These officials shall each furnish to the city council in writing the information derived from such investigation, accompanied by a recommendation as to whether a license hereunder should be granted or refused. No license shall be renewed without a reinspection of the premises and report as originally required. In determining the suitability of an applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and premises proposed and generally the applicant's fitness for the trust to be reposed. Nothing contained herein shall in any way alter the procedures and safeguards set out in Wis. Stats. § 125.12 relating to revocations, suspensions and refusals to issue or renew an alcohol license.

(Code 2004, § 12.03(6); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord.

No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. of 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-61. Restrictions on issuance.

(a) *Character; citizenship; residence; exception for owners.*

(1) *Requirements for granting license.* No license shall be granted to any person not of good moral character and who has not resided in the state for at least one year immediately prior to the date of filing the application, unless the applicant is a bona fide purchaser of real estate within the city. The term "real estate" shall include:

a. *Vacant residential.* A vacant, improvable, buildable parcel of a size not less than the minimum lot size required by city zoning regulations for that zoning district.

b. *Residential.* A parcel upon which there is an existing dwelling unit fit for occupancy or human habitation and certified as such by the building and sanitation inspectors.

c. *Business.* A business property located in a properly zoned district, either improved or capable of being improved to render the property usable for any lawful business purposes. Such purchased property shall not be used as a tavern unless it is an existing tavern which is in operation at the time of purchase by the applicant.

d. *Industrial.* Any industrially zoned parcel, either improved or improvable and of a size not less than the minimum size required by the city zoning regulations for that district.

(2) *Applicability to residency.* If the applicant becomes the bona fide owner of any of the types of real estate above described, the one year's residence requirement in the city shall not apply. Only one license shall be issued based upon ownership of a particular parcel of real estate, regardless of the number of co-owners of such parcel.

(b) *Law violators.* No license shall be issued to any person who, subject to the provisions of Wis. Stats. §§ 111.321, 111.322 and 111.335, has habitually been a law offender or who has been convicted of a felony unless the person so convicted has been pardoned. This subsection shall not apply to a state corporation but shall apply to all officers and directors of any such corporation.

(c) *Age requirements.* No license hereunder, except an operator's license, shall be granted to any person who has not attained the legal drinking age. Operator's licenses may be issued only to applicants who have attained the age of 18.

(d) *Street level premises.* A retail "Class B" liquor license shall be issued only for that portion of a premises located on the street level, provided this paragraph shall not apply to a premises now under a "Class B" liquor license.

(e) *Issuance after revocation.* Whenever any license has been revoked, at least 12 months shall elapse before any other license shall be granted to the person whose license was revoked.

(f) *Premises to conform to state and city requirements.* No retail "Class B" liquor licenses shall be issued unless the premises to be licensed conform to the sanitary, safety and health requirements of the state building code, the state plumbing code and other state law and all ordinances and regulations adopted by the city.

(g) *Corporate stock interests.* No corporation organized under the laws of this state, any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation meets the requirements of Wis. Stats. § 125.04(6).

(h) *Consideration of licenses after denial.* No application for a license under this section shall be again considered by the council during the balance of the license period after it has been denied, unless presented under the rule for reconsideration.

(i) *Limitation as to number.* Not more than two retail "Class A" or "Class B" intoxicating liquor licenses shall be issued to any corporation or person, except for hotels or clubs; and in each application for retail "Class A" or "Class B" intoxicating liquor licenses the applicant shall state the number of other applications made by him for other retail "Class A" or "Class B" intoxicating liquor licenses for any other location in the state. No such license shall be issued to any person acting as agent for or in the employ of another.

(j) *Combined "Class A" and "Class B" prohibited.* Retail "Class A" and "Class B" intoxicating liquor licenses shall not both be issued for the same premises or connecting premises, except hotels as defined in Wis. Stats. § 125.02(7).

(k) *Delinquent taxes, assessments, etc.*

(1) *Premises*. No initial or renewal of any license under this article shall be granted for which taxes, assessments or other claims to the city are delinquent and unpaid.

(2) *Persons*. No initial or renewal license shall be granted to any person delinquent in:

a. Payment of any taxes, assessments or other claims owed to the city.

b. Payment of a forfeiture resulting from a violation of any ordinance of the city.

(l) *Limitations on other businesses; Class "B" premises.* No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a

secondary doorway which serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

(1) A hotel.

(2) A restaurant, whether or not it is a part of or located in any mercantile establishment.

(3) A combination grocery store and tavern.

(4) A combination sporting goods store and tavern in towns, villages and fourth class cities.

(5) A combination novelty store and tavern.

(6) A bowling alley or recreation premises.

(7) A club, society or lodge that has been in existence for six months or more prior to the date of filing application for the Class "B" license or permit.

(Code 2004, § 12.03(7); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-62. Operator's license.

(a) *Statutory requirements.*

(1) An operator's license shall be granted pursuant to Wis. Stats. § 125.17 and all requirements of those sections as they now exist and as they may be amended shall be a part of this section by reference thereto. For the purpose of this section, any member of the immediate family of the licensee who fulfills the statutory requirements shall be considered as holding an operator's license without need of further application.

(2) Subject to Wis. Stats. §§ 111.321, 111.322 and 111.335 no member of the immediate family may act as an operator-bartender if such member has been habitually a petty law offender or has been convicted of a felony unless the person so convicted has been pardoned. All other statutory requirements that apply to applicants for operator's-bartender's licenses shall apply to any member of the immediate family who is allowed to act as an operator-bartender without need of application for license.

(b) *Application.*

(1) A beverage operator's license may be issued by the council upon the payment of a fee as provided in the city fee schedule on file in the city clerk's office, plus a fee as provided in the city fee schedule for any additional name checks or investigations.

(2) The operator's license fee schedule shall be as provided in the city fee schedule.

a. Bartender's license (Class "D").

b. Temporary bartender's license.

c. Provisional bartender's license.

(3) A written application stating the type of premises where the applicant is to be employed, and stating the name, residence and age of the applicant, together with the information required in section 8-59 shall be filed with the clerk. The application shall be referred to the chief of police for a report. No license to handle or sell merchandise on a "Class A" or "Class B" premises shall be granted to a person under the age of 18.

(c) *Operator-bartender's license.* The operator's license shall be referred to as a bartender's Class "D" license and, when issued by the clerk or deputy clerk shall entitle the holder thereof to draw or remove from a keg or container and serve fermented malt beverages in any place operated under a Class "B" or combination "Class B" beverage license and to sell intoxicating liquors in any place operated under a Class "A" or "Class B" liquor store operator's license. The common council reserves the right to directly issue said licenses, at its discretion and in addition to the authority given herein, and to review and redetermine the propriety of issuance of any license issued by the clerk or deputy clerk hereunder, for cause.

(d) *Application referred to chief of police and licensing committee.* Upon payment of the permit fees to the clerk, the application shall be immediately referred to the chief of police and the licensing committee. Thereafter, if no written reasons for disapproval are presented to the clerk, he shall issue an interim bartender's Class "D" license, which, unless revoked by the city council, shall entitle the holder to serve and sell as authorized in subsection (c) of this section.

(e) *Investigation completed.* The chief of police shall continue his detailed investigation and, when completed, report to the licensing committee of the city council who shall make a final recommendation to the city council on the application.

(Code 2004, § 12.03(8); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord.

No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-63. Special occasion dance permits.

(a) *Dancing permitted.* Combination "Class B" licensees in the city may permit patrons to dance on the licensed premises upon receiving a special occasion dance permit from the clerk. The clerk shall issue no more than five such permits to a licensed premises during each annual licensing period.

(b) *Fee*. The combination "Class B" licensee shall pay a fee for each permit.

(c) *Music regulated.* Dancing allowed under a special occasion dance permit may be to either live or prerecorded music. Dancing and the playing of music under a special occasion dance permit shall be subject to section 8-64 as it relates to closing hours.
(Code 2004, § 12.03(9); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-64. Live music permit.

(a) No live music shall be permitted on a combination "Class B" licensed premises between 1:00 a.m. and 10:00 a.m. on weekdays and 2:00 a.m. and 10:00 a.m. on Saturdays and Sundays except on January 1 when there is no restriction.

(b) No bands, orchestras or live music provided by musical instruments shall be permitted on a combination "Class B" licensed premises except as provided in this article.

(c) Application for a license to permit bands, orchestras or live music provided by musical instruments on combination "Class B" premises other than licensed dance halls shall be made in accordance with sections 8-59 and 8-60 and upon payment of the annual license fee.
(Code 2004, § 12.03(10); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord.

No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-65. Live entertainment permit.

(a) No entertainment, exhibition, floor show or vaudeville act shall be permitted on any combination "Class B" premises unless licensed under this article.

(b) Application. Application for a license to permit entertainment, exhibitions, floor shows or vaudeville acts on combination "Class B" premises also licensed under section 8-64 shall be made in accordance with sections 8-59 and 8-60, and upon payment of a fee as provided in the city fee schedule.

(Code 2004, § 12.03(11); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-66. Entertainer's license.

(a) Every entertainer or performer, except a musician, shall, prior to performing on premises covered by a combination "Class B" liquor or beer license, obtain a license from the council. The license shall be valid only for the premises designated in the application and shall expire the same time the "Class B" liquor or beer license expires for said premises.

(b) The license required shall be issued by the city clerk under the authority of the council. Application for a license shall be made on a form supplied by the clerk, which form and its provisions shall become a part of this subsection by reference and which shall specify the premises the applicant intends to perform at.

(c) The initial fee for such license shall be per year or any part of a year and all licenses shall expire on June 30 in each year.

(d) No license shall be issued to any person who has not attained the legal drinking age on the date of application.

(e) Section 8-60 requiring license investigations shall apply to licenses hereunder.

(Code 2004, § 12.03(12); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282,

5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-67. Conditions of license.

All retail Class "A" and Class "B" licenses granted hereunder shall be granted subject to the following conditions and all other conditions of this section and regulations of the city applicable thereto:

(1) *Consent to inspection.* Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the city at all reasonable hours for the purpose of inspection and search, and consents to the removal from such premises of all things and articles there had in violation of city ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.

(2) *Employing persons under the legal drinking age.* No retail combination "Class B" licensee shall employ any underage person who does not have a valid operator's license to serve, sell, dispense or give away any alcohol beverage; but this subsection shall not apply to hotels, restaurants or combination grocery stores and taverns where not to exceed 20 percent of the gross revenue is derived from the sale of intoxicating liquors, nor to bona fide clubs.

(3) *Use of curtains and blinds.* No premises, licensed for the sale of intoxicating liquor at retail shall, during the days they shall close or during the hours in which the sale of liquor is prohibited, obstruct by the use of curtains, blinds, screen or any other manner a full and complete view of the interior from the outside. During the hours in which the sale of intoxicating liquor is permitted, the premises shall be properly and adequately lighted.

(4) *Sales by clubs restricted.* No club shall sell intoxicating liquors, except to members and guests invited by members.

(5) *Liquor not to be sold on credit.* No retail Class "A" or Class "B" licensee shall sell or offer to sell any intoxicating liquor to any person on credit, except credit extended by a hotel to a resident guest or by a club to a bona fide member or by grocers and druggists who maintain a credit system in connection with other purchases as well. No licensee shall sell intoxicating liquor to any person on a passbook or store order or receive from any person any goods, wares, merchandise or other articles in exchange for intoxicating liquor.

(6) *Disorderly conduct prohibited.* Such licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

(7) *Gambling prohibited.* Except as provided by state law, no gambling or games of chance shall be permitted upon the licensed premises. Dice, slot machines or any devices of chance are prohibited and shall not be kept upon the premises.

(8) *Dancing regulated.* No dancing shall be permitted upon any licensed premises except a premises licensed with a Class "B" license, except under a special occasion dance permit issued under section 8-63.

(9) *Music regulated.*

a. *Hours.*

1. No person shall play or permit to be played any mechanically operated phonograph, also known as jukebox, or any other musical instrument, radio, phonograph or other similar device in taverns, restaurants, dance halls or other places between 2:00 a.m. and 10:00 a.m. on weekdays and 3:30 a.m. and 10:00 a.m. on Sundays.

2. No person shall play live music in taverns, restaurants, dance halls or other places between 1:00 a.m. and 10:00 a.m. on weekdays and 2:00 a.m. and 10:00 a.m. on Sundays and legal holidays. There shall be no restriction to such music on January 1 of each year.

b. *Permit.* See section 8-64 for permit required for live music.

(10) *Posting of licenses.* Every license and permit issued pursuant to this section shall be posted while in force in a conspicuous place in the room or place where intoxicating liquors are kept for sale. No person shall post such license or permit or allow such to be posted upon premises other than those mentioned in the application or knowingly deface or destroy such license or permit.

(11) *Replacement license.* Whenever a license or permit is lost or destroyed, a duplicate in lieu thereof under the original application shall be issued by the clerk on satisfying himself as to the facts and upon the payment of a fee.

(12) *Health rules.* Each premises shall be conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used. The health officer may make reasonable and general rules for the sanitation of all businesses possessing licenses under this section. Such rules or regulations may be classified and made applicable according to the class of business conducted. All such rules and regulations shall have the same force as this section, and violations thereof may be punished as a violation of this section.

(13) *Solicitation prohibited.* No person shall solicit, ask or invite a person of the opposite sex not known to him to purchase for or give to such person intoxicating liquor, malt beverage, nonintoxicating liquor or soft drink in any "Class B" malt beverage or intoxicating liquor licensed premises. No licensee or his agent or employee shall permit a person to violate this subsection.

(14) *Employees behind bar.* No entertainer, waitress or waiter employed at any "Class B" fermented malt beverage or intoxicating liquor licensed premises shall stand or sit at or behind the bar, except for the purpose of receiving food or drink orders for delivery to patrons who are not at the bar, or sit at any table or any booth on the premises with any patron of the opposite sex. No licensee or his agent or employee shall permit a person to violate this subsection.

(Code 2004, § 12.03(13); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-68. Closing hours.

No premises for which a retail liquor license has been issued shall remain open for the sale of liquor during the following hours:

(1) If a Class "A" or "Class A" premises, between 9:00 p.m. and 6:00 a.m. of every day.

(2) Hotels and restaurants, the principal business of which is the furnishing of food and lodging to patrons, bowling alleys, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business, but may not sell intoxicating liquors or malt beverages during the hours prohibited.

(3) Any person who is not exempt pursuant to Wis. Stats. § 125.10(4) is prohibited from being on a "Class B" retailer's (tavern) premises during the hours of closing as provided for in Wis. Stats. § 125.68(4).

(Code 2004, § 12.03(14); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743,

7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2396, 12-17-2013; Ord. No. 2399, 2-19-2014)

Sec. 8-69. Conduct of entertainers and employees.

(a) *Physical contact prohibited.* No entertainers shall have physical contact with customers or other entertainers during their act, performance or dance, nor shall they entice customers into joining in the same.

(b) *Costumes restricted.*

(1) *Females.* The top portion of the costume worn by female entertainers or employees shall be of a nontransparent material and shall completely cover the breasts. The lower portion of the costume shall completely cover the mons pubis and genitals and the cleavage of the buttocks.

(2) *Males.* The costume worn by the male entertainers or employees shall be of nontransparent material and shall completely cover the pubic area, genitals and cleavage of the buttocks.

(c) *Licensee responsible.* No holder of a license issued under this section shall permit any conduct on his licensed premises in violation of this subsection and such violation shall constitute grounds for revocation of his license by the city council.

(d) *Effect of violation.* A violation of this section by an authorized agent or employee of a licensee or permit older shall constitute a violation by the licensee or permit holder. Whenever the holder of any license or permit under this section violates any portion of this section or any regulation adopted pursuant thereto, proceedings for the revocation of such license or permit may be instituted in the manner and under the procedure established by Wis. Stats. § 125.12 and the provisions therein relating to granting a new license shall likewise be applicable.
(Code 2004, § 12.03(15), (16); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-70. Underage persons.

(a) *Presence by underage persons where alcohol beverage is dispensed or consumed.*

(1) *Prohibition.* No person under the age of 21 shall enter or remain at any public or private place with the knowledge that any fermented malt beverage or other alcohol beverage is being sold, dispensed, given away or made available to underage persons.

(2) *Exemptions.* This subsection shall not apply to persons under the age of 21 who are accompanied by a spouse who has attained the legal drinking age, a parent or guardian.

(b) *Permitting underage persons to enter or remain where alcohol beverage is dispensed.* No person of legal drinking age shall knowingly suffer or permit any person under the age of 21 to enter or remain on any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed or given away, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(c) *Penalty.* If any licensee hereunder shall be convicted of a second violation of this section within one year, or shall be once convicted of selling or giving away intoxicating liquor to any person under the legal drinking age, such offender, in addition to the penalties herein provided, shall forfeit such license issued hereunder and no license shall thereafter be granted to such person for one year from the date of such revocation.

(Code 2004, § 12.03(17), (18); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord. No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Sec. 8-71. Revocation of licenses.

(a) Except as otherwise provided in this article, any license issued under this chapter may be revoked for cause by the city council in the manner provided herein. No license shall be revoked except upon a written verified complaint filed with the city clerk by the police chief, or his or her designee, or a resident of the city. The licensee shall be served with a copy of the written charges and given an opportunity to be heard before the rules, laws, and licensing committee. Such hearing shall be not more than 20 nor less than five days after notice to the licensee, except as otherwise agreed between the parties.

(b) At such hearing, the licensee shall have the right to be represented by counsel, to present and cross examine witnesses, and upon request, may have subpoenas issued by the rules, laws, and licensing committee chairperson to compel the attendance of witnesses.

(c) After hearing the evidence, the rules, laws, and licensing committee may revoke such license or impose a limited period of suspension. The determination of the rules, laws, and licensing committee will be approved, disapproved or altered by the common council in a nonevidentially manner. The city elects not to be governed by Wis. Stats. ch. 68, as to this article.

(d) The police department shall repossess any license revoked hereunder.

(e) The purpose of this subsection is to establish an alcohol beverage demerit point system to assist in determining which license holders should be subject to suspension or revocation procedures.

(1) Point schedule. The scale of demerit points is listed according to the type of violation. The point system is to identify habitually troublesome license holders who have repeatedly violated state statutes and city ordinances for the purpose of recommending suspension or revocation of their beverage licenses.

(2) Description of violation point values. Type of violation point value are as follows:

a. Violation of controlled substance laws, 200.

b. Participating in or permitting sexual activity on premises, 150.

c. Sale of alcohol beverage without license/permit, 150.

d. Sale of intoxicants to underage persons, 150.

e. Underage person loitering on premises, 150.

f. Sale of intoxicants to intoxicated persons, 100.

g. Persons on premises after hours, 100.

h. Violations of carry-out hours, 100.

i. License permitting person to leave licensed premises with open intoxicants, 100.

j. Refusal to allow police to perform licensed establishment check for license or alcohol violations, 100.

k. Disorderly conduct/loud noise on premises, 100.

l. Any other violations of the state statutes or city ordinances, 100.

(f) Violations; how calculated.

(1) In determining the accumulated demerit points against a licensee, the points shall be counted within a 12-month period, the city shall use the date the violation was committed as a basis for the determination.

(2) The chief of police or his or her designee shall be responsible for monitoring violations of such licensed establishments and may report or file a complaint to the Rules, laws

and licensing committee any establishments that have 300 points accumulated in a 12-month period, 500 points in a 24-month period, or 750 points in a 36-month period (see subsection (g) of this section).

(g) Suspension and revocation procedures.

(1) No license shall be revoked except upon written verified complaint filed with the city council by the mayor, the police chief or a resident of the city. The licensee shall be served with a copy of the written charges and given an opportunity to be heard before the rules, laws and licensing committee. Such hearing shall be not more than 20 nor less than five days after notice to the licensee, except as otherwise agreed between the parties.

(2) At such hearing, the licensee shall have the right to be represented by counsel, to present and cross-examine witnesses and, upon request, may have subpoenas issued by the mayor or presiding officer of the city council to compel the attendance of witnesses.

(3) After hearing the evidence, the rules, laws and licenses committee shall submit a report to the city council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the city council should take with respect to the licensee. city council may revoke such license or impose a limited period of suspension. The determination of the council shall be final. The city elects not to be governed by Wis. Stats. ch. 68, as to this article.

(4) A verified written complaint may be filed, according to Wis. Stats. § 125.12, for the purposes of a revocation or suspension hearing, for all licensees who have accumulated 300 points in a 12-month period, 500 points in a 24-month period, or 750 points in a 36-month period as a result of court convictions or act upon reports which believed, would result in 300 demerit points in a 12-month period, 500 points in a 24-month period, or 750 points in a 36-month period.

(5) If the demerit point accumulation calculated from the date of violation exceeds 300 points in a 12-month period, 500 points in a 24-month period, or 750 points in a 36-month period a revocation or suspension would be required if the points accumulated are substantiated. If a suspension is ordered it shall be for not less than ten days and not more than 90 days. If the license is revoked, no other license shall be issued for a period of 12 months to the licensee from the date of revocation.

(6) The police department shall repossess any license revoked hereunder.

(Code 2004, §§ 12.02(15), 12.03(19); Ord. No. 666, 10-15-1963; Ord. No. 743, 7-19-1966; Ord. No. 778, 11-7-1967; Ord. No. 840, 7-1-1969; Ord. No. 881, 3-4-1970; Ord. No. 999, 11-6-1973; Ord. No. 1013, 8-7-1974; Ord. No. 1022, 11-19-1974; Ord. No. 1024, 11-19-1974; Ord. No. 1282, 5-17-1983; Ord. No. 1381, 10-7-1986; Ord. No. 1526, 4-6-1991; Ord. No. 1590, 7-21-1992; Ord. No. 1599, 11-17-1992; Ord. No. 1704, 5-16-1995; Ord. No. 1709, 8-1-1995; Ord. No. 1743, 7-2-1996; Ord. No. 1844, 5-19-1998; Ord. No. 1903, 9-7-1999; Ord. No. 1936, 2-15-2000; Ord.

No. 1978, 11-6-2000; Ord. No. 1982, 2-6-2001; Ord. No. 2143, 3-15-2005; Ord. No. 2178, 12-20-2005; Ord. No. 2332, 9-1-2009; Ord. No. 2336A, 6-1-2010; Ord. No. 2369, 11-15-2011; Ord. No. 2399, 2-19-2014)

Secs. 8-72—8-100. Reserved.

DIVISION 2. TAVERN LICENSES AND DANCES

Sec. 8-101. Underage tavern license.

(a) *License required.* There is hereby created a license to be called "Underage Tavern License" which may be granted only to holders of "Class B" licenses. No "Class B" license holder may allow underage persons on the premises without first obtaining an underage tavern license.

(b) *Application.* Any holder of a "Class B" license who wishes to allow underage persons on the premises shall make application to and on forms provided by the city clerk. The city clerk is authorized to consult with the license committee and devise and revise from time to time an application form. Each application shall be submitted to the city clerk at least 15 days prior to issuance. Notice of the application shall be published as a Class 1 notice. The license committee shall consider the application and the city council shall authorize the city clerk to issue the license.

(c) *Terms and conditions of license.*

(1) *Period.* The license is for a period of one year or part thereof and shall expire on June 30 following its issuance.

(2) *Consent to inspection.* All license holders consent to warrantless inspection of premises and consent forms at any reasonable hour by police officers.

(3) *Notification.* The holder of the license shall notify in writing the police department and city clerk at least 48 hours in advance of the dates and hours when underage persons will be allowed on the premises and the name and address of the adult supervisor. The licensee may also comply by annually filing notification for specific dates during the licensing period.

(4) *Supervision.* There must be at least one adult supervisor, 25 years or older, on the premises during the period of the activities permitted by the license.

(5) *Hours.* The license holder shall not allow any person on the premises in violation of the curfew ordinance. Licensed activities shall be held between the hours of 2:00 p.m. and 11:00 p.m.

(6) *Ages.* No license holder shall allow any persons age 14 or under or age 21 or older upon the premises for the licensed activity, except for the license holder, employees of the license holder, supervisors and the parents or guardians of any of the patrons. With the above exceptions, no person not age 15 through 20 may be on the premises.

(7) *No alcohol consumed.* No alcohol may be on the person, in the custody of or consumed by anyone on the licensed premises nor sold or given away to any person regardless of age during the period of the licensed activity.

(8) *Compliance with other license requirements.* The license holder shall procure all other city licenses that are usually required for dancing, entertainment and live music, but no occasional dance permits shall be granted.

(d) *Definitions.* The term "premises" includes both the inside of the building and so much of the outside of the building as is owned or occupied by the license holder.

(e) *Penalty.*

(1) *Revocation or suspension.* Wis. Stats. § 125.12, shall apply to proceedings to revoke or suspend underage tavern licenses. Licenses may be revoked or suspended for violations of the terms and conditions of the license or for other cause. The council may initiate the procedure on its own motion.

(2) *Other.* Any person who violates any provision of this section shall be subject to a penalty as provided in section 1-15.

(Code 2004, § 12.035; Ord. No. 1400, 4-27-1987)

Sec. 8-102. Tavern dances.

(a) *License required.* No person licensed to sell intoxicating liquors or fermented malted beverages at retail under section 8-54 shall permit on the licensed premises any dancing, whether public or private, without having first procured a tavern dance hall license as provided in this section or a special occasion dance permit under section 8-63. This section shall not apply to premises licensed as public dance halls under section 8-133.

(b) *Zoning area restrictions.* No tavern dance hall license shall be issued for any premises unless located in an S-1 Shopping District, S-2 Shopping District, M-1 Industrial District, M-2 Industrial District or M-3 Industrial District. Any person and his heirs, assigns, transferees and lessees to whom a tavern dance license has been previously issued for premises not located in such district shall be considered a nonconforming license holder and shall be entitled to a tavern dance hall license upon application, provided all other requirements of this section are fulfilled.

(c) *License.* A tavern dance hall license shall entitle the holder thereof to permit dancing upon such licensed premises on Friday and Saturday nights or any night before January 1, May 30, July 4, November 11, Labor Day and Thanksgiving Day and on the night of December 25, provided no entertainment, exhibitions or floor shows other than instrumental music and recorded phonograph music shall be permitted on such licensed premises.

(d) *Floor space requirements.*

(1) No tavern dance hall license shall be issued nor shall any public or private dancing be permitted on any premises unless such premises has 300 sq. ft. or more of unobstructed, contiguous floor area available for dancing space.

(2) Dancing space shall not include the area enclosed by an imaginary line six feet in front of any bar and the back bar wall or the area within three feet of any part of an exit door, toilet room door or any exit passageway or any other space or room which is not used exclusively by the public. Such open dancing space shall be used for dancing only and for no other purpose at the time the same is used for dancing purposes.

(e) *Fee and expiration.*

(1) See the city fee schedule for the fee for such tavern dance hall license. Such license shall expire on June 30 after issuance, and the full license fee shall be charged for any such license issued on or before January 1.

(2) When such deposit is made with the city treasurer, he shall issue a receipt therefor, stating thereon the amount of the deposit and the purpose for which it was made. Such receipt shall be attached to the application. The deposit on all applications denied by the council or withdrawn by the applicant shall be refunded by the city treasurer upon surrender of the deposit receipt certified by the city clerk to the effect that such license application has been denied or withdrawn. When a license is granted by the council, the city treasurer shall apply such deposit as full payment for the license applied for and granted.

(f) *Application.* Application for such license shall be filed with the city clerk for presentation to the rules, laws and licensing committee, which shall refer such application to the council. Such application shall state the name and address of the applicant, the location at which such tavern dance is intended to be conducted, the name of the person or company owning the premises for which the permit is requested and the type of license issued for such premises. Each such application shall be accompanied by a receipt of the city treasurer showing deposit with him of the license fee.

(g) *Investigation and issuance*. Section 8-133(e) concerning investigation and issuance of licenses for public dance halls shall apply to applications for tavern dance hall licenses insofar as practical.

(h) *Closing hours.* All live music and all public and private dancing to live music conducted under a license issued hereunder shall be discontinued between 1:00 a.m. and 10:00 a.m. on weekdays and 2:00 a.m. and 10:00 a.m. on Sundays and legal holidays as enumerated in subsection (c) of this section. Dancing to prerecorded or juke box music may continue as permitted under section 8-67(9).
(Code 2004, § 12.04; Ord. No. 1023, 11-19-1974; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Secs. 8-103—8-116. Reserved.

ARTICLE IV. AMUSEMENTS AND ENTERTAINMENT

DIVISION 1. GENERALLY

Sec. 8-117. Public dances and dance halls.

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

(1) *Public dance* means any dance or ball to which the public generally may gain admission, with or without payment of a fee.

(2) *Public dance hall* means any room, place or space having an area of 900 square feet or more in which a public dance or public ball may be held, or a hall or academy in which classes in dancing are held and instruction in dancing is given for hire.

(b) *License required.* No person shall hold a public dance or public ball or hold classes in dancing within the city until the dance hall in which the same may be held is licensed for such purpose.

(c) *Application.* The application for such license shall be filed with the city clerk for presentation to the council. Such application shall state:

(1) Name and address of applicant;

(2) Whether applicant is a citizen of the United States;

(3) Length of residence in city;

(4) Location at which such public dance hall is intended to be conducted;

(5) Name of person owning premises for which a permit is asked;

(6) Whether applicant has previously been licensed to conduct a public dance hall in the city;

(7) The location where the applicant conducted such public dance hall under such license, if any; and

(8) Whether the applicant has been convicted of violating any law regulating the conduct of the public dance halls.

(d) *Fee and term.* All such applications shall be accompanied by a receipt of the city treasurer showing payment of the license fee. See the city fee schedule. Each license granted shall expire on June 30 of each year.

(e) *Investigation and issuance.*

(1) Whenever any applicant has filed his application, the city clerk shall forward the application to the council for approval. All applications shall be referred to the chief of police, who shall investigate each application to determine whether the dance hall to be licensed complies with all regulations and laws applicable thereto, and in making such investigation, the chief of police shall, when desired, have the assistance of the building inspector, the health officer and the fire chief. The chief of police shall recommend whether a license shall be granted or denied based on the information contained in the application and compliance with all applicable laws and regulations. No license shall be renewed except after inspection of the premises as provided herein. No such license shall be issued by the city clerk until granted by the council.

(2) No license for a public dance hall shall be issued until such hall complies with and conforms to all code provisions, health and fire regulations, is properly ventilated and supplied with sufficient toilet conveniences and is a safe and proper place for the purpose for which it is to be used.

(f) *Denial of right to hold dance.* Every licensee, upon application to lease or rent his hall, shall report to the chief of police the name and address of the lessee and the date when such public dance or ball is proposed to be held. If the chief of police determines that the proposed dance or ball should not be held, he shall, within five days after receipt of the notice of application for lease, notify the licensee in writing that the proposed public dance or ball shall not be held therein, and the licensee shall refuse to permit such dance or ball to be held in such hall. Failure of the licensee to comply with this subsection shall be sufficient cause for the revocation of the license.

(g) *Cleanliness and conduct.* Any public dance hall shall be kept in a clean, healthful and sanitary condition, and all stairways and outer passages and all rooms connected with a dance hall shall be kept open and well lighted. The police shall vacate any dance hall whenever any provision of this Code with regard to public dances and balls is violated or whenever any indecent act is committed or when any disorder takes place.

(h) *Minors at public dances.* No person shall, after 11:00 p.m., permit any person to attend or take part in any public dance who has not reached the age of 18 years, unless such person is in the company of a parent or guardian. No person shall misrepresent his age to obtain admission to a public dance hall or to remain therein. No person shall misrepresent himself to be a parent or guardian of any person so such person may obtain admission to the public dance hall or remain therein.

(i) *Closing hours.* All public dances shall be discontinued and all public dance halls shall be closed at or before 1:00 a.m.

(j) *Exceptions.* This section shall not apply to dances conducted by schools and churches, by organizations connected with such schools and churches or by fraternal organizations when attendance is limited to members and guests, provided all sanitary and police regulations shall be complied with.
(Code 2004, § 12.05; Ord. No. 2143, 3-15-2005)

Sec. 8-118. Extension of premises (outdoor parties).

(a) The extension of premises to "Class B" liquor licensees may be permitted at the discretion of the common council, upon application and furnishing such information as the council requests. The council may impose notice to neighbors, private security, no beer or alcohol outdoors or such other and additional restrictions and/or conditions it deems appropriate and in the best interest of the city, and its residents.

(b) Provided further that the following conditions and restrictions shall apply:

(1) Extension of premises shall be limited to not more than two occasions per year for each licensed premises.

(2) An extension of premises shall be allowed for one day or two consecutive calendar days only, and no three consecutive calendar day functions shall be permitted unless permitted to do so in strict compliance with the conditions of the license and the requirements of sections 8-372 to 8-378.

(3) The occasion shall be confined to the premises contiguous with the licensed premises and upon privately owned premises; no extension shall be granted for any use of public streets, walks or other public areas unless permitted to do so in strict compliance with the conditions of the license and the requirements of sections 8-372 to 8-378.

(4) There shall be no amplified music outside the licensed premises or fully enclosed portion of the extended premises by solid walls and solid ceiling; other music must stop no later than 9:00 p.m.

(5) Outdoor activities must stop no later than 10:00 p.m. and all clean up must be completed no later than 11:00 p.m.

(Code 2004, § 12.055; Ord. No. 1862, 10-6-1998; Ord. No. 2341, 5-18-2010; Ord. No. 2429, § 1, 4-19-2016)

Sec. 8-119. Pool and billiard halls.

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

Billiard hall means any place at which three or more billiard tables are provided to be played on for compensation.

Billiard table means any table surrounded by a ledge or cushion with or without pockets upon which balls are impelled by a stick or cue on which are played games known as "Carom," "Billiards," "Pocket Billiards," "3-cushion Billiards," "English Billiards," "15-ball Pool," "8-ball Pool," "Bottle Pool," "Pea-pool" and the like, and all other games played on a billiard table and all games played on a "pigeonhole table."

(b) *License required.* No person shall maintain, operate, conduct or pursue the business or occupation of keeping any billiard hall within the city without a license as herein provided.

(c) *Exemptions.* This section does not apply to:

(1) Billiard halls provided on the premises of religious, charitable, educational or fraternal organizations for the use of members or their guests and not for private profit although a charge is made for playing.

(2) Billiard halls provided on the premises of bona fide clubs or social organizations not operating for private profit which provide other membership privileges and activities although a charge is made for playing.

(d) *Application for licenses.* Application for a license shall be filed with the city clerk on forms furnished by him, which shall require the following information:

(1) The name and address of the applicant.

(2) In the case of a partnership, the names and addresses of all partners.

(3) In the case of a corporation, the names and addresses of all officers, directors and stockholders presently holding stock and all persons who have for six months prior to the making of application been officers, directors or stockholders.

(4) In the case of clubs, associations or other organizations, the names and addresses of all officers.

(5) Whether or not the person named in the application has ever been convicted of any federal, state or city violation.

(6) The location of the premises to be licensed and the name and address of the owner or owners of such premises.

(7) The number of billiard tables to be located upon the premises to be licensed.

(8) A detailed description of the building and the total area to be licensed.

(e) *Issuance of license.*

(1) All licenses hereunder shall be issued only after approval of the council and payment of the license fee.

(2) Any such license shall bear the date of issue, the name of the licensee, the purpose for which issued and the location of the room or building where the licensee is authorized to carry on and conduct such business.

(f) *Transfer of license.* Such license shall not be transferable by the holder to any other person but may be transferred by the holder to another location, approved by the city council. A transfer fee shall also be paid by the applicant.

(g) *Partnerships and corporations.*

(1) *Partnerships*. A license issued to a partnership shall not be voided by withdrawal of a partner so long as one of the original partners remains but if a new partner becomes a member, a new license shall be required unless he already holds a license.

(2) *Corporations*. A license issued to a corporation shall be voided if an unqualified person becomes a principal officer or stockholder owning 20 percent or more of the capital stock in the corporation.

(3) *Changes in membership*. All changes in the membership of the partnership and all changes in the principal officers or stockholders owning 20 percent or more of the capital stock of a corporation shall be reported to the city clerk within ten days after they occur.

(h) *Investigation.* The chief of police shall cause to be made an investigation of all persons named in an application for a license and report his findings to the police and license committee of the council.

(i) *Qualifications.* A license shall not be issued if the applicant or any partner or principal officer or any stockholder holding more than 20 percent of the capital stock of the corporation (if the applicant is a corporation):

(1) Has been convicted of a felony or has been convicted of a misdemeanor involving moral turpitude.

(2) Is not of good moral character.

(3) Was the owner, part owner, principal officer or stockholder of any billiard hall in the city or elsewhere the license for which was revoked within the previous five years.

(4) Is not a citizen of the United States.

(5) Is under 18 years of age.

(j) *License fee.* The fee for each license shall be per billiard table.

(k) *Denial of application.* The application for a license may be denied as to a particular location within the city whenever the city council finds that the location and physical layout of the premises are such that it is against the health, safety and general welfare of the public to permit the operation of a billiard hall in that granting the license for the particular location:

(1) Will have a substantial adverse effect upon the public health of the persons living in the immediate neighborhood.

(2) Will have a substantial adverse effect upon the safety of the persons living in the immediate neighborhood.

(3) Will cause substantial depreciation in the value of the property in the immediate neighborhood.

(4) Will have a substantial adverse effect upon the convenience and prosperity of the immediate neighborhood.

(5) Will constitute a public or private nuisance.

(6) Is not in the best interest of the community in that it is not compatible with good planning and development of the area.

(7) Has been declared unsafe by the building inspector or a fire hazard by the fire chief.

(l) *Prohibited locations.* No license shall be issued for the operation of any billiard hall which is within 200 feet of any school, church or publicly owned building, such measurement being made by the shortest distance between the lots on which the structures are located.

(m) *Employees.*

(1) *Sworn list; investigation*. The applicant for a license shall file with the city clerk a sworn list of all persons to be employed by the applicant, giving the name, address, age and information relative to convictions required by subsection (d)(5) of this section. The chief of police shall cause an investigation to be made concerning the qualifications of the proposed employee as required of a licensee of a billiard hall under subsection (d) of this section and shall submit his findings to the city clerk. After a license has been issued, any person the licensee intends to employ shall be approved by the police and license committee.

(2) *Employment without approval prohibited*. The licensee shall not employ any person to serve as such during working hours without the authorization herein required. No person shall so work without the required approval.

(n) *Conduct of business.*

(1) *Hours of operation*. The allowed hours of operation of a billiard hall shall be between 6:00 a.m. and 1:00 a.m.

(2) *Manager or adult employee to be on premises*. There shall be present on the premises during the hours of operation a manager or employee 18 years of age or older who shall be responsible for the operation of the licensed premises.

(3) *Children under 14 prohibited*. No person under the age of 14 years shall be admitted or permitted to play pool or billiards on any licensed premises or to frequent or congregate in the place unless accompanied by his parent or guardian.

(4) *Card playing prohibited*. Card playing shall not be permitted on licensed premises, even for social purposes.

(5) *Gambling prohibited*. No person in a billiard hall shall gamble or make any bet.

(6) *Beer and liquor prohibited*. No person in a billiard hall shall have in his possession intoxicating liquor or fermented malt beverages unless such premises is licensed as a "Class B" tavern.

(o) *Condition of premises.* All premises in which pool and billiards are played shall be so arranged and lighted at all hours that a full view of the interior can be seen from the public thoroughfare or from adjacent rooms to which the public is admitted.

(p) *Posting premises.* There shall be conspicuously posted and displayed on any premises licensed hereunder:

(1) The license issued pursuant to this section.

(2) A copy of this section, which shall be supplied to the licensee by the city clerk.

(3) Not less than one sign giving notice that no person under the age of 16 is permitted on the licensed premises unless accompanied by his parent or guardian.

(Code 2004, § 12.07; Ord. No. 914, 3-16-1971; Ord. No. 919, 4-6-1971; Ord. No. 1116, 3-21-1978; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-120. Go-kart tracks.

(a) *Go-kart tracks regulated.*

(1) No person shall, within the city, maintain or operate a track or area designed for operating motor vehicles thereon, for a consideration or otherwise, without a license therefor issued by the city clerk.

(2) For the purposes of this section, the term "motor vehicle" includes all power-driven conveyances.

(b) *License.*

(1) *Application*. A written application for a license to maintain and operate such track or area shall be filed with the city clerk upon forms provided by the clerk. All of the questions in the application shall be answered.

(2) *Inspection and investigation*. The city clerk shall notify the chief of police and fire chief of such application, who shall inspect or cause to be inspected each application and the premises covered thereby to determine whether the applicant and the premises sought to be licensed comply with the applicable regulations, ordinances and laws. These officials shall furnish to the council in writing the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No such license shall be issued without the approval of the council.

(3) *Issuance*. No license shall be granted if it appears from the investigation that the applicant is not of good moral character, that any information furnished in the application is false or incomplete in a material respect, that the applicant is under the age of 18 years, or any other fact which creates a reasonable belief that the conduct of such track or area by the applicant would be inimical to the welfare and best interests of the public.

(4) *Fees*. The fee for such track or area license shall be for the first track licensed to any such person and for each additional track or area licensed to the same person. For the purposes of this section, each track in excess of one operated or maintained by the same person on a single track of land or several connected tracts of land shall be considered additional tracks.

(c) *Racing prohibited.* Any such licensed track or area shall be used for amusement purposes only, and no racing shall be permitted.

(d) *Mufflers*. All vehicles operated on such tract or area shall be equipped with a muffler pursuant to state law, and such track operation shall be subject to section 26-7 relating to noise.

(e) *Speed.* No motor vehicle shall be operated on such track or area at a speed in excess of 25 miles per hour. All go-karts, go-boy karts or other such motor vehicles offered for use to the general public, for a consideration or otherwise, shall be equipped with a device or gear ratio so such vehicle cannot operate at a speed in excess of 15 miles per hour.

(f) *Parking.* For each such track or area, including multiple track areas, there shall be provided an off-street parking area for not less than 100 motor vehicles.

(g) *Hours of operation.* No motor vehicle shall be operated on such track or area prior to 12:00 noon or after 9:00 p.m.

(h) *Litter prohibited.* The track area, parking lots and the entire area upon which such track is maintained and operated shall be kept clean, neat, orderly and free of debris.

(i) *Insurance.* The licensee shall provide and carry insurance to indemnify persons against loss arising out of personal injury or property damage on such track or as a result of the operation of any motor vehicle in the licensed area and shall file with the city clerk, along with the application for a license, a certificate indicating that such insurance is in effect and complies with the standards of insurance established by and published by the United States Kart Track Association.

(j) *Permitted vehicles.* No motor vehicle shall be permitted on any such track except miniature motor vehicles denominated "go-karts," "go-boy karts" or similar miniature, minimum-horsepower vehicles. This section shall not prohibit the operation of larger motor vehicles on such track for maintenance and repair.

(k) *Supervision and responsibility.* The licensee shall require compliance with this section by all persons making use of such track or area. Such licensee shall provide adequate supervision of all activity at such track. Such licensee or his authorized agent shall be in attendance at all times while such track is open and being operated.
(Code 2004, § 12.08; Ord. No. 2369, 11-15-2011)

Sec. 8-121. Golf driving ranges.

(a) *Regulated.* No person shall maintain or operate within the city a golf driving range to be used by the general public, for a consideration or otherwise, unless such person has a license therefor issued by the city clerk.

(b) *License.*

(1) *Application*. A written application for a license to maintain and operate such golf driving range shall be filed with the city clerk upon forms provided by the clerk.

(2) *Inspection and investigation*. The city clerk shall notify the chief of police, the fire chief and the building inspector of such application, who shall inspect or cause to be inspected each application and the premises covered thereby to determine whether the applicant and the premises sought to be licensed comply with the applicable regulations, ordinances and laws. These officials shall furnish to the council in writing the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No such license shall be issued without the approval of the council.

(3) *Issuance*. No such license shall be granted where it appears from the investigation that the applicant is not of good moral character, that any information furnished in the application is false or incomplete in a material respect, that the applicant is under the

age of 18 years or any other fact which creates a reasonable belief that the conduct of such golf driving range by the applicant would be inimical to the welfare and best interests of the public.

(c) *Prohibited in residential areas.* No golf driving range shall be constructed or operated in any area of the city zoned residential.

(d) *Setbacks.* Where such golf driving range is adjacent to a public highway, the tee line shall be set back a minimum of 60 feet from the center of such public highway right-of-way. Any building erected on such golf driving range shall be set back a minimum of 100 feet from the centerline of any abutting public highway right-of-way.

(e) *Parking.* Each such golf driving range and the operator thereof shall provide off-street parking to accommodate a minimum of 50 automobiles. Such parking area shall be located so no portion of any automobile properly parked therein is closer to the traveled portion of the public highway right-of-way than 20 feet.

(f) *Fences.*

(1) Every golf driving range constructed, maintained or operated within the city shall be enclosed on three sides with a wire fence not less than four feet in height. Such fence shall be constructed of wire mesh having openings not to exceed two inches. No such fence shall be required on the side of the driving range providing ingress and egress to the public.

(2) Where it is determined by the director of public works and the council that a fence four feet in height is not adequate for the protection of abutting public or private property, the director of public works together with the council may order that a higher fence be constructed.

(g) *Litter prohibited.* Such golf driving range, adjacent parking lots and the entire area upon which such driving range is maintained and operated shall be kept clean, neat, orderly and free of debris.
(Code 2004, § 12.09; Ord. No. 2369, 11-15-2011)

Sec. 8-122. Skating rinks.

(a) *License required.* No person shall conduct or engage in the business of operating a skating rink in the city without having first obtained from the city a license therefor.

(b) *Application.* Any person desiring to obtain a license to conduct or engage in the business of operating a skating rink shall make application for the same on forms provided by the city clerk. The application shall state:

(1) The name, home address and business address, if any, of the applicant and, if the applicant is a corporation or other legal entity, the names and home addresses of all principals of the entity.

(2) The name, home address and business address, if any, of the owner of the premises if such owner is a person other than the applicant.

(3) The name and home address of the manager, if any, who will be in charge of the licensed premises.

(4) The proposed capacity, stated in number of persons, of the premises for which the license is sought.

(5) The hours of operation for such skating rink.

The application shall be accompanied by a drawing of the premises, drawn to scale, showing its location, size and capacity; the location and size of entrances and exits; the location and number of toilet facilities; and such other data or information as may be necessary or required to show compliance with this section.

(c) *License fee.* See the city fee schedule for the license fee for such annual license.

(d) *License: standards for issuance*. The city clerk shall promptly forward the application and accompanying materials to the chief of police, fire chief, building inspector and health officer for investigation and written report. The council shall not approve an application, nor authorize the city clerk to issue a license hereunder, unless it is satisfied that the individuals and the manager, if any, named in the application are citizens of the United States and persons of good moral character and capable of operating the proposed skating rink in a manner consistent with the public safety and good morals, and that all of the requirements of this section and all applicable ordinances are complied with.

(e) *Transfer.* No license granted hereunder is transferable.

(f) *Duties of licensee: conduct and operation.* A licensee hereunder shall comply with the following requirements and standards of operation:

(1) *Hours of operation*. The licensed premises may be open for business between 8:00 a.m. and to 12:00 midnight every day except Friday and Saturday, when the hours shall be 8:00 a.m. to 1:00 a.m.

(2) *Persons excluded*. The licensee shall not permit any person who is intoxicated or disorderly to be admitted to the licensed premises or to remain thereon.

(3) *Good order*. The licensee shall maintain good order upon the licensed premises and shall not permit loitering in or about the entrances, exits, sidewalks or motor vehicle parking lots.

(4) *Intoxicating liquors*. No person on the licensed premises shall have in his possession or under his control, or offer to give to another to drink, any intoxicating liquor, nor shall a licensee hereunder permit such conduct.

(5) *Employees and attendants*. During business hours, the licensee shall provide an adequate number of qualified security officers continuously on duty, who shall patrol the licensed premises and its entrances, exits and motor vehicle parking areas to see that order is maintained, that disorderly or immoral conduct is prevented, that the entrances, exits and motor vehicle parking areas are kept free from congestion and loitering, and that the provisions of this section are observed and complied with. All such attendants and all other persons employed on the licensed premises shall be at least 16 years of age.

(6) *Commercial activities*. Any sale of food, beverages, confections or other articles of merchandise shall be governed by the laws and ordinances governing such business and shall require the same license or licenses as if such sales were conducted elsewhere.

(7) *Noise*. No loudspeaker or public address system, nor any other manual, mechanical or electrical means or device for amplifying sound, shall be used or permitted to be used upon the licensed premises so as to be heard out-of-doors. Any loud, unnecessary, annoying, offensive, undesirable or raucous noise which disturbs the public peace emitted by or emanating from the licensed premises is a nuisance and detrimental to the public health, and is prohibited.

(Code 2004, § 12.10; Ord. No. 958, 4-5-1972; Ord. No. 2143, 3-15-2005)

Sec. 8-123. Theaters and movies.

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

Movie theater or *movie* means a building or structure regularly used or wholly devoted to the purposes of exhibiting moving pictures or movies for admission to which an entrance fee is paid, charged or received, but does not include buildings or structures used only occasionally for moving picture exhibitions, movies or illustrated lectures.

Theater means a building or structure regularly used or wholly devoted to the purposes of dramatic or operatic or other exhibitions, plays or performances for admission to which an entrance fee is paid, charged or received, but does not include a building or structure rented or used only occasionally for dramatic or operatic or other exhibitions, plays or performances.

(b) *License required.* No person shall maintain or operate a theater or movie in the city without first obtaining a license therefor.

(c) *Fees.* The annual fee for such license shall be as prescribed in the city fee schedule.

(d) *Action on applications.* An application for such license shall be made to the city clerk upon application blanks furnished by the city clerk. The council may grant any such license as in its judgment will promote the good order and welfare of the city, but no such license shall be

granted for any building or structure which does not conform to applicable state laws and city ordinances, nor unless the same shall be safe and proper for the purposes for which it is to be used. No such license shall be issued until the person applying for the same presents to the city clerk the city treasurer's receipt for the payment to the city of the required license fee.

(e) *Investigation by chief of police.* An application for such license shall be referred to the chief of police, who shall cause an investigation to be made and report thereon to the clerk. The fire chief, health officer and building inspector shall assist the chief of police, upon his request, in making such investigation.

(f) *Posting of license.* Every such license shall, while the same is in force, be posted in a conspicuous place at or near the principal entrance to the premises for which it is issued so that the same may be easily seen and read by any person passing in or out of such entrance.
(Code 2004, § 12.11; Ord. No. 2143, 3-15-2005)

Sec. 8-124. Circuses, menageries and carnivals.

(a) *Carnivals, etc., prohibited.* No person shall exhibit, operate or conduct a traveling carnival or individual mechanical rides such as ferris wheels, merry-go-rounds, loop-the-loops or side shows or menageries or individual games of skill commonly found in carnivals such as throwing baseballs, pitching pennies, puncturing balloons and the like for prizes, except as part of a circus licensed hereunder.

(b) *Circus: license required.* No person shall conduct or operate a circus within the city without a license therefor.

(c) *Applications.* Application for a license for a circus shall be made to the city clerk upon forms furnished by the clerk. Such application shall contain such information as will enable the council to determine whether issuance of a license would be in the public interest and would protect the public health and safety.

(d) *Investigation.* Upon receiving an application hereunder, the city clerk shall refer the application to the chief of police, the fire chief and the building inspector, who shall inspect the qualifications of the applicant and the suitability of the premises upon which the circus is to be conducted. The results of such investigation shall be reported to the city clerk, who shall refer the reports to the city council.

(e) *License fee; term.* The fee for a license hereunder shall be for each circus. Such license shall permit such circus to operate in the city for not more than ten days.

(f) *Bonds.* At the time of filing his application, the applicant shall file a bond with the city clerk indemnifying the city against loss or damage from any cause in connection with the operation of the premises, and for the payment of any forfeiture for violation of any provision of this Code.

(g) *Exemption: when carnivals, etc., permitted.* Carnivals, etc., prohibited under subsection (a) of this section may operate in the city if operated under the sponsorship of or in conjunction with a local civic, business, charitable, religious, educational or service organization, upon permit granted by the city council. Upon proof being presented to the city clerk that a prohibited enterprise will be so sponsored or operated, the city clerk shall refer the application to the council for action pursuant to subsections (b) through (f) of this section.
(Code 2004, § 12.12; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Secs. 8-125—8-138. Reserved.

DIVISION 2. ARCADES AND AMUSEMENT DEVICES

Sec. 8-139. Purpose.

It is determined that it is in the best interest of the health, safety and welfare of the community to establish reasonable regulations for the operation of arcade businesses and use of amusement devices.
(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-140. Definitions.

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

Amusement device includes any instrument or device used for playing games of skill or miniature games of sport, in which the element of chance is not involved and for which a consideration, either in coin or other thing of value, is required for the playing or operation thereof and shall include a mechanical or electronic machine which upon the insertion of a coin, token or slug, operates a game, contest or amusement, including, but not limited to, video machines, pinball, foosball, bowling, darts, pool, billiards, except music, film reviewing machines, whether controlled from a different location other than the device, or if payment is made other than at the machine.

Amusement device owner means any person having a bona fide ownership of an amusement device, operating such amusement device on his premises.

Arcade means any premises containing six or more amusement devices for the primary use and entertainment of the public, except premises for which a license to sell fermented malt beverages and/or intoxicating liquors has been issued by the city.

Arcade operator means the person having control of the premises upon which an arcade is located.

Gambling device means any instrument, device or thing used or usable for gambling or playing any game of chance for money or any other thing of value.

Gambling device prohibition means no person shall set up for operation, operate, lease or distribute any gambling device or slot machine, except as provided by state law.

Good moral character means the person under consideration has exhibited conduct consistent with that of the average person with regard to reputation, citizenship, decency, honesty and respect for law and order. The following, without limitation due to enumeration herein, shall be considered to be evidence of activities inconsistent with good and moral conduct:

(1) Conviction within five years preceding application for license of a crime involving moral turpitude, except as set out below.

(2) Conviction of the offenses of contributing to the delinquency of minors, exposing minors to harmful materials, liquor law violations involving minors, sex offenses or sexual assaults involving minors, or offenses against the controlled substances act, which offenses are hereby deemed to be of special concern, affecting the health, safety and welfare of youth.

(3) Being a probationer or parolee under the jurisdiction of the state department of health and social services, department of community corrections or a similar agency of another state or the federal government.

(4) Being the subject of any criminal prosecution for a crime involving moral turpitude in the courts of any state or of the federal government. Nothing in this section shall be construed to prevent any such person from reapplying for a license under this section after the conclusion of such proceeding.

(5) Being known to any police agency to be habitually disorderly as to conduct; a habitual drunkard or user of illegal controlled substances; a gambler; a frequenter of disorderly houses; a vagrant; an associate of known criminals; or to have knowingly given false information to any police or government agency concerning any investigation, application or other proceeding.

In the event that any application for a license under this division is denied on the grounds that a person named in the application is not of good and moral character, such person may, using the procedures provided for in Wis. Stats. ch. 68, demand the reasons therefor in writing and shall be afforded the opportunity to, if desired by such person, have a hearing as provided for under that chapter and to present evidence on his behalf.

Premises means all lands, structures, places and also the equipment and appurtenances connected or used herewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

Slot machine means any instrument or device which is operated by the insertion of a coin or token and which entitles the operator to money or another thing of value as a prize or reward for any result over which the operator has no control. It shall be immaterial that any such instrument or device may also vend merchandise.

Supplier means any person owning an amusement device set up for public use or operation in the city upon the premises of another. Any person owning and operating an amusement device set up in his or its place of business shall not be deemed a supplier within the meaning of this division.
(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-141. Arcade operator, amusement device owner and supplier.

No person shall operate an arcade, own, install or place an amusement service in the city without first having obtained the appropriate license therefor from the city council.
(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-142. Application for license.

An application for a license shall be filed with the city clerk on forms to be furnished by the clerk, which form shall require the following information:

(1) Name and address of the applicant.

(2) In case of partnership, the names and addresses of all partners.

(3) In case of a corporation, the names and addresses of all officers, directors and stockholders of ten percent or more of the capital stock of the corporation.

(4) In case of clubs, associations or other organizations, the names and addresses of all officers.

(5) The location of the premises to be licensed and the name and address of the owner or owners of such premises.

(6) Whether or not any persons named in the application have ever been convicted of violating any federal or state law bearing a criminal penalty, or any county, local or municipal ordinance in conformity therewith, or any offense described in subsection (2) of the definition of "good moral character" in section 8-140.

(7) The number of games, machines, tables or amusement devices to be located upon the premises to be licensed to an arcade operator or amusement device owner.

(8) Quota.

a. Not more than one license for arcade operator shall be issued for each 4,000 population of the city.

b. Not more than one license for suppliers shall be issued for each 2,000 population of the city, except the number of supplier licenses issued on the effective date of the ordinance from which this section is derived shall remain valid until their expiration date. Population shall be determined under Wis. Stats. § 99.01(29).

(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-143. Fees.

(a) The license fee for a supplier shall be per year and shall be paid to the city treasurer at the time of filing the application. See the city fee schedule.

(b) The license fee for arcade operators shall be per year and shall be paid to the city treasurer at the time of filing the application. See the city fee schedule.

(c) The license fee for an amusement device owner shall be an annual fee and shall be paid to the city treasurer at the time of filing the application. See the city fee schedule.

(d) Any person owning or providing an amusement device or maintaining or permitting an amusement device on premises owned by him or under his control shall register such amusement device as required hereunder. Every amusement device shall be registered with the city clerk by the owner or possessor thereof. The registration fee shall be for each amusement device. See the city fee schedule. Such registration fee shall be paid to the city treasurer at the time of registration. The city clerk shall require the registrant to submit such information as may be necessary to identify the amusement device so registered and shall issue to the registrant an appropriate registration symbol designed to permit its secure attachment to the amusement device to be registered. Each amusement device shall be registered annually by July 1.

(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-144. Qualifications.

A license to a partnership or corporation shall not be issued if the applicant, or any partner, or the principal officer, or to any corporation that has a stockholder holding more than 50 percent of the capital stock of the corporation, if applicant is a corporation:

(1) Is not of good moral character as defined above.

(2) Is under 18 years of age.

(3) Has not been a resident of the county for more than one year immediately preceding application.

(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-145. Location of premises.

(a) No license shall be issued to any applicant unless the applicant has first obtained an occupancy permit for the premises as provided by this article.

(b) In any event, no license shall be granted to any person to operate a business offering to the public an opportunity to use amusement devices for a fee, which is located within 500 feet from the boundary of a parcel of real estate having situated on it a school, church, hospital, public library, park or public playground.

(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-146. Revocation of license.

The city council may suspend, revoke or deny reissuance of any license issued pursuant to this division at any time, for any reasonable cause, which shall be in the best interest and for the good order of the city, provided that the licensee shall be accorded due process of law. Cause for such revocation, suspension or denial shall include, without limitation for lack of reference herein, any violation of the provisions of this division or other provisions of this Code relevant to the operation of such business.

(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-147. Arcade attendant licenses.

A licensed attendant shall be on the licensed premises at all times during the hours the arcade is open to the public, in order to provide supervision necessary to maintain proper order.

(1) An arcade attendant license shall entitle the holder thereof to work as attendant upon premises licensed under this division. Such licenses will be issued by the city council only to persons of good moral character, as previously defined, over 18 years of age.

(2) A written application shall be filed annually with the city clerk stating the name, address, age and sex of the applicant. The application shall be referred to the chief of police for report. A license fee must accompany the application. There will be no refund of the fee if the license is not subsequently granted.

(3) See the city fee schedule for the annual fee for an arcade attendant license. There will be a charge for the issuance of a duplicate license. See the city fee schedule.

(4) Each arcade attendant license shall be posted in a conspicuous place where the licensee is employed.

(5) Any arcade attendant license issued under this division may be revoked, suspended or denied, at any time, for any reasonable cause, which shall be in the best interest of and for the good order of the city. Any arcade operator's license issued under the provisions of this division shall stand revoked without further proceedings, upon the conviction of a licensee for maintaining a disorderly or riotous, indecent or improper place of business. Whenever any such license shall be revoked, no refund of any unearned portion of the fee paid shall be made.

(6) All licenses herein provided for shall be issued upon approval by the city council, and shall limit the holder thereof to operate an arcade only on the premises for which the license has been issued. All licenses shall expire on June 30 following the date of issuance.

(7) Such license shall bear the date of issuance, the name of the licensee, the purpose for which issued, and the location of the room or building wherein the licensee is authorized to carry on and conduct such business. Such license shall not be transferable by the holder to any other person but such license may be transferred by the holder to another location provided that the licensee shall make written application for such transfer to the city clerk and such transfer is approved by the city council. A transfer fee shall be paid by the applicant. See the city fee schedule.

(8) A license issued to a partnership shall not be voided by the withdrawal of the partner so long as one of the original partners remains. A new license shall be required if a new partner becomes a member, unless he already holds a license. A license issued to a corporation shall be voided if an unqualified person becomes the principal officer or stockholder of ten percent or more of the capital stock in the corporation. All changes in the membership of a partnership or all changes in the identity of the principal officer or stockholder of ten percent or more of the capital stock of the corporation shall be reported to the city clerk within ten days after they occur.

(9) The city council shall require the police department to make an investigation of all persons named in an application for a license and report the findings of such investigation to the city clerk.

(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-148. Conduct of business and miscellaneous regulations.

All arcade licenses shall be granted subject to the following conditions, and all other conditions of this division and subject to all other ordinances and regulations of the city applicable thereto:

(1) Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the city at all reasonable hours for the purpose of

inspection and search, and consents to the removal from such premises of all things and articles there had in violation of city ordinances or state laws and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.

(2) Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

(3) There shall be upon premises operated under an arcade license at all times some person who shall have an arcade attendant's license, and who shall be responsible for the acts of all persons employed at such premises.

(4) No premises licensed under this section shall be permitted to remain open between the hours of 11:00 p.m. and 9:00 a.m. of any day.

(5) No patron or guests shall be permitted to enter or remain on the licensed premises during the closing hours provided in subsection (4) of this section.

(6) Nothing in this division shall be construed to authorize or permit or license any gambling device of any nature whatsoever.

(7) No person, while using or operating a game of amusement or amusement device or while on the licensed premises shall gamble or make any bets.

(8) In no event shall card playing be permitted on such licensed premises even if such card playing is for social purposes only.

(9) Rooms in which games of amusement are located and used by the public shall, at all times, be kept in a clean, healthful and sanitary condition with ample and approved lighting and ventilation in accordance with code requirements and as hereinafter set forth.

(10) No person, while on a premises licensed hereunder, shall have in his possession any intoxicating liquor or fermented malt beverage.

(11) No person under the age of 18 years of age shall be permitted on the licensed premises where the use of games of amusement or amusement devices is offered to the public for a fee before the hour of 3:00 p.m. on any day that the public schools are in session unless accompanied by his or her legal parent or guardian.

(12) The licensee of the premises shall provide a minimum unobstructed area of two feet between the fronts of each game, device, machine or table for customers to stand while using same; in addition, an unobstructed aisle for the safe passage of customers of at least three feet shall be provided in front of each game, device, machine or table.

(13) In no event shall occupation by more persons than allowed by the provisions of the fire prevention code, as applicable to the licensed premises, be permitted.

(14) All areas of the licensed premises shall, during business hours, have a sustained minimum white light illumination of 30 footcandles, measured on a plane 30 inches above the floor.

(15) The licensed premises shall afford front window treatment of such design as to allow full observation of the interior of the premises from the public way at all times.

(16) The licensee of the premises shall provide a bicycle storage area sufficient to take care of the needs of all customers, which shall be located off the public way.

(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-149. Seizure.

The chief of police or any officer at his direction may seize or cause to be seized any amusement device upon which is not affixed a registration symbol as herein required. The ownership or possession of any nonregistered amusement device is a violation of this division.
(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-150. Transferring or counterfeiting registration.

No person shall counterfeit a registration symbol or transfer such registration symbol from one amusement device to another without having previously registered such transfer with the city clerk.
(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-151. Exemptions.

(a) Any premises licensed to sell fermented malt beverages or intoxicating liquors has been issued by the city, shall be exempt from the provisions of this division.

(b) Other commercial premises primarily used for the conducting of a business other than the business of operating an arcade which offer the use of less than six amusement devices shall be exempt from the provisions of this division.
(Code 2004, § 12.06; Ord. No. 1276, 4-6-1983; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Secs. 8-152—8-164. Reserved.

ARTICLE V. SEXUALLY ORIENTED BUSINESSES

Sec. 8-165. Purpose and findings.

(a) *Purpose*. It is the purpose of this article to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

(b) *Findings*. Based on evidence concerning the adverse secondary effects of adult uses on communities presented in hearings and in reports made available to the council, and on findings incorporated in the cases of *Pap's A.M. v. city of Erie,* 2000 U.S. LEXIS 2347 (Mar. 29, 2000); *city of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41(1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatres, Inc.*, 501 U.S. 560 (1991); and on studies in other communities including, but not limited to, Phoenix, Arizona, 1984; Minneapolis, Minnesota, 1980; Houston, Texas, 1997; Indianapolis, Indiana, Amarillo, Texas; Garden Grove, California, 1991; Los Angeles, California, 1977; Whittier, California, 1978; Austin, Texas, 1986; Seattle, Washington, 1989; Oklahoma city, Oklahoma, 1986; Cleveland, Ohio; and Dallas, Texas, 1997; St. Croix County, Wisconsin, 1993; Bellevue, Washington, 1998; Newport News, Virginia, 1996; New York Times Square study, 1994; and also on findings from the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, state of Minnesota), city of West Allis, Wisconsin public hearing and testimony of Dave Weinheimer, director of zoning and planning and on communicable HIV/AIDS findings for Cudahy and Wisconsin, 1982 through September 30, 1999, all of these findings on file with the city clerk and by reference incorporated herein, the council finds:

(1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

(2) Certain employees of sexually oriented businesses defined in this article as adult theatres and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(4) Offering and providing such space encourages such activities, which creates unhealthy conditions.

(5) Persons frequent certain adult theatres, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(6) Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and shigella infections, chlamydial, myoplasmal and ureoplasmal infections, trichomoniasis and chancroid.

(7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985 and 253,448 through December 31, 1992.

(8) For the period 1982 through September 30, 1999, there have been 4,271 reported cases of AIDS in the state.

(9) Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in the state: 6,767.

(10) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.

(11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

(12) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(14) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(15) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult oriented films.

(16) The findings noted in subsections (b)(1) through (b)(15) of this section raise substantial governmental concerns.

(17) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(18) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(19) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theatres.

(20) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(21) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

(22) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this article is designed to prevent or who are likely to be witnesses to such activity.

(23) The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this article.

(24) The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(25) The general welfare, health, morals and safety of the citizens of the city will be promoted by the enactment of this article.

(Code 2004, § 12.35(1))

Sec. 8-166. Definitions.

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

Adult arcade means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult bookstore, adult novelty store or *adult video store* means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas";

(2) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1) Persons who appear in a state of nudity or semi-nude;

(2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(3) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult motel means a hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Controlling interest means the power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote 20 percent or more of any class of voting securities of a business. The ownership, control, or power to vote 20 percent or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

Employee means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. The term "employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment means and includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The additions of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

Nude model studio means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. The term "nude model studio" shall not include a proprietary school licensed by the state or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;

(2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude or semi-nude model is on the premises at any one time.

(4) It is a defense to prosecution for any violation of this article that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated in a structure:

    a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing;

    b. Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

    c. Where no more than one semi-nude model is on the premises at any one time.

Nudity or *a state of nudity* means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Semi-nude or *in a semi-nude condition* means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

Sexually oriented business means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

Specified anatomical areas means:

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

Specified criminal activity means:

(1) Any of the following offenses:

a. Prostitution or promotion of prostitution;

b. dissemination of obscenity;

c. Sale, distribution or display of harmful material to a minor;

d. Sexual performance by a child;

e. Possession or distribution of child pornography;

f. Public lewdness;

g. Indecent exposure;

h. Indecency with a child;

i. Engaging in organized criminal activity;

j. Sexual assault;

k. Molestation of a child;

n. Gambling;

o. Distribution of a controlled substance; or

p. Any similar offenses to those described above under the criminal or penal code of other states or countries;

(2) For which:

a. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

b. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

c. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

Specified sexual activities means any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

(3) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) and (2) of this definition.

Substantial enlargement of a sexually oriented business means the increase in floor areas occupied by the business by more than 25 percent, as the floor areas exist on the date this section takes effect.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Viewing room means the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette, or other video reproduction.
(Code 2004, § 12.35(2))

Sec. 8-167. Classification.

Sexually oriented businesses are classified as follows:

(1) Adult arcades;

(2) Adult bookstores, adult novelty stores, or adult video stores;

(3) Adult cabarets;

(4) Adult motels;

(5) Adult motion picture theaters;

(6) Adult theaters;

(7) Escort agencies;

(8) Nude model studios; and

(9) Sexual encounter centers.
(Code 2004, § 12.35(3))

Sec. 8-168. License required.

(a) It is unlawful for any person:

(1) To operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this article.

(2) Who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the city pursuant to this article.

(3) To obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this article.

(b) An application for a license must be made on a form provided by the city.

(c) All applicants must be qualified according to the provisions of this section. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this article.

(d) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a controlling interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following subsection and each applicant shall be considered a licensee if a license is granted.

(e) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

a. An individual, the individual shall state his legal name and any aliases and submit proof that he is 18 years of age;

b. A partnership, the partnership shall state its complete name, and a copy of the partnership agreement, if any;

c. A corporation, the corporation shall state its complete name, evidence that the corporation is in good standing under the laws of its state of incorporation, and the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state such name.

(3) Whether the applicant has had a previous license under this section or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.

(4) The single classification of license for which the applicant is filing.

(5) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number, if any.

(6) The applicant's mailing address.

(7) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

(8) No survey by a registered land surveyor shall be required unless location so as to cause the city to reasonably believe section 8-176, or zoning code location requirement is or will be violated, and in such case applicant shall furnish such survey reflecting compliance with the geographic limitations of section 8-176 and chapter 44, pertaining to zoning.

(9) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict "specified sexual activities" or "specified anatomical areas," then the applicant shall comply with the application requirements set forth in section 8-178.

(f) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the city the following information:

(1) The applicant's name or any other name (including "stage" names) or aliases used by the individual;

(2) Age and date of birth;

(3) Height, weight, hair and eye color;

(4) Present mailing address and place for service of legal process;

(5) Proof that the individual is at least 18 years of age.

(Code 2004, § 12.35(4))

Sec. 8-169. Issuance of license.

(a) Upon the filing of said application for a sexually oriented business employee license, the city shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within 30 days from

the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) The applicant has failed to provide information reasonable necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) The applicant is under the age of 18 years;

(3) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this article; or

(4) The applicant has had a sexually oriented business employee license revoked by the city within two years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in section 8-174.

(b) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this article or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in section 8-170.

(c) Within 30 days after receipt of a completed sexually oriented business application, the city shall approve or deny the issuance of a license to an applicant. The city shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) An applicant is under 18 years of age.

(2) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(3) An applicant has been denied a license by the city to operate a sexually oriented business within the preceding 12 months or whose license to operate a sexually oriented business has been revoked within the preceding 12 months.

(4) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.

(5) The license fee required by this article has not been paid.

(6) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.

(d) The license, if granted shall state on its face the name of the person to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to section 8-167. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(e) The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the city.

(f) A sexually oriented business license shall issue for only one classification as found in section 8-167 except that an adult bookstore, adult novelty store or adult video store may also have video or movie viewing booths.
(Code 2004, § 12.35(5))

Sec. 8-170. Fees.

(a) Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a nonrefundable application and investigation fee as provided in the city fee schedule.

(b) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the city an annual nonrefundable license fee as provided in the city fee schedule, not less than 30 days before license issuance or renewal.

(c) Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual nonrefundable application, investigation, and license fee as provided in the city fee schedule.

(d) All license applications and fees shall be submitted to the city clerk.

(e) No fees shall be prorated regardless of application date or requested anticipated licensing date.
(Code 2004, § 12.35(6))

Sec. 8-171. Inspection.

An applicant or licensee shall permit representatives of the police department, health department, fire department, zoning department, or other city departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
(Code 2004, § 12.35(7))

Sec. 8-172. Expiration of license.

(a) Each license shall expire June 30 and may be renewed only by making application as provided in section 8-168. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

(b) When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.
(Code 2004, § 12.35(8))

Sec. 8-173. Suspension.

The city shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with any section of this article;

(2) Refused to allow an inspection of the sexually oriented business premises as authorized by this article.

(Code 2004, § 12.35(9))

Sec. 8-174. Revocation.

(a) The city shall revoke a license if a cause of suspension in section 8-173 occurs and the license has been suspended within the preceding 12 months.

(b) The city shall revoke a license if it determines that:

(1) A licensee gave false or misleading information in the material submitted during the application process;

(2) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(3) A licensee has knowingly allowed prostitution on the premises;

(4) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or

(6) A licensee is delinquent in payment to the city, county, or state for any taxes or fees past due.

(c) When the city revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(d) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. And when a decision to deny, suspend or revoke a license becomes final, the applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction. Upon the filing of any court action to restrain or otherwise enjoin the city's enforcement of the denial, suspension, or revocation, the city shall immediately issue the aggrieved party a provisional license. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon final determination of a jurisdictional court or appellate court or lapsing of time to appeal any prior judgment or other judicial determination. All ordinances applicable to licensing under this chapter shall as well apply to a provisional license. For purposes of this section Wis. Stats. ch. 68, is hereby adopted with the intent of affording an aggrieved party prompt and definitive judicial review.
(Code 2004, § 12.35(10))

Sec. 8-175. Transfer of license.

A licensee shall not transfer his license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.
(Code 2004, § 12.35(11))

Sec. 8-176. Location of sexually oriented businesses.

(a) A person violates this article if that person operates or causes to be operated a sexually oriented business in any zoning district other than a district which specifically permits such businesses.

(b) A person commits an offense if the person operates or causes to be operated a sexually oriented business within 500 feet of any of the following uses lawfully operating at the time application for a sexually oriented business is submitted:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; the term "school" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of a residential district as defined in city zoning regulations;

(4) A public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;

(5) The property line of a lot devoted to a residential use as defined in city zoning regulations;

(6) An entertainment business which is oriented primarily towards children or family entertainment; or

(7) A licensed premises, licensed pursuant to the alcohol beverage control regulations of the state.

(c) A person violates this section if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 500 feet of a lawfully preexisting sexually oriented business.

(d) A person violates this section if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business which was lawfully preexisting.

(e) For the purpose of subsection (b) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (b) of this section. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(f) For purposes of subsection (c) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(g) Any sexually oriented business lawfully operating on the effective date of the ordinance from which this section is derived, that is in violation of subsections (a) through (f) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 500 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.

(h) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection (b) of this section within 500 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.
(Code 2004, § 12.35(12))

Sec. 8-177. Additional regulations for adult motels.

(a) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this article.

(b) A person violates this section if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he rents or subrents the same sleeping room again.

(c) For purposes of subsection (b) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.
(Code 2004, § 12.35(13))

Sec. 8-178. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms.

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, videocassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or

more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The city may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city.

(4) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is a view either direct visual or by electronic surveillance, from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be sufficient to monitor all areas to comply with this section.

(6) It shall be the duty of the licensee to ensure that the view area specified in subsection (a)(5) of this section. remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a)(1) of this section.

(7) No viewing room may be occupied by more than one person at any time.

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 5.0 footcandles as measured at the floor level.

(9) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(10) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(12) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(13) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(14) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

(b) A person having a duty under subsections (a)(1) through (a)(14) of this section commits a misdemeanor if he knowingly fails to fulfill that duty.
(Code 2004, § 12.35(14))

Sec. 8-179. Additional regulations for escort agencies.

(a) An escort agency shall not employ any person under the age of 18 years.

(b) A person violates this section if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.
(Code 2004, § 12.35(15))

Sec. 8-180. Additional regulations for nude model studios.

(a) A nude model studio shall not employ any person under the age of 18 years.

(b) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or visible to any other person.

(c) A person violates this section if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(d) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.
(Code 2004, § 12.35(16))

Sec. 8-181. Additional regulations concerning public nudity.

(a) It shall be a violation of this section for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts "specified sexual activities'.

(b) It shall be a violation of this section for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten feet from any patron or customer and on a stage at least two feet from the floor.

(c) It shall be a violation of this section for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

(d) It shall be a violation of this section for an employee, while semi-nude, to touch a customer or the clothing of a customer.
(Code 2004, § 12.35(17))

Sec. 8-182. Prohibition against children in a sexually oriented business.

A person violates this section if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.
(Code 2004, § 12.35(18))

Sec. 8-183. Hours of operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 3:00 a.m. and 8:00 a.m.
(Code 2004, § 12.35(19))

Sec. 8-184. Exemptions.

It is a defense to prosecution under section 8-181 that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school, licensed by the state; a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

b. Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

c. Where no more than one nude model is on the premises at any one time.

(Code 2004, § 12.35(20))

Sec. 8-185. Penalty.

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of section 8-176 shall be subject to a forfeiture of not less than $250.00 nor more than $2,000.00 and may be subject to a suit for injunction. Each day a sexually oriented business so operates is a separate offense or violation.

(Code 2004, § 12.35(21))

Secs. 8-186—8-197. Reserved.

ARTICLE VI. USED GOODS SALES

Sec. 8-198. Salvage dealers.

(a) *License required.* No person in the city shall conduct or maintain any building, structure, yard or place for keeping, storing or piling; for buying or selling at retail or wholesale; or dealing in, used motor vehicles or parts thereof old, used or secondhand materials without a license therefor. A person carrying on any such business shall be a salvage dealer and any such place used for the purposes described shall be a salvage yard.

(b) *Application for license.* Every applicant for a license to engage in the business of salvage dealer shall file with the city clerk a written application upon a form prepared and provided by the city, signed by the applicant. The application shall state:

(1) The name and residence of the applicant if an individual, partnership or firm, or the names of the principal officers and their residences if the applicant is an association or corporation.

(2) The length of time such applicant, if an individual, firm or partnership, or the manager or person in charge, if the applicant is a corporation, has resided in the city, his place of previous employment, whether married or single, whether he has been convicted of a felony or misdemeanor and, if so, what offense, when and in what court.

(3) Whether the applicant or officers or manager of the applicant has been employed by a salvage dealer or has been a salvage dealer.

(4) The detailed nature of the business to be conducted and the kind of materials to be collected, bought, sold or otherwise handled.

(5) The legal description of the premises used or to be used as a salvage yard by lot or lots, or part or parts of lots, as platted in any plat, addition or subdivision, or if the land has not been platted, by the street or avenue from which the business is conducted or to be conducted.

(6) A photostatic copy of the motor vehicle salvage dealer's license required under Wis. Stats. § 218.20, shall be affixed to the application for a license to operate as an auto salvage dealer.

(c) *Reports required.* License applications shall be referred by the city clerk to the building inspector, director of public works, plumbing inspector, fire chief, chief of police and health officer, who shall report on same within 15 days after referral.

(d) *Council action*.

(1) Upon receipt of such reports and upon a finding by the council that the granting of the license will not adversely affect the public health, welfare and safety and will not substantially depreciate property values in the neighborhood, the license shall be granted by the council. The council may specify the quantity and manner of storing junked automobiles outside of buildings on the premises.

(2) No license shall be granted for the keeping, conducting or maintaining of a salvage yard where the premises proposed to be so used have not been used as a salvage yard for at least six months immediately preceding the date of filing application for such license.

(e) *Fee.* The license fee shall be per license per year as provided in the city fee schedule.

(f) *Burning prohibited.* The burning of auto bodies, tires, upholstery or any other parts of salvaged automobiles, or of lumber or any other combustible material stored or kept pursuant to this section is prohibited.

(g) *Fences.*

(1) *Required; specifics*. Each of the premises upon which the business of salvage dealing is to be carried on shall be completely enclosed by a solid fence. All such fences shall be of a height not less than six feet nor more than seven feet above existing grades. No articles shall be piled or stored outside such enclosures.

(2) *Construction*. All fences required under this section shall be solid, painted or stained, and of uniform construction, utilizing the same type of materials throughout. Acceptable fences shall be of the following types:

a. Board on board.

b. Stockade.

c. Board and batten.

d. Barn side solid.

All entrances shall have a gate with a locking mechanism, which shall be locked when the salvage yard is not open for business.

(3) *Permit*. No fence shall be constructed under this subsection unless the owner or his agent has obtained a permit issued by the city building inspector. All fences shall comply with zoning setback requirements. A plan of the type of the proposed fence shall be submitted to the building board for approval.

(4) *Purpose*. The purpose of the requirements of this section shall be to:

a. Preserve the health, safety and welfare of the citizens of the city.

b. Conceal the contents of a salvage yard.

c. Enhance the aesthetic value of the surrounding area.

d. Protect the material and property of the owner.

e. Reduce the possibility of vandalism or other destructive activity upon the property of the owner.

(h) *Premises to comply with ordinances and orders.* All licensed premises shall be kept reasonably clean and shall comply with all lawful ordinances and orders of the city and its officials. No rat harborages, sources of filth, causes of sickness or fire hazards shall be maintained. The premises shall be open to inspection by city police, health, fire and licensing officers during normal business hours.

(i) *Information to chief of police.* Every licensed salvage dealer shall furnish any police officer such information as he may require for the purpose of ascertaining the names of the seller or sellers of any salvage or used articles which have been purchased by such salvage dealer.
(Code 2004, § 12.16; Ord. No. 1049, 5-20-1975; Ord. No. 2143, 3-15-2005)

Sec. 8-199. Used motor vehicle dealers.

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

Motor vehicle is defined in Wis. Stats. § 340.01.

Used motor vehicle dealer means any person engaged in conducting, managing or carrying on the business of buying, selling, offering to buy or sell, consigning to be sold or otherwise dealing in two or more used motor vehicles in any one calendar year, or who sells two or more used motor vehicles in a year for a commission. For purposes of this section wholesalers or others engaged in the described activity shall be included as a used motor vehicle dealer notwithstanding they do not intend on locating any motor vehicles in the city.

(b) *License required.*

(1) No person shall engage in the business of buying selling, exchanging or dealing in used or secondhand automobiles without first having obtained a license for each location at which such business is to be conducted. No license shall be issued if:

a. The applicant or, in the case of an association or corporation, the person designated by such association or corporation as the authorized officer, is not a citizen of the United States and has not continuously resided in the state for a period of at least one year immediately prior to the date of the filing of the application;

b. The applicant has not secured a manufacturer's authorization to sell the manufacturer's newest and latest models of automobiles within the city; or

c. The applicant will, because of the issuance of a license, be conducting such business at more than one location besides at the premises also used for the sale of such manufacturer's new automobiles. For purposes of this chapter, premises used in any manner for the sale of used and secondhand automobiles which are separated by a public street or any lot or lots not so used shall be considered as separate locations.

(2) Failure of all persons required by subsection (b)(1) of this section herein to continue said citizenship and residency requirements during the license period shall be sufficient cause for revocation of all licenses issued hereunder.

(3) The common council shall authorize or deny the issuance of any license in this subsection, and, upon authorization, the city clerk shall issue the license indicating the specific location of the premises where such business is to be conducted.

(c) *Sunday auto sales prohibited; exceptions.* No licensee hereunder shall hold open the dealer's place of business at anytime on a Sunday for the purpose of buying, leasing or selling any new or used motor vehicle; but nothing in this subsection shall apply to any person who conscientiously believes that the seventh day of the week, from sunset Friday to sunset Saturday, should be observed as the Sabbath and who actually refrains from conducting or engaging in the business of buying, leasing, selling or offering for lease or sale motor vehicles, or performing other secular business on that day.

(d) *Term.* A license hereunder shall be valid from July 1 to June 30.

(e) *Application.* Written applications for used motor vehicle dealers' licenses shall be on forms provided by the city clerk. All applications for a permit shall be filed by the applicant and, if the applicant is a corporation or partnership, shall be signed by an authorized officer on behalf of the corporation or by any member of the partnership. Such written application shall be accompanied by current valid state license, and shall be verified and set forth the following information:

(1) The name, age and resident address of the applicant, if an individual.

(2) If a corporation, its name, date and place of incorporation, the address of the principal place of business and the names of all of its officers, together with their respective addresses.

(3) If a partnership, association or company, the names of the partners or persons comprised in the association or company, together with their respective addresses.

(4) The kind of business for which such permit is sought and the address at which the business is to be conducted.

(5) A statement as to whether or not an application for a similar permit has been refused or canceled by this or any other municipality in this state and, if so, a full statement of the reasons therefor.

(6) That such applicant will conduct his business at a fixed place where used motor vehicles are and will be displayed for sale.

(f) *Investigation of application; issuance or denial.*

(1) *Investigation*. Upon receipt of the application, the city clerk shall refer the application to a committee consisting of the chief of police, building inspector and city attorney, which committee shall cause an investigation of such application to be made. After the investigation, the committee shall report on the same to the council within 15 days after referral.

(2) *Issuance*. After investigation, upon receipt of such report and upon a finding by the council that the granting of the license will not adversely affect the public health, welfare, safety, morals and peace, a license shall be granted by the council.

(3) *Appeal*. If the council shall deny the application, any person aggrieved by the action of the council may appeal its decision and request a hearing before the council by filing a written notice with the city clerk within five days from the date of the notice of such denial. The decisions of the council, after a hearing on the appeal, shall be final and conclusive.

(g) *License fees.* An application for a license to engage in, conduct, manage or carry on the business of a used motor vehicle dealer shall be accompanied by a fee for each separate location.

(h) *Transfer.* Any license granted under this section shall not be transferable.

(i) *Advertisement limited to vehicles actually for sale.* No used motor vehicle dealer shall advertise that he has for sale any motor vehicle which is not then actually for sale, and no used motor vehicle dealer shall fail to discontinue the advertisement of any motor vehicle immediately upon the selling of the same.

(j) *Premises to comply with ordinances and orders.* All licensed premises shall be kept reasonably clean and shall comply with all lawful ordinances and orders of the city and its officials. The premises shall be open to inspection by the city police and licensing officers during normal business hours.

(k) *Licensee to keep records.*

(1) Any person licensed hereunder and any person engaged in buying or selling new automobiles shall keep a daily record of all used or secondhand automobiles bought, exchanged or traded. Each such record shall contain a full and complete description of such used or secondhand automobiles and, in addition thereto, wherever available, the motor number, factory number, body number, color, type, model and other marks of identification and the date of purchase or trade, together with the names of persons involved in the transaction.

(2) The records required by this section shall be preserved for two years and made available to the police department upon demand.

(3) Any person dealing in new and used or secondhand automobiles, wherever a used or secondhand automobile is taken in part payment on the price of the new automobile, shall make a record of the motor number, factory number, body number, color, type and model, together with other marks of identification of such used or secondhand automobile. In addition thereto, the full name and place of residence of the person trading in such automobile, state license number and data pertaining to the bill of sale or other evidence of title shall be preserved for two years and made available to the police department upon demand.

(l) *Licensee to furnish statement.* Any person licensed hereunder shall furnish to each buyer a statement in writing bearing the signature of the seller or authorized representative of the same, upon the sale of a used or secondhand automobile and before delivery of the same to the purchaser, containing the following information:

(1) Year and make of the car;

(2) Model number;

(3) Style and body type;

(4) Motor number and age;

(5) Serial number of chassis;

(6) Purchase price of car;

(7) Finance charges;

(8) Interest fees;

(9) Cost of insurance; and

(10) Other finance charges.

(m) *Surface of open display area.*

(1) The licensee shall provide a proper location for conducting his business, and any lot or open display area shall be paved in accordance with the specifications of the city ordinance for the paving of parking lots.

(2) The licensee shall provide adequate lighting during all night hours from sunset to sunrise.

(3) No part of any vehicles on display or for sale shall be parked, displayed or positioned within one foot of the front lot line or within three feet of any side lot line.

(Code 2004, § 12.17; Ord. No. 739, 5-17-1966; Ord. No. 916, 3-16-1971; Ord. No. 1647, 2-19-1994; Ord. No. 2143, 3-15-2005; Ord. No. 2319, 2-17-2009; Ord. No. 2369, 11-15-2011)

Sec. 8-200. Precious metal and gem dealers.

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

Jewelry means any tangible article of personal property ordinarily wearable on the person consisting in whole or in part of gold, silver, platinum, aluminum, lead, brass, copper, pewter, alexandrite, diamonds, emeralds, garnets, opals, rubies, pearls, jade and such other metals, minerals or gems customarily regarded as precious or semiprecious.

Member of the general public means individuals, partnerships, corporations or other associations.

Precious metal and gem dealer means any person, corporation, partnership or association which engages in any transaction of buying, selling, receiving or selling on consignment secondhand jewelry to and from the public within the city from a permanently established business operation within the city for a period of at least one year. The term "precious metal and gem dealer" does not include a business which smelts, refines, assays or manufactures precious metals, gems or valuable articles and has no retail operation open to the public.

Secondhand means previously owned by a member of the general public immediately prior to the transaction at hand. It does not mean previously owned by a wholesaler, retailer or secondhand dealer.

(b) *License required.*

(1) No person shall engage in the business of dealing in, selling and exchanging secondhand jewelry without having first obtained a license as provided in this section.

(2) The requirements of this section do not apply to transactions between dealers licensed under this section.

(c) *Application.* Application for a precious metal and gem dealer's license shall be made to the city clerk on forms furnished by the clerk and contain the following:

(1) Name, place, date of birth and street residence of the applicant.

(2) The trade name, address of the business and the name and address of the owner of the premises.

(3) A statement as to whether, within the preceding ten years, the applicant has been convicted of any crime, petty misdemeanor or municipal ordinance violation relating to theft, damage or trespass to property, or operation of a business, the nature and date of the offense and the penalty assessed.

(4) Whether the applicant is a natural person, corporation or partnership:

a. If the applicant is a corporation, the state of incorporation and the names and addresses of all officers and directors.

b. If the applicant is a partnership, the names and addresses of all partners.

(5) The name of the manager or proprietor of the business.

(6) Such other reasonable and pertinent information as the city clerk may from time to time require.

(d) *Investigation.* The chief of police shall investigate or cause to be investigated each applicant for such license and shall furnish to the city clerk in writing the information derived from such investigation.

(e) *Issuance; terms; fee.*

(1) The city council may authorize or deny the license.

(2) No license shall be granted to any applicant who is not of good professional character or who has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of being a precious metal and gem dealer. In this section, the term "applicant" includes any individual or partner, and any officer, director or agent of any corporate applicant.

(3) No precious metal and gem dealer's license shall be granted to any person who has not resided in the state continuously for a period of at least one year prior to the date of filing his application.

(4) The annual fee for a precious metal and gem dealer's license shall be as stated as provided in the city fee schedule.

(5) Each such license shall be issued for a license year which begins on July 1 and ends on the following June 30. The full license fee shall be paid for the entire license year or any fraction thereof.

(f) *Regulations.*

(1) *Dealer to identify seller*. No precious metal and gem dealer shall purchase or sell on consignment any secondhand jewelry without first securing adequate identification from the seller or owner. At the time of the transaction, the dealer shall require the seller or owner to present to him or her one of the following types of identification.

a. A valid state motor vehicle operator's license.

b. A state identification card.

c. A valid motor vehicle operator's license, containing a picture, issued by another state.

d. A military identification card.

e. A valid passport.

f. An alien registration card.

g. A nonpicture identification document by a state or federal government if the dealer also obtains a clear imprint of the seller's right index finger.

(2) *Buying from minors*. No precious metal and gem dealer shall have any business dealings as a precious metal and gem dealer with any person less than 18 years of age, unless that person is with a parent or guardian or the parent or guardian appears with that person and files a signed consent form indicating permission for that person to transact business with the dealer. Such written consent may be retained by the dealer and used for subsequent transactions without the presence of the parent or guardian.

(3) *Dealer to maintain register and obtain declaration of seller's ownership*.

a. Every precious metal and gem dealer licensed under this section shall keep a register in a permanent well bound book, in which the dealer shall record legibly in English the seller's name, address, date of birth, driver's license number or number of other identification allowed under subsection (f)(1) of this section. The dealer shall also record the date, time and place of the purchase and an accurate and detailed account and description of each article being purchased, including, but not limited to, any trademark, identification number, serial number, model number, brand name, description by weight and design of such article, and other identifying marks, identifying inscriptions of a personal nature, and when applicable, whether the article is a male or female item. The book shall be written in ink, and no entry in such book shall be erased, mutilated or changed. Such book shall be open to the inspection of the chief of police or any member of the police force designated by the chief of police for such purpose during normal business hours. The book shall be retained for a period of not less than one year.

b. The dealer shall also obtain a written declaration of the seller's ownership which shall state whether the article of secondhand jewelry is totally owned by the seller, how long the seller has owned the article, whether the seller or someone else found the article, and if the article was found, the details of its finding.

c. The seller shall sign his or her name in such register and on the declaration of ownership.

d. Such register shall be made available to any police officer for inspection at any reasonable time.

(4) *Holding period.*

a. Any article of secondhand jewelry purchased by a precious metal and gem dealer from a member of the general public shall be kept on the dealer's premises in the form that it was received for not less than 15 days from the date of purchase, during which time the article shall be held separate and apart from any other transaction and shall not be changed or altered in any manner. The dealer shall permit the chief of police or any other police officer designated by the chief to inspect the article during the 15-day period.

b. The chief of police or any police officer designated by the chief may, in his or her discretion, cause any article of secondhand jewelry which has been exchanged or purchased, which he or she has reason to believe was not sold or exchanged by the lawful owner, to be held for the purpose of identification for such additional reasonable length of time as the chief of police or designee deems necessary.

(5) *Reports required.*

a. Every dealer shall provide the police department, on a time schedule required by the police department, with a record, on a form to be provided by the police department, of all articles of secondhand jewelry purchased during the preceding time period determined by the police department and from the general public or other precious metal and gem dealers one copy of the seller's declaration of ownership. The form for recording such purchases shall contain the same information required to be recorded in the dealer's register pursuant to subsection (f)(1) of this section. The police department shall designate the dates on which the records and declarations shall be picked up by the police department.

b. The police department may forward copies of such records and declarations of ownership, upon request, to any other law enforcement agency.

(g) *License revocation.* The city council may revoke any license issued under this section for fraud, misrepresentation or false statement contained in the application for a license or in the course of conducting the business of precious metal and gem dealer or for any violation of this section.

(h) *Penalty.*

(1) Any person violating this section shall, upon conviction for a first offense, be subject to a forfeiture of not less than $50.00 nor more than $1,000.00, together with costs of prosecution and, in default of payment, shall be imprisoned in the house of correction or county jail not to exceed 90 days or until such forfeiture costs are paid.

(2) Any person violating this section, upon conviction for the second and subsequent offenses, shall be subject to a forfeiture of not less than $500.00 nor more than $2,000.00, together with the costs of prosecution, and in default of payment, shall be imprisoned in the house of correction or county jail not to exceed 90 days or until such forfeiture costs are paid.

(Code 2004, § 12.34; Ord. No. 1356, 9-3-1985; Ord. No. 2369, 11-15-2011)

Secs. 8-201—8-214. Reserved.

ARTICLE VII. HOTELS AND MOTELS

Sec. 8-215. Operational and premises requirements.

No person shall operate a hotel or shall occupy or let to another for occupancy any hotel unit in any hotel except in compliance with the following requirements:

(1) *Permit.* No person shall operate a hotel unless he holds a valid hotel permit issued by the health officer in the name of the operator and for the specific dwelling within which the hotel is contained.

(2) *Application for permit.* The operator shall file, in duplicate, an application for a hotel permit in the office of the health officer on forms prepared by such officer. The operator shall file with the hotel permit application an occupancy permit issued by the building inspector for the operation of a hotel in the dwelling designated in the hotel permit application; provided such an occupancy permit need not be filed with the hotel permit application if on June 18, 1969, a valid hotel permit issued by the state department of health and social services, as required in accordance with the provisions of Wis. Stats. § 50.51 was in effect for the same portions of the dwelling designated in the application for a hotel permit.

(3) *Inspection by health officer; referral of applications to and reports by building inspector.* The health officer shall, whenever an application is filed for a hotel permit for a hotel, which does not have a valid hotel permit, inspect the hotel within 30 days of such filing. Within 72 hours after the operator files an application for permit, the health officer shall transmit to the building inspector a duplicate copy of the application. The building inspector shall, within 30 days after the date on which such application was filed, report in writing to the health officer the maximum number of persons, which

may occupy the hotel in accordance with the provisions of applicable zoning laws. No permit shall be issued to any operator who would authorize occupancy of the hotel by a larger number of persons than is permitted under the provisions of applicable zoning laws.

(4) *Issuance of permit and occupancy record card; fees.* When the operator hereto has complied with all applicable provisions of this article and of any rules and regulations adapted pursuant, the health officer shall issue a hotel permit and an occupancy record card upon the payment of a fee as set forth in the city's fee schedule. All hotel permits so issued shall expire on July 1 following the date of issuance, unless sooner suspended or revoked as herein provided. The permit shall list the maximum number of persons that may reside in the total of all hotel units and second class dwelling units, if there are any such second class dwelling units, located in the dwelling or portions thereof for which the hotel permit is issued.

(5) *Occupancy record card.* Every occupancy record card shall list the maximum number of persons that may reside in the total of all hotel units and second class dwelling units, if there are any such second class units, located in the dwelling or portions thereof for which the hotel permit is issued. The occupancy record cards shall also list the maximum number of persons which may occupy each individual hotel unit and each additional second class dwelling unit, if there are any such second class dwelling units, located in the dwelling or portions thereof for which the hotel license is issued. Whenever the operator is required to file an occupancy permit in accordance with the provisions of subsection (2) of this section, all of the hotel units and second class dwelling units listed on the occupancy record card shall be located in such portions of the dwelling as are permitted to be occupied under the provisions of the occupancy permit.

(6) *Posting of permit and occupancy record card.* The operator in a public corridor or hallway shall conspicuously post every hotel permit issued by the health officer or other public portion of the hotel for which it is issued and shall remain so posted at all times. The operator in a place where such cards are readily accessible for examination shall post every occupancy record card in the hotel by the health officer.

(7) *Operator to control occupancy.* No operator shall at any time permit a larger number of persons to occupy the total of all hotel units and second class dwelling units located within a hotel than the maximum number of persons listed on the hotel permit and the occupancy record cards. No operator shall at any time permit a larger number of persons to occupy any individual hotel unit or any individual second class dwelling unit than the maximum number of persons listed on the occupancy record cards for each such hotel unit and each such second class dwelling unit. No operator shall at any time permit any person to occupy any hotel unit or any second class dwelling unit, which is not listed on the occupancy record cards.

(8) *Nontransferability of permit.* No hotel permit issued under the provisions of this article shall be transferable; and every operator shall notify the health officer in writing within 24 hours after having relinquished proprietorship or having sold, transferred, given away or otherwise disposed of such interest or control of any hotel and shall file in writing with the health officer the name and address of the operator to whom proprietorship has been relinquished by sale, gift or other method of transferal or disposition.

(9) *Relationship of permit to building code; enforcement of building code.* The issuance of a hotel permit and occupancy record card to any hotel shall not in any way signify or imply that the hotel conforms with the state building code or the building and zoning codes of the city. The building inspector shall enforce the provisions of such building and zoning codes. The issuance of a hotel permit shall not relieve the owner or operator of the responsibility for compliance with such building and zoning codes and shall not relieve the building inspector of the responsibility for enforcement of such building and zoning codes.

(10) *Applicability of other code sections.* No person shall operate a hotel unless all of the requirements of sections 6-159, 6-160, except subsections (12) and (13) of that section, and section 6-161(2), (8) and (9) are complied with; provided for the purpose of interpreting the requirements of the designated sections applicable in the enforcement of this subsection, the terms "multiple dwelling" or "dwelling" mean "hotel" and the terms "dwelling unit" or "dwelling units" mean "hotel unit" or "hotel units." Every dwelling unit located within a hotel shall comply with all of the requirements for dwelling units as established in accordance with the provisions of this article.

(11) *Residence of children in hotels.* No child under 16 years of age shall live or sleep in a hotel for more than 30 days in any calendar year unless he resides in a dwelling unit contained therein.

(12) *Preparation of meals in hotel units prohibited.* No occupant of a hotel shall prepare meals in a hotel unless such meals are prepared in a dwelling unit contained therein; provided occupants of a hotel who are employed in a public restaurant located within that hotel may live and sleep in rooms located within the hotel. Meals prepared in a public restaurant may be served and eaten by the occupants of a hotel unit, provided the dishes and tableware are returned to the restaurant kitchen for washing and the garbage is disposed of in an approved manner.

(13) *Communal kitchens prohibited.* No communal kitchen shall be contained in any hotel.

(14) *Assigning of rooms.* No hotel operator, or his agent, shall assign any hotel unit to two persons of the opposite sex, except children accompanied by parent or guardian, unless such persons are husband and wife.

(15) *Applicability of section 8-241 et seq. to this section.* No person shall operate a hotel unless all of the requirements of section 8-241 et seq., except sections 8-242 to and including 8-251, sections 8-258 to and including 8-262, and section 8-274, are complied with; provided for the purpose of interpreting the requirements of section 8-241 et seq. applicable in the enforcement of this section, the term "roominghouse" means "hotel" and the terms "rooming unit" or "rooming units" mean "hotel unit" or "hotel units" and the term "roomers" means "hotel guests."

(Code 2004, § 19.11; Ord. No. 1894, 7-6-1999)

Sec. 8-216. Occupancy tax.

(a) Definitions.

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

Gross receipts has the meaning as defined in Wis. Stats. §§ 77.51(4)(a), (b) insofar as applicable.

Hotel or *motel* means a building or group of buildings in the city which the public may obtain accommodations for consideration including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodginghouses, roominghouses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations, including mobile homes as defined in Wis. Stats. § 66.0435(1)(d), rented for a continuous period of more than one month and accommodations furnished by any hospitals, sanatorium, or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

Transient means any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodations available to the public.

(b) Pursuant to Wis. Stats. § 66.0615 a tax is hereby imposed on the privilege and service of furnishing, at retail, except sales for resale, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Beginning January 1, 2006, such tax shall be at the rate of seven percent of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Wis. Stats. § 77.52(2)(a)1 and may not be imposed on sales to the federal government and persons listed under Wis. Stats. § 77.54(9a).

(c) Of the amount collected under subsection (b) of this section, the city shall spend at least the amount indicated under Wis. Stats. § 66.0615(1m)(d) on tourism promotion and development.

(d) This section shall be administered by the city treasurer. The tax imposed for each calendar quarter is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. A return shall be filed with the city treasurer, by those furnishing at retail such rooms and lodging, on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the city treasurer deems necessary. Every person required to file such quarterly return shall, with his first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within 90 days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the city treasurer requires. Such annual returns shall be made on forms as prescribed by the city treasurer. All such returns shall be signed by the person required to file a return on his duly authorized agent, but need not be verified by oath. The city treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

(e) Every person furnishing rooms or lodging under subsection (b) of this section shall file with the city clerk every calendar year, an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the city clerk and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business, and such other information as the city clerk requires. The application shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application the applicant shall pay to the city clerk an annual non-refundable processing fee in the amount set forth in the city's fee schedule. Once issued, such permits need not be renewed, however, permits shall be subject to suspension and revocation for violations of any provisions of this section as provided herein. Whenever the city clerk becomes aware of operation in the city appearing to be subject to this room tax he shall mail an application to that facility.

(f) The common council shall grant or deny an application for a permit no later than 45 days after application. If the application for a permit is denied the applicant shall be given written notice of the reasons for denial and shall be given an opportunity to be heard thereon. If the applicant desires a public hearing he or she shall file a written request therefor with the city clerk, and the council shall hold a public hearing thereon no later than the third regular council meeting following filing of the request for hearing.

(g) After compliance with subsection (e) of this section by the applicant, and approval by the common council under subsection (f) of this section, the city treasurer shall grant and issue to each applicant a separate permit for each place of business within the city. Such permit is not

assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

(h) Whenever any person fails to comply with this section the city treasurer may, upon ten days' notification and after affording such person the opportunity to show cause why his permit should not be revoked, revoke or suspend any or all of the permits held by such person. The city treasurer shall give to such person written notice of the suspension or revocation of any of his permits. The city treasurer shall not approve a new permit after the revocation of a permit unless he or she is satisfied that the former holder of the permit will comply with the provisions of this section. A fee as set forth in the city's fee schedule shall be imposed for the renewal or issuance of a permit, which has been previously suspended or revoked.

(i) If any person liable for any amount of tax under this section sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the city treasurer that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this section fails to withhold such amount of tax from the purchase price as required, he shall become personally liable for payment of the amount required to be withheld by him to the extent of the purchase price valued in money.

(j) The city treasurer may, by office audit, determine the tax required to be paid to the city or the refund due to any person under this section. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the city treasurer's possession. One or more such office audit determinations may be made of the amount due for anyone or for more than one period.

(k) The city treasurer may, by field audit, determine the tax required to be paid to the city or the refund due to any person under this section. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the city treasurer's possession. Whenever the city treasurer has probable cause to believe that the correct amount of room tax has not been assessed or that the tax return is not correct, the city treasurer and designees are authorized to examine and inspect the books, records, memoranda, and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the city treasurer from making a determination of tax at any time.

(l) Failure to file return.

(1) If any person fails to file a return as required by this section, the city treasurer shall make an estimate of the amount of the gross receipts under subsection (b) of this section. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information, which is in the city treasurer's possession or may come into his possession. On the basis of this estimate the city treasurer shall compute and determine the amount required to be paid to the city.

(2) If any person fails to comply with a request to inspect and audit the person's financial records, the city treasurer shall add a five percent, with a $100.00 minimum, penalty to the sum of the tax that the city treasurer determined was owed.

(m) A forfeiture of 25 percent of the room tax due for the previous year or $5,000.00 whichever is less, of the tax imposed, is hereby established and due and owing in the event that the room tax is not paid within 30 days after the due date of return. In addition to this forfeiture, all unpaid taxes under this section shall bear interest at the rate set by the state for delinquent real estate taxes per month from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the city treasurer. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation.

(n) Delinquent tax returns shall be subject to a late filing fee in amount equal to 300 percent of the room tax for the prior 12 months but not less than $100.00 nor more than $1,000.00. The tax imposed by this section shall become delinquent if not paid by the due date of the return.

(o) Every person liable for the tax imposed by this section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the city treasurer requires.

(p) Confidentiality.

(1) All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the city treasurer are deemed to be confidential, except the city treasurer may divulge their contents to the following, and no others:

a. The person who filed the return.

b. Officers, agents, or employees of the federal Internal Revenue Service or the state department of revenue.

c. Officers, employees, or agents of the city administrator.

d. Such other public officials of the city when deemed necessary.

(2) Any person who violates or is in noncompliance with, any of the provisions of this subsection (p) or subsection (q) of this section shall be subject to a forfeiture of not less than $100.00, nor more than $500.00.

(q) No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this section, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as provided in subsection (p) of this section.

(r) Any person who is subject to the tax imposed by this section who fails to obtain a permit as required in subsection (e) of this section, or who fails or refuses to permit the inspection of his records by the city treasurer after such inspection has been duly required by the city treasurer, or who fails to file a return as provided in this section, or who violates any other provisions of this section, shall be subject to a forfeiture not to exceed $250.00. Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense. The total forfeiture imposed shall not exceed five percent of the tax imposed by this section.

(s) The tourism commission is hereby created to coordinate tourism promotion and development for the city. It shall consist of five members, one of which shall be a representative of the state hotel and motel industry.

(1) Members of the commission shall be appointed by the mayor subject to confirmation by the common council. Commissioners shall serve for a one-year term, at the pleasure of the mayor, and may be reappointed.

(2) The commission shall meet at least quarterly on a regular basis and at such additional times as deemed necessary by a call of the chair upon at least three days' advance notice.

(3) The commission shall among its members elect a chairperson, vice-chairperson and secretary.

(4) The commission shall report any delinquencies or inaccurate reporting to the mayor.

(5) The commission shall maintain minutes of its proceedings including accurate records accounting for all receipts and disbursements and identifying the source or purpose for each and reflecting any balance on hand.

(6) The commission shall have independent authority to receive and expend funds as authorized herein by state law and shall submit its minutes to the common council and submit an annual report of activities to the council.

(t) Reports; application of room tax; miscellaneous.

(1) The commission shall monitor, by reviewing quarterly reports from the city treasurer, collection and allocation of room taxes from hotels and motels located within the city.

(2) The room tax collected by the city shall be distributed accordingly: 30 percent to the city for administration and general fund, 70 percent to the commission, 30 percent to such organizations as selected by the commission and approved by the mayor on a quarterly basis to be spent on marketing, tourism promotion and development including a portion of costs related to those activities.

(3) The commission may enter an agreement or agreements with other entities to assist with marketing, tourism promotion and development including a portion of costs related to those activities. No such agreement shall extend beyond a one-year period without prior approval of the common council.

(4) The commission shall provide such organization with 30 percent of the room tax revenue on a quarterly basis within 45 days following collection of that quarter's room tax, to carry out the activities set forth in subsection (c) of this section.

(5) Any organization selected as described in subsection (s) of this section shall submit an annual report to the commission by January 31 each year detaining how their percentage of the hotel room tax revenue was spent on marketing, tourism promotion and development including a portion of costs related to those activities.

(6) The 70 percent of the hotel room tax retained by the commission shall be utilized for marketing, tourism and promotion development activities, including a portion of costs related to those activities. The hotel room tax revenue will be credited to the CDA fund with the commission strategically planning and approving projects subject to the normal city expenditure process.

(7) The commission shall submit an annual report to the department of revenue on its approved form by May 1 each year per Wis. Stats. § 66.0615(4) and send a copy to the common council, which shall constitute its required annual report.

(8) The commission may not, however, use any of the room tax revenue it receives to construct or develop a lodging facility.

(Code 2004, § 12.32; Ord. No. 2162, 10-4-2005)

Secs. 8-217—8-240. Reserved.

ARTICLE VIII. ROOMINGHOUSES

Sec. 8-241. Compliance.

No person shall operate a roominghouse or occupy or let to another for occupancy any rooming unit in any roominghouse, except in compliance with the zoning restrictions and building code requirements of the city, set forth in this article. All validly permitted roominghouse uses in the city are designated legal, nonconfoming uses.

(Code 2004, § 19.10; Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-242. Permit required.

No person shall operate a roominghouse unless he holds a valid roominghouse permit issued by the director of the department of economic development, inspections and zoning and/or his designees (the department) in the name of the operator and for the specific dwelling or dwelling unit within which the roominghouse is contained. Such permit shall be subject to an annual application for renewal which shall include inspection of the entire premises. Inspections shall be conducted by the department.

(Code 2004, § 19.10(1); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-243. Application for permit.

The operator shall file, in duplicate, an application for a roominghouse permit, and annually an application for renewal, prior to every year of subsequent operation in the office of the department on application forms prepared by such office.
(Code 2004, § 19.10(2); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-244. Inspection by the department.

The department shall, whenever an application is made for a roominghouse which does not have a valid roominghouse permit, instruct its inspection services to inspect the entire premises to determine compliance with health, sanitation, safety and building codes. The department shall, within 30 days after the date on which such application was filed, determine in writing the maximum number of persons which may occupy the roominghouse in accordance with the provisions of applicable building codes and zoning laws. No permit shall be issued to any operator which would authorize occupancy of the roominghouse by a larger number of persons than is permitted under the provisions of applicable zoning laws and building codes, and upon violation of such limitations on occupancy, the roominghouse permit shall be suspended until the department determines that permit violations have been abated Suspension of the roominghouse permit for violations may include placarding the premises by the department as unsafe or unfit for human habitation whereby the owner/operator may be obligated to temporarily relocate tenants until violations have been abated.
(Code 2004, § 19.10(3); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-245. Issuance of permit and fees.

When all applicable provisions of this article and of any rules and regulations adopted pursuant hereto have been complied with by the operator, the department shall issue a roominghouse permit and an occupancy record card upon the payment of a fee as set forth in the city's fee schedule for a Type I roominghouse and a fee as set forth in the city's fee schedule for a Type II roominghouse. All roominghouse permits so issued shall expire on January 1 following the date of issuance, unless sooner suspended or revoked as herein provided. The permit shall list the maximum number of persons that may reside in the total of all rooming units and second class dwelling units, if there are any such second class dwelling units, located in the dwelling or portions thereof for which the roominghouse permit is issued. Inspections of roominghouses shall be conducted annually and whenever determined necessary by the department.
(Code 2004, § 19.10(4); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-246. Posting of permit and occupancy record card.

The operator in a public corridor shall conspicuously post every roominghouse permit issued by the department or hallway or other public portions of the roominghouse for which it

is issued and shall remain so posted at all time. The operator in a place where such cards are readily accessible for examination shall post every occupancy record card in the roominghouse by the department.
(Code 2004, § 19.10(5); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-247. Operator to control occupancy.

No operator shall at any time allow a larger number of persons to occupy the total of all rooming units and second class dwelling units located within a roominghouse than the maximum number of persons listed on the roominghouse permit and the occupancy record cards. No operator shall allow a larger number of persons to occupy any individual rooming unit or any individual second class dwelling unit than the maximum number of persons listed on the occupancy record cards for each such rooming unit and each such second class dwelling unit. No operator shall at any time permit any person to occupy any rooming unit or second class dwelling unit which is not listed on the occupancy record cards.
(Code 2004, § 19.10(6); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-248. Nontransferability of permit.

No roominghouse permit issued under the provisions of this chapter shall be transferable; and every operator shall notify the department in writing within 24 hours after having relinquished proprietorship or having sold, transferred, given away or otherwise disposed of such interest or control of any roominghouse and shall file in writing with the department the name and address of the operator to whom proprietorship has been relinquished by sale, gift or other method of transferal or disposition.
(Code 2004, § 19.10(7); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-249. Relationship of permit to building code; enforcement of building code.

The issuance of a roominghouse permit and occupancy record card to any roominghouse shall not in any way signify or imply that the roominghouse conforms with the state building code or the building and zoning codes of the city. The department shall enforce the provisions of such building and zoning codes.. No roominghouse permit or renewal thereof shall be issued until the department has determined by inspection that the entire premises is free of observable defects, hazards and code violations.
(Code 2004, § 19.10(8); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-250. Applicability of other sections of this Code.

No person shall operate a roominghouse unless all of the requirements of sections 6-159, 6-160, except subsections (12) and (13) of that section, and section 6-161(2), (8),and (9) are complied with; provided for the purpose of interpreting the requirements of the designated sections applicable in the enforcement of this subsection, the terms "multiple dwelling" or

"dwelling" mean "roominghouse" and the terms "dwelling unit" or "dwelling units" mean "rooming unit" or "rooming units." Every dwelling unit located within a roominghouse shall comply with all of requirements for dwelling units as established in accordance with the provisions of this article.
(Code 2004, § 19.10(9); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-251. Toilets and lavatory basins.

At least one toilet, and one lavatory basin supplied with hot water, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each eight persons or fraction thereof residing within a roominghouse, including members of the operator's family wherever they share such facilities; provided in a roominghouse where rooms are let only to males, flush urinals may be substituted for not more than one-half of the required number of toilets.
(Code 2004, § 19.10(10); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-252. Baths.

At least one bathtub or shower, properly connected to an approved water and sewer system, supplied with hot water and in good working condition shall be supplied for each eight persons or fraction thereof residing within a roominghouse, including members of the operator's family whenever they share the use of such facilities.
(Code 2004, § 19.10(11); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-253. Location of sanitary facilities.

Every toilet, lavatory basin and bath shall be located within a room or rooms which afford privacy to a person within such room or rooms. All such facilities shall be so located within the roominghouse as to be accessible to the occupants of each rooming unit sharing such facilities without going outside of the dwelling and without going through a dwelling unit or through a rooming unit or another occupant.
(Code 2004, § 19.10(12); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-254. Minimum floor area for sleeping purposes.

Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof.
(Code 2004, § 19.10(13); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-255. Maximum occupancy for rooming unit.

No rooming unit consisting of only one habitable room shall be occupied by more than four occupants; provided a rooming unit may be occupied by more than four occupants if it complies with the provisions of this article and if, on June 18, 1968, a valid sanitary inspection certificate had been issued.
(Code 2004, § 19.10(14); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-256. Numbering of rooming units, and other dwelling units.

Every rooming unit, every second class dwelling unit and every other dwelling unit in every roominghouse shall be numbered in a plain and conspicuous manner, the number to be placed on the outside of the door to such rooming unit, or other dwelling unit. No doors shall bear the same number. No dwelling unit shall be changed to any other number without first securing the written approval of the health officer.
(Code 2004, § 19.10(15); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-257. Residence of children in rooming units prohibited.

No child under 16 years of age shall live or sleep in a roominghouse unless he resides in a dwelling unit contained therein. No such child shall reside in a rooming unit.
(Code 2004, § 19.10(16); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-258. Preparation or eating of meals in rooming units prohibited.

No occupant of a roominghouse shall prepare or eat meals in a roominghouse unless such meals are prepared or eaten in a dwelling unit contained therein; provided if a roominghouse is occupied exclusively by roomers of the same sex, they may prepare and eat meals in a communal kitchen and may eat meals in a communal dining room in accordance with the provisions of sections 8-259 and 8-260.
(Code 2004, § 19.10(17); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-259. Communal kitchens.

A communal kitchen shall comply with the following requirements.

(1) The minimum floor area shall be 60 square feet.

(2) The minimum floor area of a communal kitchen in which roomers are permitted to prepare and eat meals shall be 100 square feet.

(3) A communal kitchen in which occupants are permitted to eat meals shall be supplied with one dining chair and two lineal feet of dining table space, in addition to the required surface area for food preparation required under subsection (8) of this section,

for each occupant of a roominghouse who is permitted to eat in the kitchen at any particular time. The surface of each dining table shall be smooth, free of cracks and easily cleanable.

(4) A communal kitchen containing less than 100 square feet of floor area shall not be used for the eating of meals. The eating of meals in a roominghouse, prepared in such a kitchen, shall be restricted to a communal dining room which complies with the provisions of section 8-260.

(5) It shall contain at least one supplied kitchen sink of an approved type.

(6) It shall contain at least one supplied kitchen gas stove or electric stove. Every such supplied stove shall have at least two top burners and an oven.

(7) It shall contain one supplied electric, gas or ice refrigerator with an adequate food storage capacity. Where ice is used for the purpose of cooling, the operator shall supply it and every icebox drain shall be properly connected to an approved sewer system.

(8) It shall contain at least one supplied table or other facility having a total surface area for food preparation of not less than six square feet. The surface of each such table or other facility shall be suitable for the preparation of food, smooth, free of cracks and easily cleanable.

(9) It shall contain at least one supplied cabinet of adequate size for the suitable for storage of food and eating and cooking utensils.

(10) Every kitchen sink in a communal kitchen shall be supplied with hot water at all times.

(11) Every communal kitchen shall be located within a room accessible to the occupant of each rooming unit who shares the use of such kitchen, without going outside of the dwelling and without going through a dwelling unit or rooming unit of another occupant.

(Code 2004, § 19.10(18); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-260. Communal dining rooms.

Every roominghouse within which the occupant of any rooming unit is permitted to prepare meals or cook within a communal kitchen containing less than 100 square feet of floor area, as provided in this section, shall contain a communal dining room which complies with all of the following requirements:

(1) Every communal dining room shall be located on the same floor of the roominghouse as the communal kitchen, and such dining room shall be as nearly adjacent to the communal kitchen as is practicable.

(2) Every communal dining room shall be located within a room accessible to the occupant of each rooming unit sharing such dining room without going outside of the dwelling and without going through a dwelling unit or rooming unit of another occupant.

(3) Every communal dining room shall contain not less than 70 square feet of floor area.

(4) Every communal dining room shall be supplied with one dining chair and two lineal feet of dining table space for each occupant of a roominghouse who is permitted to occupy such a dining room at any particular time. The surface of each dining table shall be smooth, free of cracks and easily cleanable.

(Code 2004, § 19.10(19); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-261. Posting of no cooking signs.

The operator shall post in every rooming unit a sign on which shall be written or printed in letters not less than three-eighths-inch in height the following words: "No Cooking Permitted in This Room," and such sign shall remain so posted at all times.

(Code 2004, § 19.10(20); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-262. Bed linens and towels.

The operator of every roominghouse shall change supplied bed linen and towels therein at least once each week and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a reasonably clean and sanitary manner.

(Code 2004, § 19.10(21); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-263. Shades, drapes, etc.

Every window or every room used for sleeping shall be supplied with shades, draw drapes or other devices or materials which, when properly used, will afford privacy to the occupant of the room.

(Code 2004, § 19.10(22); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-264. Sanitary maintenance.

The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for maintenance of a sanitary condition in every other part of the roominghouse; and he shall be further responsible for the sanitary maintenance of the entire premises, where the entire structure or building within which the roominghouse is contained is leased or occupied by the operator.

(Code 2004, § 19.10(23); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-265. Rubbish storage.

The roominghouse operator shall supply adequate rubbish storage containers whose type and location are approved. The operator shall be responsible for the disposal of all rubbish in a clean and sanitary manner by placing it in the required containers.
(Code 2004, § 19.10(24); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-266. Garbage disposal or storage.

The roominghouse operator shall supply adequate garbage disposal facilities or garbage containers whose type and location are approved. The operator shall be responsible for the disposal of all garbage in a clean and sanitary manner through the use of approved mechanical equipment or by placing it in the required containers.
(Code 2004, § 19.10(25); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-267. Hanging screens, storm doors and storm windows.

The operator of a roominghouse shall be responsible for hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this article or of any rule or regulation adopted pursuant hereto, except where the owner has agreed to supply such service. Screens shall be hung not later than June 1 of each year.
(Code 2004, § 19.10(26); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-268. Extermination of pests.

(a) The operator of a roominghouse shall be responsible for the extermination of any insects, rodents or other pests therein; and he shall be further responsible for such extermination on the entire premises where the entire structure or building within which the roominghouse is contained is leased or occupied by the operator.

(b) Notwithstanding the provisions of subsection (a) of this section, whenever infestation of a roominghouse is caused by failure of the owner to maintain the dwelling within which the roominghouse is contained in a rat-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner.
(Code 2004, § 19.10(27); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-269. Exits.

Every exit shall comply with all of the following requirements:

(1) It shall be easily accessible from every rooming unit and dwelling unit by passage through public passageways and without passing through any part of any other rooming unit or dwellings unit;

(2) It shall be kept in a reasonably good state of repair;

(3) It shall be unobstructed at all times;

(4) All exit stairways of four or more risers shall have at least one hand rail, and all stairways which are five feet or more in width, or which are open on both sides, shall have a hand rail on each side;

(5) All handrails shall be not less than 30 inches vertically above the nose of the stair treads and not less than 42 inches above stairway platforms.

(Code 2004, § 19.10(28); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-270. Reporting of communicable disease by operator.

The operator of a roominghouse shall report to the department within 24 hours the name of any person living in the roominghouse who is suffering from any communicable disease, and such report shall be made whenever there is reason to believe or suspect that any person in such roominghouse may be afflicted with any communicable disease.

(Code 2004, § 19.10(29); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-271. Keeping of register.

Every person to whom a roominghouse permit has been issued shall at all times keep a standard hotel register within the roominghouse, in which shall be inscribed the names of all occupants renting or occupying rooming units and second class dwelling units in such roominghouse. The person renting a rooming unit or second class dwelling unit shall sign the register. After the name or names of persons renting or occupying any rooming unit or second class dwelling unit, the operator, or his agent, shall write the number of the room or rooms which each person is to occupy, together with the date and hour when such room or rooms are rented, all of which shall be done before such person is permitted to occupy such room or rooms. The register shall be at all times open to inspection by the health officer and any peace officer or firefighter.

(Code 2004, § 19.10(30); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-272. Entry of true name in register.

No person shall write or cause to be written in any roominghouse register any other or different name than the true name of such person or the name by which such person is generally known.

(Code 2004, § 19.10(31); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-273. Assignment of rooms.

No roominghouse operator, or his agent, shall assign any rooming unit to two persons of the opposite sex unless such persons are husband and wife.

(Code 2004, § 19.10(32); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-274. Hearing when roominghouse permit is denied.

Any person whose application for a permit to operate a roominghouse has been denied may request and shall be granted a hearing on the matter before the department.
(Code 2004, § 19.10(33); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-275. Suspension of permit.

Whenever upon inspection of any roominghouse the department finds that conditions or practices exist which are in violation of any provision of this article or of any rule or regulation adopted pursuant hereto, the department shall give notice in writing to the operator of such roominghouse that unless such conditions or practices are corrected within a reasonable period, to be determined by the department, the operator's roominghouse permit will be suspended. At the end of such period, the department shall reinspect such roominghouse; and if it is found that such conditions or practices have not been corrected, the department shall suspend the permit and give notice in writing to the operator that the permit has been suspended. If the operator has been convicted of leasing or letting any dwelling, room or other premises for the purpose of prostitution or lewdness, which dwelling, room or other premises is required to have a permit under this section, or if the roominghouse operator has been found to have a chronic nuisance premises per section 26-38, the chief of police shall notify the department in writing; and such officer shall then suspend the permit and give notice in writing to the operator that the permit has been suspended.
(Code 2004, § 19.10(34); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Sec. 8-276. Hearing when roominghouse permit is suspended; revocation of permit.

Any person whose permit to operate a roominghouse has been suspended, or who has received notice from the department that his permit is to be suspended unless existing conditions or practices at his roominghouse are corrected, may request and shall be granted a hearing on the matter before the department; provided if no petition for such hearing is filed within ten days following the day on which such permit was suspended, such permit shall be deemed to have been automatically revoked. Upon receipt of notice of permit revocation, the operator shall cease operation of such roominghouse, and shall vacate the building within 30 days. In cases where the department has determined that the order of suspension or revocation of the roominghouse permit has resulted from a public nuisance or building code violation condition involving life safety or presents an immediate hazard to human life, the entire premises shall be pacarded and ordered vacated immediately upon notice. If any operator's roominghouse permit has been revoked because he has been convicted of letting any dwelling, room or other premises for prostitution or lewdness, or if the roominghouse operator has been found to have a chronic nuisance premises per section 26-38, the department shall not issue a permit to the operator for the operation of any dwelling for which a permit is required in accordance with the provisions of this article.
(Code 2004, § 19.10(35); Ord. No. 1894, 7-6-1999; Ord. No. 2387, 11-5-2013)

Secs. 8-277—8-300. Reserved.

ARTICLE IX. TATTOO AND BODY PIERCING

Sec. 8-301. State regulations.

(a) *Adopted.* The provision of Wis. Stats. §§ 252.23 to 252.25 and Wis. Admin. Code ch. DHS 173 as they may be from time-to-time amended are adopted by reference and incorporated into this section as if fully set forth herein:

(b) *Interpretation.* If the provisions of the regulations set forth in subsection (a) of this section conflict with the regulations set forth below, the provisions of this section shall govern.
(Code 2004, § 11.045(1); Ord. No. 1933, 3-21-2007; Ord. No. 2359, 4-6-2011)

Sec. 8-302. Agent for the state.

Pursuant to Wis. Stats. § 252.245, the health department is authorized to enter into a written agreement with the department of health and family services to be the department's agent for the licensing, investigating, and inspecting of tattooists and tattoo establishments and body piercers and body piercing establishments.
(Code 2004, § 11.045(2); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-303. License.

(a) No tattoo establishment or body piercing establishment shall be operated or maintained in the city without first obtaining a license.

(b) A license may be issued for only one tattoo establishment or body piercing establishment at a fixed and certain place. Any operator desiring to operate more than one tattoo or body piercing establishment must have a license for each, except that a combination tattoo/body piercing establishment license may be issued for one location.

(c) No license or interest in a license may be transferred to any person, except as may be permitted by this chapter or state law.

(d) It shall be unlawful for any tattooist, body piercer or operator to knowingly perform any service directly related to the operation of a tattoo or body license pursuant to this section.
(Code 2004, § 11.045(3); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-304. Application for license.

(a) Any person desiring to secure a tattoo establishment, body piercing establishment, or combination tattoo/body piercing establishment license shall make application to the health department.

(b) The application shall be on a form provided by the health department and shall provide the following information:

(1) The names (including aliases), addresses and dates of birth of the applicant, any partner or limited partner in a partnership application, any shareholder holding more than ten percent of the stock of a corporate applicant, and each corporate officer and director.

(2) Written proof that each person required to be identified in subsection (b)1 of this section is at least 18 years of age.

(3) The address of the establishment to be licensed.

(4) Whether the applicant or any person required to be identified in subsection (b)1 of this section is currently operating or has previously operated, in this or any other municipality or state, under a tattoo or body piercing establishment license, whether the applicant or person required to be named in subsection (b)1 of this section has ever had such a license or permit suspended or revoked, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

(5) If the applicant is a corporation, the name of the corporation, the date and state of incorporation, and the name and address of the registered agent.

(6) Proof of ownership, lease, or other legally enforceable right to possess, use, and control the premises where the licensed establishment is to be located.

(c) Failure or refusal of the applicant to completely and truthfully provide responses to the application questions, to give any information relevant to the investigation of the application, or refusal to appear at any reasonable time and place for examination regarding said application shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.
(Code 2004, § 11.045(4); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-305. Investigation.

Upon receipt of an application and fee, the health department shall refer the application to the police department, fire department and building inspection department. The health department and each other department, except the police department, shall make an investigation of the premises to ensure that it complies with applicable state and local laws. The police department shall make an investigation of the statements made in the application. Each department shall notify the health department as to the results of its investigation.
(Code 2004, § 11.045(5); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-306. Standards for granting a license.

The health department may grant a license if it is found:

(1) That the business operation as proposed by the applicant will comply with the provisions of this section and all other applicable rules, regulations, ordinances and state law.

(2) That subject to Wis. Stats. §§ 111.321, 111.322 and 111.335, the applicant, or any of the officers, directors, or persons holding more than ten percent of the corporate stock or any of the partners have not, within the five years immediately preceding the date of the application, been convicted of violating this section, or of any other offense substantially related to tattooing or body piercing.

(3) That the applicant, if an individual, partners, or the officers, directors, or persons holding more than ten percent of the corporate stock if the applicant is a corporation, are at least 18 years of age on the date of application.

(4) That the applicant has not knowingly made any false, misleading or fraudulent statement of fact in the license application or other information required in conjunction therewith.

(5) That the applicant, if a corporation, is licensed to do business and is in good standing in the state.

(6) That the applicant has complied with all building, zoning, plumbing, electrical, fire, and health codes.

(Code 2004, § 11.045(6); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-307. Fees.

(a) A nonrefundable license fee as set forth in the city's fee schedule, plus the state administrative fee shall be submitted with the application for a tattoo establishment license.

(b) A nonrefundable license fee as set forth in the city's fee schedule, plus the state administrative fee shall be submitted with the application for a body piercing establishment license.

(c) A nonrefundable license fee as set forth in the city's fee schedule, plus the state administrative fee shall be submitted with the application for a combination tattoo/body piercing establishment license.

(d) A one-time preinspection fee as set forth in the city's fee schedule for each original tattoo or body piercing establishment license.

(Code 2004, § 11.045(7); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-308. Approval of sterilization procedures.

(a) Prior to issuance of a tattoo or body piercing establishment license, each operator shall submit written procedures to the health department setting forth each step to be taken by a tattooist, body piercer, or other employee in sterilizing equipment that is not single use.

(b) Prior to issuance of a tattoo or body piercing establishment license, each operator shall submit written procedures to the health department setting forth each step to be taken by a tattooist or body piercer in cleaning, preparing, and applying antiseptic to the skin of the patron.

(c) No tattoo or body piercing establishment may operate until the procedures required in subsections (a) and (b) of this section have been approved by the health department.

(d) Prior to issuance of a tattoo or body piercing establishment license, the operator shall demonstrate the sterilization of equipment following the approved sterilization procedure set forth in subsection (a) of this section. A spore test shall be conducted at the applicant's expense and by approved laboratory. The license shall only be issued upon a negative spore result.
(Code 2004, § 11.045(8); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-309. Care instructions.

The written care instructions required to be provided to each patron after completion of the tattoo or body piercing procedure shall be submitted to the health department for approval prior to issuance of the tattoo or body piercing establishment license.
(Code 2004, § 11.045(9); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-310. Insurance.

(a) Prior to issuance and renewal of a tattoo or body piercing establishment license, the license holder shall submit to the health department proof of comprehensive general liability insurance in a minimum amount of $500,000.00 per occurrence and $1,000,000.00 aggregate covering all personal injury to patrons and all operations and procedures conducted on the licensed premises including, but not limited to, the tattooing and piercing of a person's skin and complications therefrom.

(b) Such insurance shall contain a provision from the insurance company to the city pledging to notify the city within ten days of any change or cancellation of the policy.

(c) Such insurance shall be maintained at all times the tattoo or body piercing establishment is open for business. Failure to maintain such insurance shall constitute grounds for immediate suspension at the order of the health commissioner or his designee.
(Code 2004, § 11.045(10); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-311. Display of license.

The tattoo, body piercing, or combination license shall be posted in a conspicuous place in the establishment, so that it may be read by the patrons thereof.
(Code 2004, § 11.045(11); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-312. License year.

The license year shall begin on July 1 in each year, and terminate on June 30 in the next year. There shall be no proration of license fees.
(Code 2004, § 11.045(12); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-313. Hours of operation.

No tattoo or body piercing establishment shall be open between the hours of 1:00 a.m. and 8:00 a.m., Monday through Saturday or between the hours of 1:00 a.m. and 12:00 noon on Sunday. No tattooing or body piercing procedures shall be conducted by anyone anywhere within a licensed establishment or on any premises accessible to a licensee or an employee thereof in the city, whether or not for compensation, outside of the hours for operation set out herein or outside the premises licensed herein.
(Code 2004, § 11.045(13); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-314. Temporary establishments.

(a) No temporary establishment may be operated in the city without first obtaining a license.

(b) A temporary tattoo or body piercing establishment shall comply with all regulations for regular establishments as well as those set forth in state administrative regulations.
(Code 2004, § 11.045(14); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-315. Sharps and infectious waste disposal.

Prior to issuance of a license to a tattoo or body piercing establishment, the license applicant shall submit written proof of the establishment's ability to properly dispose of sharps and infectious waste as provided in Wis. Admin. Code ch. NR 526.
(Code 2004, § 11.045(15); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-316. Single use needles for tattooing.

Tattoo needles shall be disposable, sterile, and for single patron use only.
(Code 2004, § 11.045(16); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-317. Piercing gun use.

No body piercer may use a piercing gun or similar device for body piercing a patron unless such piercing gun is disposable, sterile, and for single patron use only or is sterilized between each use as set forth in Wis. Admin. Code § DHS 173.03(20).
(Code 2004, § 11.045(17); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-318. Waiting period of 24 hours for tattoos.

(a) Due to the permanent nature of tattoos, no tattooist or tattoo establishment may apply a tattoo to a patron until 24 hours have passed since the patron first requested the tattoo.

(b) The patron's record shall note that the patron was advised of the 24-hour waiting period, in writing, with the patron's signed acknowledgment thereon.

(c) No tattooist or tattoo establishment may bind or attempt to bind a patron to committing to obtaining a tattoo or paying for such services by signing the 24-hour waiting period acknowledgment.

(d) No patron may waive the 24-hour waiting period and the waiting period may only be commenced on licensed premises during permitted operational hours.
(Code 2004, § 11.045(18); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-319. Tattooist and body piercer licenses to be posted or kept on person.

No tattooist or body piercer may perform tattooing or body piercing procedures unless the current and valid license issued by the department of health and family services is posted in the establishment in a public and conspicuous place or is in their possession. Such license shall be displayed to any member of the health department, police department, or department of HFC employee upon request.
(Code 2004, § 11.045(19); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-320. Lead in solder prohibited.

No tattooist shall use and no tattoo establishment shall suffer or permit the use of solder which contains lead to be used to fasten needles.
(Code 2004, § 11.045(20); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-321. Aprons.

All tattooist and body piercers shall wear single use aprons which shall be disposed of after completing the procedure on a patron.
(Code 2004, § 11.045(21); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-322. Loitering prohibited.

No operator or employee of a tattoo or body piercing establishment shall allow, suffer, or permit loitering on the business premises. For purposes of this section, the term "business premises" shall include the licensed premises, property owned or leased by the tattoo or body piercing establishment and contiguous with the licensed premises, and parking lots, alleys, and sidewalks contiguous with the licensed premises.
(Code 2004, § 11.045(22); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-323. Implanting, branding, and scarification prohibited.

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

Branding means the burning of skin with a hot tool, cauterizing laser, or dry ice so that a mark is imbedded in the deep tissue.

Implantation means the insertion of an object under the skin, so that it remains under the skin, in whole or in part, after the procedure. This definition shall not apply to the post used in body piercing to keep the perforation from closing.

Scarification means the cutting of the skin so that when it heals, scar tissue remains.

(b) *Prohibition*. No person shall intentionally engage in the practice of implanting, branding, or scarification in the city, except as set forth herein.

(c) *Exceptions*. The prohibition set forth in subsection (b) of this section shall not apply to licensed physicians, or procedures or others delegated by a licensed physician.
(Code 2004, § 11.045(23); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-324. Responsibility of the operator.

(a) Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be liable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(b) Any act or omission of any employee constituting a violation of the provisions of this article shall be deemed an act or omission of the operator for purposes of determining whether the license shall be suspended, revoked, or not renewed.
(Code 2004, § 11.045(24); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-325. Enforcement and inspection.

The police department and health department shall have the authority to enter any tattoo or body piercing establishment at all reasonable times to inspect the premises and enforce this section. The health department shall inspect each tattoo and body piercing establishment at least twice per year to ensure compliance with the provisions of this article.
(Code 2004, § 11.045(25); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-326. Suspension, revocation and nonrenewal.

(a) A license issued pursuant to the provisions of this article is subject to suspension, revocation or nonrenewal by the common council. Unless the public health and safety required an immediate suspension, no license shall be suspended, revoked, or nonrenewed without first providing the operator with due notice and hearing before the license and health committee of the common council for the purpose of determining whether grounds for such suspension, revocation or nonrenewal exist. The license and health committee shall make findings and recommendations to the common council, and a copy shall be mailed to the operator. The operator shall have ten days from the date the findings and recommendations were mailed to make written objections to the findings and recommendations of the license and health committee. The common council shall then determine whether sufficient grounds exist and whether the license should be suspended, revoked or nonrenewed. The clerk/treasurer shall notify the operator in writing of the decision of the common council. Notice shall be served by first class mail.

(b) The common council may suspend, revoke, or refuse to renew a tattoo or body piercing license for the following reasons:

(1) Violation of this section or any other ordinance, administrative rule, or statute related to the practice of tattooing or body piercing.

(2) Knowingly misrepresenting, misstating or failing to disclose information requested on the application form or requested by the license and health committee.

(3) Using, causing, or promoting the use of false, misleading, or deceptive advertising, promotional literature, warranty, label, or insignia.

(4) Knowingly deceiving a patron or the public by acting in a manner as to mislead the patron or the public as to the person's professional or license status.

(5) Knowingly employing, directly or indirectly, a suspended, revoked, or unlicensed person to perform tattooing or body piercing.

(6) Knowingly permitting another person to use the license issued under this article.

(7) Practicing tattooing or body piercing under a false, misleading, or deceptive name.

(8) "Sexual harassment," as that term is defined in Wis. Stats. § 111.32(13), of a patron.

(9) The operation of the tattoo or body piercing establishment constitutes a nuisance. As used herein the term "nuisance" means any unreasonable activity or use of the licensed premises that interferes substantially with the comfortable enjoyment of life, health, or safety of another or others.

(c) An operator whose license has been revoked or not renewed shall not be eligible for licensure under this article for a period of one year from the date the revocation or nonrenewal takes effect.

(d) Except for emergency suspensions for the public health and safety, a suspension shall be for not less than ten days nor more than 90 days.

(e) Any aggrieved person may appeal the decision of the common council to the circuit court of Milwaukee County within 30 days from the date of service of the decision upon the operator.
(Code 2004, § 11.045(26); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-327. Summary suspension.

(a) The provisions of section 28-16(c) notwithstanding whenever the health commissioner or his designee has reasonable cause to believe that the sanitary condition, operation, method of operation of the premises, or equipment used on the premises creates an immediate danger to health or safety or whenever the health commissioner or his designee has reasonable cause to believe that the insurance required in section 8-310 has been changed or cancelled so as not to provide the required insurance, the health commissioner or his designee may issue a temporary order suspending the operation of a tattoo or body piercing establishment.

(b) The order may be made orally but must be followed within 24 hours by a written order personally delivered to the licensed establishment.

(c) The order may require cessation of all operations authorized by the license or prohibit a particular operation or condition which creates the immediate danger.

(d) The order shall be effective for up to 14 days unless sooner rescinded, but may be extended for one additional 14-day period if the condition still exists or to complete analysis of samples or specimens.

(e) No person may operate a tattoo or body piercing establishment or operate as a tattooist or body piercer at an establishment that has been suspended pursuant to this section.
(Code 2004, § 11.045(27); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Sec. 8-328. Penalties and prosecution.

(a) Any person who is found to have violated any provision of this article shall forfeit the sum of not less than $50.00, nor more than $500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs, by imprisonment in the county house of

correction until the forfeiture and costs are paid, but not in excess of the number of days set forth in Wis. Stats. § 800.095(4). In addition to the monetary penalty imposed, violation of this article may further result in the suspension, revocation, or nonrenewal of any license issued under this article and legal action for injunction or other relief.

(b) Each violation of this article shall be considered a separate offense, and each and every day an offense continues shall be considered a separate offense.
(Code 2004, § 11.045(28); Ord. No. 1933, 3-21-2000; Ord. No. 2359, 4-6-2011)

Secs. 8-329—8-359. Reserved.

ARTICLE X. OTHER BUSINESSES AND BUSINESS ACTIVITIES

Sec. 8-360. Transient merchants.

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

Transient merchant means a person who engages in the vending or sale of merchandise in the city temporarily, and who does not intend to become and does not become a permanent merchant.

(b) *License required*. No person shall engage in the business of a transient merchant in the city without first obtaining a license therefor.

(c) *License fee*. Any person desiring a license as a transient merchant shall, before receiving the same, pay to the city treasurer a license fee.

(d) *Bond*. See the city fee schedule on file in the city clerk's office.

(1) If complaint is made to the mayor that any person doing business as a transient merchant claims to be a permanent merchant, he may be required as a condition of transacting business, to give a bond to the city. Such bond shall be in the sum of $500.00 with sureties to be approved by the city clerk and shall be enforced in case of a breach thereof by the proper officers.

(2) Every applicant who intends to take sales orders and down payments for the later delivery of goods and services and is not a resident of the city shall file a surety bond with the city clerk to cover the license term. The surety shall be acceptable to and approved by the mayor and the bond shall be conditioned upon the following:

a. That the applicant shall comply fully with all the provisions of the ordinances of the city and applicable state statutes and guaranteeing to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the licensee; and

b. Further guaranteeing to any citizen of the city doing business with the licensee, that the property purchased will be delivered according to the representations of the licensee.

c. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of court in which suit is commenced, be relieved without costs of any further liability.

(e) *Application and issuance*. The application for a license as a transient merchant shall be made in writing to the city clerk upon forms to be furnished by him. Upon filing of such application with the city clerk and presentation to him of a receipt from the city treasurer showing the payment of the license fee, the city clerk shall issue to such applicant a license.
(Code 2004, § 12.13(1); Ord. No. 925, 5-18-1971; Ord. No. 1361, 12-17-1985; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-361. Hawkers and peddlers.

(a) *License required*. No person shall engage in the business of a hawker or peddler within the city without first obtaining a license therefor.

(b) *License fee*. See section 8-21.

(c) *Application and issuance*. Application for a license shall be made in writing to the city clerk on forms provided by him. The city clerk shall forward such application to the mayor, who shall then refer it, with his recommendation, to the police and license committee. Such committee shall refer the application to the chief of police for investigation and recommendation. After receiving the determination of the police chief, the committee shall then refer such application to the city council for final action.

(d) *Nontransferable*. No hawker's and peddler's license shall be transferable.

(e) *Not to use horns, etc.* No person engaged in hawking and peddling goods, wares or merchandise within the city shall blow any horn, ring or strike any bell or gong, or make any outcry to attract attention while so engaged.

(1) *License to be used only by applicant.* Only one person may carry on business under any license issued hereunder, and no person shall conduct business under the same license as co-partners, agents or otherwise.

(2) *Hours of solicitation.* Any person who holds a license under this section to engage in door-to-door solicitation in residential areas, for sale of products, shall perform such solicitation only on Monday through Saturday between 8:00 a.m. and 9:00 p.m. (See also section 8-385.)

(Code 2004, § 12.13(2)—(4); Ord. No. 925, 5-18-1971; Ord. No. 1361, 12-17-1985; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 8-362. Closing out and partial removal sales—Definitions..

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

Advertising means any means of conveying to the public notice of sale or notice of intention to conduct a sale.

Applicant means any person applying for or required to apply for a license under this section.

Closing out sale means the sale of any goods, wares or merchandise at retail represented or advertised to be the goods, wares or merchandise of a bankruptcy, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber or manufacturer; or any business that is in liquidation or that is selling out or closing out, closing or disposing of its stock or a particular part or department thereof; that has lost its lease or has been or is being forced out of business; that is conducting a removal sale or is disposing of stock on hand because of damage by fire, water, smoke or other causes; that is selling the goods, wares or merchandise of any other business which is in liquidation or has quit business; or a sale that is held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon the disposal of the stock on hand.

Partial removal sale means a sale in the regular course of business for goods represented to have been purchased from a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer or person that is liquidating or has been forced out of business while at the same time the applicant sells at its place or places of business goods, wares and merchandise out of its regular stock and where the applicant will not discontinue its regular business after such sale.
(Code 2004, § 12.14(1); Ord. No. 1542, 8-6-1991)

Sec. 8-363. Same—License required.

No person shall advertise or conduct at retail within the city any closing out sale or partial removal sale without first having obtained a license therefor.
(Code 2004, § 12.14(2); Ord. No. 1542, 8-6-1991)

Sec. 8-364. Same—Application for license.

Every person requiring a closing out sale license or partial removal sale license shall make a verified application in writing to the city clerk. The city clerk may approve a license at any time within 30 days after such application. There shall be no advertisement or commencement of such sale until such license is issued and in effect. As a part of such application, such person shall submit the following:

(1) A complete and accurate list of the stock of goods, wares and merchandise on hand to be offered at such sale, accompanied by an affidavit of a certified public accountant

having no financial interest in such sale, from which it appears that the information set forth in such inventory is true and correct according to commonly accepted accounting practices within the trade. Such inventory shall contain the cost price as well as the initial marked retail price of the respective articles enumerated therein, together with the date on which merchandise was purchased. If the goods, wares and merchandise were purchased by the applicant for a lump sum or under other circumstances that in the judgment of the city clerk makes the listing of the cost price for each article impracticable, the inventory shall state the lump sum paid for such goods, wares and merchandise and the circumstances of the purchase of the same.

(2) An affidavit setting forth the names and addresses of the persons, such as partners, officers, directors, principal stockholders and owners of the business and merchandise, the place at which such sale is to be conducted and the period of time during which the proposed sale is to continue. Such affidavit shall state that the applicant has been the owner of the business described in the application for at least 12 months prior to the date of the application. Such affidavit shall further state the names and addresses of any person aiding in or conducting such sale other than employees of the applicant who have been employed for not less than 90 days prior to the application.

(3) Photostatic copies of the personal property tax returns of the applicant for the two years preceding the application.

(4) Photostatic copies of the state department of revenue Form 10 filed by the applicant for the two years preceding the application.

(5) An affidavit by the applicant that no stock has been ordered for or added to the applicant's stock within 60 days prior to the filing of the application.

(6) Such other information as the city clerk may require.

(7) Subsections (3), (4) and (5) of this section shall only apply to closing out sales and shall not be required in partial removal sales.

(Code 2004, § 12.14(3); Ord. No. 1542, 8-6-1991)

Sec. 8-365. Same—Time of sale.

(a) No license shall be granted by the city clerk for more than 60 successive days, Sundays excepted, from the date of the issuance of such license. If a license has been granted for less than 60 days, the applicant therefor, upon tendering the additional amount sufficient to constitute the fee required for a license for a longer period, but not exceeding 60 days, may have the expiration date of such license extended to such further date.

(b) The period of time for which a license may be granted may be extended by the city council beyond such 60-day period if, at any time during the term of the license, a written application for such extension, verified by an affidavit of the applicant, is filed by the licensee

with the council. Such application for an extension shall state the amount of goods, wares and merchandise listed in the original inventory which have been sold since the issuance of the license and the amount of goods contained in the original inventory which still remain in the possession of the applicant for sale and shall state the length of time for which an extension is requested. The council, in consideration of the facts upon hearing such petition, may grant or deny a supplemental license, provided the extension by the supplemental license shall not exceed 30 days from the expiration of the original license. If such supplemental license is granted, the same shall be approved by the city clerk upon payment of an additional license fee as provided in section 8-21.
(Code 2004, § 12.14(4); Ord. No. 1542, 8-6-1991)

Sec. 8-366. Same—Conduct of sale.

(a) No stock of goods, wares or merchandise may be added to the inventory of stock being sold if the same was ordered or received within 60 days prior to the application for license and no stock may be added during such sale.

(b) No advertisement of such sale shall set forth the previous retail price of any merchandise being reduced in price as part of the sale, unless identical merchandise was sold continuously at such retail price during at least 90 days prior to the commencement of the sale. Evidence of such prior sales shall be available on demand.

(c) No labels using the applicant's business name or any other known name brand may be placed on any merchandise for purposes of or during the sale, unless such labels had been placed on identical merchandise which was sold continuously during at least 90 days prior to the commencement of such sale.

(d) If any person is retained to conduct or manage the sale other than the applicant or employees who have been employed continuously for at least 90 days prior to the commencement of the sale, the name and address of such person shall be clearly stated in all advertising material so that the public is aware that such person is conducting or managing the sale.

(e) Within two days after the end of each week of such sale, the applicant shall submit to the city clerk a statement under oath as to the total of retail selling prices of the inventory sold during that week and the total amount of inventory remaining to be sold.

(f) After the expiration of the closing out sale license, the applicant or any successor in interest shall not sell at retail any of the stock of goods remaining at the location for which the license was issued.
(Code 2004, § 12.14(5); Ord. No. 1542, 8-6-1991)

Sec. 8-367. Same—Denial and revocation of license.

Whenever the city clerk finds that the applicant or his agents, servants or employees have failed to provide any of the information required with the application or during the sale, have furnished any false information or have failed to comply with any of the requirements of this section, he shall immediately deny the application or revoke the license.
(Code 2004, § 12.14(6); Ord. No. 1542, 8-6-1991)

Sec. 8-368. Same—Repetitious closing out sales prohibited.

No person or successor in interest shall be granted a license to conduct a closing out sale within 12 months after a closing out sale license is granted, applied for and denied or revoked.
(Code 2004, § 12.14(7); Ord. No. 1542, 8-6-1991)

Sec. 8-369. Same—Partial removal sale; special regulation.

Any person conducting a partial removal sale shall comply with this article and, in addition, shall distinguish by a colored tag all of the goods being sold at the sale so that such goods are readily ascertainable to prospective purchasers and shall not label or tag any other goods not included in the inventory furnished the city clerk in the same or like manner.
(Code 2004, § 12.14(8); Ord. No. 1542, 8-6-1991)

Sec. 8-370. Same—Fees.

(a) The fee for such licenses shall be as provided in section 8-21.

(b) A deposit of a sufficient sum to pay all personal property taxes levied or assessed or to be assessed during such sale. Such deposit shall first be used to pay all such taxes as have been levied. The balance shall be held to pay any tax which is levied as a result of an assessment as referred to above.

(c) If an extension of time under section 8-365 has been granted, the additional fee prescribed therein shall be paid.
(Code 2004, § 12.14(9); Ord. No. 1542, 8-6-1991)

Sec. 8-371. Same—Exemptions.

This section shall not apply to sale by public officers or sales under judicial process.
(Code 2004, § 12.14(10); Ord. No. 1542, 8-6-1991)

Sec. 8-372. Sidewalk cafes—Definitions.

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

Sidewalk cafe means that portion of a restaurant that is immediately adjacent to and extends onto a public sidewalk as a licensed encroachment of that sidewalk for the purpose of providing food or beverages or both to patrons of the restaurant.
(Code 2004, § 12.15(1); Ord. No. 2341, 5-18-2010)

Sec. 8-373. Same—Regulations.

(a) No portion of any licensed sidewalk cafe may encroach on sidewalk adjacent to any property other than the property that is licensed under this article.

(b) No sidewalk cafe shall be open for business between the hours of 12:00 midnight and 8:00 a.m.

(c) No alcohol or fermented malt beverages or food may be served after 10:00 p.m. in the sidewalk cafe.

(d) No alcohol or fermented malt beverages may be served at any time if the restaurant subject of the sidewalk cafe license does not hold an appropriate class of liquor license that would entitle such service within the restaurant.

(e) No alcohol or fermented malt beverages may be served at any time if the restaurant has not received council approval for the enlargement of its premises under its liquor license that includes the area of the public sidewalk where the sidewalk cafe is located. Further, the liquor license shall be automatically conditioned at the time of such enlargement of the premises with a limitation that the enlargement of the premises to allow for the activity of service or consumption of alcohol beverages within the sidewalk cafe area outside the restaurant under such liquor license has no vested rights and may be suspended or revoked or nonrenewed by the city council without cause being shown.

(f) The entire outdoor area utilized for service and consumption of food and beverages shall be visible from the restaurant establishment.

(g) Any public improvements necessary to accommodate the outdoor service area shall be approved by the director of economic development and the chief inspector, or their respective designees, and the costs thereof shall be paid by the licensee.

(h) Service of food and alcohol beverages in all sidewalk cafes shall be limited to persons seated at tables in the licensed sidewalk cafe area. Food service shall be required to be available at all times when the sidewalk cafe is open.

(i) The licensee shall use safe, sturdy furniture, furnishings and equipment in the sidewalk cafe, which enhances the aesthetics of the surrounding area, and shall maintain the same in good repair. All umbrellas shall be anchored in such a way that a sudden burst of wind will not lift them out of their holders or blow them over.

(j) General restrictions.

(1) The licensee shall remove from the sidewalk within 30 minutes after closing of the sidewalk cafe, all furniture, furnishings, equipment, portable barriers and all visible evidence of the sidewalk cafe, anytime that the sidewalk cafe is closed or service is prohibited, or service is not being offered to the public at the sidewalk cafe.

(2) The licensee shall provide at least four feet of unobstructed sidewalk for pedestrian right-of-way through the sidewalk cafe, and shall not place anything within two feet of the curb or street.

(3) The licensee shall comply with all applicable requirements of the Americans with Disabilities Act 42 USC 12101 to 12213.

(4) The licensee shall comply with all applicable federal, state and local laws.

(5) No licensee shall obstruct access to a fire hydrant or obstruct one's view of the hydrant from the street.

(6) No sidewalk cafe shall be permitted within five feet of the sides of bus shelters, or bus stops, nor arranged in any manner, which interferes with the use of the bus stops or with ingress or egress from any bus shelter.

(7) No person may be served in the sidewalk cafe area unless seated, and no table shall be preset with utensils, glasses, dishes, condiments or any other amenities until a patron is seated at a table.

(8) Sidewalk cafes shall not be less than 50 feet from any residential dwelling, unless the dwelling is the licensee's dwelling. A waiver of this section can be obtained by the common council, if the applicant files with their application, a petition signed by more than 50 percent of the property owners residing within 50 feet of the boundaries of the cafe area, indicating they do not object to the sidewalk cafe. The 50-foot measurement shall be a radial measurement extending 50 feet from any point on the perimeter of the cafe, including street right-of-way.

(9) No portion of the sidewalk cafe shall be permitted within five feet of a curb cut-out or a marked crosswalk.

(10) No portion of the sidewalk cafe may be placed on any portion of a public sidewalk beyond the width of the property line of the licensee's property.

(11) No portion of a sidewalk cafe shall be permitted within five feet of any truck, freight, or passenger loading zone, or adjacent to any handicap parking space or loading zone.

(12) No person holding a sidewalk cafe license may use any public property, including, but not limited to, light poles, utility poles, flower planters, trees or other amenities, as a point of attachment for anything, including, but not limited to, ropes, posters or signs.

(13) All sidewalk cafes shall remain within the approved boundaries of the sidewalk cafe site as set forth on the approved application.

(14) No licensee may construct a barrier, or anything of a similar nature or construction, which would obstruct the clear view of any street or traffic regulatory signs or pathway, including, but not limited to, the pathway from alleyways, driveways or any vehicle traffic path.

(15) The licensee shall post a sign clearly visible for its patrons, which lists the rules contained in this section.

(Code 2004, § 12.15(2); Ord. No. 2341, 5-18-2010)

Sec. 8-374. Same—License issuance.

(a) No food, and no fermented malt or other alcohol beverages may be served in a sidewalk cafe without obtaining a sidewalk cafe license and without having any applicable liquor licensed premises enlarged to include the sidewalk cafe area. Strict compliance with this article shall be required in all aspects of any sidewalk cafe at all times.

(b) Application for a sidewalk cafe license shall be made to the city clerk-treasurer on forms furnished by the city, along with the appropriate fee. The application shall be signed by the applicant and by the applicant's landlord if the applicant is a tenant at the premises where the sidewalk cafe will be located. Each application shall include a scaled drawing of the precise location of the proposed sidewalk cafe operations and that shows the design, type of furniture, furnishings, equipment and barriers proposed fencing or other barrier to separate the sidewalk cafe from the remainder of the sidewalk that is to remain unencumbered for pedestrian use. If alcohol beverages are to be served under any liquor license, such barriers shall be required.

(c) The city clerk shall send a copy of all complete sidewalk cafe applications and renewal licenses to the chief of police or the chief of police's designee, the public works director or the public works director's designee, and the chief inspector or the chief inspector's designee for a recommendation as to whether the applicant is a proper recipient of a license. The recommendations shall be sent to the rules, laws and licensing committee for consideration, along with the director of economic development's recommendation, as stated under subsection (e) of this section.

(d) Upon receipt of a completed initial application for a sidewalk cafe license or an application for a renewal license involving a change in the type or location of the sidewalk cafe furniture, furnishings, equipment, barriers or area, the city clerk shall forward a copy of the

application, together with all information required under subsection (b) of this section to the director of economic development or the director of economic development's designee for review.

(e) The director of economic development or designee shall review the design, type of furniture, furnishings, equipment and barriers proposed by the applicant to determine whether any of it detracts from the aesthetics of the area surrounding the proposed sidewalk cafe; if the proposed cafe is in compliance with this article and the requirements contained herein; and if the area proposed is suitable for the sidewalk cafe. The director of economic development or designee shall then make a recommendation to the rules, laws and licensing committee as to the issuance of the license, based on the criteria set forth above. The city clerk shall notify the applicant of the date and time of the meeting where the rules, laws and licensing committee shall review the application, licensee's required documentation and any recommendations from the director of economic development and chief of police. The rules, laws and licensing committee shall make a determination as to their recommendation to grant or deny this license to the common council. The applicant shall be notified, in writing, within ten calendar days of said meeting of their decision. If the recommendation is to grant the license, the applicant must produce evidence of adequate liability, property and worker's compensation insurance in full force and effect before operating the sidewalk cafe. If the rules, laws and licensing committee recommends denial, the applicant shall receive written notice stating:

(1) The reason for denying the license;

(2) What action, if any, on behalf of the applicant is necessary in order to obtain approval;

(3) The date by which the applicant may appear before the common council regarding the license.

(f) No person shall obtain a sidewalk cafe license unless the applicant procures the following policies of insurance from an insurance company licensed to do business in the state in the amounts and coverages set forth below covering the sidewalk cafe area:

(1) Commercial general liability. The applicant shall procure a commercial general liability policy with the following minimum standard limits:

a. Bodily injury/property damage, per occurrence: $1,000,000.00.

b. General aggregate limit: $1,000,000.00.

c. Products/completed operations: $1,000,000.00.

d. Personal and advertising injury limit: $1,000,000.00.

e. Medical expense limit, any one person: $5,000.00.

(2) Workers' compensation. The licensee shall provide a workers' compensation policy with the limits prescribed by state statutes.

(3) Certificate of insurance. The licensee shall provide the city with a certificate of insurance coverage required by this section, which certificate shall be approved by the city attorney prior to operating the sidewalk cafe. The certificate shall name the city as a certificate holder and shall provide that the policies of insurance shall not be canceled or altered without 30 days' prior written notice to the city.

(g) The licensing period for sidewalk cafe licenses shall be from July 1 to June 30 of the following year. Prior to expiration of such license, the license holder shall make application and pay the application fee by no later than June 1 to be considered for renewal of the license.
(Code 2004, § 12.15(3); Ord. No. 2341, 5-18-2010)

Sec. 8-375. Same—Revocation, suspension or nonrenewal.

(a) Failure to comply with all of the terms and conditions of a sidewalk cafe license and all requirements of this article may result in the termination of the privilege of serving food, or fermented malt or other alcohol beverages in a sidewalk cafe. If a sidewalk cafe license becomes suspended or revoked or nonrenewed by the city council for such noncompliance, or if the council determines that such use of the public sidewalk shall cease, even without a showing of cause, then no sidewalk cafe operations of any kind at that location may continue on the public sidewalk, and no tables or chairs or other encumbrances of the sidewalk may remain. If such items are on the public sidewalk more than 72 hours after a license is suspended, revoked, or nonrenewed, the city manager shall order such encumbrance removed immediately, and if such encumbrance remains more than 24 hours after issuance of such removal order, the city manager shall cause the encumbrance to be removed and the cost thereof billed to the license holder. Failure to pay such bill for costs within 30 days of billing shall result in the costs being placed on the tax roll for the property at which the restaurant conducting the sidewalk cafe has been located.

(b) The issuance of any license under this article may not be construed to create a vested right for the benefit of liquor licensees. Whether a sidewalk cafe license is issued or suspended or nonrenewed is within the council's discretion, and no cause must be shown for any adverse action with regard to any sidewalk cafe license.

(c) The no cause standard on nonissuance, nonrenewal, suspension or revocation is deemed reasonable by the council due to the council's recognition that the sidewalk is primarily for the pedestrian travel of the public within the entire width at all times, and that the encumbrance permitted through the issuance of a sidewalk cafe license is a privilege in the streets that the city may require this special privilege to be removed upon ten days' notice by the city and the licensee waives the right to contest in any manner the validity of this section. The notice and hearing requirement of this section may not be construed as recognition of any right on the part of the license holder to such special use of the public sidewalk.
(Code 2004, § 12.15(4); Ord. No. 2341, 5-18-2010)

Sec. 8-376. Same—Licensee's responsibility.

The licensee shall be responsible for the acts of all employees, patrons and agents of the business. A violation of any provision of this article, any city ordinance or Wis. Stats. ch. 125, by a patron, agent or employee of the licensee, shall constitute a violation by the licensee.
(Code 2004, § 12.15(5); Ord. No. 2341, 5-18-2010)

Sec. 8-377. Same—Limitation on number of licenses issued.

The population of the city shall determine the number of licenses issued. One license may be issued for every 1,000 persons residing in the city. The population of the city shall be defined by the latest estimate of the state department of administration.
(Code 2004, § 12.15(6); Ord. No. 2341, 5-18-2010)

Sec. 8-378. Same—Penalty.

Any person who violates this article shall be subject to a forfeiture of not less than $25.00, nor more than $500.00. Each day of a violation is a separate offense.
(Code 2004, § 12.15(7); Ord. No. 2341, 5-18-2010)

Sec. 8-379. Christmas tree dealers.

(a) *License required.* No person shall sell, display or offer for sale within the city any tree or shrub commonly known as a "Christmas tree" without first obtaining a license hereunder.

(b) *Application.* Application for such license shall be made to the city clerk upon forms furnished by him and shall include the name and permanent address of the applicant, the name and address of the person who owns the lot upon which such trees will be displayed and sold and the location of such lot. Upon filing such application and the presentation to him of a receipt from the city treasurer showing the payment of the license fee and deposit, the city clerk shall issue such license for a period ending on January 10 next following the issuance thereof.

(c) *Fee and deposit.* See the city fee schedule, on file in the city clerk's office, for the fee for such license. In addition to such fee, the applicant shall deposit with the city treasurer a cash bond. See the city fee schedule, on file in the city clerk's office. Such deposit shall be held by the city treasurer until the director of public works has examined such lot or premises and certified to the city treasurer that all trees, shrubs, clippings, stumps and other debris have been removed from such lot or premises. All trees, shrubs, clippings, stumps and other debris shall be removed by the licensee on or before January 5. If such trees, shrubs, clippings, stumps and other debris have not been so removed, the director of public works shall cause such removal; and the cost thereof shall be charged to the licensee and paid out of such deposit. Any balance shall be returned to the licensee, and any deficit shall be charged to him.
(Code 2004, § 12.18; Ord. No. 2143, 3-15-2005)

Sec. 8-380. Advertising distributors.

(a) *License required.* No person shall distribute or circulate or permit or cause the distribution or circulation of any printed or advertising matter in the city without having a distributor's license as herein provided.

(b) *Application for license; fee.* Application for a distributor's license shall be made in writing to the city clerk upon forms prescribed by him, which shall include the name of the employer of the applicant. The clerk may grant such license upon payment to the city treasurer of a license fee. See the city fee schedule on file in the city clerk's office.

(c) *Age limitation.* No person under 14 years of age shall be granted a license.

(d) *Conditions of license.*

(1) *Distribution in streets and motor vehicles prohibited*. No printed or advertising material shall be distributed or scattered on any street, alley, sidewalk or other public place, nor in any motor vehicle upon the streets.

(2) *Placing in containers required*. All such printed matter distributed to private homes shall be securely affixed to the building or deposited in containers or holders when the same are available.

(3) *When leaving in receptacle required*. No printed matter shall be left at any vacant residence or in any hallway or vestibule of any apartment house, hotel or office building except where a holder or receptacle is provided.

(4) *No handbills*. No distribution shall be made at such premises where a "No Handbills" sign is posted.

(5) *Regulation of distributors*. No person engaged in making distribution shall cross any lawn or over or through any hedge or shrubbery or ring the doorbell, sound the knocker or otherwise call the residents to the door for the purpose of receiving the matter being distributed.

(6) *Distribution near polling places*. No person shall distribute or cause to be distributed any literature within one-quarter mile of any polling place within the city which is intended or tends to influence any voting during the hours of voting.

(7) *Exceptions*. This section shall not apply to the distribution of newspapers or magazines being delivered to bona fide subscribers thereof, packages containing ordered material, official public notices issued by proper public authorities, monthly statements of public utilities addressed to a specific address or person or to anything carried or delivered by the United States Postal Service, nor shall a license be required for the distribution of any political or campaign literature or matter.

(Code 2004, § 12.19; Ord. No. 2143, 3-15-2005)

Sec. 8-381. Newspaper vending boxes.

The council may, pursuant to Wis. Stats. § 66.0425 grant special privilege permits for the installation and use of newspaper vending boxes on poles and other structures on public ways or public places. Such permits may be issued upon and subject to the following terms, conditions and procedures:

(1) *Conditions.*

a. The permit shall specify the number and location of all vending boxes of the permittee for which the special privilege is granted.

b. The permittee shall keep the vending boxes in good repair and shall be primarily liable for damages to persons or property by reason of the granting of such permit.

c. The permittee shall temporarily or permanently remove a permitted vending box within 15 days after being requested to do so by the city if such removal becomes necessary or appropriate to the accomplishment of any public improvement or to the operation of any city forces. If the permittee fails to do so within 15 days, the city forces shall do so and shall bill the permittee for the cost of removal.

d. The permit shall authorize the installation of a number of vending boxes up to a specified maximum and shall provide that the location of vending boxes may be changed.

e. If any newspaper vending box is in a location which interferes with the performance of any emergency work to be performed by the city, such box may be removed by the city without notice to the permittee and without the incurring of liability by the city for such removal.

(2) *Application; fee and bond.*

a. Application for such permit shall be made to the city clerk and shall include the name and address of the applicant, the name of the paper to be sold and the proposed maximum number and locations of vending boxes. Such application and placement shall be approved by the director of public works and after such approval shall be transmitted to the council in the same manner as a license application. Upon approval by the council, the clerk shall issue a special privilege permit.

b. Such application shall be accompanied by a bond and a certificate of insurance.

c. The permittee shall pay to the city treasurer an annual fee for each vending box on or before June 30 of each year. The permit shall renew automatically upon

payment of the annual fee and the filing of a list of all existing boxes. Any changes in location or new installations since the last renewal date shall be approved by the director of public works.

(Code 2004, § 12.20; Ord. No. 1012, 8-7-1974; Ord. No. 2143, 3-15-2005)

Sec. 8-382. Soda water beverages.

(a) *License required.*

(1) No person shall sell soda water beverages as defined in Wis. Stats. § 97.34 to be consumed on or off the premises where sold without a license as provided in this section.

(2) No soda water beverage license shall be required of any person who possesses a "Class A" or "Class B" liquor or fermented malt beverage license.

(b) *Application for license.* Application for a soda water beverage license shall be made in writing to the city clerk and shall be accompanied by the treasurer's receipt showing payment of the license fee.

(c) *Fees.* The license fee for a soda water beverage license shall be as provided in the city fee schedule, but licenses may be issued at any time for six weeks in any calendar year for a fee as provided in the city fee schedule.

(Code 2004, § 12.22; Ord. No. 1217, 4-21-1981)

Sec. 8-383. Secondhand article and jewelry dealers.

(a) Secondhand article and jewelry dealers' licenses shall include transactions consisting of purchasing, selling, receiving or exchanging of coins, stamps and guns, except as exempt by Wis. Stats. § 134.71(l)(g) and (h).

(b) Any person who primarily or exclusively engages in the business of purchasing, selling, receiving or exchanging coins, stamps or guns shall obtain a license from the city clerk.

(c) All the provisions of Wis. Stats. § 134.71 not in conflict with the foregoing sections are incorporated into this section.

(d) All license applications during the license year shall be prorated.

(e) Any dealer licensed pursuant to Wis. Stats. § 134.71 who knowingly records or makes entry on its records or declaration of ownership registration card any false or incorrect information as to the ownership of the property identity, address and age of the seller and buyer of property subject to Wis. Stats. § 134.71 or this section shall be subject to a forfeiture of not less than $50.00 nor more than $1,000.00 and, upon conviction of such a violation, shall have the license issued under this section revoked for a period of time not less than 60 days.

(Code 2004, § 12.24; Ord. No. 1537, 7-2-1991; Ord. No. 1567, 2-4-1992)

Sec. 8-384. Dry cleaning machines.

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

Coin-operated dry cleaning machine means any machine used for the purpose of dry cleaning whose operation is actuated by the insertion of a coin in a slot or other receptacle.

Dry cleaning means the process of removing dirt, grease, paint, spots, stains or any other form of foreign matter from wearing apparel or household furnishings by any means other than washing with soap or detergent and water.

Flammable solvent means any liquid, viscous or other compound, powder or solid product or substance having the capacity to evaporate and generate and emit a gas or vapor propagative of flame, fire or explosion incident to evaporation.

Plant means any business establishment or location where wearing apparel or household furnishings are dry cleaned on the premises by use of coin-operated or self-service dry cleaning machines.

(b) *Permit required.* No person shall establish or operate within the city any plant containing coin-operated or self-service dry cleaning machines available for use by the public without first obtaining a permit therefor in compliance with this section.

(c) *Application.* Application for permit shall be on forms furnished by the building inspector and shall set forth information required by this section and such other information as the building inspector deems necessary to safeguard the public health and welfare.

(d) *Grant of permit.* Permits shall be issued by the city clerk upon approval of the building inspector only upon the applicant's compliance with the requirements of this section and those requirements of the building inspector authorized by this section, and upon compliance with all applicable state and local laws, rules and regulations.

(e) *Fee.* The permit fee shall be per year for each machine or unit of such machine which can be independently actuated by insertion of a coin or otherwise.

(f) *Regulations.* To protect the health and safety of the citizens of the city and other members of the public who may use coin-operated or self-service dry cleaning machines, the following requirements shall be complied with:

(1) No flammable solvent shall be used in any coin-operated or self-service dry cleaning machine.

(2) No spotting operations utilizing flammable liquid or any substance which causes toxicity in the atmosphere shall be permitted, and no liquid of this nature shall be permitted on the premises.

(3) Filters for solvents on each machine shall be removed and replaced or cleaned not less than once each day.

(4) The contents of the sludge can of such machine shall be placed in containers provided with closely fitting lids and disposed of at regular intervals, not less than once each week.

(5) All solvents, when used in a coin-operated or self-service dry cleaning machine, shall be contained within a liquid-and vapor-tight closed system.

(6) All electrical connections shall be in accordance with the city electrical code and the state electrical code, and each machine shall be tested and listed by the Underwriters Laboratories, Inc. The main electrical switch controlling each machine or a bank of machines shall be accessible in an area removed from such machine or machines.

(7) Each machine shall be so equipped that it cannot be opened while operating nor until after the drying cycle is completed and shall be so equipped that it cannot be opened in the event of mechanical or electrical failure, except by an attendant.

(8) No permit shall be granted hereunder unless the plant shall have a concrete, terrazzo or other type floor impervious to solvents. No basement installation of machines shall be allowed.

(9) In the installation of the machines, the following partitions are required so as to ensure safety to the public:

a. The front or customer side of the machine shall be the only portion of the machine exposed in the customer area.

b. The remainder of the machine shall be separated from the customer area by a solid partition.

c. Access doors to the rear of the partition shall be kept closed and locked when not in use.

d. Each machine or bank of machines shall be completely separated by an enclosure from other areas that contain heating devices requiring air for combustion.

(10) An exhaust system shall be provided at each plant for the removal of toxic vapors as follows:

a. An individual exhaust shall be provided on each machine.

b. Scavenger ducts shall be provided for each machine or bank of two machines and shall be so designed and constructed as to pick up vapors surrounding the equipment near the floor.

c. Such scavenger pipes shall be located not less than two inches nor more than four inches above the floor and not more than 18 inches from each machine.

d. An exhaust fan or fans shall be provided for the enclosure behind each machine or machines, to be utilized in the event of solvent spill.

e. An exhaust fan or duct shall be provided at the front grill or loading door intake on each machine and shall be so arranged and controlled that when such machine is not in operation, air is drawn through the front door or grill of the machine at a face velocity of not less than 100 feet per minute.

f. The exhaust ventilation system as required shall be operated continuously while occupancy of the plant is open to the public and shall be so interlocked with each machine that such machine cannot be operated unless the exhaust system is functioning.

g. The entire ventilation system shall exhaust to the outside atmosphere and terminate not less than ten feet from any building opening in such manner as to not expose the passing public. The exhaust shall be located as far as possible from all air intakes for appliances or other purposes.

(11) Ventilation from the outside atmosphere shall be provided for the customer area equivalent to that exhausted from within such area by the ventilation requirements of this section.

(12) No solvent-contaminated air shall be allowed into the air intakes of any combustion equipment. Ventilation from the outside atmosphere shall be provided for all heating devices requiring air for combustion.

(13) Each machine or bank of machines, together with appurtenant appliances, shall be diked with a four-inch floor curb suitable to contain spilled or leaking solvent. Such diked area shall be provided with an untrapped floor drain to conduct any such spilled or leaking solvent to a sealed recovery tank. No such drain shall be connected to any sewer system.

(14) Each plant shall be provided with a portable fire extinguisher of the carbon dioxide or dry chemical type, of at least 30 pounds capacity.

(15) Detailed instructions for use of dry cleaning machines shall be posted in a conspicuous location near each machine in the customer area.

(16) Each plant shall have a competent attendant on duty at all times such coin-operated or self-service dry cleaning machines are available for use by the public.

(17) No permit shall be granted for any plant which contains coin-operated or self-service dry cleaning machines involving or requiring the handling of garments or materials to be cleaned between operations of the machine.

(Code 2004, § 12.28; Ord. No. 2143, 3-15-2005)

Sec. 8-385. Charitable, religious and political solicitations.

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

Solicitation means any person soliciting, or causing to be solicited, contributions of money, goods or services to be utilized for a charitable, religious or political purpose in a residentially zoned area without a prearranged appointment during the hours of 8:00 a.m. to 9:00 p.m.

Solicitor means any individual who engages in the act of solicitation, as defined above.

(b) *Regulations.*

(1) *Identification required.* During actual solicitation, each solicitor shall carry identification as proof of their identity and evidencing the fact that the carrier is authorized to solicit on behalf of the cause they represent.

(2) *Solicitors to be registered.* Prior to beginning solicitation, the names of the solicitors shall be registered with the police department.

(3) *Prohibited acts.* No solicitor shall:

a. Falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or in return for a donation.

b. Falsely or fraudulently misrepresent or misstate the uses to which solicited funds will be applied or the nature of an individual solicitor's connection with the actual organization holding the license, or make any false statements whatever regarding the reason for solicitation.

c. Permit the use of his or her identification to represent a cause, which is registered with the police department, by any other person.

d. Solicit on property posted "no soliciting." Any solicitor who fails to obey this posting shall be guilty of trespass and be subject to a penalty as provided in section 1-15.

(4) *Hours.* Any person licensed under this section may conduct door-to-door solicitation in residential areas between 8:00 a.m. and 9:00 p.m. Monday through Saturday. No solicitation shall take place on Sundays or holidays. (See also section 8-361.)

(Code 2004, § 12.31; Ord. No. 1361, 12-17-1985)

Chapter 9

RESERVED

Chapter 10

COURTS AND JAILS

(RESERVED)

Chapter 11

RESERVED

Chapter 12

EMERGENCY MANAGEMENT AND SERVICES

(RESERVED)

Chapter 13

RESERVED

Chapter 14

ENVIRONMENT

Article I. In General

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Article II. Construction Site Erosion

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ARTICLE I. IN GENERAL

Secs. 14-1—14-18. Reserved.

ARTICLE II. CONSTRUCTION SITE EROSION

Sec. 14-19. Authority.

(a) This article is adopted under the authority granted by Wis. Stats. § 62.234. Except as otherwise specified in Wis. Stats. § 62.234, Wis. Stats. § 62.23 applies to this article and to any amendments to this article.

(b) The provisions of this article are deemed not to limit any other lawful regulatory powers of the same city council.

(c) The common council hereby designates the public works director to administer and enforce the provisions of this article.

(d) The requirements of this article do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:

(1) State department of natural resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.

(2) Targeted non-agricultural performance standards promulgated in rules by the state department of natural resources under Wis. Admin. Code § NR 151.004.

(Code 2004, § 8.81; Ord. No. 2195, 3-21-2006)

Sec. 14-20. Findings of fact.

The common council finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the city.
(Code 2004, § 8.82; Ord. No. 2195, 3-21-2006)

Sec. 14-21. Purpose.

It is the purpose of this chapter is to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty, and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing activity to waters of the state in the city.
(Code 2004, § 8.83; Ord. No. 2195, 3-21-2006)

Sec. 14-22. Applicability and jurisdiction.

(a) *Applicability.* This section applies to all land disturbing activities that, in the opinion of the public works director, may generate sediment to storm sewers, water ways and stormwater facilities. In addition, a construction site that has one or more acres of land disturbing activity shall meet the requirements of Wis. Admin. Code § NR 216.41.

(b) *Jurisdiction.* This section applies to land disturbing activity on sites located within the boundaries and jurisdiction of the city.

(c) *Exclusions.* This section is not applicable to activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1), but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stats. § 281.33(2). The state department of transportation has entered into a memorandum of understanding with the state department of natural resources that satisfies Wis. Stats. § 281.33(2), such that activities directed and supervised by the state department of transportation are exempt from this article.
(Code 2004, § 8.84; Ord. No. 2195, 3-21-2006)

Sec. 14-23. Definitions.

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

Administering authority means the public works director, or his agent.

Agricultural facilities and practices has the meaning given in Wis. Stats. § 281.16(1).

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical.

Best management practice or BMP means structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

Business day means a day the office of the public works director is routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

Construction site means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice, gravity, vehicular, mechanical, or construction activity.

Erosion and sediment control plan means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments by the activity or during construction.

Extraterritorial means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

Final stabilization means that all land disturbing construction activities at the site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

Land disturbing activity means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. The term "land disturbing activity" includes but is not limited to clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

MEP or maximum extent practicable means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the administering authority to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Pollutant has the meaning given in Wis. Stats. § 283.01(13).

Pollution has the meaning given in Wis. Stats. § 281.01(10).

Responsible party means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

Runoff means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Sediment means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

(1) Is designed or used for collecting water or conveying runoff.

(2) Is not part of a combined sewer system.

(3) Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

Stop work order means an order issued by the administering authority which requires that all activity on the site be stopped.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Waters of the state has the meaning given in Wis. Stats. § 281.01(18).
(Code 2004, § 8.85; Ord. No. 2195, 3-21-2006)

Sec. 14-24. Technical standards.

(a) *Design criteria, standards and specifications.* All BMPs required to comply with this section shall meet the design criteria, standards and specifications based on any of the following:

(1) Applicable design criteria, standards and specifications identified in the Wisconsin Construction Site Best Management Practice Handbook, Wisconsin Department of Natural Resources Pub, WR-222, November 1993 Revision.

(2) Other design guidance and technical standards identified or developed by the state department of natural resources under subchapter V of Wis. Admin. Code ch. NR 151.

(3) For this section, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

Note: The USLE and its successors RUSLE and RUSLE2, utilize an R factor which has been developed to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion. A design storm can be statistically calculated to provide an equivalent R factor as an average annual calculation.

(b) *Other standards.* Other technical standards not identified or developed in subsection (a) of this section may be used provided that the methods have been approved by the public works director.
(Code 2004, § 8.86; Ord. No. 2195, 3-21-2006)

Sec. 14-25. Performance standards.

(a) *Responsible party.* The responsible party shall implement an erosion and sediment control plan, developed in accordance with section 14-27, that incorporates the requirements of this section.

(b) *Plan.* A written plan shall be developed in accordance with section 14-27 and implemented for each construction site.

Note: The written plan may be that specified within Wis. Admin. Code § NR. 216.46, the erosion control portion of a construction plan or other plan.

(c) *Erosion and other pollutant control requirements.* The plan required under subsection (b) of this section shall include the following:

(1) BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80 percent of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80 percent sediment reduction to meet the requirements of this subsection. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this subsection. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

Note—Soil loss prediction tools that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subchapter V of Wis. Admin. Code ch. NR 151 may be used to calculate sediment reduction.

(2) Notwithstanding subsection (c)(1) of this section, if BMPs cannot be designed and implemented to reduce the sediment load by 80 percent, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80 percent reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(3) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

a. Prevent tracking of sediment from the site onto roads and other paved surfaces.

b. Prevent the discharge of sediment as part of site dewatering.

c. Protect the separate storm drain inlet structure from receiving sediment

(4) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subsection.

(d) *Location.* The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

Note: While regional treatment facilities are appropriate for control of post-construction pollutants, they should not be used for construction site sediment removal.

(e) *Alternate requirements.* The public works director may establish stormwater management requirements more stringent than those set forth in this section if the public works director determines that an added level of protection is needed for sensitive resources.
(Code 2004, § 8.87; Ord. No. 2195, 3-21-2006)

Sec. 14-26. Permitting requirements, procedures and fees.

(a) *Permit required.* No responsible party may commence a land disturbing activity subject to this section without receiving prior approval of an erosion and sediment control plan for the site and a permit from the public works director.

(b) *Permit application and fees.* At least one responsible party desiring to undertake a land disturbing activity subject to this section shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of section 14-27 to the public works director and shall pay an application fee required by section 14-28 to the city treasurer. By submitting an application, the applicant is authorizing the public works director or his agent to enter the site to obtain information required for the review of the erosion and sediment control plan.

(c) *Review and approval of permit application.* The public works director shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. In addition, for sites where Wis. Admin. Code § NR 216.41 applies, the applicant shall submit documents submitted to the state. The following approval procedure shall be used:

(1) Within 15 business days of the receipt of a complete permit application, as required by subsection (b) of this section, the public works director shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this section.

(2) If the permit application and plan are approved, the public works director shall issue the permit.

(3) If the permit application or plan is disapproved, the public works director shall state in writing the reasons for disapproval.

(4) The public works director may request additional information from the applicant. If additional information is submitted, the public works director shall have ten business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

(5) Failure by the public works director to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed to mean disapproval of the submittal and the applicant may not proceed with any work on the site.

(d) *Deposit.* As a condition of approval and issuance of the permit, the public works director may require the applicant to submit a deposit in an amount calculated by the department of public works to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(e) *Permit requirements.* All permits shall require the responsible party to:

(1) Notify the public works director not less than 48 hours prior to commencing any land disturbing activity.

(2) Notify the public works director of completion of any BMPs within 14 days after their installation.

(3) Obtain permission in writing from the public works director prior to any modification pursuant to section 14-27(c) of the erosion and sediment control plan.

(4) Install all BMPs as identified in the approved erosion and sediment control plan.

(5) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.

(6) Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land disturbing construction activities and document repairs in a site erosion control log.

(7) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week, make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.

(8) Allow the public works director or his agent to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan.

(9) Keep a copy of the erosion and sediment control plan at the construction site.

(f) *Permit conditions.* Permits issued under this section may include conditions established by public works director in addition to the requirements set forth in subsection (e) of this section, where needed to ensure compliance with the performance standards in section 14-25.

(g) *Permit duration.* Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit, whichever is longer, from the date of issuance. The public works director may extend the period one or more times for up to an additional 180 days. The administering authority may require additional BMPs as , condition of the extension if they are necessary to meet the requirements of this section.

(h) *Maintenance.* The responsible party throughout the duration of the activities shall maintain all BMPs necessary to meet the requirements of this section until the site has undergone final stabilization. Failure to maintain the BMPs, including sweeping, shall constitute grounds for the public works director to take corrective action. The cost of corrective action shall either be deducted from the surety deposit or billed to the owner of the property. (Code 2004, § 8.88; Ord. No. 2195, 3-21-2006)

Sec. 14-27. Erosion and sediment control plan, statement, and amendments.

(a) *Erosion and sediment control plan.*

(1) An erosion and sediment control plan shall be prepared and submitted to the public works director.

(2) The erosion and sediment control plan shall be designed to meet the performance standards in section 14-25 and other requirements of this section.

(3) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

a. The names and addresses of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.

b. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 Minute Series Topographic Map.

c. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.

e. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.

f. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.

g. Existing data describing the surface soil as well as subsoils.

h. Depth to groundwater, as indicated by natural resources conservation service soil information where available.

i. Name of the immediate named receiving water from the United States Geological Service 7.5 Minute Series Topographic Maps.

(4) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet.

a. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year floodplains, flood fringes and floodways shall also be shown.

b. Boundaries of the construction site.

c. Drainage patterns and approximate slopes anticipated after major grading activities.

d. Areas of soil disturbance.

e. Location of major structural and nonstructural controls identified in the plan.

f. Location of areas where stabilization practices will be employed.

g. Areas which will be vegetated following construction.

h. Areal extent of wetland acreage on the site and locations where stormwater is discharged to a surface water or wetland.

i. Locations of all surface waters and wetlands within one mile of the construction site.

j. An alphanumeric or equivalent grid overlying the entire construction site map.

(5) Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control

measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

a. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the public works director, structural measures shall be installed on upland soils.

c. Management of overland flow at all sites, unless otherwise controlled by outfall controls.

d. Trapping of sediment in channelized flow.

e. Staging construction to limit bare areas subject to erosion.

f. Protection of downslope drainage inlets where they occur.

g. Minimization of tracking at all sites.

h. Clean up of off-site sediment deposits.

i. Proper disposal of building and waste materials at all sites.

j. Stabilization of drainageways.

k. Control of soil erosion from dirt stockpiles.

l. Installation of permanent stabilization practices as soon as possible after final grading.

m. Minimization of dust to the maximum extent practicable.

(6) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a nonerosive flow from the structure to a watercourse so that the natural physical and biological characteristics and functions are maintained and protected.

Note—The plan requirements of this section will meet the erosion control plan requirements of Wis. Admin. Code § NR 216.46 when prepared in accordance with good engineering practices and the design criteria, standards and specifications outlined in the Wisconsin Construction Site Best Management Practice Handbook (Wisconsin Department of Natural ResourcesPub. WR-222 November 1993 Revision).

(b) *Erosion and sediment control plan statement.* For each construction site identified under section 14-22(a)(3), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the administering authority. The control plan statement shall

briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of this article, including the site development schedule.

(c) *Amendments*. The applicant shall amend the plan if any of the following occur:

(1) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.

(2) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

(3) The public works director notifies the applicant of changes needed in the plan.

(Code 2004, § 8.89; Ord. No. 2195, 3-21-2006)

Sec. 14-28. Fee schedule.

All persons, firms, or corporations applying for a permit required under section 14-26(a) shall pay a fee for such permit to the city treasurer to help defray the cost of administration, investigation, advertising and processing of said permit. A fee shall also be required for the appeal of a decision of the public works director. The fees shall be as set forth in the city fee schedule, as may be amended from time to time.

(Code 2004, § 8.90; Ord. No. 2195, 3-21-2006)

Sec. 14-29. Inspection.

If land disturbing activities are being carried out without a permit required by this article, the public works director may enter the land pursuant to the provisions of Wis. Stats. § 66.0119(1), (2), and (3).

(Code 2004, § 8.91; Ord. No. 2195, 3-21-2006)

Sec. 14-30. Enforcement.

(a) The public works director may post a stop work order or direct the building inspection department to post a stop work order if any of the following occurs:

(1) Any land disturbing construction activity regulated under this section is being undertaken without a permit.

(2) The erosion and sediment control plan is not being implemented in a good faith manner.

(3) The conditions of the permit are not being met.

(b) The public works director should inspect any site that holds a permit under this chapter at least once a month during the period starting June 1 and ending September 30 and at least two times during the period starting October 1 and ending May 31 to ensure compliance with the approved sediment and erosion control plan.

(c) If the responsible party does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the public works director may revoke the permit and cause the necessary installation and/or maintenance of BMPs to prevent the immediate and continued migration of sediments and pollutants into the storm sewers and waterways. Cost associated with the installation and/or maintenance of BMPs by the city or its agents shall be borne by the property owner or the responsible party.

(d) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the public works director, or if a responsible party violates a stop work order posted under subsection (a) of this section, the public works director may request the city attorney to obtain a cease and desist order in any court with jurisdiction.

(e) The public works director or the board of zoning appeals may retract the stop work order issued under subsection (a) of this section or the permit revocation under subsection (c) of this section.

(f) After posting a stop work order under subsection (a) of this section, the public works director may issue a notice of intent to the responsible party of its intent to perform the work necessary to comply with this article. The public works director may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the public works director, plus interest at the rate authorized by public works director shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Wis. Stats. §§. 66.0501 to 66.0518.

(g) Any person violating any of the provisions of this article shall be subject to a forfeiture of not less than $100.00, nor more than $10,000.00, and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

(h) Compliance with the provisions of this article may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctional proceedings pursuant to Wis. Stats. § 62.23(8).
(Code 2004, § 8.92; Ord. No. 2195, 3-21-2006)

Sec. 14-31. Appeals.

(a) *Board of appeals.* The board of appeals created pursuant to chapter 44, article XII, division 2, of this Code, pursuant to Wis. Stats. § 62.23(7)(e):

(1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the administering authority in administering this article except for cease and desist orders obtained under section 14-30(d).

(2) Upon appeal, may authorize variances from the provisions of this article which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of this article will result in unnecessary hardship; and

(3) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(b) *Who may appeal.* Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the city affected by any decision of the public works director.
(Code 2004, § 8.93; Ord. No. 2195, 3-21-2006)

Sec. 14-32. Drainage ditch or stormwater feature.

(a) *Permit required.* No person shall construct, reconstruct, alter, repair or install any drainage structure, alter or change any natural or manmade drainage ditch, channel, or basin or fill or obstruct the same without a permit therefor.

(b) *Application for permit*. Application for a permit to do any work described in subsection (a) of this section shall be made in writing, filed with the director of public works, and shall include:

(1) The name and address of the applicant, and if the applicant is a corporation, the names and addresses of the principal officers thereof.

(2) The type of construction to be used in such construction, reconstruction, repair or alteration, together with the materials to be used.

(3) A plan, in duplicate, showing the location of such construction, repair or alteration. Such plan shall show all adjoining boundaries and proposed and existing elevations, to city datum, of the drainage ditch.

(c) *Issuance*. If the director of public works determines that the proposed structure, fill, alteration or repair will not interfere with the flow of natural stormwater and will not injure adjoining property, he shall issue a permit to do the proposed work in the manner specified in the application and in accordance with the plan submitted with the application; provided no permit to do any work that will obstruct the flow of water through such drainage ditch or channel shall be issued until street repair or sewer construction division crews are notified and can install storm sewers therein. The director of public works may require that the applicant grant the city a drainage easement.

(d) *Fee.* The applicant at the time of filing an application for any such permit shall deposit a fee with the director of public works as provided in the city fee schedule.

(e) *Enforcement.*

(1) *Notice.* If any drainage course, ditch or conduit is obstructed, blocked or halted in a manner not in accordance with this section, the director of public works shall serve a written notice upon the person causing the same, requiring him to eliminate such unlawful condition within five days of the date of such notice.

(2) *City may effect compliance.* If such person neglects or refuses to comply with such notice, the director of public works shall, either through any available public agency or by contract or arrangement with private persons, eliminate such unlawful condition. The cost of such work shall be charged to the person neglecting or refusing to comply with this section and shall become a lien against the real estate owned by such person fronting or abutting the location where such work is performed and be assessed and collected as a special tax, in addition to any penalty assessed.

(3) *Emergencies.* If the director of public works finds and determines that an emergency exists which requires immediate elimination of such unlawful condition, he shall proceed forthwith, either through any available public agency or by contract or arrangement with private persons, to eliminate such unlawful condition, and charge the cost of such work as provided in subsection (e)(2) of this section.

(Code 2004, § 12.27; Ord. No. 2143, 3-15-2005; Ord. No. 2195, 3-21-2006)

Chapter 15

RESERVED

Chapter 16

FIRE PREVENTION AND PROTECTION

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ARTICLE I. IN GENERAL

Sec. 16-1. Ambulance user's fee.

Every person who shall request or otherwise use the ambulance or other emergency equipment service of the city for conveyance or transport from any residence, accident scene or other location within the city to any hospital or other safe destination, public or private, shall pay for service, oxygen, routine supplies and per loaded mile charges, such rates to be updated annually by the city accountant, in conjunction with the fire chief, by November 1 of every year and attached via addendum to the ordinance from which this section is derived. Billing for services under mutual aid agreements shall also be consistent with these charges.
(Code 2004, § 11.14; Ord. No. 2308.2, 10-18-2011)

Secs. 16-2—16-20. Reserved.

ARTICLE II. FIRE DEPARTMENT

Sec. 16-21. Organization of fire department.

The fire department shall consist of the chief, such command officers and additional personnel as may be authorized by the council from time to time.
(Code 2004, § 5.001; Ord. No. 2174, 11-1-2005)

Sec. 16-22. Fire chief.

(a) *Appointment; terms*. See section 2-205.

(b) *Duties.* The fire chief shall have command and supervision over all the members, apparatus and operations of the fire department, subject to the rules and regulations which may be prescribed by the council and the police and fire commission. He shall keep all appliances belonging to the city and used for the purpose of the fire department in good repair and ready for immediate and efficient service, and make an annual report to the council, at such time as the council deems expedient, as to:

(1) The condition of all fire apparatus and what additional appliances are needed.

(2) The organization and status of the fire department.

(3) The number of fires attended, the date, cause, origin and location of each fire, the number and description of the premises and property damaged or destroyed, the amount as near as can be ascertained of such damages, and the names of owners and occupants of such premises or property.

(c) *To appoint subordinates.* The fire chief shall appoint subordinates subject to the approval of the police and fire commission. Such appointments shall be made by promotion when this can be done with advantage, otherwise, from an eligible list provided by examination and approval by the police and fire commission and kept on file with the clerk.

(d) *To make rules and regulations for department.* The fire chief may make such rules and regulations for the good government of the fire department as he may deem necessary or expedient, but such rules and regulations shall not be inconsistent with the provisions of this chapter.

(e) *Emergency destruction of property.* The fire chief and his assistants may direct the firefighter to remove, tear down or otherwise dispose of any building or other structure when it shall become necessary to do so, for the purpose of stopping or checking the progress of a fire.

(f) *Chief duties; fire inspector.* The fire chief shall perform all duties delegated to him by state law, particularly Wis. Stats. § 101.14, the ordinances of the city and other duties that the council may direct.
(Code 2004, § 5.002; Ord. No. 2174, 11-1-2005)

Sec. 16-23. Firefighters.

(a) *Duties.* Every firefighter shall have the police power and duties delegated to him by Wis. Stats. § 213.095 and such other duties as prescribed by the council, police and fire commission and the fire chief.

(b) *Limitation on other employment.* No full paid member of the fire department shall engage in more than 20 hours of other employment in any calendar week, except for the city.

(c) *Dismissal and suspension.* Any member of the fire department may be suspended for cause by the fire chief and such suspension shall immediately be reported in writing to the police and fire commission. Every firefighter shall be subject to suspension and dismissal for cause in accordance with Wis. Stats. § 62.13(5).
(Code 2004, § 5.003; Ord. No. 2174, 11-1-2005)

Sec. 16-24. Operating outside city.

Whenever the chief or officer in charge determines, the fire department or any part thereof shall answer any call outside the city. The members of the fire department while responding to or attending or returning from any such call shall be deemed to be employees of the city.
(Code 2004, § 5.004; Ord. No. 2174, 11-1-2005)

Sec. 16-25. False alarms.

No person shall willfully or maliciously give, send or cause to be given or sent a false alarm for fire or a request for emergency medical assistance or ambulance service.
(Code 2004, § 5.005; Ord. No. 1434, 11-15-1988; Ord. No. 2174, 11-1-2005)

Sec. 16-26. Interference with fire department and fire hose.

No person shall:

(1) Willfully offer any hindrance or resistance to the firemen in the discharge of their duties.

(2) Willfully injure any hose, fire engine or other fire apparatus belonging to the city.

(3) Operate or drive any vehicle over a hose belonging to the fire department which may be laid in the streets or at any other place in the city while being used for fire protection purposes.

(Code 2004, § 5.006; Ord. No. 2174, 11-1-2005)

Sec. 16-27. Bystanders may be called to assist.

No person shall refuse to obey any reasonable order of the mayor, fire chief or other officer in charge at any fire, given to assist in the extinguishment of such fire, or to maintain order in the vicinity thereof.

(Code 2004, § 5.007; Ord. No. 2174, 11-1-2005)

Sec. 16-28. State retirement fund.

All full-time paid officers and firefighters shall be under the state retirement fund. Volunteer members shall not be included.

(Code 2004, § 5.009; Ord. No. 2174, 11-1-2005)

Sec. 16-29. Penalty.

Except as otherwise provided, any person who shall violate any provision of this article or any order, rule or regulation made hereunder shall be subject to a penalty as provided in section 1-15.

(Code 2004, § 5.010; Ord. No. 2174, 11-1-2005)

Sec. 16-30. Fire department emergency vehicle accident response.

Any person having a vehicle incident on state, city, county, state or federal highways, including city streets, involving vehicle fire, auto accidents involving fluid spilled or extrication of the victim will be charged a fee to recover the fire department's cost. The fire department emergency vehicle accident response fee shall be established by the common council and may be changed/revised from time to time by resolution.

(Code 2004, § 5.013; Ord. No. 2144, 3-15-2005; Ord. No. 2174, 11-1-2005)

Sec. 16-31. Rescue services.

Any person, firm, contractor, or corporation requiring rescue services beyond the capacity of the fire department shall reimburse the city for personnel costs, equipment and supplies, and outside rescue services.
(Code 2004, § 5.014; Ord. No. 2174, 11-1-2005; Ord. No. 2320, 2-17-2009)

Secs. 16-32—16-50. Reserved.

ARTICLE III. FIRE REGULATIONS

Sec. 16-51. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Additional definitions applicable to this Code are contained in the applicable NFPA codes or standards.

Access box means a steel key vault, mounted on the exterior of a building that contains keys, floor plans, maps or other items as required by the AHJ, for access to all portions of the building.

Adult day care means any place that receives, at any time for compensation, four or more adults for care and supervision for less than 24 hours a day.

Adult family home means similarly to a CBRF except that they are licensed for five or less tenants.

Annunciator means a unit containing one or more indicator lamps, alphanumeric displays, or other equivalent means in which each indication provides status information about a circuit, condition, or location.

Approved means acceptable to the AHJ.

Approved agency means an agency accepted or acceptable to the AHJ, which may include the following: Underwriters Laboratories, Inc., the National Institute of Standards and Technology, the American Gas Association Laboratories or other nationally recognized testing authorities.

Assembly Group A means Group A occupancies and includes, among others, the use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social or religious functions, recreation, food or drink consumption or awaiting

transportation. A room or space used for assembly purposes by less than 50 persons and accessory to another occupant shall be included as a part of that occupancy. Assembly occupancies shall include the following:

(1) A-1 assembly uses, usually with fixed seating, intended for the production and viewing of performing arts or motion pictures.

(2) A-2 assembly uses intended for food and/or drink consumption.

(3) A-3 assembly uses intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A.

(4) A-4 assembly uses intended for viewing of indoor sporting events and activities with spectator seating.

(5) A-5 assembly uses intended for participation in or viewing outdoor activities.

Audible notification appliance means a notification appliance that alerts by the sense of hearing.

Authority having jurisdiction (AHJ) means the fire chief, or any designee of the fire chief, to enforce this Code, the laws of the state, as designated in Wis. Admin. Code § SPS 314.02(1), pertaining to the prevention of fires and public safety, and/or conditionally approving equipment installation and procedures required by construction codes adopted by the city.

Automatic closing device means one which functions without human intervention and is actuated as a result of predetermined temperature rise, rate of rise of temperature, combustion products or smoke density.

Automatic fire alarm system means a system which automatically detects fire conditions and actuates notification appliances throughout the protected premises and actuates a fire alarm signal device to a 24-hour monitored site and is in compliance with this Code.

Automatic fire detector means a device designed to detect specific products of fire: smoke, heat or both.

Automatic fire-extinguishing system means an approved system of devices and equipment which automatically detects a fire and discharges an approved fire-extinguishing agent onto or in the area of fire.

Automatic fire sprinkler system means an integrated system of underground and/or overhead piping designed in accordance with fire protection standards. The system includes a suitable water supply. The portion of the system above ground is a network of specially sized or hydraulically designed piping installed in a structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern. The system is usually activated by heat from a fire and discharges water in the fire area.

Available water supply means the quantity of water at a specific pressure that can be used by the fire department for firefighting purposes and/or used by an automatic fire sprinkler, standpipe, fire control or fire suppression system.

Basement means that portion of a building that is partly or completely below grade plane. A basement shall be considered as a story.

Boardinghouse means a building arranged or used as lodging for compensation, with or without meals, not occupied as a single-family unit.

Bonfire means a recreational fire larger than three feet in diameter or larger than three feet tall, used to mark a public event, victory celebration or similar occurrence.

Bureau of fire prevention is made up of the following personnel: the fire chief, the fire marshal and/or fire inspectors, or any other designee of the chief.

Business Group B means and includes, among others, the use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts.

Ceiling means the upper surface of a space, regardless of height. Areas with a suspended ceiling would have two ceilings, one visible from the floor, and one above the suspended ceiling.

Code means a standard that is an extensive compilation of provisions covering a broad subject matter or that is suitable for adoption into law independently of other codes and standards.

Combustible material means all material not classified as "noncombustible." This property of a material does not relate to its ability to structurally perform under fire exposure. The degree of combustibility is not defined by standard fire test procedures.

Common area means any area in a building that can be accessed by more than one person at one time. The term "common area" does not include areas within a dwelling unit.

Community based residential facility (CBRF) means a community facility where five or more adults who are not related to the operator or administrator and who do not require care above intermediate level nursing care reside and receive care, treatment or services that are above the level of room and board, but that include no more than three hours of nursing care per week per resident.

Conditional approval means an approval of plans, calculations, submittals and/or specifications by the AHJ based upon information provided to the AHJ, including, but not limited to, any changes required by the AHJ to the above mentioned plans, submittals and/or specifications. Conditional approval of any submittal and/or portion of any submittal does not grant waiver to and/or modify of any requirements of this Code, any other applicable code, standard, regulation and/or law. The conditional approval of any automatic fire sprinkler, suppression or

fire alarm submittal by the AHJ shall not be construed as an assumption of any design responsibility by the AHJ, municipality, any individual employed by the municipality and/or any agent for the municipality.

Consultants mean a company, individual or agency hired by the bureau of fire prevention to provide advice to the bureau of fire prevention on fire related issues. Consultants may provide services, which could include plan reviews of fire suppression systems, fire alarm systems, witness tests and/or conduct inspections.

Day care center means any place which receives at any one time for compensation four or more children under the age of seven years, for care and supervision, for less than 24 hours a day or more than ten days a month, without the attendance of a parent, relative or legal guardian.

Department means state department of commerce.

Dwelling or *dwelling unit* means a single unit providing living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. For the purpose of this Code, the term "dwelling unit" includes apartments and condominiums but does not include hotel and motel rooms, guest suites, dormitories, boarding rooms, or sleeping rooms in nursing homes.

Educational Group E means and includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade.

Factory industrial Group F means and includes, among others, the use of a building or structure, or a portion thereof, for assembly, disassembly, fabricating, finishing, manufacturing, packaging, repair or processing operations that are not classified as Group H occupancy.

(1) F-1 Moderate-hazard occupancy.

(2) F-2 Low-hazard occupancy.

False alarm means the willful and knowing initiation or transmission of a signal, message or other notification of an event of fire when no such danger exists. The term "false alarm" includes:

Accidental alarm means an alarm set off and transmitted through accidental operation of an automatic or manual fire alarm device.

Good intent false alarm means an alarm that turns out to be false but was reported in good faith.

Malicious alarm means a false alarm of fire deliberately sounded by someone in order to inconvenience the fire department.

Family unit means two or more individuals who are related to each other by blood, marriage, adoption or legal guardianship. For purposes of this Code a group of not more than four persons, not necessarily related by blood or marriage, living together in a single living unit will be considered equivalent to a single family.

Fire alarm annunciation device means a device connected to a fire alarm to signal either a fire or trouble condition. Fire alarm annunciation devices include visible notification appliances, strobes, audible notification appliances, horn/strobes, horns, bells, and/or annunciator panels.

Fire alarm initiating device means a device connected to a fire alarm system that causes a trouble, supervisory and/or alarm signal to be initiated. Fire alarm initiating devices could include: manual pull stations, smoke, heat, flame, ionization, or photoelectric detectors, spark detectors, water flow, low air, low temperature, low water, or supervisory switches.

Fire alarm system means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of the fire alarm or supervisory signal-initiating devices to activate notification appliances throughout the protected premises and to initiate the appropriate response to those signals.

Fire control system means a system designed and constructed with the intent of controlling or limiting a fire. Fire control systems may be automatic or nonautomatic. Fire control systems could include automatic fire sprinkler systems, standpipe systems, chemical agent systems, fire hydrants and/or any other system acceptable to the AHJ.

Fire department connection (FDC) means a part of a sprinkler, standpipe, deluge and/or combination system to be used by the fire department to pump additional water into the system it is connected to.

Fire door assembly means any combination of a fire door, frame, hardware, and other accessories that together provide a certain degree of fire protection to the opening.

Fire resistive means that property of materials of their assemblies that prevents or retards the passage of excessive heat, hot gases or flame under conditions of use. Materials are tested as prescribed in section 703 of the state enrolled building code.

Firewall means a fire resistance-rated wall having protected openings, which restricts the spread of fire and extends continuously from the foundation to or through the roof, with sufficient structural stability under fire conditions to allow collapse of construction on either side without collapse of the wall.

Fireworks means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have any other use and includes those items set forth in Wis. Stats. § 167.10(1)(m) and (n).

Floor area or *square footage of a building* means the total square footage of the sums of all basement, floor levels, balconies and mezzanines.

(1) The area for basements and floor levels shall be measured from the outside perimeter of the outside walls.

(2) The area for mezzanines shall be determined from the product of the length of the mezzanine multiplied by the width of the mezzanine.

(3) For the purpose of determining square footage, fire division walls will not be accepted as outside walls or area dividers.

(4) Buildings that are in close proximity to each other will have their building square footage added together to arrive at the total square footage.

a. For the purpose of determining close proximity the following will hold true:

1. Single-story buildings: 30 feet apart or less.

2. Two-story buildings: 60 feet apart or less.

3. Three-story buildings: 60 feet apart or less.

4. All other multiple-story buildings: 60 feet apart.

5. Buildings of variable height next to each other: 30 feet apart or less.

b. For the purpose of determining square footage, a firewall which has a fire resistance rating of not less than four hours and which subdivides or separates a building to restrict the spread of fire, including a three-foot parapet wall, is an approved area divider.

Floor, ground, means that level of a building on a sloping or multilevel site which has a floor line at or not more than three feet above exit discharge grade for at least½ of the required exit discharges.

Frequenter means every person, other than an employee, who may go in or be in a place of employment or public building under circumstances which render such person other than a trespasser. Such term includes a pupil or student when enrolled in or receiving instruction at an educational institution.

Grade plane means a reference plane representing the average of finished ground level adjoining the building exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

Hazardous Group H means Group H occupancy and includes, among others, the use of a building or structure, or a portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard in quantities in excess of those found in tables 307.7(1) through 307.7(4) of the International Building Code.

(1) H-1 buildings and structures which contain materials that poses a detonation hazard.

(2) H-2 buildings and structures which contain materials that pose a deflagration hazard or a hazard from accelerated burning.

(3) H-3 buildings and structures which contain materials that readily support combustion or pose a physical hazard.

(4) H-4 buildings and structures which contain materials that are health hazards.

(5) H-5 semiconductor fabrication facilities and comparable research and development areas in which hazardous production materials are used and the aggregate quantity of materials is in excess of those listed in tables 307.7(1) and 307.7(2) of the International Building Code.

Height, building, means the vertical distance from the grade plane to the average height of the highest roof surface.

High-challenge fire hazard means a fire hazard typical of that produced by fires in combustible high-piled storage, flammable/combustible liquid storage, tire storage and other special occupancies.

Institutional Group I means Group I occupancy and includes, among others, the use of a building or structure, or a portion thereof, in which people having physical limitations because of health or age are harbored for medical treatment or other care or treatment, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Institutional occupancies are classified as I-1, I-2, I-3 or I-4, as described in the International Building Code.

Listed means included in a list published by a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation, that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or materials meet nationally recognized standards or has been tested and found suitable for use in a specified manner.

Manual fire alarm system means a system or portion of a combination system that consists of components and circuits arranged to initiate the notification appliances and appropriate response to those signals only after a person manually activates the fire alarm system.

Mercantile Group M means and includes, among others, building and structures or a portion thereof, for the display and sale of merchandise, and involves stock of goods, wares or merchandise incidental to such purposes and accessible to the public.

Mezzanine or mezzanine floor means an intermediate level or levels between floor and ceiling of any story with an aggregate floor area of not more than 1/3 of the area of the room or space in which the level or levels are located.

Miscellaneous Group U means buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this Code commensurate with the fire and life hazard incidental to their occupancy.

Multifamily dwelling means a building or portion thereof containing three or more dwelling units, such as tenements, apartments or roominghouses. Row houses with firewalls extending from the basement to the underside of the roof separating each living unit are not considered multifamily for the purpose of this article.

Municipality, as used herein, means the city.

NFPA means the National Fire Protection Association.

Nonaccessible area means a portion of a building or structure that people do not have access to.

Noncombustible materials means a material is one, in the form in which it is used, meets one of the requirements listed below:

(1) Materials used adjacent to or in contact with heat producing appliances, warm air ducts, plenums and chimneys shall be classified as noncombustible only on the basis of appropriate standards and criteria.

(2) Noncombustible does not apply to the flame-spread characteristics of interior finish or trim materials.

(3) No material shall be classified as noncombustible building construction material, which is subject to increase in combustibility or flame-spread classification (FSC) beyond the limits herein established through the effects of age, moisture or other atmospheric conditions. (See flame spread rating in state administrative code.)

(4) Materials which pass the test procedure of ASTM E-136 for noncombustibility of elementary materials when exposed to a furnace temperature of 1,382 degrees Fahrenheit for a minimum period of five minutes and do not cause a temperature rise of the surface or interior thermocouple in excess of 54 degrees Fahrenheit above the furnace air temperature at the beginning of the test and which do not flame after exposure of 30 seconds.

(5) Materials having structural base of noncombustible material as defined in this section, with a surfacing not more than one-eighth-inch thick which has a flame spread classification (FSC) not greater than 50 when tested in accordance with the method of test for surface burning characteristics of building materials.

Normal access routes means pavement, sidewalks, streets, driveways and paths leading to a building that are clear and maintained year round. The normal access route does not include grass, parking stalls, ditches, hills, shrubs, flower beds, fences, walls or any other area not typically used for ingress to or egress from a building.

Notification appliance means a fire alarm system component such as a bell, horn, speaker, light, or text display that provides audible, tactile, visible outputs or any combination thereof that is acceptable to the AHJ.

Occupant means the person, who physically resides, works or is present anywhere in a facility, building and/or structure.

Occupiable area means the spaces of a facility that can be occupied or used by the facility occupants as part of the building function or to support building operations and maintenance. The term "occupiable area" includes, but is not limited to, storage areas, mechanical and electrical equipment areas, walk-in closets or janitor's rooms, restrooms, conference rooms, and individual offices.

Other terms. Other terms not defined herein used in this article shall be as defined in the most recent edition of the International Fire Code.

Owner means and includes his duly sworn agent or attorney, a purchaser, devisee, fiduciary or person having a vested or contingent interest in the property in question.

Owner's certificate means a form completed by the owner, or their authorized agent, of a building or structure where a fire sprinkler system is going to be installed that provides the sprinkler contractor with information required to properly design a fire sprinkler system.

Permit means a permit as specified and/or required by this Code shall constitute permission to maintain, store or handle materials or conduct processes which produce conditions hazardous to life or property or install equipment used in connection with such activities and/or for the installation and/or alteration of any portion of a fire protection, fire alarm, fire control, and/or fire suppression system. Such a permit shall not take the place of any other license or permit required by law. A permit shall be valid for a stated or indefinite period as may be specified thereon as determined by the AHJ to be reasonably necessary to promote safety in the permitted activity. A permit shall not be transferable. Any change in use or occupancy shall require a new permit.

Place of employment means and includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. The term "farming" includes those activities specified in Wis.

Stats. § 102.04(3) and also includes the transportation of farm products, supplies or equipment directly to the farm by the operator of said farm or employees for use thereon, if such activities are directly or indirectly for the purpose of producing commodities for market, or as an accessory to such production. When used with relation to building codes, the term "place of employment" does not include an adult family home, as defined in Wis. Stats. § 50.01(1) or, except for the purposes of Wis. Stats. § 101.11 a previously constructed building used as a community-based residential facility, as defined in Wis. Stats. § 50.01(1g) which serves 20 or fewer residents who are not related to the operator or administrator.

Protected premises means the physical location protected by a fire alarm system.

Public building means any structure, including exterior parts of such building, such as a porch, exterior platform or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by three or more tenants. When used in relation to building codes, the term "public building" does not include a previously constructed building used as a community-based residential facility as defined in Wis. Stats. § 50.01(1g) which serves 20 or fewer unrelated residents or an adult family home, as defined in Wis. Stats. § 50.01(1).

Recognized scale means a scale commonly used by architects, engineers, designers and others in the preparation of drawings that is acceptable to the AHJ.

Remodel means to remodel, alter or both, means to change any building or structure which affects the structural strength, fire hazard, internal circulation, or exits of the existing building or structure. This definition does not apply to maintenance, reroofing, or alterations to the heating and ventilating or electrical system.

Residential Group R means and includes, among others, the use of a building or structure, or portion thereof, for sleeping accommodations when not classed as an Institutional Group I.

(1) R-1 residential occupancies where the occupants are primarily transient in nature.

(2) R-2 residential occupancies containing more than two dwelling units where occupants are primarily permanent in nature.

(3) R-3 residential occupancies where the occupants are primarily permanent in nature and not classified R-1, R-2 or I, and where buildings do not contain more than two dwelling units or adult and child care facilities, that provide accommodations for five or fewer persons of any age for less than 24 hours.

(4) R-4 residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including five but not more than 16 occupants, excluding staff.

Roof spaces means the space located above the finished ceiling and below the exterior roof of a structure. The term "roof spaces" includes any space that could be defined as an attic.

Roominghouse means any building, which has a room or rooms for sleeping, without permanent provisions for cooking. Roominghouse rooms do not include any room in a one-family or two-family dwelling.

Rough inspection means visual observation from the floor and/or ground level of any system and/or component thereof required by this Code prior to being concealed in any way by any means.

Row house means a place of abode arranged to accommodate three or more attached side-by-side or back-to-back living units.

Safety margin means a specific measurement of pressure in pound per square inch (psi) at a specific rate of waterflow that all fire sprinkler, fire control and water based fire suppression systems must maintain below the anticipated available water supply as determined by a waterflow test, a municipality specified flow and pressure or any other water supply acceptable to the AHJ.

Single-family dwelling means a detached building containing only one dwelling unit and designed exclusively for use and occupancy by one family.

Spacing means a horizontally measured dimension relating to the allowable coverage limits of fire detectors, automatic sprinkler systems, and fire alarm visual notification devices.

Special occupancy means any area in which a high-challenge fire hazard exists and any NFPA codes and/or standards contain design criteria, limitations or requirements that apply specifically to the occupancy.

Standard means a document, the main text of which contains only mandatory provisions using the word "shall" to indicate mandatory requirements and which is in a form generally suitable for reference by another standard or code or for adoption into law.

Storage Group S means and includes, among others, the use of a building or structure, or portion thereof, for storage that is not classed as Hazardous Group H.

(1) S-1 (moderate-hazard storage) buildings occupied for storage uses which are not classified as S-2.

(2) S-2 (low-hazard storage) buildings used for storage of noncombustible material such as products on wood pallets or in paper cartons with or without single thickness divisions or in paper wrappings. Such products may have negligible amount of plastic trim such as knobs, handles, or film wrapping.

Story means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. To determine the number of stories in a building, all floors will be counted whether they are above grade or below grade, including basements, sub-basements, and ground floors, but not including penthouses or mezzanines less than $^1/_3$ of a story.

Tactile notification appliance means a notification appliance that alerts by the sense of touch or vibration.

Temporary means less than 180 days.

Textual audible notification appliance means a notification appliance that conveys a stream of audible information. An example of a textual audible notification appliance is a speaker that reproduces a voice message.

Throughout means the following:

(1) Throughout, for automatic fire sprinkler systems, means providing fire sprinkler protection in all areas of a structure as required by NFPA 13.

(2) Throughout, for automatic fire alarm systems, means installing detection, audible and visual notification devices in all areas of the protected premises installed in accordance with NFPA 72.

(3) Throughout, for manual fire alarm systems, means installing audible and visual notification devices in all areas of the protected premises installed in accordance with NFPA 72.

Two-family dwelling means a detached building containing not more than two individual dwelling units which are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or common basement.

Visible notification appliance means a notification appliance that alerts by the sense of sight.

Waterflow test means a test of an available water supply that indicates the quantity of water flowing out of a specific orifice, at a specific pressure, at a specific point in time.

Welfare means includes comfort, decency and moral well-being.
(Code 2004, § 5.02; Ord. No. 2226, 11-8-2006)

Sec. 16-52. Adoption of state administrative code provisions.

(a) The city adopts the following chapters of the state administrative code to the extent applicable within the city:

(1) Wis. Admin. Code ch. SPS 303, Administrative Procedures.

(2) Wis. Admin. Code ch. SPS 305, Licenses, Certification and Registration.

(3) Wis. Admin. Code ch. SPS 307, Explosives and Fireworks.

(4) Wis. Admin. Code ch. SPS 308, Mines, Pits and Quarries.

(5) Wis. Admin. Code ch. SPS 310, Flammable, Combustible and Hazardous Liquids.

(6) Wis. Admin. Code ch. SPS 314, Fire Prevention.

(7) Wis. Admin. Code ch. SPS 316, Electrical.

(8) Wis. Admin. Code ch. SPS 318, Elevators, Escalators and Life Devices.

(9) Wis. Admin. Code ch. SPS 328, Smoke Detectors and Carbon Monoxide Detectors.

(10) Wis. Admin. Code ch. SPS 333, Passenger Ropeways.

(11) Wis. Admin. Code ch. SPS 334, Amusement Rides.

(12) Wis. Admin. Code ch. SPS 335, Infectious Agents.

(13) Wis. Admin. Code ch. SPS 340, Gas Systems.

(14) Wis. Admin. Code ch. SPS 341, Boilers and Pressure Vessels.

(15) Wis. Admin. Code ch. SPS 343, Anhydrous Ammonia.

(16) Wis. Admin. Code ch. SPS 345, Mechanical Refrigeration.

(17) Wis. Admin. Code ch. SPS 361, Administration and Enforcment.

(18) Wis. Admin. Code ch. SPS 362, Buildings and Structures.

(19) Wis. Admin. Code ch. SPS 363, Energy Conservation.

(20) Wis. Admin. Code ch. SPS 364, Heating, Ventilating and Air Conditioning.

(21) Wis. Admin. Code ch. SPS 365, Fuel Gas Appliances.

(22) Wis. Admin. Code ch. SPS 371, Solar Energy Systems.

(23) Wis. Admin. Code ch. SPS 375, Definitions and General Requirements.

(24) Wis. Admin. Code ch. SPS 376, Factories, Office and Mercantile Buildings.

(25) Wis. Admin. Code ch. SPS 377, Theaters and Assembly Halls.

(26) Wis. Admin. Code ch. SPS 378, Schools and Other Places of Instruction.

(27) Wis. Admin. Code ch. SPS 379, Apartment Houses, Hotels and Places of Detention.

(28) Wis. Admin. Code ch. SPS 326, Manufactured Home Communities.

(b) Any violation of the incorporated provisions constitutes a violation of this article.

(c) In cases of conflict between local and state codes, the most restrictive provisions, as determined by the AHJ, shall govern.
(Code 2004, § 5.03; Ord. No. 2226, 11-8-2006)

Sec. 16-53. Adoption of International Fire Code.

The International Fire Code, 2006 edition, published by the International Code Council is adopted by reference, enforced and incorporated into this article, limited, however, to only those sections specifically referenced in this article.
(Code 2004, § 5.04; Ord. No. 2226, 11-8-2006)

Sec. 16-54. Adoption of National Fire Code.

The following NFPA publications are adopted by reference, enforced and incorporated into this article as if fully set forth herein:

(1) NFPA 1 Uniform Fire Code (applies only to the use, maintenance, operation and testing), 2006 edition.

(2) NFPA 10 Standard for Portable Fire Extinguishers, 2007 edition.

(3) NFPA 11 Standard for Low-, Medium- and, High-Expansion Foam, 2005 edition.

(4) NFPA 12 Standard on Carbon Dioxide Extinguishing Systems, 2005 edition.

(5) NFPA 13 Standard for the Installation of Sprinkler Systems, 2007 edition.

(6) NFPA 13D Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, 2007 edition.

(7) NFPA 13R Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, 2007 edition.

(8) NFPA 14 Standard for the Installation of Standpipes, Private Hydrant, and Hose Systems, 2007 edition.

(9) NFPA 15 Standard for Water Spray Fixed Systems for Fire Protection, 2007 edition.

(10) NFPA 16 Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems, 2003 edition.

(11) NFPA 17 Standard for Dry Chemical Extinguishing Systems, 2002 edition.

(12) NFPA 17A Standard for Wet Chemical Extinguishing Systems, 2002 edition.

(13) NFPA 20 Standard for the Installation of Stationary Pumps for Fire Protection, 2007 edition.

(14) NFPA 22 Standard for Water Tanks for Private Fire Protection, 2003 edition.

(15) NFPA 24 Standard for the Installation of Private Fire Service Mains and Their Appurtenances, 2007 edition.

(16) NFPA 25 Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, 2002 edition.

(17) NFPA 30 Flammable and Combustible Liquids Code, 2003 edition.

(18) NFPA 30B Code for the Manufacture and Storage of Aerosol Products, 2007 edition.

(19) NFPA 33 Standard for Spray Application Using Flammable or Combustible Materials, 2007 edition.

(20) NFPA 34 Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids, 2007 edition.

(21) NFPA 35 Standard for the Manufacture of Organic Coatings, 2005 edition.

(22) NFPA 36 Standard for Solvent Extraction Plants, 2004 edition.

(23) NFPA 37 Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, 2006 edition.

(24) NFPA 40 Standard for the Storage and Handling of Cellulose Nitrate Film, 2007 edition.

(25) NFPA 42 Code for the Storage of Pyroxylin Plastic, 2002 edition.

(26) NFPA 45 Standard on Fire Protection for Laboratories Using Chemicals, 2004 edition.

(27) NFPA 51 Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes, 2002 edition.

(28) NFPA 51A Standard for Acetylene Cylinder Charging Plants, 2001 edition.

(29) NFPA 54 National Fuel Gas Code, 2006 edition.

(30) NFPA 55 Standard for the Storage, Use, and Handling of Compressed Gases and Cryogenic Fluids in Portable and Stationary Containers, Cylinders, and Tanks, 2005 edition.

(31) NFPA 58 Liquefied Petroleum Gas Code, 2004 edition.

(32) NFPA 59 Utility LP-Gas Plant Code, 2004 edition.

(33) NFPA 59A Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG), 2006 edition.

(34) NFPA 61 Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities, 2002 edition.

(35) NFPA 68 Guide for Venting of Deflagrations, 2002 edition.

(36) NFPA 69 Standard on Explosion Prevention Systems, 2002 edition.

(37) NFPA 70 National Electrical Code, 2005 edition.

(38) NFPA 72 National Fire Alarm Code, 2007 edition.

(39) NFPA 75 Standard for the Protection of Information Technology Equipment, 2003 edition.

(40) NFPA 76 Standard for the Fire Protection of Telecommunications Facilities, 2005 edition.

(41) NFPA 80 Standard for Fire Doors and Fire Windows, 2007 edition.

(42) NFPA 82 Standard on Incinerators and Waste and Linen Handling Systems and Equipment, 2004 edition.

(43) NFPA 85 Boiler and Combustion Systems Hazards Code, 2004 edition.

(44) NFPA 86 Standard for Ovens and Furnaces, 2007 edition.

(45) NFPA 88A Standard for Parking Structures, 2007 edition.

(46) NFPA 91 Standard for Exhaust Systems for Air Conveying of Vapors, Gases, Mists, and Noncombustible Particulate Solids, 2004 edition.

(47) NFPA 92B Standard for Smoke Management Systems in Malls, Atria, and Large Spaces, 2005 edition.

(48) NFPA 96 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2004 edition.

(49) NFPA 99B Standard for Hypobaric Facilities, 2005 edition.

(50) NFPA 99C Standard on Gas and Vacuum Systems, 2005 edition.

(51) NFPA 101 Life Safety Code, 2006 edition.

(52) NFPA 101B Code for Means of Egress for Buildings and Structures.

(53) NFPA 102 Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures, 2005 edition.

(54) NFPA 105 Standard for the Installation of Smoke Door Assemblies, 2007 edition.

(55) NFPA 110 Standard for Emergency and Standby Power Systems, 2005 edition.

(56) NFPA 111 Standard on Stored Electrical Energy Emergency and Standby Power Systems, 2005 edition.

(57) NFPA 115 Standard on Laser Fire Protection, 2003 edition.

(58) NFPA 160 Standard for the Use of Flame Effects Before an Audience, 2006 edition.

(59) NFPA 170 Standard for Fire Safety and Emergency Symbols, 2006 edition.

(60) NFPA 204 Standard for Smoke and Heat Venting, 2002 edition.

(61) NFPA 214 Standard on Water-Cooling Towers, 2005 edition.

(62) NFPA 221 Standard for High Challenge Fire Walls, Fire Walls, and Fire Barrier Walls, 2006 edition.

(63) NFPA 230 Standard for Fire Protection of Storage, 2003 edition.

(64) NFPA 232 Standard for the Protection of Records, 2007 edition.

(65) NFPA 241 Standard for Safeguarding Construction, Alteration, and Demolition Operations, 2004 edition.

(66) NFPA 291 Practice for Fire Flow Testing and Marking of Hydrants, 2007 edition.

(67) NFPA 303 Fire Protection Standards for Marine and Boatyards, 2000 edition.

(68) NFPA 318 Standard for the Protection of Semiconductor Fabrication Facilities, 2006 edition.

(69) NFPA 400 Hazardous Chemical Code.

(70) NFPA 418 Standard for Heliports, 2006 edition.

(71) NFPA 430 Code for the Storage of Liquid and Solid Oxidizers, 2004 edition.

(72) NFPA 432 Code for the Storage of Organic Peroxide Formulations, 2002 edition.

(73) NFPA 434 Code for the Storage of Pesticides, 2002 edition.

(74) NFPA 484 Standard for Combustible Metals, 2006 edition.

(75) NFPA 490 Code for the Storage of Ammonium Nitrate, 2002 edition.

(76) NFPA 495 Explosive Materials Code, 2006 edition.

(77) NFPA 499 Recommended Practice for the Classification of Combustible Dusts and of Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas, 2004 edition.

(78) NFPA 560 Standard for the Storage, Handling, and Use of Ethylene Oxide for Sterilization and Fumigation, 2002 edition.

(79) NFPA 654 Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids, 2006 edition.

(80) NFPA 655 Standard for Prevention of Sulfur Fires and Explosions, 2007 edition.

(81) NFPA 664 Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities, 2002 edition.

(82) NFPA 704 Standard System for the Identification of the Hazards of Materials for Emergency Response, 2007 edition.

(83) NFPA 720 Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units, 2005 edition.

(84) NFPA 750 Standard on Water Mist Fire Protection Systems, 2006 edition.

(85) NFPA 780 Standard for the Installation of Lightning Protection Systems, 2004 edition.

(86) NFPA 801 Standard for Fire Protection for Facilities Handling Radioactive Materials, 2003 edition.

(87) NFPA 804 Standard for Fire Protection for Advanced Light Water Reactor Electric Generating Plants, 2006 edition.

(88) NFPA 850 Recommended Practice for Fire Protection for Electric Generating Plants.

(89) NFPA 853 Standard for the Installation of Stationary Fuel Cell Power Systems, 2007 edition.

(90) NFPA 1123 Code for Fireworks Display, 2006 edition.

(91) NFPA 1124 Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 edition.

(92) NFPA 1125 Code for the Manufacture of Model Rocket and High Power Rocket Motors, 2007 edition.

(93) NFPA 1126 Standard for the Use of Pyrotechnics before a Proximate Audience, 2006 edition.

(94) NFPA 2001 Standard on Clean Agent Fire Extinguishing Systems, 2004 edition.

(95) NFPA 2010 Standard for Fixed Aerosol Fire Extinguishing Systems, 2006 edition.

(Code 2004, § 5.05; Ord. No. 2226, 11-8-2006)

Sec. 16-55. Liability for damages.

The article shall not be construed to affect the responsibility of any persons owning, operating, or installing equipment, for injury to persons or damage to property caused by any defect therein, nor shall the municipality, any person, firm, company or agent for the municipality be held as assuming such liability by reason of any inspection or reinspection authorized herein or the permit issued herein provided or by reason of the disapproval or approval of any equipment and/or system authorized herein.

(Code 2004, § 5.06; Ord. No. 2226, 11-8-2006)

Sec. 16-56. Intent.

It is the intent of this article to:

(1) Provide the municipality with comprehensive regulations to improve public safety by attempting to control, limit, restrict and/or eliminate fire hazards.

(2) Improve life safety for residents, occupants, employees, firefighters, and frequenters of places of employment and public buildings.

(3) Regulate the installation, use and maintenance of equipment; regulating the use of structures, occupancies and open areas.

(4) Require the removal and/or reduction of fire hazards; establishing the responsibilities and procedures for code enforcement; and to set the minimum standards for compliance and achievement of these objectives.

(5) Protect property from the hazards of fire and explosion by establishing minimum standards for the use, operation, maintenance and inspection of buildings, structures and premises.

(Code 2004, § 5.01(1); Ord. No. 2226, 11-8-2006)

Sec. 16-57. Applicability.

(a) *Generally.*

(1) The provisions of this article shall apply to all public buildings and places of employment. Exceptions: The following buildings and uses are not public buildings or places of employment and are not subject to the provisions of this article:

a. One- and two-family dwellings.

b. Buildings used exclusively for farming as described in Wis. Stats. § 102.04(3).

c. Nothing contained in this section shall be construed as applying to the transportation of any article or thing shipped in conformity with the regulations prescribed by the Interstate Commerce Commission, or as applying to the military forces of the United States.

(2) The provisions of this article shall apply equally to new structures, including additions to existing structures and existing conditions, except that existing conditions not in strict compliance with the terms of this section shall be permitted to continue where the exceptions do not constitute a distinct hazard to life or adjoining property, as determined by the authority having jurisdiction (AHJ), or have been superseded by this article.

(3) The provisions of this article apply equally to the property owner and/or occupant.

(4) Sections 16-55 through 16-70, 16-81, 16-83 through 16-85, 16-87, 16-88, 16-95 through 16-102, and 16-106 apply to all individuals and/or properties within the jurisdiction of the municipality.

(b) *Additions to, change of use, renovated, altered or remodeled buildings.*

(1) If 50 percent or more of the total floor area of a building is renovated, altered or remodeled and/or added to the existing building, the entire building shall be brought into compliance with the requirements of this article.

(2) If 25 to 49 percent of the total floor area of a building is renovated, altered or remodeled, the portion of the building that is remodeled shall be brought into compliance with the requirements of this article.

(3) If less than 25 percent of the total floor area of a building is renovated, altered or remodeled, the requirements of this article are not required to be complied with unless the area includes dwelling units. If the total floor area includes dwelling units, that part of the building which is remodeled shall be brought into compliance with this article.

(4) All percentages of remodeling shall be cumulative as applied to subsections (b)(1), (2), and (3) of this section.

(5) If any addition to an existing building exceeds the thresholds established in tables 16-73 and/or 16-81 the addition must comply with this article.

(6) If any addition is made to an existing building and/or structure that currently has a fire sprinkler, fire suppression, fire control or fire alarm system installed, the addition shall comply completely with this article.

(7) If any addition is made to an existing building and/or structure that currently has a fire sprinkler, fire suppression, fire control or fire alarm system installed, the addition shall have a fire sprinkler, fire suppression, fire control or fire alarm system installed.

(8) If the use of and/or contents of any existing building is changed and becomes more hazardous as determined by the authority having jurisdiction (AHJ), the building shall be brought into compliance with this article.

(9) Those portions, elements, systems or components of existing buildings and structures to be renovated, altered, remodeled or modified on or after the effective date of the rules under this article and where the alteration, modification or the addition affects a building element or component relating to subject matters regulated by this article, shall be designed, constructed and maintained in accordance with the applicable rules of this article as the rules exist on one of the following:

a. The date plans for the alteration or modification are conditionally approved by the AHJ.

b. The date the local building permit is issued.

c. The date the replacement is initiated, where subsection (b)(9)a and b of this section do not apply.

(Code 2004, § 5.01(2), (3); Ord. No. 2226, 11-8-2006)

Sec. 16-58. System submittals.

(a) Any time that a automatic fire sprinkler, fire protection, fire alarm, fire control, and/or fire suppression system or any portion thereof is installed, altered, added on to, or has appliances removed, plans shall be submitted to the AHJ for review and conditional approval.

(b) All plans for automatic fire sprinkler, fire protection, fire alarm, fire control, and/or fire suppression systems and/or any portion thereof must meet or exceed the applicable NFPA and AHJ's requirements. See specific requirements in each system type section also.

(c) Plans shall be submitted for review to the AHJ prior to a permit being issued.

(d) A minimum of three copies of each plan, specification, and all calculations required by the AHJ shall be submitted. Two copies of each may be retained by the AHJ.

(e) An AutoCAD electronic file of the plans shall also be submitted to the AHJ with each submittal and upon the completion of each project with the as-built conditions.

(f) Complete and accurate as-built drawings and revised hydraulic calculations must be resubmitted for the AHJ's review and approval for all fire sprinkler systems that utilize CPVC piping prior to any piping being concealed.

(g) A completed permit application must accompany all plan submittals.

(h) The permit application must be signed by the individual assuming complete responsibility for the submitted system.

(i) The permit application for all fire sprinkler and standpipe systems must be signed by an individual who holds a valid state automatic fire sprinkler contractor's license.

(j) The appropriate permit, inspection and/or plan review fees must be submitted with each permit application.

(k) Plans will not be reviewed until all fees have been received by the municipality.

(l) All plan reviews are based on information provided. All plan reviews are done for general code compliance only. Plan reviews do not relieve or limit the responsibility and/or liability of any contractor, architect, engineer, designer or any other responsible party for the systems reviewed. The municipality or any of its agents and/or firm or persons hired by the municipality to review plans are not responsible for and do not accept any responsibility and/or liability for the systems reviewed.

(m) Conditional approval of any fire protection, fire alarm, fire control, and/or fire suppression system and/or any portion thereof is not intended to imply waiver or modification of any requirements of this article, any other applicable code, standard, regulation and/or law.

(n) Conditional approval of any fire protection, fire alarm, fire control, and/or fire suppression system and/or any portion thereof does not grant waiver to and/or modify any requirements of this article, any other applicable code, standard, regulation and/or law.
(Code 2004, § 5.01(4); Ord. No. 2226, 11-8-2006)

Sec. 16-59. Permits required.

(a) The fire department shall be responsible for issuing the following permits:

(1) Fireworks permits.

(2) Open burning permits.

(3) Bonfire permits.

(4) Blasting permits.

(5) Construction/installation and/or modification permits for any portion the modification of any fire protection, fire alarm, fire detection, fire suppression, or fire control system.

(6) Operational permit for high-piled storage.

(b) A permit must be obtained prior to the start of installation and/or alteration of any portion of a fire protection, fire alarm, fire control, and/or fire suppression system.

(c) An operational permit issued by the AHJ is required to use a building or a portion thereof as a high-piled combustible storage area exceeding 500 square feet.

(d) Permits will only be issued after the required fire protection, fire alarm, fire control, and/or fire suppression system plans and specifications have been reviewed and conditionally approved by the AHJ.

(e) Permits for the installation and/or alteration of fire sprinkler and/or standpipe systems and/or any portion thereof will only be issued to individuals who hold a valid automatic fire sprinkler contractor's license.

(f) Any contractor that begins installation and/or alteration of any system regulated by this article prior to obtaining the required permit will be charged a triple permit fee.

(g) Anyone that begins installation and/or alteration of any system regulated by this article prior to obtaining the required permit will be charged a triple permit fee.

(h) Any change in use or occupancy shall require a new permit.

(i) Permit described. A permit as specified and/or required by this article shall constitute permission to maintain, store or handle materials or conduct processes which produce conditions hazardous to life or property or install equipment used in connection with such activities and/or for the installation and/or alteration of any portion of a fire protection, fire alarm, fire control, and/or fire suppression system. Such a permit shall not take the place of any other license or permit required by law.

(j) A permit shall be valid for a stated or indefinite period as may be specified thereon as determined by the AHJ to be reasonably necessary to promote safety in the permitted activity.

(k) A permit shall not be transferable.

(l) Inspection. Before a license, occupancy permit or other permit for the conducting of a business, trade, occupation or calling may be issued by the municipality or its departments under other sections or provisions of this article, the AHJ shall inspect and conditionally approve the receptacles, vehicles, buildings or storage places to be used.

(m) Location of permit. Permits and licenses subject to the issuing, inspection or approval authority of the fire department or the AHJ under this section shall, at all times, be kept on the premises designated therein and be subject to inspection by the AHJ.

(n) Certificates of occupancy. The AHJ shall have dual authority with the building inspector in the issuance of certificates of occupancy for multifamily, public buildings, places of employment, commercial structures, places of public assembly and schools to the extent that the AHJ shall inspect and have approval authority over proposed occupancies to ensure compliance with this section.

(o) Plans. A copy of structural or applicable plans for all proposed construction of multifamily residences, commercial and industrial buildings and installations or upgrades of above and below ground tanks as required by Wis. Admin. Code ch. SPS 310, shall be submitted to the AHJ for review.

(p) Building permits. Building permits shall be issued only for those buildings which conform to the provisions of this section.

(q) The AHJ shall review and conditionally approve or deny all plans submitted to the fire department under this section within 14 days of submission and, upon a denial, shall within such time mail to the applicant a written statement setting forth the fact of such denial and the reasons therefor. If the AHJ denies a plan, the building inspection department shall not issue a permit. The applicant may appeal the decision of the AHJ to the board of zoning and building appeals within 30 days of the date of the written denial. Plans not returned to the building inspection department stamped "Denied" or "Conditionally Approved" within 14 days of submission to the AHJ shall be considered conditionally approved.

(r) Whenever the applicant shall claim that the provisions of this section do not apply to the structure in question or that the intent and meaning of this section have been misconstrued or wrongly interpreted by the AHJ, the applicant may appeal such decision of the AHJ to the board of zoning and building appeals within 30 days of the date of the decision.
(Code 2004, § 5.01(5); Ord. No. 2226, 11-8-2006)

Sec. 16-60. Stop work order.

(a) The AHJ may request that the building inspector issue a stop work order upon any permit issued subject to the inspection and approval authority of this article, where the AHJ finds that any of the conditions for issuance have not been maintained or where there has been any false statement or misrepresentation of any material fact made in the application or plans upon which the issuance was based.

(b) If the AHJ determines requirements of this article are not complied with, the AHJ may issue a stop work order on any project or portion thereof.
(Code 2004, § 5.01(6); Ord. No. 2226, 11-8-2006)

Sec. 16-61. Inspection and testing.

(a) All fire suppression systems and fire alarm systems required under this article shall be inspected by the AHJ prior to having any of its parts covered up or concealed in any manner whatsoever. The AHJ shall be given a 48-hour notice prior to any system inspection.

(b) The AHJ shall witness all tests of fire control systems, fire alarm initiating devices, notification appliances, and any other required system requiring an operational test. The AHJ shall be given a 48-hour notice prior to any system witness test.

(c) All testing for any reason that requires the use of a pressure gauge shall be done using a liquid filed gauge that is new or has been calibrated and certified within six months of any test the AHJ requires. The certification shall be acceptable to the AHJ.
(Code 2004, § 5.01(7); Ord. No. 2226, 11-8-2006)

Sec. 16-62. Right of entry.

(a) The AHJ and/or their authorized representative may, at all reasonable hours, enter any place of employment and/or public building within their jurisdiction for the purpose of making any inspection or investigation which, under the provision of this article, they shall deem necessary.

(b) The AHJ shall inspect, or cause to be inspected, all places of employment and public buildings as often as may be necessary, but not less than once a year.

(c) The purpose of any inspection and/or investigation is to determine if any violations of the provisions or intent of this article and/or the codes or standards adopted by reference exist and to order corrections of the violations observed.

(d) The AHJ, upon the complaint of any person or whenever they shall deem necessary, shall inspect any place of employment and/or public building and premises within their jurisdiction.

(e) Any owner or occupant of any place of employment and/or public building, who refuses to permit, prevents or interferes with entry into or upon the premises by anyone authorized by the AHJ shall be guilty of violating this section and shall be subject to fines. Exception: The interiors of dwelling units will not be inspected unless an inspection is specifically requested by the owner or occupant and/or as allowed by state statutes.
(Code 2004, § 5.01(8); Ord. No. 2226, 11-8-2006)

Sec. 16-63. Enforcement and documentation.

(a) The fire chief or anyone the fire chief has designated their AHJ, shall enforce the provisions of this article.

(b) Whenever any AHJ of the fire department shall discover fire hazards as listed below, they shall order such conditions or materials removed or remedied in such manner as may be specified.

(1) Dangerous or unlawful amounts of flammable, combustible or explosive material as determined by the AHJ.

(2) Hazardous conditions arising from defective or improperly installed equipment for handling or using flammable, combustible or explosive material.

(3) Dangerous accumulations of rubbish, waste paper, boxes, shavings, or other highly flammable materials as determined by the AHJ.

(4) Accumulations of dust, grease, or waste materials in air conditioning systems, exhaust ducts or vent hoods.

(5) Obstructions to or in fire escapes, stairs, passageways, doors, or windows, liable to interfere with the operation of the fire department or egress of occupants. This includes snow.

(6) Any building, structure, or premises which for want of repairs, lack of exit facilities, fire alarm apparatus or fire extinguishing equipment or by reason of age or dilapidated condition, or from any cause, creates a fire hazard.

(c) The AHJ may use any means necessary in documentation of inspections or conditions, including but not limited to the use of electronic equipment.
(Code 2004, § 5.01(9); Ord. No. 2226, 11-8-2006)

Sec. 16-64. Notification of use or occupancy change.

(a) Whenever there is a change in occupancy or the agent (manager, shift supervisor, after-hours emergency contact, etc.) of that occupancy, the owner or their duly authorized agent shall submit the changes in writing to the fire department within five working days. The information shall consist of the following:

(1) Name and address of occupancy.

(2) Owner's name, address and phone number.

(3) Agent's name, address and phone number.

(4) Other information as required by the AHJ.

(b) Whenever a change in the service company for the alarm system has occurred within the occupancy, the owner or authorized agent shall submit the changes in writing to the fire department within five working days. The information shall consist of the following:

(1) All information required in subsection (a) of this section.

(2) Type of fire protection systems.

(3) Service company name, address and phone number.

(c) No change can be made in the use or occupancy of any building or structure, or any space within a building, structure, or space of a building or structure either in a different division of the same occupancy group or in a different occupancy group, unless the building or structure complies with this article's requirements for the new division of occupancies, as these requirements exist.

Exception: This subsection does not apply to an approved temporary use or to a new use that will be less hazardous, based on life and/or fire risk, than the existing use.

(d) An inspection by the fire department shall be required for any new or change of occupancy.
(Code 2004, § 5.01(10); Ord. No. 2226, 11-8-2006)

Sec. 16-65. Temporary use.

The AHJ may allow a building or portion of a building to be used temporarily in a manner that differs from the approved use for the building or space, or may approve a temporary building to be used by the public, subject to all of the following provisions:

(1) The AHJ shall determine the time frame within which the temporary use is permitted, based on the extent hazards are created by the temporary use.

(2) The AHJ shall determine maximum occupancy load.

(3) The AHJ shall determine any fire protection and/or control devices and life safety provisions that may be needed.

(Code 2004, § 5.01(11); Ord. No. 2226, 11-8-2006)

Sec. 16-66. Service of correction orders.

(a) The service of correction orders shall be made upon the owner, occupant or other person responsible for the conditions that violate any section of this article. A copy of the service order can be delivered personally to the owner or by leaving it with the person in charge of the premises. Whenever it may be necessary to serve such order upon the owner of the premises, such an order may be served either by delivering to and leaving with the person a copy of the order, or if such owner is absent from the jurisdiction of the AHJ making the order, by mailing such a copy to the owner's last known post office address.

(b) Conditions that are hazardous to life or safety of the occupants shall require immediate correction. All other violations shall be corrected within a specified time or date, as the AHJ shall determine.

(c) When the owner of any property or person in apparent control of the property is issued an order by the AHJ and fails to comply with the order, the municipality may do the work ordered and the cost of such work shall constitute a special assessment against the property upon which the work is done and shall be levied against such property pursuant to Wis. Stats. § 66.0701 et seq.

(d) No person shall refuse to permit or shall prevent or interfere with any entry into or upon any building or premises by the AHJ who is lawfully on the premises or interfere with any such inspection. If consent to enter onto personal or real properties which are not public buildings, or to portions of public buildings which are not open to the public, has been denied, the fire inspector shall obtain a special inspection warrant under Wis. Stats. § 66.123.
(Code 2004, § 5.07; Ord. No. 2226, 11-8-2006)

Sec. 16-67. Variances.

(a) The AHJ shall have the power to modify any of the provisions of this article upon application in writing by the owner or occupant, or a duly sworn authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the article, provided that the spirit of the article shall be observed, public safety secured, and substantial justice done.

(b) The AHJ thereon shall enter upon the records of the department, and a signed copy shall be furnished to the applicant the particulars of such variances when granted.

(c) The AHJ may require tests as proof of compliance with the intent of this article. Such tests are to be made by an approved agency at the expense of the person requesting approval of the alternate material or method of construction.

(d) If technical expertise is unavailable within the municipality because of new technology, process, products, facilities, materials and uses attending design, operation or use of a building or premises subject to the inspection of the municipality, the AHJ may require the owner or the person in possession or control of the building or premises to provide without charge to the municipality, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire safety organization, acceptable to the AHJ and the owner, and shall analyze the fire safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, and prescribed the necessary recommended changes. The department may also acquire technical assistance from a consultant and may charge a fee to the owner or occupant for the service provided.
(Code 2004, § 5.08; Ord. No. 2226, 11-8-2006)

Sec. 16-68. Revocation of permits.

(a) The AHJ may revoke any permit issued in accordance with this article in any case where they may find that any of the conditions for the issuance have not been maintained or where there has been false statement or misrepresentation of any material fact in the application or plans on which the issuance was based.

(b) The AHJ shall promptly notify the permit holder of the request for revocation and, if so requested by the permit holder, the effective date of the revocation shall be deferred pending a hearing before the chief of the fire department. The decision of the chief for revocation, following the hearing, shall be final.
(Code 2004, § 5.09; Ord. No. 2226, 11-8-2006)

Sec. 16-69. Closing and vacating buildings.

(a) The AHJ may order the compliance with this section and all other lawful orders or laws relating to fire prevention and fire protection in existing buildings and structures.

(b) Where the public is exposed to immediate danger, the AHJ shall order the closing and vacating of the building at once.
(Code 2004, § 5.10; Ord. No. 2226, 11-8-2006)

Sec. 16-70. Investigation of fires; police powers.

(a) The fire department shall investigate the cause and origin and circumstances of fires occurring within their jurisdiction to determine if the fire is of carelessness or design. Such investigations may begin immediately upon the occurrence of such a fire, and if it appears to the officer making such an investigation that such fire is of suspicious origin and of a significant nature, the fire chief shall be notified of the facts. The AHJ shall notify the proper authorities designated by law to pursue the investigation of such matters and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. A member of the fire investigation team shall file a written report of damage associated with every fire in a timely manner. It shall contain a statement of all facts relating to the cause and origin and circumstances of such fire and other information as may be required.

(b) The municipal attorney and any other department of the municipality, upon the request of the fire chief, shall assist in the investigation of any fire that, in the chief's opinion, is of suspicious origin.

(c) The fire chief, officers in command and the fire inspector at any fire are hereby vested with full and complete police authority. Any officer of the fire department may cause the arrest of any person failing to give the right-of-way to the fire department in responding to or investigating an incident.

(d) The fire chief or officers in command may prescribe certain limits in the vicinity of any incident within which no persons, excepting firefighters and police officers and those admitted by order of any officer of the fire department, shall be permitted to enter.

(e) The fire chief or officers in command shall have the power to cause the removal of any property whenever it is deemed necessary and prudent for the preservation of such property. During the progress of any fire, they shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes work of the fire department during the progress of a fire.

(f) It shall be lawful for any fire department personnel while acting under the direction of the fire chief or officer in command to enter premises adjacent to or in the vicinity of a building or other property that is on fire for the purpose of extinguishing, containing, or searching for

extension of such fire or other exigent circumstances. No person shall hinder, resist or obstruct any firefighter in the discharge of his duties as is herein before provided. The person so offending shall be deemed guilty of resisting firefighters in the discharge of their duties.

(g) During the progress of fire the fire chief or officers in command shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire or to ensure that the fire has not extended to other areas; providing that it is likely that, unless such property is removed, other property is in danger of being destroyed by fire.
(Code 2004, § 5.11; Ord. No. 2226, 11-8-2006)

Sec. 16-71. Automatic fire sprinkler, control or suppression system protection—Intent and compliance.

(a) *Intent.* The intent of this section is to require the installation of automatic fire sprinkler, fire control and/or fire suppression systems to improve the protection of life and property within the municipality. It will establish a minimum standard for fire safety through the standardization of the design, installation, testing and maintenance requirements for automatic fire sprinkler suppression.

(b) *Code compliance.* All automatic fire sprinkler, fire control and/or fire suppression systems installed, modified, altered and/or repaired, shall comply with this article and the applicable NFPA codes and/or standards.

(c) *Code conflicts.* If any conflicts exist between this article and any NFPA code and/or standard, the most restrictive, as determined by the AHJ, shall be enforced by the AHJ.
(Code 2004, § 5.12(1)—(3); Ord. No. 2226, 11-8-2006)

Sec. 16-72. Same—Working plans.

(a) Working plans shall be submitted for conditional approval to the AHJ before any equipment is installed, modified or remodeled.

(b) Deviation from approved plans shall require permission of the authority having jurisdiction.

(c) All working plans submitted for conditional approval must be signed and sealed by at least one of the following:

(1) An architect registered in the state.

(2) An engineer registered in the state.

(3) A person who holds a designer of engineering systems permit in the state.

(4) The individual who holds a valid automatic fire sprinkler contractor's license and is responsible for the system installation.

(d) Working plans shall be drawn to an indicated scale, on sheets of uniform size, with a plan of each floor, and shall show those items from the following list that pertain to the design of the system and any that NFPA 13 and/or the AHJ may require:

(1) Name of owner.

(2) Name of occupant.

(3) Location, including street address.

(4) Point of compass.

(5) Full height cross section, or schematic diagram, including structural member information.

(6) Ceiling construction.

(7) Elevation of the sprinklers relative to the ceiling.

(8) Method of protection for nonmetallic piping.

(9) Minimum clearance required from the sprinkler deflectors to the top of storage.

(10) Location of partitions.

(11) Location of firewalls.

(12) Occupancy class of each area or room.

(13) All storage information, limits and exact configurations shall be on the working drawings prepared by the automatic fire sprinkler contractor.

(14) Hazard classification for each protected area.

(15) All special occupancy protection areas.

(16) All storage limits based on the sprinkler system design criteria including the following:

a. The storage high limit for each different commodity class.

b. The storage arrangement for each different commodity class and/or special occupancy hazard arrangements including the following:

1. Storage method (solid pile, shelf, rack or other).

2. Minimum aisle widths for all rack storage and where required.

3. Minimum required clearance from overhead fire sprinkler deflectors.

4. Minimum required clearance from in-rack fire sprinkler deflectors.

5. Minimum required transverse flue space.

6. Minimum required longitudinal flue space.

7. Pile stability.

8. Storage array.

9. Any other information the AHJ deems necessary to determine compliance with the applicable NFPA code and/or standard.

c. All special occupancy restrictions and/or limits contained in the applicable NFPA code and/or standard.

(17) Location and size of concealed spaces.

(18) Location and size of combustible concealed spaces.

(19) Closets.

(20) Attics.

(21) Bathrooms.

(22) Any small enclosures in which no sprinklers are to be installed.

(23) Size of city main in street.

(24) Whether city main in street is dead end or circulating.

(25) Direction and distance to nearest circulating main.

(26) City main water flow test results.

(27) System elevation relative to test hydrant.

(28) Other sources of water supply, with pressure or elevation.

(29) Make, type, model, and nominal K-factor of sprinklers including sprinkler identification number.

(30) Temperature rating of all sprinklers.

(31) Total area protected by each system.

(32) Total area protected by each system on each floor.

(33) Number of sprinklers on each riser per floor.

(34) Total number of sprinklers on each wet system.

(35) Total number of sprinklers on each dry pipe system.

(36) Total number of sprinklers on each preaction system.

(37) Total number of sprinklers on each combined dry pipe-preaction system.

(38) Total number of sprinklers on each deluge system.

(39) Approximate capacity in gallons of each dry pipe system.

(40) Approximate capacity in gallons of each preaction system.

(41) Pipe type and inside diameter.

(42) Nominal pipe size and cutting lengths of pipe (or center-to-center dimensions).

(43) Location and size of riser nipples.

(44) Type of fittings and joints.

(45) Location of all welds and bends.

(46) The contractor shall specify on drawing any sections to be shop welded and the type of fittings or formations to be used.

(47) Type and locations of hangers.

(48) Locations of sleeves.

(49) Locations of braces, and methods of securing sprinklers.

(50) All control valves.

(51) All check valves.

(52) All drain valves and pipes.

(53) All test connections.

(54) Make, type, model, and size of alarm valve.

(55) Make, type, model, and size of dry pipe valve.

(56) Make, type, model, and size of preaction.

(57) Make, type, model, and size of deluge valve.

(58) Type and location of alarm bells.

(59) Size and location of standpipe risers.

(60) Size and location of hose outlets.

(61) Size and location of hand hose.

(62) Size and location of monitor nozzles, and related equipment.

(63) Private fire service main sizes, lengths, locations, materials, point of connection to city main; the sizes, types and locations of valves, valve indicators, regulators, meters, and valve pits; and the depth of cover.

(64) Piping provisions for flushing.

(65) Where the equipment is to be installed as an addition to an existing system, enough of the existing system indicated on the plans to make all conditions clear to the AHJ.

(66) For hydraulically designed systems, the information on the hydraulic data nameplate including the following:

a. System design requirements including hazard and/or occupancy classification.

b. Design area of water application in square feet or minimum number of sprinklers designed to operate at one time.

c. Minimum rate of water application (density), gpm/square foot or minimum flow rate per sprinkler in gpm.

d. Area per sprinkler in square feet.

e. Total water demand requirements as calculated, including allowance for inside hose, outside hydrants, in-rack sprinklers, water curtains and exposure sprinklers in gpm.

f. Limitations (spacing, flow, and pressure) on extended coverage or other listed special sprinklers.

(67) A graphic representation of the scale used on all plans.

(68) Name and address of installing fire sprinkler contractor.

(69) Phone number of installing fire sprinkler contractor.

(70) State automatic fire sprinkler contractor's license number.

(71) Hydraulic reference points shown on the plan that correspond with comparable reference points on the hydraulic calculation sheets.

(72) The minimum rate of water application (density), the design area of water application, in-rack sprinkler demand, and the water required for hose streams both inside and outside.

(73) The total quantity of water and the pressure required noted at a common reference point for each system.

(74) Who determined the design criteria.

(75) Relative elevations of sprinklers, junction points, and water supply or reference points.

(76) If room design method is used, all unprotected wall openings throughout the floor protected.

(77) Calculation of loads for sizing and details of sway bracing.

(78) The setting for pressure-reducing valves.

(79) Information about backflow preventers (manufacturer, size, type).

(80) Information about antifreeze solution used (type and amount).

(81) Size and location of hydrants, showing size and number of outlets and if outlets are to be equipped with independent gate valves. Whether hose houses and equipment are to be provided, and by whom, shall be indicated.

(82) Static and residual hydrants that were used in flow tests shall be shown.

(83) Size, location, and piping arrangement of fire department connections.

(84) The working plan submittal shall include the manufacturer's installation instructions for any specially listed equipment, including descriptions, applications, and limitations for any sprinklers, devices, piping, or fittings.

(85) The maximum spacing allowed for each type of sprinkler being used based on the square footage used to determine the minimum flow rate for the hydraulic calculations.

(86) The size, make, type and model of the backflow device.

(87) Any other information the AHJ deems necessary to be on the working plans.

(88) The working plan for all specific occupancies shall include the following:

a. The specific hazard the system is intended to protect.

b. The specific NFPA standard and/or code the system design criterion is contained in.

c. The specific NFPA standard and/or code section the system design criteria is contained in.

d. The maximum storage height of the commodity being protected.

e. The method of storage rack, solid pile, shelf or other.

f. The maximum ceiling height in the building and/or structure.

g. All aisles in the storage area.

h. All required flue spaces, transverse, longitudinal, and/or between piles.

i. Any minimum clearance requirements between commodities.

j. Any minimum clearance requirements between incompatible commodities and/or materials.

k. The required minimum clearance between the sprinkler deflectors and the top of storage.

l. All storage information, limits and exact configurations shall be on the working drawings prepared by the automatic fire sprinkler contractor.

(89) Water supply capacity information. The following information shall be included:

a. Location and elevation of static and residual test gauge with relation to the riser reference point.

b. Flow location.

c. Static pressure, psi (bar).

d. Residual pressure, psi (bar).

e. Flow, gpm (L/min).

f. Date.

g. Time.

h. Test conducted by or information supplied by.

i. Other sources of water supply, with pressure or elevation.

(Code 2004, § 5.12(4); Ord. No. 2226, 11-8-2006)

Sec. 16-73. Same—Installation required.

(a) Automatic fire sprinkler systems shall be installed in all structures where the floor area exceeds the thresholds established in table 16-73 of the specific occupancy type and construction type involved. For the purpose of determining square footage as it relates to the required installation of fire sprinklers in a building, firewalls shall not be considered area dividers unless the firewall is rated at four hours without penetrations and extends a minimum of three feet above the roof.

TABLE 16-73

Type					
Type I	*Type II*	*Type III*	*Type IV*	*Type V*	*A-1*
A-2	3,000 SF	3,000 SF	All	All	All
A-3	3,000 SF	3,000 SF	3,000 SF	3,000 SF	3,000 SF
A-4	3,000 SF	3,000 SF	1,000 SF	1,000 SF	1,000 SF
A-5	N/A	N/A	N/A	N/A	N/A
B	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
E*	All	All	All	All	All
F-1	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
F-2	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
H-1	1,000 SF	1,000 SF	1,000 SF	1,000 SF	1,000 SF
H-2	1,000 SF	1,000 SF	1,000 SF	1,000 SF	1,000 SF
H-3	1,000 SF	1,000 SF	1,000 SF	1,000 SF	1,000 SF
H-4	1,000 SF	1,000 SF	1,000 SF	1,000 SF	1,000 SF
H-5	1,000 SF	1,000 SF	1,000 SF	1,000 SF	1,000 SF
I-1	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
I-2	All	All	All	All	All
I-3	All	All	All	All	All
I-4	All	All	All	All	All
M	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
R-1	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
R-2	Multifamily statute applies				
R-3	State statutes apply				
R-4	All	All	All	All	All
S-1	3,000 SF	3,000 SF	3,000 SF	3,000 SF	3,000 SF
S-2	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF

Type					
Type I	*Type II*	*Type III*	*Type IV*	*Type V*	*A-1*
U	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF

* Excludes single-family home day care.

(b) Additional automatic fire sprinkler system installations required. An automatic sprinkler system shall be installed in all:

(1) Parking structures above and below ground with ceilings.

(2) CBRFs (community based residential facilities).

(3) Adult family homes.

(4) Throughout all dormitories, fraternities and sorority houses.

(5) Throughout every building, new or existing, which by reason of its construction or combustible occupancy involves a life hazard to its occupants or in the judgment of the AHJ constitutes a fire menace.

(6) Throughout all mini warehouses and unattached multifamily parking garages that exceed any of the following:

a. Three thousand square feet or more in area on any floor.

b. Two stories in height.

c. Any portion of the structure is below grade level.

(Code 2004, § 5.12(5); Ord. No. 2226, 11-8-2006)

Sec. 16-74. Same—Basements and garages.

Basements and garages are to be designed to protect as a minimum of for ordinary hazard occupancy.

(Code 2004, § 5.12(6); Ord. No. 2226, 11-8-2006)

Sec. 16-75. Same—Installation of automatic fire sprinkler system in structure not currently serviced by municipal water source.

When an automatic fire sprinkler system is required to be installed by this article but not the state department of commerce, in a structure that is not currently serviced by a municipal water source, the following must be complied with:

(1) Any required fire sprinkler system shall be installed in complete compliance with the appropriate NFPA codes and/or standards.

(2) Exception. An automatic water supply for any fire sprinkler system required to be installed by this article but not required by the state department of commerce code, the automatic water supply shall comply with the following:

a. The automatic water supply for the automatic fire sprinkler system shall be conditionally approved by the AHJ.

b. The fire sprinkler system shall be installed and connected to a conditionally approved automatic water supply.

c. The minimum capacity of the conditionally approved automatic water supply shall be sufficient to supply the hydraulically most demanding area of the sprinkler system for a minimum of 15 minutes.

d. The required automatic water supply must be capable of delivering the required quantity of water at the required pressure as determined by hydraulically calculating the system demand in accordance with NFPA 13 for the most hydraulically demanding area.

e. The required automatic water supply could utilize a well, pressurized tank or a storage tank and fire pump.

f. A letter from a licensed fire protection engineer or a state permitted fire protection designer attesting the ability of the system to comply with the above requirement shall be required prior to occupancy.

(3) Within 90 days after a municipal water system becomes available, the sprinkler system shall be connected to the municipal water supply.

(4) For the purpose of this article, an available municipal water supply shall be any of the following:

a. A municipal water main located at or near the streets adjacent to the property the structure that is required to be sprinklered is located on.

b. A municipal water main located in a utility easement on or near the property the structure that is required to be sprinklered is located on.

c. A municipal water main located at or near the streets within 1,500 lineal feet of any part of the property the structure that is required to be sprinklered is located on.

d. A municipal water main located in a utility easement within 1,500 lineal feet of any part of the property the structure that is required to be sprinklered is located on.

(Code 2004, § 5.12(7); Ord. No. 2226, 11-8-2006)

Sec. 16-76. Same—Systems compliance.

All automatic fire sprinkler, fire control and/or fire suppression systems shall comply with the following:

(1) Be designed in accordance with the appropriate NFPA standards and/or codes.

(2) Be designed after a complete and correct owners certificate, using a form acceptable to the AHJ, has been obtained from the building owner.

(3) Be designed to protect the highest hazard present at any time in the protected area.

(4) Be monitored by a central station or an alternate monitoring service that is acceptable to the AHJ.

(5) Have sprinkler control rooms located with adequate access for fire department, sprinkler maintenance and inspection personnel and shall not be located within private dwellings with the exception of NFPA 13D systems.

(6) Have direct access from the exterior to the sprinkler control valve acceptable to the AHJ.

(7) Have a bell (minimum ten-inch) and strobe install, located above the FDC.

(8) The FDC must be located at least 40 feet from all gas meters, electrical meters and transformers.

(9) The FDC must be installed in a location acceptable to the AHJ.

(10) Be designed for the hazard being protected or as specifically specified in this article and/or as acceptable to the AHJ.

(11) All automatic fire sprinkler systems hydraulic designs are to be based on a maximum of 90 percent of the available water supply (a minimum of a ten percent safety margin shall be maintained).

(12) All sprinkler systems designed shall be based on the most current water flow test conducted in accordance with NFPA 291 that is acceptable to the AHJ.

(13) The AHJ must witness all water flow tests.

(14) Have all working drawings with all required hydraulic calculations prepared by the installing contractor and submitted to the AHJ for review and conditional approval.

(15) Include a complete and correct owner's certificate with the approval submittal.

(16) The owner's certificate must contain all information required by the AHJ.

(17) All storage information, limits and exact configurations shall be on the working drawings prepared by the automatic fire sprinkler contractor.

(18) Be conditionally approved prior to any portion of the system being installed.

(Code 2004, § 5.12(8); Ord. No. 2226, 11-8-2006)

Sec. 16-77. Same-Maintenance of equipment.

(a) Sprinkler systems which have been installed in compliance with permit or order, or because of any law or code, shall be maintained in operative condition at all times. No owner or occupant shall reduce the effectiveness of the protection so required; except this provision shall not prohibit the owner or occupant from temporarily reducing or disconnecting the protection system when making necessary repairs, alterations or additions.

(b) The fire department shall be notified before repairs, alterations or additions are started and shall be notified again when the system has been restored to service.

(c) Inspections and maintenance shall be performed by an approved agent, pursuant to the procedures listed in sections 16-53 and 16-54. The property owner/occupant and sprinkler inspector shall immediately notify the fire department of any deficiencies found.

(d) A service contract is required for annual service of the sprinkler system according to NFPA 25. This will be required prior to obtaining an occupancy permit on all newly constructed and existing buildings.

(e) A service contract is required for the monitoring of systems where monitoring is required.

(f) The latest annual test report must be posted at the riser or a location acceptable to the AHJ.
(Code 2004, § 5.12(9); Ord. No. 2226, 11-8-2006)

Sec. 16-78. Same—Application to existing buildings.

(a) Adult family homes and CBRFs regardless of number of occupants or class must be retrofitted with fire sprinkler protection acceptable to the AHJ.

(b) Where the AHJ finds that an existing building, because of current occupancy or a change in occupancy constitutes a hazard to its occupants or adjoining property, the AHJ may order compliance with the provisions of this section. A hazard shall be determined by the existence of one or more of the following conditions:

(1) Any building which by reason of its construction or highly combustible occupancy involves a hazard to its occupants or, in the judgment of the AHJ, constitutes a fire menace, e.g., paint shop and other occupancies involving processing, mixing, storing, and dispensing of volatile liquids or solids.

(2) Non-fire-resistive characteristics of a structure.

(3) Accumulation of flammable or combustible materials.

(4) Lack of accessibility to the premises for firefighting equipment.

(5) Substantial number of fire calls or complaints on the premises.

(6) Traffic patterns for pedestrian ingress and egress which require protection under this section.

(7) Insufficient ventilation system.

(8) Lack of an internal communication system, or due to the size or type of building making regular fire department radio communication inoperable, the building owner is required to install a repeater system or something comparable to assist radio communications.

(9) Number, characteristics and movement of employees which require protection under this section.

(c) Installation of an automatic sprinkler system must be started within one year from the service of such orders and shall be completed within 180 days after construction has started.
(Code 2004, § 5.12(10); Ord. No. 2226, 11-8-2006)

Sec. 16-79. Same—Exemptions.

Any location where the installation of sprinklers may cause or increase an occupational hazard as determined by any governmental authority having jurisdiction over such location or occupation the AHJ may waive any requirement to install an automatic fire sprinkler system or any portion thereof.
(Code 2004, § 5.12(11); Ord. No. 2226, 11-8-2006)

Sec. 16-80. Standpipes.

(a) *Intent.* The intent of this section is to require fire department standpipe systems to be installed in structures to help firefighters effectively extinguish a fire and help reduce property damage and losses.

(b) *Where required.* Fire department standpipe systems shall be installed in the following structures:

(1) Any structure required by the state codes.

(2) In all new structures over two stories in height.

(3) In any structure that exceeds 10,000 square feet in floor area.

(4) In any structure that the AHJ deems standpipes are necessary for firefighting purposes.

(5) Temporary standpipes must be installed in an approved location for all of the following structures:

a. All combustible structures exceeding two stories in height.

b. All noncombustible structures exceeding three stories in height.

(c) *Installation requirements*. Fire department standpipes shall be designed and installed in accordance with this section. Where any requirement in this section is more restrictive than any NFPA standard and/or code and/or state code, the requirements in this section must be complied with.

(1) The installation of standpipes shall be in accordance with this section and NFPA 14.

(2) The class and location of standpipes and fire department connections shall be acceptable to the AHJ.

(3) All standpipe systems hydraulic designs are to be based on a maximum of 90 percent of the available water supply (a minimum of a ten percent safety margin shall be maintained.)

(4) Class I standpipes are required in all structures that exceed 10,000 square feet in area on a single floor or level. It is intended that these standpipes will replace any small hose protection required by any adopted NFPA standard and/or code. These required standpipes shall have 2½-inch hose valves located in the following locations:

a. Within three feet of all exterior doors.

b. At interior locations as required to comply with subsection (c)(5) of this section.

c. Any other location the AHJ determines necessary for firefighting proposes.

(5) All 2½-inch hose valves must have a 2½-inch by 1½-inch reducer, cap and chain attached.

(6) The location of standpipe hose connections shall be accessible and shall be located so that all portions of the building are within 100 feet of hose attached to a hose valve. This distance must be measured using the normal aisles or the path a hose would be laid as determined by the AHJ.

(7) The locations of all hose valves shall be acceptable to the AHJ.

(8) The AHJ may require additional standpipes and/or hose valve to be installed.

(9) All structures over three stories shall have Class I standpipes installed in accordance with NFPA 14.

(10) When required by the AHJ, an approved standpipe shall be installed as construction progresses to make them available for fire department use in the top most floors constructed. Temporary standpipes shall be provided in place of permanent standpipes when required, during the period of construction on buildings required by this article.

(11) The location of all fire department connections for standpipes shall be approved by the AHJ.

(12) The fire department connections shall be located at least 40 feet from all electrical transformers, gas meters, or propane storage.

(13) Temporary standpipes are required on buildings over two stories in height.

(14) All standpipes are to be automatic standpipes unless a manual or dry standpipe is allowed by the AHJ.

(15) The AHJ shall determine if manual standpipes and/or if a dry standpipe will be allowed.

(d) *Approval requirements.* Complete plans and calculations for all standpipes must be submitted to the fire department and conditionally approved prior to installation of any standpipe.

(e) *Permit requirement.* The fire department must issue a permit to install all standpipes prior to installation.
(Code 2004, § 5.13; Ord. No. 2226, 11-8-2006)

Sec. 16-81. Fire alarm systems.

(a) *Intent.* The intent of this section is to provide a means for automatic detection of fire conditions and/or to provide warning notification throughout all buildings and occupancies built hereinafter, structurally altered, or added to. Fire alarm systems are intended to provide additional life safety and help reduce property loss through early detection of fires, providing warning to occupants and automatically notify the fire department of fire.

(b) *Installation required.* A fire alarm system shall be installed in all structures where the floor area exceeds the thresholds established in table 16-81 of the specific occupancy type and construction type involved.

TABLE 16-81

Occupancy Type	*Type I*	*Type II*	*Type III*	*Type IV*	*Type V*
A-1	5,000 SF	5,000 SF	3,000 SF	3,000 SF	All
A-2	3,000 SF	3,000 SF	All	All	All
A-3	3,000 SF	3,000 SF	3,000 SF	3,000 SF	3,000 SF
A-4	3,000 SF	3,000 SF	1,000 SF	1,000 SF	1,000 SF
A-5	N/A	N/A	N/A	N/A	N/A
B	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
E*	All	All	All	All	All
F-1	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
F-2	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
H-1	1,000 SF	1,000 SF	1,000 SF	1,000 SF	1,000 SF
H-2	1,000 SF	1,000 SF	1,000 SF	1,000 SF	1,000 SF
H-3	1,000 SF	1,000 SF	1,000 SF	1,000 SF	1,000 SF
H-4	1,000 SF	1,000 SF	1,000 SF	1,000 SF	1,000 SF
H-5	1,000 SF	1,000 SF	1,000 SF	1,000 SF	1,000 SF

Occupancy Type	*Type I*	*Type II*	*Type III*	*Type IV*	*Type V*
I-1	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
I-2	All	All	All	All	All
I-3	All	All	All	All	All
I-4	All	All	All	All	All
M	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
R-1	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
R-2	Multifamily statute applies				
R-3	State statutes apply				
R-4	All	All	All	All	All
S-1	3,000 SF	3,000 SF	3,000 SF	3,000 SF	3,000 SF
S-2	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF
U	5,000 SF	5,000 SF	3,000 SF	3,000 SF	3,000 SF

* Excludes single-family home daycares, state statutes apply.

(c) *Minimum system requirements.* The following minimum system requirements shall be met when any occupancy type exceeds the limits in table 16-81. Minimum system requirements shall include:

(1) Audible notification appliances shall be installed throughout protected premises.

(2) Visible notification appliances shall be installed throughout protected premises. Exceptions:

a. Closets and/or other similar small storage rooms that do not exceed 50 square feet in floor area and are not normally occupied.

b. Normally unoccupied crawl spaces.

c. Normally unoccupied attic spaces.

d. Any nonaccessible area.

e. Any area the AHJ deems visible notification appliances are not required.

(3) Appliances that automatically detect fire and/or products of combustion shall be installed throughout protected premises. The type of appliance used in each specific application and/or area must be appropriate for the applicable conditions and acceptable to the AHJ. The determination of the acceptability of any type of detector (products of combustion, flame, heat, etc.) shall be based upon occupancy and/or building use. Exceptions:

a. Closets and/or other similar small storage rooms that do not exceed 50 square feet in floor area and are not normally occupied.

b. Normally unoccupied crawl spaces.

c. Normally unoccupied attic spaces.

d. Any nonaccessible area.

e. Appliances that automatically detect fire and/or products of combustion are not required in buildings that have complete automatic fire sprinkler systems installed in accordance with NFPA 13, unless required by the AHJ.

f. Any area the AHJ deems appliances that automatically detect fire and/or products of combustion are not required.

(4) Manual initiating devices (pull stations) shall be located at all points of egress including all exit doors on every floor and/or building level.

(5) Water flow detection devices shall be connected to the fire alarm system to specifically activate the notification appliances upon water flow.

(6) Fire suppression system activation alarms shall be connected to the protected premises fire alarm system to specifically activate the notification appliances upon system activation. This includes, but is not limited to, wet chemical, CO_2, clean agent, water mist and dry chemical systems.

(7) Fire control and/or suppression systems supervisory condition indicators shall be connected to and monitored by the fire alarm system. This specifically includes, but is not limited to, valve supervisory switches (tamper switches), low air switches, low water switches, low temperature switches, fire pump condition indicators and/or any other situation or condition deem necessary by the AHJ.

(8) Fire alarm systems shall be addressable and capable of indicating the status of all specific components connected to the system.

(9) All fire alarm systems shall be monitored by a service acceptable to the AHJ.

(10) Fire alarm annunciators shall be installed in all protected premises. The number and locations of the fire alarm annunciators installed shall be acceptable to the AHJ.

(11) As determined by the AHJ, any additional notification and/or initiation appliances/devices may be required due to size, occupancy hazards, building construction, and/or occupancy use.

(12) The wiring class and style must be acceptable to the AHJ.

(13) The wiring class and style required will vary depending on the type of construction, occupancy, building height and/or building size.

(d) *Submittals for fire alarm systems.* Submittals for fire alarm systems are intended to provide basic information consistent with the objective of installing a fully operational, code compliant fire alarm system and to provide the basis for the record drawings required by NFPA

72. Conditional approval of a fire alarm system submittal and/or any portion thereof is not intended to imply waiver or modification of any requirements of any code or any other applicable criteria.

(1) Three sets of each fire alarm submittal shall be submitted for conditional approval. The municipality may retain two copies of each submittal and one copy will be returned to the installing contractor.

(2) Fire alarm submittals shall include all information required by the AHJ and include to an extent commensurate with the extent of the work being performed, and the following:

a. Shop drawings/plans.

b. Riser diagrams (except for systems in single-story buildings).

c. Control panel wiring diagrams.

d. Point-to-point wiring diagrams.

e. Typical wiring diagrams.

f. Specifications.

g. Battery calculations.

h. Voltage drop calculations acceptable to the AHJ.

i. Current manufacturer's equipment data sheets for all equipment that will be used for the system.

(3) All shop drawings/plans shall be drawn on sheets of uniform size to a recognized scale and shall include the following information:

a. Name of owner and occupant.

b. Location, including street address.

c. Device legend.

d. Date.

e. Name of the person that designed the fire alarm system.

f. Name, address, phone number and facsimile number of the company that designed the fire alarm system.

g. Name address, phone number and facsimile number of the company that is going to install the fire alarm system.

h. Name address and phone number of the fire alarm system monitoring company.

i. Name of the control panel manufacturer.

j. Model number of the control panel.

k. Control panel wiring diagrams.

l. Point-to-point wiring diagrams.

m. Typical wiring diagrams.

n. Floor identification.

o. Point of compass.

p. Graphic scale.

q. All walls and doors.

r. All partitions extending to within 18 inches of the finished ceiling.

s. Room descriptions.

t. Fire alarm device/component locations.

u. Locations of fire alarm primary power connection.

v. Locations of monitor/control interfaces to other systems.

w. Riser locations.

x. The location of the electrical panel that has the control panel circuit breaker.

y. All ceiling heights.

z. Type of wiring to be used.

aa. Wire gauge to be used.

bb. Wiring class and style.

(4) Fire alarm system riser diagrams shall include the following information:

a. General arrangement of the system, in building cross-section.

b. Number of risers.

c. Type and number of circuits in each riser.

d. Type and number of fire alarm system components/devices on each circuit, on each floor or level.

e. Control panel wiring diagram.

f. Power supply wiring diagram.

g. Battery charger wiring diagram.

h. Annunciator wiring diagram.

(5) Wiring diagrams shall be provided and shall include the following information:

a. Identification of the control equipment depicted.

b. Location of control panels.

c. All field wiring terminals.

d. Terminal identifications.

e. All circuits connected to field wiring terminals.

f. Circuit identifications.

g. All indicators.

h. Manual controls.

i. Full text of all labels.

j. Field connections to supervising station signaling equipment.

k. Releasing equipment.

l. Fire safety control interfaces.

(6) Typical wiring diagrams shall be provided for all of the following:

a. Initiating devices.

b. Notification appliances.

c. Remote alarm light emitting diodes (LEDs).

d. Remote test stations.

e. End-of-line and power supervisory devices.

(e) *Inspections, testing and record keeping.*

(1) The fire department and/or their representative may inspect all fire alarm system installations. All equipment must be inspected prior to any equipment being installed. The fire department must be notified at least 48 hours prior to any fire alarm component being concealed.

(2) The AHJ may witness all acceptance tests. The AHJ must be notified a minimum of 48 hours prior to any testing.

(3) Two copies of the completed fire alarm system record of completion required by NFPA 72 must be provided to the AHJ prior to final acceptance.

(4) Permanent records must be provided in accordance with NFPA 72. This includes a completed fire alarm system inspection and testing form.

(f) *Special requirements.* On all buildings over four stories in height a fire command center for fire department operations shall be provided. The fire command center shall comply with NFPA 72 and shall contain the features required in the International Fire Code and NFPA 1 and NFPA 101. Two-way telephone communication service shall be provided for fire department use. This system shall be in accordance with NFPA 72. The communications system shall operate between the central control station and every elevator car, every elevator lobby, and each floor level of exit stairs.

(g) *Testing.* When a fire alarm system and/or connected component is installed or altered, a fire alarm system performance test shall be conducted. Once the appropriate plans, permits, and installation work has been completed, the installing contractor shall contact the AHJ to set up the witnessing of a performance test to ensure all appliances are installed and functioning properly. Prior to requesting the AHJ witness a performance test the responsible parties must provide the AHJ with a completed copy of the record of completion required by NFPA 72.

(h) *Maintenance.* All devices shall be installed, maintained, and tested in accordance with NFPA 72 standards. If at any point a fire alarm fails to pass the annual test set forth in NFPA 72, the building owner and fire alarm system tester/inspector shall notify the AHJ of the test results. It shall be the AHJ's determination if that failed system is to be repaired or upgraded to comply with this article.

(i) *Fire alarm control panels.* Shall display the status of the system components and be installed in a location acceptable to the AHJ. Adequate access for fire department, alarm maintenance, and inspection personnel shall be maintained. Fire alarm control panels shall not be located within private dwellings with the exception of one-family and two-family dwellings. (Code 2004, § 5.14; Ord. No. 2226, 11-8-2006)

Sec. 16-82. Automatic fire protection for cooking areas.

(a) *Intent.* The intent of this section is to require automatic fire extinguishing systems in vent hoods and duct systems in all cooking areas to effectively extinguish fire at its source and reduce property damage and losses.

(b) *Where required.* Automatic fire extinguishing systems shall be installed in any cooking area required by the state codes and any area the AHJ has determined a potential fire risk exists.

(c) *Installation requirements.*

(1) All fire extinguishing systems must be submitted to the AHJ for conditional approval.

(2) All fire extinguishing system submittals must include the following:

a. A dimensional drawing including the following information:

1. The owner's name.
2. The owner's address.
3. The owner's phone number.
4. The exhaust hood and duct.
5. The area of the protected surface.
6. The name of the installing contractor.
7. The address of the installing contractor.
8. The phone number of the installing contractor.

9. The fire extinguishing system equipment manufacturer's name.
10. The fire extinguishing system equipment manufacturer's address.
11. The fire extinguishing system equipment manufacturer's phone number.
12. The fire extinguishing system equipment manufacturer's model designations.
13. The name of the extinguishing agent being used.
14. The size and number of tanks to be installed.
15. All piping systems with lengths and sizes.
16. All nozzles with the fire extinguishing system equipment manufacturer's model designations.
17. The distance of nozzles above the cooking surface.
18. The location and type of detection devices.
19. All cooking equipment that is to be protected.
20. The location of any gas shut-off valves.
21. The location of manual pull stations.

b. Copies of the fire extinguishing system equipment manufacturer's data sheets for all equipment that will be installed including model designations.

(3) The system shall be provided with automatic fuel shut-off.

(4) A Class K fire extinguisher shall be installed per NFPA 10.

(5) Alarms shall be connected to the fire alarm system per NFPA 72.

(6) Cooking equipment used in processes producing smoke, or grease-laden vapors shall be equipped with an exhaust system that complies with all the equipment and performance requirements of NFPA 1 and NFPA 96, and all such equipment and performance shall be maintained per NFPA 96 during all periods of operation of the cooking equipment.

(Code 2004, § 5.15; Ord. No. 2226, 11-8-2006)

Sec. 16-83. Addresses and door labeling.

(a) *Assignment and placement procedure.* Addresses as assigned by the AHJ shall be placed on all structures or property supporting the same as follows:

(1) *Placement*. The address shall be put in place on the structure as soon as reasonably possible during construction at a location acceptable to the AHJ.

(2) *Description of numbers and letters*. Numbers and letters shall be of contrasting colors (e.g., black and white) and readable from the road or highway and:

a. Arabic numbers shall be used; script and Roman numerals cannot be used alone, but may be used as an addition to the requirements of this section.

b. All single-family and two-family residential buildings shall have street numbers, not less than three inches high and placed on the exterior wall of the principal building that faces the street or service drive providing access to the building. All such residential units shall also have street numbers, not less than 3½ inches high, placed on their respective mail box. If the building setback is greater than 100 feet from the roadway the address shall be moved no further than 25 feet from the roadway and placed within ten feet of the entrance to the property. Numbers and letters shall be visible from the roadway at all times of the year.

c. If the mailbox is on a different street from the residence, the street name and house number must be inscribed on the mailbox.

d. All buildings located in the city shall have the property street address number clearly posted on the back of the building closest to the alley, facing the alley, between five feet and eight feet from the ground level, with the size of the numbers no less than three inches nor more than 12 inches in height, with proportional width, and the background of the numbers in contrast with the color of surface they are mounted on.

(3) *Multifamily requirements*. All multifamily buildings shall have street numbers placed on the exterior of the principal building that faces the street service drive or parking lot and located adjacent to the individual unit entrances to the buildings. In addition, each building shall be identified by a letter or number, not less than 12 inches high, located near the top of the building wall facing the street, service drive or parking lot serving that building. At the entrance of each access drive, there shall be a directory listing of the street numbers and building identifications that are accessible from the said street, service drive or parking lot. Suite numbers identifying the individual units must be placed on the primary entrance to each occupancy.

(4) *Commercial and industrial requirements*.

a. If less than 75 feet in height, shall have street numbers not less than six inches high placed at the exterior wall of the principal building facing the street, service drive or parking lot providing access to that building and located adjacent to any primary entrance door.

b. If more than 75 feet in height, shall have street numbers not less than 24 inches in height located on the wall facing the primary street and main entrance.

c. All suite numbers that identify each individual unit shall be placed on the primary entrance to each business or occupancy.

d. All commercial or industrial structures, which have a rear service door, shall identify the occupant and the street address conspicuously and on said rear door in contrasting and reflective letters and/or numbers not less than six inches in height, and shall continually maintain same.

(b) *Numbering and lettering supplemental to address location on mailboxes.* Address numbering and lettering shall be in addition to addresses placed on mailboxes, paper boxes or similar objects.

(Code 2004, § 5.16(1); Ord. No. 2226, 11-8-2006)

Sec. 16-84. Door, floor and stairway identification.

Any occupancy having more than five exterior means of egress and/or more than two floors in height shall number the individual egress areas according to this section:

(1) An identifying number shall be placed on the interior and exterior of each means of egress doorway not less than six inches high in contrasting color and light reflective. The main entrance or means of egress shall be numbered one with each additional means of egress, progressing clockwise around the exterior of the structure to reflect its relationship to the main entrance. All means of egress leading into the structure shall be numbered not just the required exit egresses.

(2) Each interior door providing access to an enclosed stairway that is considered part of an accessible means of egress shall be identified with numbers and letters not less than 3½ inches high in the following manner:

a. Have a sign indicating floor level posted on both sides of the egress door in a location acceptable to the AHJ.

b. Have a sign indicting the exterior exit door egress located on both sides of the egress door in a location acceptable to the AHJ.

(3) Identification numbers shall be placed on the exterior windows of all hotels, motels, nursing homes, and multifamily occupancies to identify the room number or address it services. The numbers shall be not less than 3½ inches high, light reflective and in a location acceptable to the AHJ.

(Code 2004, § 5.16(2); Ord. No. 2226, 11-8-2006)

Sec. 16-85. Elevator cars.

All required passenger and freight elevators in all buildings and structures hereinafter constructed, except one-family and two-family residential occupancies, shall:

(1) Provide at least one elevator to all floors of such a size and arrangement to accommodate a 24-inch by 85-inch ambulance stretcher in the horizontal, open position.

(2) The elevator arranged to accommodate an ambulance stretcher shall be identified by the Star of Life. This symbol shall not be less than three inches in height and shall be placed on both sides of the hoist-way doorframe.

(Code 2004, § 5.16(3); Ord. No. 2226, 11-8-2006)

Sec. 16-86. Fire department access roads and fire lanes.

Unobstructed fire lanes that are accessible from a public road shall be provided for every building or portion of a building in accordance with this article and Wis. Admin. Code ch. SPS 362.

(1) Fire lanes shall have an unobstructed width of 24 feet with the road edge closest to the building at least ten feet from the building.

(2) It shall be unlawful for any persons to park motor vehicles on, or otherwise obstruct any fire lane.

(3) Where any part of a multifamily building is two or more stores in height, the minimum unobstructed width of the fire lane parallel to one side of the building shall be 26 feet.

(4) Designated fire access roads and fire lanes must be submitted and conditionally approved prior to issuance of building permits.

(Code 2004, § 5.16(4); Ord. No. 2226, 11-8-2006)

Sec. 16-87. Fire hydrants.

(a) *Intent.* The intent of this section is to ensure adequate water supply for firefighting purposes to structures, buildings, and normal premises while maintaining the safety of the public water supply. For the purpose of placing hydrants, the term "normal access routes" is defined as pavement, sidewalks, streets, driveways and paths leading to a building that are clear and maintained yearround.

(b) *Where required.*

(1) *Buildings and/or structures.* A property owner may be required at their expense to install a private hydrant on the owner's property or locate a public hydrant on city right-of-way, where city public hydrants do not have the fire flow capacity or are within a 300-foot radial distance to cover the building structure. The summation of all hydrants must attain full coverage of the structure. Required hydrants must be freestanding and shall be installed not less than 40 feet from the building exterior wall and may not be closer than 50 feet to another hydrant. Property owners may be required to install a hydrant where the public hydrant is across a major highway that precludes the closure of the roadway during a fire event. The AHJ will approve the actual location of all private hydrants. The director of public works will approve hydrants and their locations

on the public water system. Two copies of the building plans including site plans shall be provided to the building inspector for fire department and director of public works use, in addition to any copies or building plans required by the building inspector.

(2) *Mobile home parks.* Any new mobile home or trailer park or any mobile home or trailer park which expands by adding additional trailer or area to the present court site shall provide an approved water hydrant when any trailer or building located in such park is more than 300 feet from an approved hydrant. Water hydrants shall be provided so that no trailer or building is more than 300 feet from an approved hydrant by normal access routes.

(c) *Approved water hydrant.* A private water hydrant shall mean a water hydrant with two 2 1/2-inch and one 4 1/2-inch fire department connections with national standard threads and an operating nut size approved by the AHJ. Hydrants to be installed and used in the public right of way shall meet the current city water utility specifications. Where city-owned hydrants are installed the hydrant lead shall be 6 feet. Where a private hydrant is used, the owner shall submit flow computations and pipe size stamped by a registered professional engineer with the plan set, to justify the water service piping requirements. The engineer should account in his calculations all water service needs to include supply, water hydrant, fire sprinkler system and/or standpipe system. All water hydrants must be installed in accordance with the standards of the water utility and NFPA. All water hydrants shall be installed and maintained in such a manner and location so as to be accessible at all times to the fire department apparatus. All hydrants shall be installed, tested, in service, and accessible to the fire department prior to any aboveground construction or combustibles are brought onto the site.

(d) *Inspection, testing, maintenance and repair.*

(1) Private fire service mains and water tanks shall be periodically inspected, tested and maintained in accordance with NFPA 25 at the following intervals:

a. Private fire hydrants inspected, flow tested and maintained annually and after each operation.

b. Property owner shall immediately advise the fire department and the water utility as to hydrants which have been damaged, inoperable, or have been found deficient in required fire flow.

c. All inoperable hydrants shall be repaired as soon as possible or within a reasonable time frame as determined by the AHJ.

d. All records of inspections shall be maintained on site and made available to the AHJ upon request.

(2) Hydrants must be accessible at all times. Prohibited obstructions may include, but are not limited to, snow, parked vehicles, materials, equipment, storage and, refuse. No obstructions shall be within a four-foot radius of the hydrant.

(Code 2004, § 5.16(5); Ord. No. 2226, 11-8-2006)

Sec. 16-88. Access box system requirements.

(a) An access box system has been adopted for use by this fire department. The following structures shall be equipped with an access box at or near the main entrance or such location as required by the AHJ.

(1) Commercial or industrial structures protected by an automatic alarm system or automatic fire suppression system, or such structures that are secured in a way that restricts access during an emergency.

(2) Multifamily residential structures that have restricted access through locked doors and have a common corridor for access to the living units.

(3) Nursing homes, CBRFs, child day care and other health facilities.

(4) All educational occupancies.

(5) The AHJ shall have the authority to require any structure to install and maintain an access box.

(b) All newly constructed structures subject to this section shall have the access box installed and operational prior to the issuance of an occupancy permit. All structures in existence on the effective date of the ordinance from which this section is derived and who are subject to this section shall have one year from the date of being ordered by the AHJ to have an access box installed to complete installation.

(c) The owner or agent of a structure required to have an access box shall keep the following inside the box:

(1) Keys to locked points of ingress and egress whether on the interior or exterior.

(2) The keys to locked mechanical equipment, electrical, and elevator control rooms.

(3) The keys needed to open any alarm panels.

(4) Floor plans or maps as required by the AHJ.

(5) The keys to other areas as directed by the AHJ.

(d) All items required to be kept in the access box shall be the most currently used and must be continually updated.

(e) The access box shall be installed at the owner's expense.

(f) The size and type of access box will be determined by the AHJ.

Exception: Any building or site that has 24-hour, seven-day a week guard service or any occupancy that remains open 24 hours a day, seven days a week, does not require an access box, unless ordered by the fire chief.
(Code 2004, § 5.16(6); Ord. No. 2226, 11-8-2006)

Sec. 16-89. Site plan requirements.

Prior to, and as a condition of, obtaining an occupancy permit, the owner of all buildings, except one-family and two-family units, shall supply the fire department with an 8½-inch by 11-inch site plan which includes the following:

(1) Location of gas and electrical shut-offs.

(2) Location of high-pile storage.

(3) Location of fire department connection and sprinkler control valve.

(4) Dimensions of the structure in feet.

(5) Location of the standpipe.

(6) Main entrance labeled.

(7) Apartments, suites, or unit numbers.

(8) Location of all hydrants on the site and surrounding streets.

(9) Location of alarm panels.

(10) Location of access box.

(11) Special fire protection and area covered: heat vents, FM 200 systems etc.

(12) Special construction features: Sky lights, blowout walls, etc.

(13) Floor plans, including roof access points.

(Code 2004, § 5.16(7); Ord. No. 2226, 11-8-2006)

Sec. 16-90. Roof spaces.

(a) All combustible roof spaces shall be subdivided every 3,000 square feet by one-hour rated partitions unless protected by a complete approved automatic fire sprinkler system.

(b) Any openings in the required one-hour rated partition must have a minimum of a one-hour rated self-closing door.

(Code 2004, § 5.16(8); Ord. No. 2226, 11-8-2006)

Sec. 16-91. Rough inspection requirements; system; component concealment.

(a) Rough inspections required by this article shall be conducted by the AHJ.

(b) Rough inspections are required specifically to determine if substantial compliance with this article has been provided for in all structures regulated by this article.

(c) The following rough inspection requirements are specifically established by this article and shall be enforced by the AHJ:

(1) All automatic fire sprinkler systems must have rough inspections done by the AHJ.

(2) All fire sprinkler systems must have rough inspections done by the AHJ.

(3) All fire control systems must have rough inspections done by the AHJ.

(4) All fire suppression systems must have rough inspections done by the AHJ.

(5) All fire alarm systems must have rough inspections done by the AHJ.

(6) All fire detection systems must have rough inspections done by the AHJ.

(7) Complete and accurate as-built drawings and revised hydraulic calculations must be resubmitted for the AHJ's review and approval for all fire sprinkler systems that utilize CPVC piping prior to any piping being concealed and a rough inspection must be done by the AHJ.

(8) All systems and/or building components the AHJ deems necessary must have rough inspections done by the AHJ.

(9) All rough inspections must be completed by the AHJ prior to any system, equipment and/or component thereof subject to the requirements of this article.

(10) All rough inspections must be completed by the AHJ prior to any system, equipment and/or component thereof being concealed in any way and/or by any means.

(11) All systems, equipment and/or component thereof, must be in plain view from the floor or grade level for all rough inspections.

(d) System and/or component concealment restrictions are hereby established.

(e) All structures regulated by this article shall comply with the following:

(1) The AHJ shall allow the concealment of any system and/or component thereof regulated by this article only after determining substantial compliance with the requirements of this article has been accomplished.

(2) If any system and/or any component thereof is concealed prior to the AHJ conducting a rough inspection of any system and/or any component thereof regulated by this article, the AHJ may order the removal of any materials that are preventing a rough inspection from being completed.

(3) All requirements of this article shall be complied with prior to concealing any system and/or any component thereof.

(4) If the requirements of this article are not complied with the AHJ may issue a stop work order on any project or portion thereof.

(Code 2004, § 5.16(9); Ord. No. 2226, 11-8-2006)

Sec. 16-92. Occupancy inspections.

The fire department shall conduct inspections of public buildings and places of employment prior to the issuance of local occupancy permits. Written documentation of the inspections shall be kept by the fire department.
(Code 2004, § 5.16(10); Ord. No. 2226, 11-8-2006)

Sec. 16-93. Building plan review.

The fire department shall conduct plan reviews and approvals of fire safety related elements prior to construction of any public buildings and/or places of employment.
(Code 2004, § 5.16(11); Ord. No. 2226, 11-8-2006)

Sec. 16-94. Fire sprinkler control valve access.

All structures that have automatic sprinkler systems shall comply with the following:

(1) Have sprinkler control rooms located with adequate access for fire department, sprinkler maintenance and inspection personnel.

(2) Shall not be located within private dwellings with the exception of NFPA 13D systems.

(3) Have direct access from the exterior to the sprinkler control valve that is acceptable to the AHJ.

(Code 2004, § 5.16(12); Ord. No. 2226, 11-8-2006)

Sec. 16-95. Careless smoking prohibited.

(a) No person shall smoke or carry a lighted cigar, cigarette, or pipe, or light a match or other flame-producing device in any retail mercantile establishment, except in areas approved for such purposes by the AHJ. It shall be the duty of the person in charge of such an establishment to enforce the regulations of this section.

(b) Smoking shall be prohibited in all rooms or parts of buildings which contain flammable liquids in open containers or in which flammable liquids are used in any manufacturing process or where vapors from the flammable liquids are present or sold.

(c) A plainly printed notice of the provisions of this section shall be posted in a conspicuous place in all occupancies. Such printed notice shall also be posted in any place of public assembly where smoking is prohibited.

(d) No smoking or use of flame-producing devices in schools or public libraries.

(1) No person shall light a match or other flame-producing device, smoke, or carry a lighted cigar, cigarette, or pipe in any school building or public library except in areas

approved for such purpose by the AHJ. It shall be the duty of the person in charge of such buildings to post and maintain approved signs bearing the words "NO SMOKING" in locations designated by the AHJ.

(2) Wis. Stats. §§ 101.025(1) and 101.123, are hereby adopted by reference as if fully set forth herein.

(Code 2004, § 5.17(1); Ord. No. 2226, 11-8-2006)

Sec. 16-96. Fire damaged buildings (securing).

All dwellings and buildings within the municipality damaged from fire shall be secured within 24 hours of release of the property by the AHJ. The owner of the damaged property shall assume the liability for the protection of the public until the property is secured.

(Code 2004, § 5.17(2); Ord. No. 2226, 11-8-2006)

Sec. 16-97. Fireworks.

(a) *Sales*. Except as provided in Wis. Stats. § 167.10(2) and (4), no person shall sell or possess with the intent to sell fireworks.

(b) *Possession*. No person shall possess, use, display, discharge or sell any fireworks without a permit.

(c) *Use*. Except as provided in Wis. Stats. § 167.10(3), no person shall possess or use fireworks without a user's permit issued pursuant to subsection (d) of this section.

(d) *User permit*. As provided in Wis. Stats. § 167.10(3), fireworks user's permits may be issued for festivals or celebrations after proper application to the municipality. The AHJ shall require a certificate of liability insurance or similar proof of coverage on an amount deemed appropriate. Permits to display or discharge fireworks shall be issued as follows:

(1) An application for a permit may be obtained at the fire department.

(2) Applications shall be submitted not less than seven days prior to the date of such display.

(3) No accumulating or purchase of fireworks shall be allowed prior to the issuance of the permit.

(4) After review of the application and inspection of the site, a permit shall be issued or denied at the discretion of the AHJ upon due consideration of the provisions of this chapter and the promotion of public safety and security of adjoining property.

(5) The AHJ reserves the right to reinspect the display and landing sites at any time to ensure public safety.

(6) NFPA 1123 and 1124 will be used as guidelines for these inspections.

(7) The cost of such permit shall be as set forth in the city fee schedule.

(8) All persons applying for a permit must also have proof of liability insurance in the amount of $1,000,000.00 and a copy of any contract with companies which will be responsible in whole or part for the fireworks, storage or display.

(9) All display companies and personnel who are paid to set off fireworks within the city shall return to the area of the fireworks display within 18 hours of the display and during daylight hours to carefully search for and dispose of unexploded fireworks.

(10) The municipality's police and/or fire department personnel are authorized to enlarge the area required to be searched by the display companies and their personnel.

(e) *No permits*. Permits will not be issued to manufacture fireworks.

(f) *Use of caps and sparklers*. No unlicensed person may use fireworks, caps, sparklers in a municipal park or at a fireworks display for which a permit has been issued if the display is open to the public.

(g) *Pyrotechnics*. Pyrotechnics are prohibited in public buildings and places of employment unless authorized by the AHJ and shall be used in accordance with NFPA 1123.
(Code 2004, § 5.17(3); Ord. No. 2226, 11-8-2006)

Sec. 16-98. High-piled combustible storage.

(a) High-piled combustible storage must comply with chapter 23 of the International Fire Code.

(b) Definitions as found in section 2302 of the International Fire Code will be used for high-piled combustible storage.

(c) Commodities shall be classified in accordance with section 2303 of the International Fire Code.

(d) High-piled combustible storage areas shall be designated in accordance to section 2304 of the International Fire Code.

(e) Housekeeping and maintenance of high-piled combustible storage areas shall be in accordance with section 2305 of the International Fire Code.

(f) General fire protection and life-safety features shall be in accordance with section 2306 of the International Fire Code. Exception: Compliance with section 2306.7 is not required by this Code. (Note: Compliance with this section may be required by the state.)

(g) Solid piled and shelf storage shall be in accordance with section 2307 of the International Fire Code.

(h) Rack storage shall be in accordance with section 2308 of the International Fire Code.

(i) Automated storage shall be in accordance with section 2309 of the International Fire Code.

(j) Specialty storage shall be in accordance with section 2310 of the International Fire Code. (Code 2004, § 5.17(4); Ord. No. 2226, 11-8-2006)

Sec. 16-99. Open burning.

(a) *Limitations*. Burning of any kind is restricted. A permit must be issued by the fire department prior to any open burning, recreational fire or bonfire being started.

(b) *Permissible burning*.

(1) Grills. For other than one-family and two-family dwellings, no hibachi, gas-fired grills, charcoal grill or similar devices used for cooking, heating, or any other purpose shall be used or kindled on any balcony or under any overhanging portion of a building. Grilling on ground level is permissible provided that the grill is at least 7 feet away from any structure. Smoke must not be a nuisance to neighbors or public roadways.

(2) No outdoor cooking device shall be used between 12:00 midnight and the following sunrise.

(3) Listed electrical ranges, grills or similar electrical apparatus shall be permitted.

(4) Open burning, bonfires, fire pits, and recreational fires shall comply with the requirements of NFPA 1 and the following requirements:

a. Portable fire pits:

1. Portable fire pits shall not be used or kindled on any balcony or under any overhanging portion or within 10 feet of any structure.
2. Portable fire pits must be placed on a noncombustible surface.
3. Portable fire pits shall be listed by a nationally recognized testing organization or acceptable to the AHJ.
4. Burning of yard waste or other refuse is prohibited; only clean, dry wood can be used.
5. Flammable or combustible liquids shall not be used to ignite the fire.
6. Smoke shall be limited and shall not become a nuisance to neighbors or public roads.
7. No flame shall at any time exceed one foot in height over the source fuel.
8. Portable fire pits shall not be used between 12:00 midnight and the following sunrise.

b. Recreational fires:

1. Shall not be located within 25 feet of a structure or combustible material unless contained in an approved manner.
2. The total fire area shall not exceed three feet in diameter and two feet in height.

3. Only clean, dry wood can be burned.
4. Flammable or combustible liquids shall not be used to ignite the fire.
5. Smoke shall be limited and shall not become a nuisance to neighbors or public roads.

c. Open burning: There shall be no open-air burning of any combustible waste material except as allowed by permit issued by the AHJ and subject to the following regulations:

1. Wind velocity cannot exceed nine miles per hour.
2. Contents of the pile can only include leaves, brush and other garden refuse.
3. Burning of building materials is prohibited.
4. The size of the pile shall not exceed four feet in width or three feet in height.
5. Open burning shall be constantly supervised by a competent person, at least 16 years old, until the fire is extinguished.
6. The pile to be burned shall be a minimum of 50 feet from buildings and 25 feet from any public roadways, highways or other thoroughfare.
7. If smoke travels in such a manner to obscure any public roadway, highway or other public thoroughfare, the fire shall be extinguished.
8. Open-air burning shall only be permitted from 7:00 a.m. to½ hour after sunset.
9. Open burning shall be permitted from April 1 to June 15 and October 1 to November 15.
10. Flammable or combustible liquids shall not be used to ignite or accelerate the fire at any point.
11. No person shall start or maintain an open fire without obtaining a permit.
12. Smoke shall be limited and shall not become a nuisance to neighbors or public roads.

d. Bonfires:

1. No person shall start or maintain a bonfire without obtaining a permit from the fire department.
2. An application for a permit may be obtained at the fire department.
3. Applications shall be submitted not less than seven days prior to the date of such bonfire.
4. No accumulating of items to burn in the bonfire shall be allowed prior to the issuance of the permit.

5. After review of the application and inspection of the site, a permit shall be issued or denied at the discretion of the AHJ upon due consideration of the provisions of this section and the promotion of public safety and the security of adjoining property.
6. The AHJ reserves the right to reinspect the bonfire site at any time to ensure public safety.
7. The cost of such permit shall be as set forth in the city fee schedule.
8. Requirements for bonfires shall be as follows:
   (i) Fires shall be no larger than ten feet in diameter or ten feet tall.
   (ii) The fire area shall be protected by a fire ring or in some other fashion acceptable to the AHJ to prevent fire spread or a fire hazard.
   (iii) Fires shall contain only wood; other building products are prohibited.
   (iv) Fires shall not be started or accelerated using flammable liquids.
   (v) Fires must be attended at all times by a competent person of at least 18 years of age who has obtained the permission of the property owner.
   (vi) The fire must be at least 50 feet from all structures, roadways and lot lines.
   (vii) If smoke travels in such a manner that it obscures roadways, the AHJ reserves the right to require that the fire be extinguished.

(5) All fires must be supervised at all times by an adult and have the proper means available to extinguish the fire.

(6) No fire shall be left unattended.

(Code 2004, § 5.17(5); Ord. No. 2226, 11-8-2006)

Sec. 16-100. Possession of ignition devices.

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

Ignition device means:

(1) Matches;

(2) Lighters; or

(3) Any other materials when used for the purpose of ignition.

Minor means any child under 18 years of age.

(b) *Possession prohibited.* No minor may possess any ignition device, unless under the direct supervision of, or with direct permission of, a parent or legal guardian.

(c) *Delivery prohibited*. No person may sell, give, deliver or make accessible (as determined by the AHJ), any ignition device to a minor without the permission of the minor's parent or legal guardian.

(d) *Confiscation*. Any ignition device possessed by a minor may be confiscated by any peace officer, fire chief or authorized designee of the fire chief. Once confiscated, these ignition devices shall become the property of the confiscating authority and shall be processed accordingly as evidence in the commission of a crime or made inoperable and disposed of properly.

(e) *Penalty.* Any person who shall violate any of the provisions of this section shall for each and every violation, be punishable by forfeiture, plus any costs or surcharges as required by law. (Code 2004, § 5.17(6); Ord. No. 2226, 11-8-2006)

Sec. 16-101. Christmas tree sales.

For the purpose of this section, the following minimum standards shall apply to the storage, handling, and display of live Christmas trees and foliage:

(1) Trees and foliage shall be stacked not closer than ten feet from any gasoline pump or other device for the transfer of petroleum products.

(2) Aisles or clear spaces of not less than three feet shall be maintained at all times.

(3) A fire extinguisher with a "2A-10BC" rating or greater shall be provided by the merchant for each 75 feet of travel display and/or storage area.

(4) All storage and sales of live Christmas trees and foliage shall be held outside of buildings.

(5) It shall be unlawful to light a match or any flame-producing device, or to smoke or carry a lighted cigar, cigarette, or pipe in areas where live Christmas trees or foliage is displayed, sold, or stored. The person in charge of the Christmas tree sales shall post a "NO SMOKING" sign in locations designed to give persons entering the area a notice of this regulation.

(Code 2004, § 5.17(7); Ord. No. 2226, 11-8-2006)

Sec. 16-102. Blasting.

(a) *Permit required*. All persons or entities who perform blasting in the city shall obtain a permit from the fire department prior to storage or use of blasting agents or explosives. Application for a permit may be obtained at the fire department. Applications shall be submitted not less than seven days prior to the date of such blasting project. No accumulating of blasting agents or explosives shall be allowed prior to the issuance of the permit. After review of the application and inspection of the site, a permit shall be issued or denied at the discretion of the AHJ upon due consideration of the provisions of this section, promotion of

public safety and security of adjoining property. The AHJ reserves the right to reinspect the project site at any time to ensure public safety. The cost of such permit shall be as provided in the city fee schedule.

(b) *Exemptions*. Persons or entities engaged in the active operation of quarrying activities, as a legal, nonconforming, permissive or special use of land, prior to the effective date of the ordinance from which this section is derived, shall be exempt from the permit requirement hereunder.
(Code 2004, § 5.17(8); Ord. No. 2226, 11-8-2006)

Sec. 16-103. Flammable, combustible, and hazardous materials.

(a) The following items shall not be stored in any multifamily dwelling in the community except in locations approved by the AHJ.

(1) Charcoal, except in a metal container equipped with a metal cover.

(2) Oily rags or oily dust mops.

(3) Flammable liquids.

(4) Bottle gases. Propane, acetylene, oxygen or other substances of a similar nature.

(5) Gasoline motors and gasoline powered equipment.

(6) Dangerous or hazardous amounts of flammable, combustible or explosive material as determined by the AHJ.

(7) Hazardous conditions arising from defective or improperly installed equipment for handling or using flammable, combustible or explosive material.

(8) Dangerous accumulations of rubbish, waste paper, boxes, shavings, or other highly flammable materials as determined by the AHJ.

(9) Dangerous accumulations of dust or waste materials in air conditioning systems.

(b) Flammable, combustible and hazardous material shall be identified in accordance with NFPA 704.
(Code 2004, § 5.18)

Sec. 16-104. Special inspections required.

At the adoption of this article all CBRFs, adult family homes, adult day care centers and child day care centers (group) will be inspected not less then once a year by the fire department. A courtesy fire inspection is recommended for all family child day cares.
(Code 2004, § 5.19; Ord. No. 2226, 11-8-2006)

Sec. 16-105. Fire inspection fees.

(a) An annual fire inspection fee shall be charged to the property owner for required fire inspections of each building, structure, and premises.

(b) The annual fee shall constitute a special charge against the property inspected and shall be entered upon the tax roll as a charge against the property and all proceedings in relation to the collection, return, and sale of the property for delinquent real estate taxes shall apply to the inspection fee.

(c) Payment for the annual fee shall commence with the 2006 city property tax levy and shall be payable thereafter with each subsequent levy. The fee for the required fire inspections shall be as provided in the city fee schedule. The fee for hotels and motels shall be the same as for residential property, except that the fee shall be calculated on a per room basis. Square footage refers to total gross floor area of any building or structure.

(d) The calendar year fee shall be charged for inspection or testing services provided during such calendar year and shall constitute a special charge against the property to be served, pursuant to Wis. Stats. § 66.0703. Property owners shall be billed for such fees no later than June 30 of each year. If such fees are not paid on or before July 31 of each year, the fees shall become a lien against the property inspected and/or tested and shall automatically be extended upon the current tax roll as a delinquent tax against the property. All proceedings in relation to this collection, return and sale of property for delinquent real estate taxes shall apply to such special charge.

(e) All buildings owned by the United States government, the State of Wisconsin, the School District of Cudahy, and the city shall be exempt from this fire inspection fee.
(Code 2004, § 5.20; Ord. No. 2226, 11-8-2006)

Sec. 16-106. Penalties.

Any person who violates any of the provisions of this article, or who fails to comply with any order made hereunder, or who builds in violation of any detailed statement of specifications or plans submitted and conditionally approved hereunder, or any certificate or permit herein from which no such appeal has been taken, or who fails to comply with such an order as affirmed or modified by a court of competent jurisdiction within the time fixed herein, shall for each and every violation and noncompliance be subject to the following:

(1) Imposition by forfeiture of no more than $500.00 per day by the municipal court.

(2) Imposition of a penalty for each such violation shall not excuse the violation or permit it to continue and such violations or defects shall be corrected or remedied within the time stated in the order. Each and every day that a violation of this article occurs constitutes a separate offense.

(3) False alarms. If the fire department responds to three or more false alarms as described in section 16-51 , in one calendar year, the fire department may:

a. Fine the building owner or occupant to reimburse the fire department for the cost of equipment and personnel that was used to respond to the alarm.

b. Require that the fire alarm be serviced, upgraded, or replaced to bring the alarm system into compliance with the current code in order to prevent future false alarms.

(4) Any contractor that begins installation and/or alteration of any system regulated by this article prior to obtaining the required permit will be charged a triple fee.

(Code 2004, § 5.98; Ord. No. 2226, 11-8-2006)

Sec. 16-107. Appeals.

(a) Whenever the AHJ shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provision of this article do not apply or that the true intent and meaning of this article has been misconstrued or wrongly interpreted, the applicant may appeal the decision of the AHJ.

(b) Appeals shall be submitted in writing, to the chief of the fire department for a review of the initial determination within 30 days from the date of the decision of the AHJ.

(c) All appeals shall follow Wis. Stats. ch. 68, Municipal Administrative Procedure.

(Code 2004, § 5.99; Ord. No. 2226, 11-8-2006)

Chapter 17

RESERVED

Chapter 18

HEALTH AND PUBLIC WELFARE

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ARTICLE I. IN GENERAL

Sec. 18-1. Board of health.

The board of health shall be constituted and shall operate as provided in section 2-254. (Code 2004, § 11.01)

Sec. 18-2. Health officer.

(a) *Generally.* The health officer, under the direction of the deputy state health officer, shall:

(1) Make an annual sanitary survey and maintain a continuous sanitary supervision over his territory.

(2) Make a sanitary inspection periodically of all school buildings and places of public assemblage and report thereon to those responsible for the maintenance thereof.

(3) Promote the dissemination of information pertaining to the causes, nature and prevention of prevalent diseases and the preservation and improvement of health.

(4) Take steps necessary to secure prompt and full reports by physicians of communicable diseases and prompt and full registration of births and deaths.

(5) Enforce the health laws and the rules and regulations of the state department of health and social services.

(6) Keep and deliver to his successor a record of all his official acts.

(b) *Enforcement.*

(1) *By health officer*. The health officer shall enforce the health laws of the state, particularly Wis. Stats. ch. 141, the rules and regulations of the state department of health, the ordinances of the city and the rules and regulations of the city board of health.

(2) *Assistance from police and other officers*. The police and all other officers and all citizens shall aid, to the utmost of their power, the health officer in the discharge of his duties, and on his request, the chief of police shall detail one or more policemen to serve notices issued by the health officer and perform such other duties as he may require.

(c) *Reports.*

(1) *Reports to state department of health and social services*. The health officer and the clerk of the board shall at least once a year report to the state department their transactions and such other facts as shall be required according to instructions furnished and shall make special reports when required.

(2) *Reports to the city council*. The health officer shall make an annual report to the city council as to the state of health of the city. He shall also from time to time make such other reports and recommend such sanitary measures to the board of health as he may deem necessary.

(3) *Reports of unusual danger to public health*. Whenever, in the judgment of the health officer, danger to public health arises requiring special regulation not of general application, he shall notify the chairperson of the board of health, who shall convene the board to take such action as may be necessary and proper.

(d) *Health hazards.* The health officer shall cause the removal of all objects or noxious substances detrimental to health in the city.

(e) *Communicable diseases.* The health officer shall perform all duties required of him by the state department of health and social services regarding contagious diseases, particularly those required by Wis. Stats. ch. 143.

(f) *Inspection of premises.* The health officer may enter and inspect any premises where conditions dangerous to public health are known or believed to exist and shall examine complaints made by any of the inhabitants concerning sources of danger or injury to health. He shall make accurate records of his official actions and report the same to the board of health at its next meeting.

(g) *Additional duties.* The health officer shall perform such additional duties as the board of health or city council may from time to time prescribe.
(Code 2004, § 11.02)

Sec. 18-3. Sanitary inspector.

(a) *Right to enter premises*. The sanitary inspector shall enter and inspect any premises, except private homes, where meat, fish, poultry, game, milk, bakery goods or other foodstuffs are stored, prepared or dispensed for human consumption.

(b) *Right to inspect vehicles*. The sanitary inspector shall also inspect any vehicle transporting foodstuffs from one point to another within the city, except privately owned vehicles transporting such foodstuffs for personal consumption by the owner of such vehicle.

(c) *To placard quarantined premises*. The sanitary inspector shall placard premises quarantined by the health officer and remove the same when directed by such officer.

(d) *Additional duties*. The sanitary inspector shall perform such additional duties as the board of health or the city council may from time to time prescribe.
(Code 2004, § 11.03)

Sec. 18-4. Health nuisances: abatement and removal.

A nuisance, under this section, is any condition endangering human life or health, and any source of filth or sickness, as defined in Wis. Stats. § 254.95. The health officer may order the abatement or removal of a nuisance on private premises, and if the owner or occupant fails to comply, the health officer or his agent may enter upon the premises and abate or remove such nuisance, pursuant to Wis. Stats. § 254.595, which is adopted by reference as a part of this section. Any person who refuses to remove a nuisance upon order of the health officer or the board of health within the time required in such order shall be subject to a penalty as provided in section 1-15.
(Code 2004, § 11.04; Ord. No. 1849, 7-21-1998)

Sec. 18-5. Smoking prohibited.

(a) *Purpose.* The purposes of this section are to protect the public health and welfare by prohibiting smoking in enclosed public places and places of employment and to guarantee the right of nonsmokers to breathe smoke-free air while indoors.

(b) *Definition of enclosed indoor area.* In addition to the definition of the term "enclosed place" set forth in Wis. Stats. § 101.123, an "enclosed indoor area," for the purposes of this section, shall include all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.

(c) *Adoption of state law.* The provisions of Wis. Stats. § 101.123 relating to the prohibition of smoking in various enclosed indoor areas is hereby adopted and made part of this Code by reference. As prescribed by state statutes, a warning notice shall be issued to the "person in charge" for the first violation.

(d) *Penalty.* A violation of this section of the Code relating to the prohibition of smoking in various enclosed places shall be subject to a forfeiture of not less than $100.00 nor more than $250.00 for each violation, except that the forfeiture for a "person in charge" shall be $100.00 for all violations occurring on a single day.
(Code 2004, § 9.205; Ord. No. 2088, 11-4-2003; Ord. No. 2345, 8-3-2010; Ord. No. 2345.2, 12-7-2010)

Secs. 18-6—18-28. Reserved.

ARTICLE II. LEAD ABATEMENT

Sec. 18-29. Definitions.

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

Abatement means the reduction, removal or encapsulation of lead.

Approved lead abatement contractor means an individual who can perform the safe and proper abatement of lead based objects, surfaces and substances in dwelling units, premises and supplemental locations.

Body burden means elevated blood lead level.

Child means any youth under seven years of age.

Commission means the commission of health or an authorized representative.

Department means the health department.

Dwelling means any building or structure which is wholly or partly used or intended to be used for living or sleeping by the human occupants that include any appurtenances attached thereto.

Dwelling unit means any structure, all or part of which is designed for human habitation.

Elevated blood lead level means a confirmed concentration of lead in whole blood of 25 micrograms per deciliter or greater or the current level set by the U.S. Public Health Service, whichever is more restrictive.

HEPA vacuum means a high efficiency particle accumulator vacuum.

Lead abatement project means the proper abatement, removal and disposal of lead based nuisance ordered by the department.

Lead based nuisance means any lead based substance, surface or object which may contribute to an increased body burden of lead due to its condition, location or nature and which is accessible to children is declared a public health hazard and nuisance as defined in section 26-1.

Lead based object means any surface or substance covered with any lead bearing paint or other coating material.

Lead based surface means any painted or coated surface having a lead content greater than or equal to one milligram of lead per square centimeter as measured by an x-ray fluorescence analyzer or other approved recognized field or laboratory method.

Owner means any person who alone, jointly or severally with others:

(1) Has legal or equitable title to any dwelling, dwelling unit, supplemental location or premises; or

(2) Who has charge, care or control of the dwelling, dwelling unit, supplemental location or premises as owner or agent of the owner or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

Personal property owner means any person who possesses lead based objects or substances.

Premises means any portion of a platted or unplatted lot, parcel or plot of land, either occupied or unoccupied by any building or structure, equipment or property of any kind.

Supplemental location means any structure or premises where any person cares for, teaches, trains or supervises a child.
(Code 2004, § 11.09(1); Ord. No. 2397, 2-19-2014)

Sec. 18-30. Lead poisoning prevention and control regulations.

(a) *Prohibited acts*. No owner may create or allow to exist in or on their property any lead based nuisance.

(b) *Lead bearing paints*. No person may apply lead bearing paints having a lead content of more than 0.06 percent by weight, calculated as lead in the total nonvolatile content or any other coating material which would result in a lead based surface to:

(1) Any exposed surface on the interior or exterior of a dwelling, dwelling unit, supplemental location or premises.

(2) Any object to be used inside, outside or upon any exposed surface of a dwelling unit, supplemental location or premises.

(c) *Warning label required*.

(1) No person may store, sell, give away or accept any paint, coating material or object which has a lead content of more than 0.06 percent by weight, calculated as lead metal in the total nonvolatile content of the liquid, including any additives, or a finished surface that contains lead at a concentration of greater than one milligram per square centimeter, unless such paint, coating material or object has a securely attached, prominently displayed and easily read label with the following wording:

"WARNING!
CONTAINS LEAD!
HARMFUL IF CONSUMED!
KEEP OUT OF REACH OF CHILDREN!
DO NOT APPLY WHERE ACCESSIBLE TO CHILDREN!"

(2) The warning statement shall also be required on any accompanying literature, instructions or directions.

(d) *Existing dwellings*.

(1) In existing dwellings in which lead paint has already been legally applied, no surface shall contain lead paint in excess of 0.7 milligrams (0.06 percent) of lead per square centimeter of paint surface.

(2) Other areas containing loose lead paint, including cracked, chipped, blistered, peeling or flaking paint, shall be removed to the base surface wherever found. In lieu of removal of lead paint, surfaces may be covered with plasterboard, wallboard, wood paneling or other durable material to a height of four inches above the floor, provided in the opinion of the health officer it satisfactorily eliminates the lead hazard to children.

(3) Fresh paint shall not be applied on the interior surfaces until the areas from which the lead-based paint has been removed are inspected and approved for repainting by the health officer.

(e) *Enforcement*.

(1) The department may conduct an inspection of a dwelling, dwelling unit, supplemental location or premises on surfaces, substances or objects which the department has reason to believe exceeds the allowable lead levels and may also take samples of materials which are believed to contain lead for further laboratory analysis.

(2) If the department is refused admittance to any dwelling unit, supplemental location or premises to conduct an environmental inspection, the commission may apply for and obtain a special warrant pursuant to Wis. Stats. §§ 66.122 and 66.123, to gain access.

(3) If the department determines that a lead based nuisance exists in or upon a dwelling, dwelling unit, supplemental location or premises, the department may:

a. Notify the occupant or the occupant's representative and the owner that lead based surfaces, substances or objects are present and that they constitute a health hazard.

b. Issue orders to abate, remove, dispose, replace or cover securely those lead based surfaces, substances or objects found to exceed allowable lead levels.

(4) Inspection for compliance under this section shall be done prior to the issuance of any certificate of occupancy by the building inspector. If orders are not complied with by the expiration date, the building inspector may, provided the department has the funds available, use the authority delegated under the state statutes to summarily abate or remove a nuisance and may, after following proper notice and an opportunity for a hearing before the board of appeals, assess the cost of such action, not to exceed 40 percent of the assessed market value of the property as a special tax upon the property.

(Code 2004, § 11.09(2); Ord. No. 2397, 2-19-2014)

Sec. 18-31. Abatement regulations.

(a) *Enforcement.* All regulations shall be enforced by the city building inspector.

(b) *Signs to be posted*. Prior to the abatement of lead from any area in a dwelling, supplemental location or premises, caution signs measuring 20 inches by 14 inches, issued by the department at the time the permit is obtained, shall be posted at all entrances and exits.

(c) *Where signs to be placed*. The signs shall be conspicuously placed and easily read by the inhabitants of the dwelling or supplemental structure and display the following wording:

"DANGER—LEAD PAINT DUST HAZARD"

(d) *When signs posted*. Signs shall be posted at least one day prior to the commencement of the abatement, except in emergency situations approved of by the commission.

(e) *Notice to occupants*. The permittee shall notify occupants of a dwelling or supplemental structure where there are excessive lead levels of the health hazards associated with abatement procedures. Occupants shall also be notified that the abatement area must be vacated while abatement is being conducted.

(f) *Compliance with other laws*. All lead based paint abatement activities shall comply with federal, state and local laws and regulations concerning the safety and health of workers, occupants, the public environment and the community.

(g) *Site inspection*. The building inspector may inspect any dwelling or supplemental location at any time during the abatement process to ensure compliance with abatement standards. Evaluation procedures including, but not limited to, wipe testing, air sampling and x-ray fluorescence analysis may be used to determine the effectiveness of the abatement.
(Code 2004, § 11.09(3); Ord. No. 2397, 2-19-2014)

Sec. 18-32. Interior site preparation.

(a) Furnishings shall be removed from each room or area as it is prepared for abatement or covered with plastic at least six mils thick and sealed with tape. All furnishings removed from the abatement area shall be HEPA vacuumed prior to their return.

(b) All heating ventilating, air conditioning openings and entrances to an abatement site, with the exception of the entrance used by workers, shall be sealed with plastic at least six mils thick and taped to prevent contamination by lead dust or particles. The entrance used by workers shall have two layers of six mils thick plastic attached to the top edge of the doorway and both sides.
(Code 2004, § 11.09(4); Ord. No. 2397, 2-19-2014)

Sec. 18-33. Interior abatement standards.

(a) *Initial cleaning*. Interior areas identified as being in violation of this section shall be thoroughly cleaned with a HEPA vacuum within five days of receipt of notice from the building inspector. All interior surfaces, including woodwork, wood trim, walls, ceilings, windows, floors and exterior window sills and wells shall be HEPA vacuumed.

(b) *Temporary hazard control*. All areas in violation of this section which have had an initial cleaning as provided in subsection (a) of this section and which are accessible to children must be taped or covered until additional procedures to abate the violation have been concluded.

(c) *Acceptable treatments*. Acceptable methods of on-site treatment for the removal or encapsulation of lead based paint from all surfaces, with the exception of those provided in subsection (b) of this section, including covering the area with material approved of by the building inspector or nonleaded paint, sealing and caulking seams and edges and paint removal using wet scraping, a heat gun or chemical strippers which do not contain methylene chloride.

(d) *Prohibited treatments*. Unacceptable methods of on-site treatment for the removal or encapsulation of lead based paint include sanding, sandblasting, grinding, the use of an open flame torch or strippers containing methylene chloride, vacuuming with household or shop vacuums and sweeping in areas that are not properly sealed.

(e) *Treatment of interior surfaces*.

(1) Walls, ceilings, woodwork and wood trim which require treatment shall be scraped and repaired to create a smooth surface. The entire wall, ceiling, woodwork or wood trim piece must then be HEPA vacuumed, washed with a product approved of by the building inspector and then coated or covered with an encapsulant, nonleaded based paint or material approved of by the building inspector.

(2) Floors having a lead based, painted surface shall be covered with vinyl tile, vinyl sheet goods, linoleum flooring or other approved materials. Chemical stripping of a floor shall be permissible.

(3) Varnish or other approved sealants may also be used on floors having a lead based surface, provided the floor is carpeted or covered in a manner approved of by the building inspector after it is sealed.

(4) Wood floors having a lead based clear surface with a varnish, stain, urethane or shellac finish may be treated with a sealant approved of by the building inspector.

(5) Wood floors which do not have a lead based surface, but require treatment, shall be HEPA vacuumed and washed with a product approved of by the building inspector.

(6) Any outer window sills or wells accessible from the inside shall either have all lead based paint removed and then coated with a covering approved of by the building inspector, be replaced with wood not covered with lead based paint or be sealed with fiberglass cloth and compound or metal.

(f) *Final cleaning*. After the entire abatement process has been completed, a final HEPA vacuuming and wash with a product approved of by the building inspector of all surfaces in the dwelling or supplemental location must be done.

(g) *Removal of waste*. All waste resulting from the abatement process shall be removed from the abatement site at the end of each workday and disposed of as required by city solid waste regulations.
(Code 2004, § 11.09(5); Ord. No. 2397, 2-19-2014)

Sec. 18-34. Exterior abatement preparation.

(a) Exterior abatement work shall be performed in a manner that will prevent lead abatement waste from coming into contact with the ground or from entering the interior of the dwelling or supplemental location.

(b) All windows and doors of the dwelling or supplemental location shall be kept closed while abatement is being conducted.

(c) Drop cloths to collect abatement waste shall be attached to and extend at least six feet from the form being worked on or the base of the structure.

(d) All abatement waste shall be collected at the end of each day and either stored in a secured area or disposed of as provided in section 18-36.
(Code 2004, § 11.09(6); Ord. No. 2397, 2-19-2014)

Sec. 18-35. Exterior abatement standards.

(a) Exterior areas found to be in violation of this article shall be scraped and repaired to create a smooth surface. The entire surface shall then be coated with aluminum, vinyl, steel siding, paint or a covering approved of by the building inspector or be replaced.

(b) In the event that a lead based exterior surface results in the contamination of soil with lead particles, the building inspector may order that the soil be removed to a depth of three inches and be replaced with uncontaminated soil or be covered in a manner approved of by the building inspector. Any contaminated soil shall be disposed of as provided in section 18-36.
(Code 2004, § 11.09(7); Ord. No. 2397, 2-19-2014)

Sec. 18-36. Disposal of abatement waste.

Waste generated from lead abatement shall be disposed of in a manner that will not endanger the health or well being of the occupants, neighbors or community and shall be in conformance with all applicable local, state and federal laws and regulations. At no time shall lead based paint dust be allowed to become airborne while being disposed of.
(Code 2004, § 11.09(8); Ord. No. 2397, 2-19-2014)

Secs. 18-37—18-60. Reserved.

ARTICLE III. RAT CONTROL AND EXTERMINATION

Sec. 18-61. Definitions.

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

Hardware cloth means wire screening of such thickness and spacing as to afford reasonable protection against the entrance of rats and mice.

Owner or *manager* means includes any person having charge of any business property or premises.

Rat harborage means any place where rats can live and nest without fear of frequent molestation or disturbance.

Rat-proof container means a container constructed of concrete or metal or lined with metal or other material impervious to rats. Openings such as doors shall be tightfitting to prevent the entrance of rats.

Rat-proofing means consists of closing openings in building foundations and openings under and around doors, windows, vents and other places which could provide means of entry for rats, with concrete, sheet iron, hardware cloth or other types of rat-proofing material approved by the health officer.
(Code 2004, § 11.10(1))

Sec. 18-62. Elimination of rat harborages.

Whenever accumulations of rubbish, boxes, lumber, scrap metal, car bodies or other materials provide rat harborage, the person owning or in control of such materials shall cause them to be removed or stored so as to eliminate the rat harborage. Lumber, boxes and similar materials shall be neatly piled and raised at least one foot above the ground. When the owner of the material cannot be found after reasonable search, the owner or manager of the premises on which the materials are stored shall dispose of or properly pile the materials.
(Code 2004, § 11.10(2))

Sec. 18-63. Elimination of rat feeding places.

No person shall place or allow to accumulate any materials that may serve as food for rats in an accessible place. Any waste material that may serve as food for rats shall be stored in rat-proof containers. Feed for birds shall be placed on raised platforms or where it is not accessible to rats.
(Code 2004, § 11.10(3))

Sec. 18-64. Extermination.

Whenever evidence of rat infestation is found on any premises or in any building within the city, the owner or manager of such property shall exterminate or cause the rats to be exterminated. Within ten days after extermination, the owner or manager shall cause all rat holes or burrows in the ground to be filled with earth, ashes or other suitable material.
(Code 2004, § 11.10(4))

Sec. 18-65. Ratproofing.

(a) The owner or manager of any building in the city shall make such building reasonably ratproof, replace broken basement windows and, when necessary, cover basement window openings with hardware cloth or other material suitable for preventing rats from entering the building through such window openings.

(b) The owner or manager of any premises upon which sheds, barns, coops or similar buildings are located shall eliminate rat harborages from within and under such buildings by ratproofing, by raising the buildings above the ground or by some other suitable method or such buildings shall be razed.
(Code 2004, § 11.10(5))

Secs. 18-66—18-88. Reserved.

ARTICLE IV. MILK AND MILK PRODUCTS

Sec. 18-89. Grade "A" required.

No person shall sell, offer or expose for sale within the city any milk or milk product other than Grade "A" pasteurized milk or milk products as defined Wis. Stats. § 97.24 and state administrative regulations.
(Code 2004, § 11.11(1))

Sec. 18-90. Permit.

(a) *Required*. No person shall sell or distribute milk, cream, skimmed milk, buttermilk or milk used in milk drinks within the city without first obtaining a permit therefor as herein provided.

(b) *Application*. Each applicant for such permit shall give in writing such pertinent information as may be required upon blanks furnished for such purpose or otherwise.

(c) *Fees*. The annual permit fee is as provided in the city fee schedule.

(d) *License period*. The license period shall be July 1 to June 30. No deduction from the license fee shall be made for any portion of the license period already expired.

(e) *Renewals*. Applications for renewal licenses shall be filed not later than June 1.

(f) *Exceptions*. No license shall be required for:

(1) Restaurants, hotels and other places selling milk or milk products of licensees for consumption on the premises only;

(2) Stores selling milk or milk products of licensees in original containers only;

(3) A milk producer who restricts his handling of milk to the hauling of same to a dairy or milk plant.

(Code 2004, § 11.11(2))

Sec. 18-91. Enforcement and inspection.

The board of health or any official or other person it may designate shall enforce this section and for such purpose may enter any premises in which the milk or milk products of any licensee or license applicant is handled or produced.

(Code 2004, § 11.11(3))

Secs. 18-92—18-110. Reserved.

ARTICLE V. HUMAN HEALTH HAZARDS AND NUISANCES

Sec. 18-111. Definitions.

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

City means the city of Cudahy, Wisconsin.

Groundwater means all water found beneath the surface of the city located in sand, gravel, lime rock or sandstone geological formations or any combinations of these formations.

Health officer means the public health professional responsible for environmental sanitation.

Human health hazard means a substance, activity or condition that is known to have potential to cause acute or chronic illness or death if exposure to the substance, activity or condition is not abated.

Immediate health hazard means a condition which exists or has the potential to exist which should, in the opinion of the health officer or his designee, be abated or corrected immediately, or at least within a 24-hour period, to prevent possible severe damage to human health and/or the environment.

Ordinance means the "City of Cudahy Public Health Ordinance."

Person means any individual, firm, corporation, society, institution, public body or any other entry.

Pollution means the contaminating or rendering unclean or impure the air, land or waters of the city, or making the same injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.

Solid waste means garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations and from domestic use and public service activities, but does not include solids or dissolved material in wastewater effluent or other common water pollutants.

State means state of Wisconsin.

Structure or *building* means a building or structure having walls and a roof erected or set upon an individual foundation or slab constructed base designated or used for the housing, shelter, enclosure, or support of persons, animals or property of any kind. This definition includes mobile homes.

Toxic and hazardous materials means any chemical and/or biological material that has the potential to create a public health hazard.
(Code 2004, § 11.17(1); Ord. No. 1875, 1-19-1999)

Sec. 18-112. General provisions.

(a) *Title*. This article shall be referred to as the "City of Cudahy Public Health Ordinance."

(b) *Effective date*. The ordinance from which this article is derived shall be effective upon passage and publication.

(c) *Administration*. This article shall be administered by the health officer or his designee. The health officer or his designee shall have the power to ensure compliance with the intent and purpose of this section by any means possible under the law.

(d) *Interpretation*. This article shall be interpreted to be minimum requirement and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any power granted by the state statutes.
(Code 2004, § 11.17(2); Ord. No. 1875, 1-19-1999)

Sec. 18-113. Authority.

This article is adopted pursuant to the authority granted by Wis. Stats. chs. 251 and 254.
(Code 2004, § 11.17(3); Ord. No. 1875, 1-19-1999)

Sec. 18-114. Purpose and intent.

The purpose and intent of this article is to protect the public health, safety and general welfare and to maintain and protect the environment for the people of the city and to:

(1) Prevent communicable diseases.

(2) Prevent the continuance of human health hazards.

(3) Ensure that the city and state air quality standards are complied with.

(4) Ensure the insects and rodents do not create a human health hazard and/or health hazard.

(5) Ensure that surface and groundwater meet city and state standards and regulations.

(6) Ensure that solid waste is handled, stored and disposed of according to city and state standards and regulations.

(7) Ensure that citizens are protected from hazards, unhealthy or unsafe substances.

(8) Provide for the administration and enforcement of this article and to provide penalties for its violation.

(Code 2004, § 11.17(4); Ord. No. 1875, 1-19-1999)

Sec. 18-115. Jurisdiction.

The jurisdiction of This article is derived shall include all air, land and water (both surface and ground) within the city.
(Code 2004, § 11.17(5); Ord. No. 1875, 1-19-1999)

Sec. 18-116. Compliance.

(a) *Written orders*. Compliance with this article shall include compliance to written orders issued under this section or state health laws by the city health officer or his designee to abate and/or correct a human health hazard or bring any other situation or condition in noncompliance with this article in compliance.

(b) *Noncompliance*. Noncompliance with this section and/or with a written order form from the health officer or his designee shall be cause for enforcement action under section 18-120. (Code 2004, § 11.17(6); Ord. No. 1875, 1-19-1999)

Sec. 18-117. Administration.

(a) *General provisions*. This article shall be interpreted, administered, and enforced by the city health officer or his designee.

(b) *Powers*. The health officer or his designee shall have all the powers necessary to enforce the provisions of this article without limitation by reasoning of enumeration including the following:

(1) To enter any structure or premise at a reasonable time for the purpose of performing duties under this article and to secure a court order to accomplish this purpose if necessary.

(2) To order abatement and/or corrections of any human health hazard in compliance with this article or state statutes.

(3) To delegate the responsibilities of administration and enforcement of this article to a registered environmental health sanitarian or another person qualified in the field of public health.

(4) To initiate any other action authorized under the law or this article to ensure compliance with the purpose and intent of this article and the requirements of this article.

(Code 2004, § 11.17(8); Ord. No. 1875, 1-19-1999)

Sec. 18-118. Human health hazard.

(a) *Prohibited*. No person shall erect, construe, cause, continue, maintain, or permit any human health hazard within the city. Any person who shall cause, create or maintain a human health hazard or who shall in any way, aid or contribute to the causing, creating or maintenance thereof shall be guilty of a violation of this section, and shall be liable for all costs and expenses attendant upon the removal and correction of such hazard and to the penalty provided in section 18-120.

(b) *Responsibility of property owner*. It shall be the responsibility of the property owner to maintain such owner's property in a hazard-free manner and also to be responsible for the abatement and/or correction of any human health hazard that has been determined to exist on their property.

(c) *Determination of specific health hazards*. Specifically, but not limited by enumeration, the following are human health hazards if determined to meet the human health hazard definition in section 18-111:

(1) *Unburied carcasses*. Carcasses of animals, birds, or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within the time period specified by the health officer or as required by Wis. Stats. § 95.50.

(2) *Manure*. Accumulations of the bodily waste from all domestic animals and fowl that are handled, stored, or disposed of in a manner that creates a health hazard.

(3) *Air pollution*. The presence in the atmosphere of one or more air contaminants in such quantities and of such duration as is or tends to be injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.

(4) *Noxious odors*. Any negligent use of property, substances or things within the city emitting or causing any foul, offensive, noisome or disagreeable odors, or stenches extremely repulsive to the physical senses of ordinary persons or as a whole.

(5) *Solid waste*. Any solid waste which is stored or disposed of in a manner which may pose a human health hazard as defined in section 18-111.

(6) *Food or breeding places for vermin, insects, etc*. Accumulations of decayed animal or vegetable matter, trash, rubbish, garbage, rotting lumber, bedding, packing material, scrap metal, animal and human fecal matter, or any substance in which flies, mosquitoes, disease carrying insects, rats or other vermin can breed, live, nest or seek shelter.

(7) *Toxic and hazardous material*. Any chemical and/or biological material that is stored, used or disposed of in such quantity or manner that it is, or has the potential to create a public health hazard.

(8) *Wastewater*. The presence of wastewater or sewage effluent from buildings on the ground surface, backing up into the building and/or running into a surface water body caused by a damaged malfunctioning, improperly constructed, or inadequately maintained private sewage system or private sewage lateral. Also, any wastewater or sewage effluent that is not handled and disposed of in compliance with all applicable city and states codes.

(9) *Surface water pollution*. The pollution of any stream, lake or other body of surface water within the city that creates noncompliance with Wis. Admin. Code chs. NR 102 and NR103.

(10) *Groundwater pollution*. Addition of any chemical and/or biological substance that would cause groundwater to be unpalatable or unfit for human consumption. These substances include but are not limited to, the chemical and/or biological substances listed in Wis. Admin. Code ch. NR 140.

(11) *Holes or openings*. Any hole or opening caused by an improperly abandoned cistern, septic tank, dug well or any other improperly abandoned, barricaded or covered up excavation.

(12) *Nonfunctional public building fixtures*. Nonfunctioning water supply systems, toilets, urinals, lavatories or other fixtures considered necessary to ensure a sanitary condition in a public building.

(13) *Unhealthy or unsanitary condition*. Any condition or situation which renders a structure or any part thereof unsanitary, unhealthy and unfit for human habitation, occupance or use, or renders any property unsanitary or unhealthy.

(14) *Other*. Any other situation determined to meet the definition of a human health hazard as per section 18-111.

(d) *Investigation of possible human health hazard*. The health officer or his designee shall investigate all potential human health hazards and shall determine whether or not a human health hazard exists.

(e) *Abatement, correction and enforcement*. Abatement, correction and enforcement of a human health ordinance will be according to the provisions in section 18-120.
(Code 2004, § 11.17(9); Ord. No. 1875, 1-19-1999)

Sec. 18-119. Designation of housing as human health hazard.

(a) The health officer or his designee may declare any dwelling or dwelling unit found to have any of the following defects a human health hazard as defined in section 18-111. It shall be condemned as unfit for human habitation and shall be placarded by the health officer or his designee.

(1) A dwelling which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.

(2) A dwelling which lacks a potable water supply, a properly functioning public or private sanitary sewer system, or a functioning heating system adequate to protect the health or safety of the occupants or of the public.

(3) A dwelling, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.

(4) A dwelling, because of its condition, has been implicated as the source of a confirmed case of lead poisoning or asbestosis.

(b) No person shall continue to occupy, rent or lease quarters for human habitation, which are declared unfit for human habitation by the health officer or his designee.

(c) Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the health officer or his designee, shall be vacated within a reasonable time, as specified by the health officer or his designee.

(d) No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the health officer or his designee. The health officer or his designee shall remove such placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.

(e) No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation.

(f) Any person affected by any notice or order relating to the condemning or placarding of a dwelling or dwelling unit for human habitation may request and shall be granted a hearing in the matter before the city board of health or other designated municipal body.

(g) Whenever the health officer or his designee determines that a violation exists or has reasonable grounds to believe that there has been a violation of any provision of this section, or any rule or regulation adopted pursuant thereto, he shall give or cause to be given, notice of such violation to the person responsible therefore, such notice shall be in writing including a description of the real estate involved, a statement of violations and corrective actions required, and allowing a reasonable time for the performance of any act required. Such notice shall be served upon the owner, operator or occupant as the case may require, and may be served by certified mail or in the manner provided by Wis. Stats. ch. 801, for service of summons.
(Code 2004, § 11.17(10); Ord. No. 1875, 1-19-1999)

Sec. 18-120. Enforcement.

(a) *Written order*. When a violation of this section is encountered, the health officer or his designee shall issue the violator a written order, served personally or by registered mail with return receipt requested. This order shall specify the following:

(1) The nature of the violation and the steps needed to abate and/or correct it.

(2) The time period in which the violation must be corrected and/or abated (usually one to five days or ten to 30 days depending on the nature of the violation.)

(3) The penalty or penalties the violator would be subject to if the apparent violation is not abated and/or corrected within the given time period. See subsections (c) and (d) of this section.

(b) *Exceptions to written order*. In extreme cases where a violation poses an immediate health hazard as determined by the health officer or his designee, or in the case of repeating occurrences of the same violation by the same person, the action specified in the subsection (c)(4) of this section can be initiated immediately.

(c) *Noncompliance with order*. If a person does not comply with a written order from the health officer or his designee, the person may be subject to one or more of the following actions and/or penalties:

(1) Issuance of a citation.

(2) Commencement of legal action, seeking a court imposed forfeiture and/or imprisonment as provided in subsection (e) of this section.

(3) Commencement of legal action seeking an injunction to abate the violation and/or correct the damage created by the violation.

(4) Any other action authorized by this article or by other applicable laws as deemed necessary by the health officer.

(5) The initiation of one action or penalty under this section does not exempt the apparent violator from any additional actions and/or penalties listed in this section.

(d) *Abatement and penalties*.

(1) *Abatement or removal of health hazards*. If the human health hazard is not abated or removed by the date specified in subsection (a)(2) of this section, the health officer or his designee shall immediately enter upon the property and abate or remove the human health hazard. The cost of the abatement or removal may be recovered from the person permitting the violation, or may be paid by the city treasurer, and the account, after being paid by the city treasurer, shall be filed with the city clerk, who shall enter the amount chargeable to the property in the next tax roll in a column headed "For Abatement of a human health hazard" as a special tax on the land upon which the human health hazard was abated and the tax shall be collected as are other taxes.

(2) *Penalties*. Anyone maintaining such a human health hazard may also be fined not more than $300.00 or imprisoned for not more than 90 days or both in addition to court costs. In the case of court imposed forfeitures, a separate offense shall be deemed committed during each ten-day period during or upon which a violation occurs or continues.

(e) *Initiation of legal action*. Legal action shall be initiated against a violator, as requested by the health officer or his designee, in accord with the following:

(1) The city attorney shall be responsible for all cases where an injunction to correct and/or abate a violation is being sought.

(2) The city attorney shall be responsible for all cases where a court-imposed forfeiture is being sought.

(Code 2004, § 11.17(11); Ord. No. 1875, 1-19-1999)

Sec. 18-121. Infectious wastes.

(a) *Definition and categories.*

(1) "*Infectious wastes*" *defined.* The term "infectious wastes," as defined in Wis. Admin. Code § NR 500.03(67), is adopted and means solid waste which contains pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease.

(2) *Categories of infectious wastes.* The following waste categories are included within the infectious waste definition:

a. *Microbiological lab wastes.* Cultures and lab equipment that have come in contact with infectious agents.

b. *Blood and body fluids.* Whole blood and blood components, blood specimens, body fluids (amniotic fluid, pericardial fluids, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen and vaginal secretions) and dialysate from chronic ambulatory peritoneal dialysis (CAPD). Blood from all individuals should be considered infective.

c. *Sharps.* Medical or laboratory articles, including those that are potentially infectious and that may cause punctures or cuts including, but not limited to, hypodermic needles, syringes, pasteur pipettes and scalpel blades.

d. *Medical wastes.* Wastes that have had contact with patient blood or body fluids including, but not limited to, wastes from the emergency department, autopsy suite, operating room and delivery room.

e. *Human tissue.* Recognizable human tissue. It must be buried, incinerated or rendered completely unrecognizable.

f. *Nonhuman tissue.* Nonhuman tissues are only considered infectious if they are known or suspected to contain pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible human host could result in an infectious disease.

(b) *Collection and handling.* No person shall dispose of infectious wastes for pickup by the department of public works.

(1) All disposition of infectious wastes shall be in accordance with the procedures for disposal of infectious material provided for in OSHA Instruction CPL 2-2.44A.

(2) All health care facilities as defined by OSHA Instruction CPL 2-2.44A and by the Standard Industrial Classification Codes 80 and 7261 shall submit within 30 days to the city health department a copy of a current contract for disposal of infectious waste.

(3) Private citizens should comply with the written city health department policy regarding disposal of sharp and other infectious material. A fee shall be assessed by the health department for the disposal expenses that are incurred by the health department.

(c) *Violation; prosecution.* This section shall be enforced by either the health commissioner, his designated representative, the sanitary inspector or by the superintendent of streets or his designated representative.
(Code 2004, § 11.15; Ord. No. 1512, 8-7-1990)

Secs. 18-122—18-140. Reserved.

ARTICLE VI. FOOD AND SAFETY REGULATIONS, LICENSES AND PERMITS

Sec. 18-141. Authority and purpose.

This article is adopted pursuant to that authority provided by Wis. Stats. §§ 97.41(1m), 125.68(5), 251.04(3), 254.47, 254.69(1) and 254.69(2) and Wis. Stats. chs. 70, 74, 75, 80; and by Wis. Admin. Code chs. DHS 172, 173 175, 177, 178 192, 195, 196, 197, and 198; and Wis. Admin. Code ch. SPS 390 and this Code. The purpose of this chapter is to protect and improve the public health and to authorize the city health department to become designated agent of the state department of health and family services and department of agriculture trade and consumer protection for the purpose of establishing permit fees, issuing permits, and making investigations or inspections of hotels, motels, restaurants, food establishments, tourist roominghouses, bed and breakfast establishments, campgrounds, recreational and educational camps, public swimming pool, and establishments possessing "Class A," "Class B," "Class C" alcohol beverage licenses, and in making investigations and inspections of food vending machines, their operators, vending machine commissaries, national lunch and breakfast programs and schools.
(Code 2004, § 20.01; Ord. No. 2088, 11-4-2003; Ord. No. 2177, 11-1-2005; Ord. No. 2359, 4-6-2011)

Sec. 18-142. Applicability.

The provisions of this article shall apply to the owner, operator or agents thereof of any hotel, motel, tourist/roominghouse, restaurant, food establishment, bed and breakfast establishment, campgrounds, recreational and educational camp, public swimming pool, establishments possessing "Class A," "Class B," "Class C" alcohol beverage licenses, vending machine commissaries or vending machines, mobile home parks, tattoo and body piercing establishments and school food programs in the city.
(Code 2004, § 20.02; Ord. No. 2088, 11-4-2003)

Sec. 18-143. Regulations, rules and laws adopted by reference.

The applicable laws, rules, and regulations as set forth in Wis. Stats. chs. 93, 97, 125, 251, and 254; Wis. Admin. Code chs. DHS 172, 173, 175, 177, 192, 195, 196, 197, and 198; and Wis. Admin. Code chs. ATCP 75 and 80; and the Memorandum of Understanding between the state department of public instruction and department of health services, Wis. Admin. Code ch. SPS 390 and the Wisconsin Food Code are hereby adopted by reference and a copy of each shall be on file and open to public inspection in the offices of the department and city clerk.
(Code 2004, § 20.03; Ord. No. 2088, 11-4-2003; Ord. No. 2359, 4-6-2011)

Sec. 18-144. Definitions.

All definitions as set forth in Wis. Stats. chs. 93, 97, 125, 251, and 254, Wis. Admin. Code chs. DHS 172, 173, 175, 178, 192, 195, 196, 197, and 198; and Wis. Admin. Code chs. ATCP 70, 75 and 80 (including the appendix to Wis. Admin. Code ch. ATCP 75, the Wisconsin Food Code) and Wis. Admin. Code ch. SPS 390 are incorporated in this chapter.

Department means the environmental health consortium consisting of the Cudahy, Saint Francis and South Milwaukee Health Departments.

Duplicate permit fee means a fee for the replacement of the original permit.

Food means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption or chewing gum.

Food establishment means an operation that stores, prepares, serves, vends, sells or otherwise provides food for human consumption. The term "food establishment" includes the term "restaurant" as defined in Wis. Stats. § 254.61(5); the term "retail food establishment" as defined in Wis. Stats. § 97.30; and the term "temporary restaurant" as defined in Wis. Stats. § 254.61(5m).

Governing body means the local health department in that city in which the business is located or its successor organization if any, or in its absence, the public health administrator.

Late fee means a fee for failure to pay established fees by June 30 or the due date.

Licensed establishment means an establishment that has a current and valid license that is required under this chapter.

Milk means the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows. Milk shall contain not less than three percent of milk fat and not less than 8.25 percent of milk solids not fat. Milk may be standardized by the addition or removal of cream or by the addition of skim milk. When so standardized, milk shall contain not less than 3.3 percent of milk fat and not less than 8.25 percent of milk solids not fat. Milk fat or butterfat is the fat of milk.

Milk products means and includes cream, light cream, coffee cream, table cream, whipping cream, whipped cream, sour cream, cultured cream, cultured sour cream, half and half, sour

half and half, cultured half and half, cultured sour half and half, concentrated milk, concentrated milk products, skim milk, skimmed milk, vitamin D milk, vitamin D milk products, fortified milk, fortified milk products, low fat milk, homogenized milk, flavored milk, flavored drink, flavored dairy drink, flavored skim milk, buttermilk, cultured buttermilk, cultured milk, acidified milk, acidified milk products, eggnog, yogurt, cottage cheese and creamed cottage cheese. This definition does not include such products as sterilized milk and milk products hermetically sealed in a container and so processed, either before or after sealing, as to prevent microbial spoilage, or evaporated milk, condensed milk, ice cream and other frozen desserts, butter dry milk products (except as defined herein), or cheese, except when they are combined with other substances to produce any pasteurized milk or milk products defined herein.

Permit/license means the document issued by the regulatory authority that authorizes a person to operate an establishment. The words "permit" and "license" as used throughout this chapter shall be interchangeable.

Preinspection fee means a fee for consultative services offered to persons intending to operate a new hotel, tourist roominghouse, bed and breakfast establishment, restaurant, food establishment, vending machine commissary, swimming pool, campground or to a person intending to be the new operator of an existing hotel, tourist roominghouse, bed and breakfast establishment, restaurant, food establishment, vending machine commissary or swimming pool and campground.

Reinspection fee means a fee for the inspections needed to address compliance issues with the statutes and administrative codes.
(Code 2004, § 20.04; Ord. No. 2088, 11-4-2003; Ord. No. 2177, 11-1-2005)

Sec. 18-145. Enforcement and right to enter premises.

The provisions of this article shall be administered by or under the direction of the department or authorized agent who is authorized and shall have the right to enter during reasonable hours, upon any premises affected by this regulation to inspect the premises, secure samples or specimens, examine and copy relevant documents and records or obtain photographic or other evidence needed to enforce this article.
(Code 2004, § 20.05; Ord. No. 2088, 11-4-2003; Ord. No. 2177, 11-1-2005)

Sec. 18-146. Obstruction of health department employees.

No person may assault, restrain, threaten, intimidate, impede, interfere with or otherwise obstruct the department or authorized agent in the performance of his or her duties under this article, nor shall the operator give false information with the intent to mislead the department or authorized agent.
(Code 2004, § 20.06; Ord. No. 2088, 11-4-2003)

Sec. 18-147. Sanitary regulations.

No person shall manufacture, prepare for sale, offer, expose for sale or sell food as defined in section 18-144, under the term "food," unless it is securely protected from filth, flies, dust or contamination or unclean, unhealthful or unsanitary conditions.
(Code 2004, § 20.065; Ord. No. 2088, 11-4-2003; Ord. No. 2359, 4-6-2011)

Sec. 18-148. License/permit.

(a) No person, partnership, association or corporation may establish a business that requires a license under this article without first having obtained a current and valid license.

(b) Licenses shall not be transferable from person to person or from premises to premises with the exception of: A license may be transferred to an individual who is an immediate family member of the operator if the operator is transferring operation of the establishment to that immediate family member. A parent, child, stepchild, grandchild, sibling, or stepsibling shall be considered an immediate family member for purposes of this article.

(c) No permits shall be granted to any person under this article without a pre-inspection by the department of the premises for which the permit shall be granted.

(d) No permit shall be issued until all application fees have been paid.
(Code 2004, § 20.07; Ord. No. 2088, 11-4-2003)

Sec. 18-149. License exemption.

Exemption from this license does not exclude any person handling food for public consumption from inspection and compliance with requirements ofthis article. The department may waive the license fee for the following:

(1) If a food and or drink establishment is a nonprofit organization which occasionally prepares, serves or sells meals to the general public.

(2) Any person selling agriculture products which such person has grown.

(3) Taverns that serve free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish, or bread and butter.

(4) Any food service provided solely for needy persons.

(5) Any public or private school lunchroom for which food service is directly provided by the school or when the food service employees are employed by the school agency.
(Code 2004, § 20.08; Ord. No. 2088, 11-4-2003)

Sec. 18-150. Application.

All applicants must apply on forms furnished by the department. All applications for permits shall be made in writing to the local governing body where the business is located. All

applications shall list the true, legal names of the owners or operators of the business, whether person, firm, partnership or corporation, and address. All corporations applying for licensure shall be registered with the state and the name of the registered agent shall be placed on the application. The agent's name and address shall be kept current. The applicant shall provide documents, which reflect the aforementioned registration to the department. The department shall either approve the application or deny the permit within 30 days after receipt of a complete application.
(Code 2004, § 20.09; Ord. No. 2088, 11-4-2003)

Sec. 18-151. Appeal of denied license.

Any person refused or denied a license may appeal the denial through the appeal procedure provided under the provisions of Wis. Stats. §§ 68.07 through 68.16.
(Code 2004, § 20.10; Ord. No. 2088, 11-4-2003)

Sec. 18-152. Inspection and reinspection.

(a) As a condition of license renewal, all establishments licensed under this chapter shall consent to an annual inspection and reinspection. License renewal may be withheld pending inspection, reinspection and compliance with these regulations. One copy of the inspection report shall be given to the owner, operator or employee of the establishment and another copy shall remain on file at the department.

(b) If, upon the reinspection, the order or directive is found not to have been complied with and additional reinspections are required, a fee shall be assessed to the responsible party for each additional reinspection to compensate for the costs of such reinspections. Payment is due on written demand from the department.

(c) Operators in charge of retail food establishments shall maintain an effective and constant inventory system and shall use the system to properly rotate the milk and milk products. Such operators shall remove all outdated milk and milk products and prevent their sale to the customer.
(Code 2004, § 20.11; Ord. No. 2088, 11-4-2003; Ord. No. 2177, 11-1-2005)

Sec. 18-153. Procedure for issuing new or renewal license.

The department or authorized agent shall issue a license to each applicant for a new or renewal license that meets all the requirements of this section and has paid to the city the fee required in the city fee schedule. A licensee must get approval from the common council in which the business is located if its license has been suspended or revoked in the last three years.
(Code 2004, § 20.12; Ord. No. 2088, 11-4-2003)

Sec. 18-154. Insufficiency of fund; nonpayment of fees.

(a) If funds are to be found insufficient, lack of payment or any other reason the funds are not honored, the license will be null and void. Upon notification, the permit must be submitted to the department for retainment until the time of re-issuance. A license will not be issued until all applicable fees, late fees and processing charges are paid.

(b) Any individual or corporation that owes the city for unpaid fines, unpaid property taxes, late fees, or license fees relating to a current or previous licensed establishment shall pay all such outstanding fees before a license is issued.
(Code 2004, § 20.13; Ord. No. 2088, 11-4-2003)

Sec. 18-155. Posting.

Each licensee shall post his or her license in a conspicuous place on the licensed establishment premises.
(Code 2004, § 20.14; Ord. No. 2088, 11-4-2003)

Sec. 18-156. Changes to be reported.

(a) A licensee shall notify the department whenever there is a change in any information that is reported in the application form. The licensee shall make this notification in writing within five days after the change occurs.

(b) The owner of any premises for which a license has been granted shall promptly notify the department in writing of his or her intention to cease operations.
(Code 2004, § 20.15; Ord. No. 2088, 11-4-2003)

Sec. 18-157. Suspension of license.

(a) Whenever the department finds a condition in a licensed establishment, which he determines to be a direct and immediate hazard to public health, he may, without warning, notice or hearing, suspend a permit.

(b) A permit may also be suspended, with prior notice, pending correction of violations that constitute a health hazard that is serious, but not an immediate threat to the public health, or for recurring or repeated violations.

(c) A written notice to the licensee, his agent or employee in charge of the licensed premises, shall cite such conditions specifying the corrective action to be taken, specify the time period within which such action shall be taken, and such order shall state that the license is immediately discontinued.

(d) Upon notification of suspension, the permit must be submitted to the department for retainment until the time of reissuance.
(Code 2004, § 20.16; Ord. No. 2088, 11-4-2003)

Sec. 18-158. Reinstatement of a suspended license.

The license holder whose license has been suspended may at any time, make application for reinstatement of the license. Within one week after the receipt of satisfactory application, accompanied by a signed statement by the applicant that the violations have been corrected, the department or designee shall make a reinspection and thereafter as many additional reinspections as he deems necessary to assure himself that the applicant has complied with the requirements. If the findings indicate compliance, the department may reinstate the license.
(Code 2004, § 20.17; Ord. No. 2088, 11-4-2003)

Sec. 18-159. Revocation of license.

(a) For serious or repeated violations of any of the requirements of this article or for interference with the health officer or designee in the performance of his duties, the health officer or designee may permanently revoke the license issued under this article. Prior to such action, the health officer shall notify the license holder in writing, stating the reasons for which the license is revoked.

(b) When a license is revoked, the owner/operator shall turn over the license to the health officer or designee and cease operations

(c) The license of any establishment shall be automatically revoked when the business is not operated for a period of 120 consecutive days, unless otherwise ordered by the health officer or designee. When closed for such a period except for extensive renovation or refurbishing, the establishment shall be considered a new establishment and shall not be reopened until granted a new permit in accordance with this section.
(Code 2004, § 20.18; Ord. No. 2088, 11-4-2003)

Sec. 18-160. Appeal of revoked license.

Any person whose license has been revoked may appeal the denial through the appeal procedure provided under the provisions of Wis. Stats. §§ 68.07 through 68.16.
(Code 2004, § 20.19; Ord. No. 2088, 11-4-2003)

Sec. 18-161. Reapplication of a revoked license.

(a) A person whose license has been revoked may, at any time, make application for a new license. Within one week after the receipt of satisfactory application, accompanied by a signed statement by the applicant that the violations have been corrected, the department or designee shall make a preinspection and thereafter as many additional reinspections as he deems necessary to assure himself that the applicant has complied with the requirements. The licensee must get approval from the common council in which the business is located prior to the reissuance of the license.

(b) Upon reapplication, all variances and grandfather clauses shall not apply. Reapplication for licensure shall be as a new establishment.
(Code 2004, § 20.20; Ord. No. 2088, 11-4-2003)

Sec. 18-162. Construction or alteration of food establishments.

(a) No person shall erect, construct, enlarge or alter a food establishment without first submitting to the department or designee, plans (drawings) which clearly show and describe the amount and character of the work proposed and without first receiving approval of submitted plans. Such plans shall include floor plan, equipment plan and specifications, wall, floor and ceiling finishes, and plans and specifications for food service kitchen ventilation. Submitted plans shall give all information necessary to show compliance with applicable health codes. Submitted plans shall be retained by the department or designee.

(b) At the option of the department or designee, plans need not be submitted to execute minor alterations to a food establishment. Approved plans shall not be changed or modified unless approval of such changes or modifications shall have first been obtained from the department or designee.
(Code 2004, § 20.21; Ord. No. 2088, 11-4-2003)

Sec. 18-163. Violations.

(a) *Generally.* No person shall violate any provisions of this chapter.

(b) *Enforcement authority.* The department or its designee shall enforce any provision of this chapter.

(c) *Enforcement procedure.*

(1) *Inspection*. If, upon inspection, the department or designee finds that any licensed or unlicensed place is conducted or managed in violation of the ordinances or regulations of the city, laws of the state or regulations of any agency of the state prescribing standards of health or sanitation, the department or designee shall serve a written order upon the licensee, his agent or employee in charge of the licensed premises or the person responsible for the violation, notifying him of such violations.

(2) *Exceptions to written order*. In extreme cases where a violation poses an immediate health hazard as determined by the department or designee or, in the case of repeating occurrences of the same violation by the same person, the actions specified in subsection (c)(3) of this section can be initiated immediately.

(3) *Noncompliance with order*. If a person does not comply with a written order from the department or designee, the person may be subject to one or more of the following actions, and/ or penalties:

a. The issuance of a citation.

b. A reinspection fee.

c. Suspension of license.

d. Revocation of license.

e. Commencement of legal action against the person seeking a court imposed forfeiture and/or imprisonment.

f. Commencement of legal action against the person seeking an injunction to stop, abate the violation and/or correct the damage created by the violation.

g. Any other action authorized by this chapter or by other applicable laws as deemed necessary by the department or designee.

h. The initiation of one action or penalty under this section does not exempt the apparent violator from any additional actions and/or penalties listed in this section.

(Code 2004, § 20.27; Ord. No. 2088, 11-4-2003)

Sec. 18-164. Fees.

(a) *Determination of fees.* The fees for services and activities performed by the department in carrying out its responsibilities under this article shall be published in the City of South Milwaukee Administrative Fee Schedule.

(b) *Fees to accompany application.* License fees imposed under this chapter shall accompany the license application. If a license is granted, the department shall issue the applicant a receipt for his license fee.

(c) *No proration.* There will be no proration for license fees.

(d) *Refunds.* No license fee paid shall be refunded, unless a refund is requested prior to an inspection.

(e) *Local preinspection fees.*

(1) Preinspection fees shall be charged as enumerated in City of South Milwaukee Administrative Fee Schedule.

(2) Preinspection fees shall include all consultation prior to the establishment doing business.

(3) Preinspection fees may be applicable for all new operations and changes in operation.

(4) Preinspection fees are not refundable.

(f) *Late fees.* A late fee, as enumerated in the City of South Milwaukee Administrative Fee Schedule, shall be charged for all licenses issued under provisions of this chapter.

(1) This shall apply when an application is not renewed before the expiration date, unless waived by the department.

(2) A late fee shall also apply to a new establishment or any establishment with a new operator who does business before obtaining the required licenses, as provided for in this article.

(g) *Duplicate license fee.* A duplicate license fee as enumerated in the City of South Milwaukee Administrative Fee Schedule shall be charged to duplicate any license provided for in this article.

(h) *License fees.* License fees, as enumerated in the City of South Milwaukee Administrative Fee Schedule.

(i) *Application of fees.* All fees shall be accounted for separately and applied to the expenses under this article.

(j) *Reinspection.* A reinspection fee shall be charged as enumerated in the City of South Milwaukee Administrative Fee Schedule.
(Code 2004, § 20.28; Ord. No. 2088, 11-4-2003; Ord. No. 2359, 4-6-2011)

Sec. 18-165. Expiration dates.

(a) All licenses issued under provisions of this article shall expire, unless otherwise ordered by the department or authorized agent, as follows:

Campgrounds	June 30
Food/drink	June 30
Hotel/motel	June 30
Public swimming pool	June 30
Animal health/pet fancier	December 31
Boardinghouse/roominghouse	December 31
Bed and breakfast	June 30
Recreation and educational camps	June 30
Vending machines	June 30
Tattoo and body piercing	June 30

(b) They shall expire at 12:00 midnight of the last effective day of the license, unless otherwise provided by this article or state laws.
(Code 2004, § 20.29; Ord. No. 2088, 11-4-2003)

Sec. 18-166. Renewal.

(a) The department, prior to the expiration date, shall furnish renewal notices. It is the responsibility of the owner/operator to complete the application form and pay the appropriate fee before the expiration date of such license.

(b) Uncooperative, habitual violators may be refused license renewal.
(Code 2004, § 20.30; Ord. No. 2088, 11-4-2003)

Sec. 18-167. Conflicts.

Whenever conflicts between these rules and regulations and other city ordinances or state and federal regulations occur, the most stringent rule shall apply.
(Code 2004, § 20.31; Ord. No. 2088, 11-4-2003)

Sec. 18-168. Penalty for violation.

Any person, partnership, firm or corporation who fails to comply with the order of the health officer or its designee or who violates section 18-147 shall be subject to a forfeiture of not less than $50.00 and not more than $500.00 per day for each day the condition ordered corrected continues uncorrected after the expiration of the time period stated in the order or violation of section 18-147, together with the costs of the action.
(Code 2004, § 20.32; Ord. No. 2088, 11-4-2003; Ord. No. 2177, 11-1-2005)

Sec. 18-169—18-182. Reserved.

ARTICLE VII. COMMUNICABLE DISEASES AND QUARANTINE

Sec. 18-183. Purpose.

This article is enacted to protect the public health by requiring reporting of certain communicable diseases allowing appropriate epidemiological control and actions such as isolation or quarantine to control the spread of disease; to limit the employment in high risk occupations both for profit and by volunteers of persons with certain diseases during the time those persons may spread their disease to others through their employment; and to protect the public health by limiting attendance at school, nursery school or day care centers by persons with certain communicable diseases or conditions until the diseases or conditions are no longer communicable or are rectified.
(Code 2004, § 10.09(1); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 18-184. Definitions.

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

Communicable disease means an illness due to a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal or inanimate reservoir to a susceptible host; either directly or indirectly through an intermediate plant or animal host, vector or the inanimate environment.

Communicable period means the time during which an infectious agent may be transferred directly or indirectly from an infected person to another person, from an infected animal to humans or from an infected person to animals.

Contact means a person or animal that has been in such association with an infected person or animal or inanimate object or a contaminated environment as to have an opportunity to acquire infection.

Disinfect means the elimination of an infectious agent on a body surface in clothing, bedding, toys, surgical instruments or dressings or other inanimate articles or substances including water or food by means of a chemical that is capable of destroying disease-causing organisms or inanimate objects with the exception of bacterial spores.

Health department means the Cudahy Health Department.

Health officer means the city health officer.

Involuntary detention means placement into isolation or quarantine by enforceable order of the local health officer or the superior court.

Isolation means separation in the period of communicability of infected persons or animals from others in such places and under such conditions as to prevent or limit the direct or indirect transmission of the infectious agent from those who are susceptible to infection or who may spread it to others.

Owner means a person who has legal title to a structure, building or dwelling or personal property or a person who has charge, care or control of a dwelling or unit of a dwelling as a tenant, occupant or as an agent or executor, administrator, trustee or guardian of the estate of a person under this section.

Property means real or personal property.

Quarantine means the restriction of activities of infected or well persons or animals that have been exposed to a case of communicable disease during its period of communicability to prevent disease transmission during the incubation period if infection should occur.

Student means any person, regardless of age, who is enrolled in a child care facility, preschool, kindergarten, elementary, middle or high school or college or university.

Suspected to be infected or *suspected case* means that the health officer, in his professional judgment, reasonably believes that infection with a particular infectious agent is likely based on signs and symptoms, laboratory evidence, or contact with an infected individual, animal or contaminated environment.

Voluntary compliance means behavior by an individual or group that reflects willing adherence to a request from the local health officer that the individual or group follow isolation or quarantine instructions.
(Code 2004, § 10.09(2); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 18-185. Reference to state statutes.

(a) The health officer shall perform all duties prescribed to him by the state law and rules regarding contagious diseases, particularly, but not limited to, Wis. Stats. ch. 252 and Wis. Admin. Code ch. DHS 145. The term "local health officer" as used in state law and rules, means the city health officer. All statutes and administrative code provisions pertaining to contagious diseases adopted in this section shall be administered and enforced in the city by the local health officer, health department and board of health.

(b) The health officer shall undertake such measures for the control of communicable diseases, other than tuberculosis but also including those diseases as are specifically set forth in Appendix A to Wis. Admin. Code ch. DHS 145, as set forth under Wis. Stats. § 252.06 and Wis. Admin. Code § DHS 145.06 specifically, but not limited to measures to direct a person known to have or suspected of having a contagious disease to participate in such programs, tests, evaluations, conduct cessation, isolated or segregated residence, placement and the like as set forth under Wis. Admin. Code § DHS 145.06(4) and in the absence of compliance with such directive, to petition a court of record to order compliance with such directive as set forth under Wis. Admin. Code § DHS 145.06(5).

(c) The health officer shall undertake such measures for the control of tuberculosis, as set forth under Wis. Stats. § 252.07 and Wis. Admin. Code § DHS 145.10(6)(d), (e) and (f) and to petition the court for an extension of such confinement as necessary and pursuant to those conditions set forth under Wis. Stats. § 252.07(9)(a) and Wis. Admin. Code § DHS 145.10(7).
(Code 2004, § 10.09(3); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 18-186. Responsibilities of health officer.

It shall be the duty of the health officer or his designee upon the appearance of any communicable or transmittable disease with the potential to spread to the public within the city, to investigate and take measures, as enumerated below to protect the public health and suppress outbreak of disease. When possible, the health officer will seek the cooperation and voluntary compliance of infected or exposed individuals in abiding by isolation or quarantine instructions. However, under specific circumstances, the health officer may, with support of local law enforcement, immediately detain infected or exposed individuals and place them in isolation or quarantine. In all cases where isolation or quarantine is considered, the health officer will address the basic needs of individuals placed in isolation or quarantine including but not limited to food, clothing, shelter, medical care and communication with family members, legal counsel and others, if needed.
(Code 2004, § 10.09(5); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 18-187. Communicable disease measures.

If the health officer suspects or is informed of the existence of any communicable disease, the health officer shall at once investigate and make or cause such examinations to be made as are

necessary to diagnose a disease and determine appropriate communicable disease measures. The diagnostic report of a physician, a laboratory report, the notification or confirmatory report of a parent or caretaker of the person suspected to be exposed to or to have a communicable disease, or a reasonable belief in the existence of a communicable disease, shall require the health officer immediately to quarantine, isolate, require restrictions, concurrent and terminal disinfection or take other communicable disease measures upon the persons or place of infection in the manner and for the time specified in rules promulgated by the department. If the health officer is not a physician or if further information is needed, or where there is a reasonable doubt or disagreement in diagnosis or where advice is needed, he or she shall seek consultation with a biological, epidemiological, medical or other public health consultant as quickly as possible. The health officer may order emergency treatment of such person if necessary. The health officer may seize or take possession of property for investigation and if necessary, destroy or dispose of property if the property is infected with a communicable disease. Such orders shall be in writing and shall be effective immediately and served upon the person or place by personal service or by certified mail.

(1) *Infected persons*. In the event of the suspicion or existence of any communicable disease in any residence, household, establishment, school, gathering or business located within the city, and until the possibility or risk of contamination subsides to the satisfaction of the health officer, the health officer or his designee shall investigate the residence, household, establishment, school, gathering or business and may issue an order isolating the occupants, forbidding gatherings and closing businesses and placarding the building and taking whatever other measure necessary to control and prevent the spread of the disease to members of the public until such time as the risk of contamination has subsided.

(2) *Infected student*. In the event of the suspicion or existence of any communicable disease in a student of a college, child care facility or school located within the city, the student shall not be permitted to attend any college, child care facility or school without written permission from his or her health care provider and no teacher, principal or school nurse in any college, child care facility or school shall allow any student affected by communicable disease to attend said college, child care facility or school except by the written permission of the student's health care provider or by the written permission of the health department.

(3) *Determination by health officer of degree of contact*. The health officer may require the isolation of a person, quarantine of contacts, concurrent and terminal disinfection, or modified forms of these procedures as may be necessary. If deemed necessary, the health officer may make exceptions or arrangements concerning contact with the isolated person for purposes of medical treatment, religious support or visits from immediate family as long as suitable measures as determined or approved by the health officer are taken to prevent contamination.

(4) *Cooperation of infected person or owner of business or establishment*. The health department is required to perform an epidemiological investigation and report threatened, suspected or diagnosed diseases to state and federal agencies and therefore requires certain medical and other information from the contacts, infected persons or infected persons' physicians or location of infection to identify the disease, to determine the cause or source and determine the communicable disease measures to be taken. The infected person or business or establishment where a disease appeared or is suspected to be affected, shall cooperate with the health officer or his designee and provide whatever information may be necessary for the health officer to fulfill those responsibilities including providing the health officer or his designee access to property to test and take samples and perform whatever other investigative measure may be necessary including preventing access by members of the public until such order is lifted by the health officer.

(5) *Liability for costs and expenses*. Expenses for diagnostic and necessary medical care, the expense of conducting examinations and investigative measures and tests for disease carriers made under the direction or approval of the health officer, food and other articles needed for the care of the infected person or contact shall be charged against the infected person or contact or whoever is liable for the person's support as a special assessment. The infected person or contact shall be liable for the costs and expenses of maintaining quarantine and enforcing isolation of the quarantined area and the expense of transportation of the infected or contact persons. Expenses for diagnostic and investigative measures performed in the course of an epidemiological investigation shall be charged against the business, establishment, entity or owner where the disease commenced or continued or was suspected to have commenced or continued.

(6) *Confined or hospitalized persons*. When a person confined in a jail, prison, mental health institute, hospital or other public place of detention has a disease which the health officer deems dangerous to the health of other residents or the public, the health officer shall, in writing, order the removal or isolation of the person to a hospital or place of safety. When conveyance to a place of isolation is necessary, transportation shall be by private conveyance or other designated vehicle. Proper precautions will be exercised to prevent needless exposure to all persons in contact with the person during transit. Upon recovery, the person shall be returned; and if the person was committed by a court or under process, the removal order or a copy shall be returned by the health officer to the committing court officer.

(7) *Appeal*. Any person aggrieved by an order of the health officer may appeal in writing within ten days of issuance of the notice and order addressed to the board of health which shall schedule a hearing no more than 30 days from receipt of the appeal. The decision of the board of health shall be delivered to the appellant no more than 20 days

following the date of hearing. Appeal to the board of health decision may be made to the county circuit court in accordance with state statute. The filing of the appeal does not stay a quarantine order or other order from the health officer.

(8) *Discharge from isolation or quarantine*. The health officer shall authorize the release of contacts or a person from isolation or quarantine when the health officer or designee is satisfied that the communicable period, if known, has lapsed or the risk of contamination has subsided and if necessary, the contacts or person will pursue a prescribed course of medical treatment or therapy to ensure recovery from the disease prior to discharge.

(Code 2004, § 10.09(6); Ord. No. 2359, 11-4-2003; Ord. No. 2273, 12-18-2007)

Sec. 18-188. Animal quarantine.

(a) *Infected animal*. In the event of the suspicion or existence of any communicable disease in an animal or bird within the city, the health officer or his designee shall take whatever communicable disease measures are necessary to investigate and to control and prevent the spread of the disease to members of the public until such time as the risk of contamination has subsided.

(b) *Cooperation of owner*.

(1) The health department is required to perform an epidemiological investigation and report threatened, suspected or diagnosed disease to state and federal agencies and therefore requires certain medical and veterinarian and other information from the owners of the animal suspected of having a communicable disease. The owner of the animal infected or suspected to be infected shall cooperate with the health officer or his designee and provide whatever information is necessary, including veterinarian records. The owner shall cooperate with the health officer or designee and provide whatever information may be necessary for the health officer or designee to fulfill those responsibilities including allowing the health officer or designee access to property to test, take samples and perform whatever other investigative measures may be necessary including preventing access by members of the public to the owner's property until such order is lifted by the health officer.

(2) The health officer may summarily issue quarantine orders to prevent, suppress, control or eradicate communicable or transmittable diseases that may affect domestic or exotic animals or birds in the city, or to prevent animals or birds from being moved or commingled pending further testing, diagnosis or investigation related to a suspected disease. No person may move any animal or bird in violation of a quarantine order or fail to comply with the terms and conditions of a quarantine order or other health department order.

(c) *Service of notice*. A quarantine order under this section shall be served upon a person having custody or control of the quarantined animals or shall be posted on the premises affected by the quarantine order. A quarantine order may be served by any of the following methods:

(1) Personal service;

(2) Certified mail;

(3) Posting a copy of the order at two conspicuous places on the premises affected by the quarantine.

(d) *Contents of order*. A quarantine order issued under this section shall contain the following information:

(1) The name and address of a person having custody or control of the quarantined animals, if known.

(2) A description of the animals affected by the quarantine.

(3) A description of the premises affected by the quarantine.

(4) The reason or justification for the quarantine.

(5) The duration of the order, and all terms and conditions applicable to the order.

(6) Notice that a person adversely affected by the order may request a hearing under this section.

(e) *Proof of service*. Service of a quarantine order may be proved by affidavit or by certified mail return receipt.

(f) *Liability for expenses*. Expenses for diagnostic and necessary veterinarian care, the expense of conducting examination and investigative measures and tests for disease carriers made under the direction or approval of the health officer, food and other articles needed for the care of the infected animal, costs and expenses of maintaining a quarantine and enforcing isolation of quarantine areas shall be charged against the owner of the animal.

(g) *Penalties*. Any person who knowingly violates the provisions of this section shall be subject to the general penalty provisions of this Code and upon such violation or where intent to violate the provisions of this section is manifested, the health officer or designee shall take whatever steps necessary to ensure enforcement of departmental rules and local and state laws for the prevention and control of communicable diseases.

(h) *Appeal*. Any person aggrieved by an order of the health officer may appeal in writing within ten days of issuance of the notice and order addressed to the board of health which shall schedule a hearing no more than 30 days from the receipt of the appeal. The decision of the board of health shall be delivered to the appellant no more than 20 days following the date of

hearing. Appeal to the board of health decision may be made to the county circuit court in accordance with state statute. The filing of the appeal does not stay quarantine or other order from the health department.
(Code 2004, § 10.09(8); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 18-189. Employment of food handlers and health care workers.

(a) *Employment of persons who handle food products*. No person in charge of any public eating place or other establishment where food products are consumed or handled may knowingly employ any person to handle food products who has a disease in a form that is communicable by food handling.

(1) No person knowingly infected or who is reasonably suspected of being infected with a disease in a form that is communicable by food handling may be employed or work as a food handler in a public eating place or other establishment where food products to be consumed by others are handled or produced.

(2) If required by the health officer for the purposes of an investigation, any person who is employed in the handling of foods who is suspected of having a disease in a form that is communicable by food handling shall submit to an examination ordered by the health officer and may not work in such capacity until proved not to have such disease. The expense of the examination shall be paid by the person examined.

(b) *Employment of persons in hospitals, nursing homes, extended care facilities, day care centers and health care facilities*.

(1) No person who is in charge of a hospital, nursing home, extended care facility, day care center or other facility requiring close personal contact may knowingly employ volunteers or employees with gastrointestinal or other communicable diseases in the infectious stage in occupations requiring close personal contact with others.

(2) No person in a facility mentioned in subsection (b)(1), of this section, who has or is reasonably suspected of having a gastrointestinal or other communicable disease in the communicable form as specified by the health officer may be employed in a paid or volunteer basis in occupations requiring close personal contact until ascertained noncommunicable by appropriate laboratory tests as specified by the health officer.

(3) Any person who is employed in an occupation requiring close personal contact with others that are suspected of having a disease that is communicable by close personal contact and the person cared for expires, the health officer may mandate care givers to submit to an examination and cease practice until proven not to have such disease. The expense of the examination shall be paid by the person examined.

(Code 2004, § 10.09(9); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 18-190. Employing quarantine guards and officers.

The health officer shall employ as many persons as necessary to execute quarantine orders and properly guard any place that serves as isolation, quarantine or any other restriction concerning communicable disease or other conditions that are deemed hazardous to the public's health. Police officers may serve as quarantine officers. If police staff is unavailable, auxiliary police may be utilized. If the numbers of quarantined persons exceed the number of sworn officers, the health officer may utilize other persons and administer the Oath of Honor as follows:

> "On my honor I will never betray my duty, my integrity, my character or the public trust. I will always have the courage to hold myself and others accountable for our actions. I will always uphold the laws, the community and the agency I serve."

(Code 2004, § 10.09(10); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 18-191. Placards, business closure and forbidding congregating.

In the event of the suspicion or existence of any communicable disease in any residence, household, establishment, school, gathering or business located within the city and until the possibility or risk of contamination subsides to the satisfaction of the health officer, the health officer or designee shall investigate the residence, household, establishment, school, gathering or business and may issue an order isolating the occupants, forbidding gatherings and closing businesses and establishments and placarding the building and taking whatever other measures necessary to control and prevent the spread of disease to members of the public until such times as the risk of contamination has subsided.

(Code 2004, § 10.09(11); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 18-192. Property seizure.

The health officer may take possession of property for investigation and if necessary may destroy or dispose of property if it is infected by a communicable disease. Such orders will be in writing and served upon person or place by the health officer or designee or by certified mail.

(1) *Temporary control of facilities*. When the health officer declares an outbreak of epidemic, the health officer may take possession of, and occupy as temporary hospitals or isolation sites, any building in the city.

(2) *Contaminated articles*. The health officer may direct that any bedding, clothing, putrid or unsound meat, hides or skins of any kind or food of any kind, or any other article or substances found within the city, which in the health officer's opinion will be dangerous to the health of the inhabitants thereof, be held, impounded, destroyed, buried, disinfected or made nonhazardous and the health officer may employ such persons as deemed proper to remove, disinfect or destroy such articles.

(3) *Contagious diseases; report*. Any person licensed under Wis. Stats. chs. 441 or 448 who knows or has reason to know or has a reasonable suspicion that a person treated or visited by the licensee has a reportable communicable disease, or having had such disease, has died, shall report the same to the health department. Any person, other than those licensed under Wis. Stats. chs. 441 or 448 having knowledge or reason to believe or suspect that anyone has a reportable communicable disease shall report such belief to the health department. Each laboratory shall report to the health department those specimen results the health officer designated to aid in the surveillance, diagnosis, control and prevention of communicable diseases, including cases of suspected food poisonings and outbreaks of disease occurring in the city. Unless otherwise specified, all reports required by this section shall be made within 24 hours either by telephone, fax, mail or deposit at the health department in a form prescribed by the health officer.

(Code 2004, § 10.09(12); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 18-193. Voluntary confinement/compliance; general provisions.

(a) *Voluntary confinement*. Prior to instituting mandatory isolation or quarantine pursuant to this article, the health officer may request that an individual or group of individuals voluntarily confine themselves to a private home or other facility.

(b) *Reasonable efforts to obtain voluntary compliance*. The health officer must make reasonable efforts to obtain voluntary compliance with requests for isolation or quarantine unless he determines that seeking voluntary compliance would create a risk of serious harm.

(Code 2004, § 10.09(13); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 18-194. Burial; contagious diseases; burial of infected deceased persons.

No one having charge or control of any school or church, or of any room or building used for school or church purposes, or for any public assembly in this city shall permit the body of any person dead from any dangerous contagious diseases noted in Appendix A to Wis. Admin. Code ch. DHS 145 to be taken into such building or room for the purpose of holding funeral services over such body; and no sexton, undertaker or other person having charge or direction of the burial of any body dead from any of these diseases herein mentioned shall permit the casket or coffin containing such body to be opened. The health officer shall have power to prevent the attendance at the funeral or burial of any person that died from a dangerous contagious disease of all persons other than those necessary for the interment of such body; and any person who violates any of the provisions of this section shall be subject to the general penalty provisions of this Code.

(Code 2004, § 10.09(14); Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Chapter 19

RESERVED

Chapter 20

HUMAN RELATIONS AND SOCIAL SERVICES

Article I. In General

Secs. 20-1—20-18. Reserved.

Article II. Fair Housing

Sec. 20-19. Intent of article.
Sec. 20-20. Adoption of state statute.
Sec. 20-21. Definitions.
Sec. 20-22. Prohibited acts of discrimination.
Sec. 20-23. Prevention and removal.

ARTICLE I. IN GENERAL

Secs. 20-1—20-18. Reserved.

ARTICLE II. FAIR HOUSING

Sec. 20-19. Intent of article.

It is the intent of the common council, in creating this article, to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on age, race, color, creed, religion, national origin, ancestry, disability or handicap, marital status, sex, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry, sexual orientation, gender identity or expression, or physical characteristic.
(Code 2004, § 9.25(intro. ¶); Ord. No. 2363, 6-28-2011; Ord. No. 2403, 5-6-2014; Ord. No. 2363.2, § 1, 9-2-2014)

Sec. 20-20. Adoption of state statute.

The city council adopts Wis. Stats. § 106.50, as amended, and all subsequent amendments thereto. This section will not detract, but rather enhance, those statutory definitional sections and citizen safeguards.
(Code 2004, § 9.25(1); Ord. No. 2363, 6-28-2011; Ord. No. 2403, 5-6-2014; Ord. No. 2363.2, § 1, 9-2-2014)

Sec. 20-21. Definitions.

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

Discriminate, discrimination or *discriminatory* means any act, policy, advertisement or practice which, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's actual or perceived age, race, color, creed, religion, national origin, ancestry, disability or handicap, marital status, sex, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry, sexual orientation, gender identity or expression, or physical characteristic. Discrimination also includes any differential treatment because of one's association with a person or group of people identified herein.

Educational institution means any public or private educational institution and any business, nursing, professional, secretarial, technical or vocational school.

Gender identity or *expression* means a person's gender-related self-identity, appearance, expression or behavior, regardless of the person's assigned sex at birth.

Physical characteristic means a bodily condition or bodily characteristic of any person which is from birth, accident, or disease, or from any natural physical development, or any other event outside the control of that person including individual physical mannerisms, height, or weight.

Place of public accommodation means all establishments within the city which offers goods, services, accommodations and entertainment to the public. A place of public accommodation does not include any institution or club which by its nature is distinctly private.

Sexual orientation means a person's actual or perceived heterosexuality, homosexuality, asexuality, or bisexuality.
(Code 2004, § 9.25(2); Ord. No. 2363, 6-28-2011; Ord. No. 2363.2, § 1, 9-2-2014)

Sec. 20-22. Prohibited acts of discrimination.

In addition to those acts prohibited by Wis. Stats. § 106.50, the following are prohibited:

(1) *Business establishment or public accommodations.* It shall be unlawful for a business establishment or place of public accommodation to deny, directly or indirectly, any person the full enjoyment of the goods, services, facilities, privileges, advantages, and accommodations wholly or partially for a discriminatory reason.

(2) *Educational institutions*. It shall be unlawful for an educational institution to engage in any of the following acts wholly or partially for a discriminatory reason: to deny, restrict, abridge or condition the use of, or access to, any educational facilities or educational services to any person otherwise qualified.

(Code 2004, § 9.25(3); Ord. No. 2363, 6-28-2011; Ord. No. 2363.2, § 1, 9-2-2014)

Sec. 20-23. Prevention and removal.

The officials and employees of the city shall assist in the orderly prevention and removal of all discrimination within the city by implementing the authority and enforcement procedures as set forth in Wis. Stats. § 106.50. The city clerk shall maintain forms for complaints to be filed by an aggrieved or interested person under this section with the state department of workforce development, equal rights division for enforcement of Wis. Stats. § 106.50.
(Code 2004, § 9.25(4); Ord. No. 2363, 6-28-2011; Ord. No. 2363.2, § 1, 9-2-2014)

Chapter 21

RESERVED

Chapter 22

LAW ENFORCEMENT

Article I. In General

Sec. 22-1. Unclaimed or abandoned property in the custody of the police department.
Sec. 22-2. Disposition of unclaimed precious metals or stones and art objects.
Secs. 22-4—22-24. Reserved.

Article II. Police Department

Sec. 22-25. Organization.
Sec. 22-26. Rules and regulations.
Sec. 22-27. Police chief.
Sec. 22-28. Records.
Sec. 22-29. Fingerprinting policy and charges.
Sec. 22-30. Other police department fees and charges.
Sec. 22-31. Parking storage fees.
Sec. 22-32. False alarm charges.

ARTICLE I. IN GENERAL

Sec. 22-1. Unclaimed or abandoned property in the custody of the police department.

(a) *General requirements.*

(1) *Annual disposition.* The chief of police shall at least once a year, or more frequently in his discretion, dispose of all personal property, except that regulated by section 22-2, which has been abandoned or which remains unclaimed for 30 days after having come into the possession of the police department. Contraband or such property as shall be needed as evidence or for use in investigations shall not be disposed of unless authorized by the court of jurisdiction.

(2) *Records.* The chief of police shall maintain a record of the owners or persons who claim to be owners of the abandoned property and the person from whom the property was taken or received, the date and place of acquisition by the police department, a description of the property and any other information which the chief shall deem pertinent.

(b) *Disposition procedure; proposed sales.*

(1) *Notice.* Notice of any proposed sale shall be provided to the owner or alleged owner at least 20 days prior to the date of the proposed sale by mailing a notice to the owner or alleged owner's last known address. A notice of any proposed sale shall be published in the city official newspaper at least once prior to the sale. The notice shall state the date, time and place of sale or deadline for the submission of sealed bids, if the police department believes that sealed bids will bring the highest bid, a description of the property and a statement that if the property is not claimed by the lawful owner prior to the sale or if the owner is not ascertainable, it will be sold to the highest cash bidder. This procedure shall apply to all sales conducted under this section.

(2) *Acceptance of bids.* The property may be sold at public sale to be held at such place as the chief of police may designate or by sale through sealed bids if the chief of police determines that sealed bids will bring the highest bidder. However, if the chief of police or his designee deems the highest bid inadequate, all bids may be rejected. In such case or if no bid is received, the property may be disposed of under subsection (b)(4) of this section.

(3) *Redemption.* Any person claiming property shall prove ownership to the satisfaction of the police department and pay the cost of publication of the notice of sale attributable to that property and shall then be allowed to redeem the property.

(4) *Unsold property.* Property remaining unsold may be retained for another public sale, disposed of by private sale for the best price obtainable or retained and designated for use by the police department or may be summarily disposed of by the chief or his designated subordinate.

(c) *Cash.* If abandoned cash comes into the possession of the police department, notice shall be provided to the owner or alleged owner pursuant to subsection (b)(1) of this section of a date and time by which the owner may redeem the cash pursuant to subsection (b)(3) of this section. If no person claims ownership of the cash in the time provided, the cash shall be paid into the city treasury.

(d) *Disposition of proceeds.* The proceeds of sale shall be paid into the city treasury after deducting necessary expenses of storage of property and sale.

(e) *Donation of abandoned property to charitable organizations.* Notwithstanding other provisions of this chapter and as authorized by Wis. Stats. § 66.0139, the chief of police may donate unclaimed or abandoned property to any charitable, nonprofit or public purpose organization when he determines that so doing is in the best interest of the city after considering the nature of the items involved, the likely monetary value at public auction, and the overall goodwill in making such donation.
(Code 2004, § 4.06; Ord. No. 1566, 2-4-1992)

Sec. 22-2. Disposition of unclaimed precious metals or stones and art objects.

Any personal property that is gold, silver, precious metals or stones and art objects which have been abandoned or unclaimed for a period of 30 days after the taking of possession of the property by the police department shall be, in the best interest of the city, disposed of by sale in the following manner:

(1) A notice shall be published in the official newspaper advising that certain unclaimed property is available for purchase and can be viewed at the police department at stated times. This notice must provide a minimum of five days during which the property can be examined. Copies of this notice shall be mailed to at least five area dealers. Any dealers licensed under section 8-188 who file a written request with the police chief to be included in the notice mailing shall be so notified.

(2) Written offers to purchase items of property as categorized, individually or in blocks, by the police department, shall be submitted to the police chief by the stated date and time. Any offers received thereafter shall not be considered. The highest offer shall be accepted by the police chief. Purchases shall be in cash or its equivalent to be paid within 24 hours of the acceptance of the offer.

(3) All receipts from sales, after deducting the necessary expenses of keeping the property and conducting the sale, shall be paid to the city treasury.

(Code 2004, § 9.27; Ord. No. 1326, 1-15-1985)

Secs. 22-4—22-24. Reserved.

ARTICLE II. POLICE DEPARTMENT

Sec. 22-25. Organization.

The police department shall consist of the chief of police and such other officers and patrolmen as the council shall determine.
(Code 2004, § 4.01)

Sec. 22-26. Rules and regulations.

(a) The chief of police and all members of the police department shall be governed by and shall carry out all rules and regulations prescribed by this chapter and such other rules and regulations adopted by the police and fire commission and approved by the council.

(b) The chief of police may make such further rules and regulations for the government of the police department as he deems necessary, provided such rules and regulations shall not be inconsistent with this chapter and state laws.
(Code 2004, § 4.02)

Sec. 22-27. Police chief.

(a) *Residency requirement.* The chief of police is required to establish residency in the city within one year of appointment to the position.

(b) *Fringe benefits.*

(1) *Uniform allowance*. The uniform allowance of $425.00 shall be paid one-half of this amount to the chief on June 1 and one-half on December 1 each year with payment to coincide with the closest payroll period.

(2) *Use of city-owned vehicle for official business*.

a. The chief of police shall have the use of a city-owned vehicle to take home on a daily basis provided that the city-owned vehicle is not used for personal use. Personal use is any mileage not qualifying as official business mileage. Official business mileage are those miles traveled in the performance of assigned duties.

b. A city-owned vehicle may not be used for personal vacation trips unless such trip is incidental to city business. Prior to use of city-owned vehicle outside the state, or further than 350 miles from the city within the state, a request must be submitted in writing to and approved by the mayor. A mileage allowance for use of a personal vehicle will not be provided to any city personnel when a city-owned vehicle is at the disposal of such personnel.

(3) *Life insurance*. The city agrees to pay the full amount of the current city group life insurance program.

(4) *Medical and hospitalization insurance*.

a. The city shall provide and pay the full amount of the lowest single or family HMO plan hospital and surgical insurance offered through the state public employers group health insurance (for participating local government employees and annuitants) for the police chief for 2005. Such medical benefit plan shall be provided to the employee on the first day of the month following completion of the first 30 days from the date of his employment. No employee shall make any claim against the city for additional compensation in lieu of or in addition to the insurance premiums paid because he does not qualify for the family plan.

b. In no event will the city pay toward a premium if it results in duplicate coverage for the employee under another city plan. Annually, each employee shall sign a form certifying that they do not have coverage available and paid for by the city.

c. It shall be the police chief's responsibility to notify the city of any change in family status for health and dental insurance coverage. This shall include, but not be limited to, changing from family to single coverage or eligibility for other medical plan coverage following retirement. Such notification shall take place within 30 days of the change in family status. Failure to notify the city shall result in the employee assuming responsibility for the additional cost until corrected.

d. The city may from time to time change insurance carriers or self-fund health care.

e. Medical and hospital insurance coverage shall be available to a retired police chief. This coverage shall be identical to the coverage provided to the regular full time police chief. The city will pay 100 percent of the lowest single or family HMO Plan hospital and surgical insurance offered through the state employers group health insurance (for participating local government employees and annuitants) for the retired police chief up to the age of Medicare provided said employee is not employed elsewhere and receiving hospital and surgical care paid for by his employer.

(5) *Dental insurance*. Effective upon execution of this section, the city will offer the police chief a dental plan. It is understood between the parties that the city will incur no costs for the dental plan and the chief will bear the entire cost of the plan.

(6) *Wisconsin retirement fund/deferred compensation*. The police chief shall be covered under the state retirement fund in accordance with Wis. Stats. ch. 40. The city agrees to pay the full contribution to the state retirement fund during the term of this section. All such payments or contributions made by the city shall be reported to the state retirement fund in the same manner as though deducted from the earnings of the participating police chief. These payments of contribution made by the city shall not be considered municipality contributions.

(7) *Holidays*.

a. The city shall provide a holiday schedule consisting of ten full holidays. These holidays are as follows:

1. New Year's Eve.
2. Friday before Easter.
3. Memorial Day.
4. Independence Day.
5. Labor Day.
6. Thanksgiving Day.
7. Day after Thanksgiving Day.
8. Last normal workday before Christmas.
9. Christmas Day.
10. Last normal workday before New Year's Day.

b. The police chief shall receive equivalent time off for these holidays. The holidays set forth in the section shall accrue on the above dates and the police chief receiving the benefit of such holiday before it accrues and subsequently terminates his employment with the city agrees to have the city deduct from his final paycheck that value of such holiday or holidays received. The police chief shall have the option to either take compensatory days off or receive payment at the normal daily rate for such holidays. Such payment for holidays shall be made during the closest payroll period ending December 1 of each year.

(8) *Sick leave*.

a. The police chief, contracting or incurring any nonservice sickness or disability, which renders such police chief unable to perform the duties of his employment, shall receive sick leave with pay. Eligibility for sick leave shall begin after the completions of six months of employment with the city and be retroactive to the time of employment, or if promoted from within, the city shall carry forward all hours presently on the city books.

b. The police chief shall accumulate one sick day per month during the year. Should be absent three workdays or more, he shall produce a doctor's certificate before returning to work stating that he is physically fit for duty.

c. The police chief may accumulate up to a maximum of 120 sick days. Each sick day shall consist of one workday. The city will post a complete list of the police chief's accumulated sick leave between May 1 and 15 of each year.

d. The police chief shall not be eligible for sick leave in excess of sick days actually earned. If the police chief accumulates sick leave in excess of 120 days, he shall

accumulate those additional days in a separate sick bank up to 30 days. The sick days accumulated in the sick bank may not be used by the police chief unless he has exhausted his regular sick leave accumulation as a result of a long, severe and continuous illness.

(9) *Vacation leave.* The chief of police as an internal candidate shall receive an earned vacation leave with pay as follows:

a. Twenty-five days of vacation per year effective on the chief's anniversary date of hire. The chief shall be credited with the portion of the 25 days vacation accrued from the 2004 calendar year of service that has not yet been utilized prior to his start of this position.

b. Vacation days must be used no later than the end of the following year in which they were earned.

c. While the total year's accrued vacation will be credited to the employee's paycheck in the month of January, the actual date that the full vacation is earned is on the anniversary date of the date the chief was hired by the city based on no break in continued employment.

d. The actual amount of vacation time earned shall not be affected by the method the city uses to track the amount of vacation earned, accrued, or used.

(10) *Longevity*. The city shall pay longevity pay to the police chief as follows:

a. $5.00 per month after five years of service.

b. $10.00 per month after ten years of service.

c. $15.00 per month after 15 years of service.

d. $20.00 per month after 20 years of service.

e. $25.00 per month after 25 years of service.

f. $30.00 per month after 30 years of service.

g. $35.00 per month after 35 years of service.

Longevity payments shall commence at the end of the closest payroll period ending after the anniversary date of hire.

(11) *Funeral leave*. Funeral leave of up to three days shall be granted for use in the event of a funeral of a member of the immediate family (spouse, children, father, mother, mother-in-law, father-in-law, brother and sister). Such leave will only be granted where the police chief actually attended the funeral. Such leave shall not be used for recreation purposes. These days shall not be deducted from sick leave. Funeral leave up to one day shall be granted for funerals only of grandparents, grandchildren, nieces, nephews, aunts, uncles, brother-in-law and sister-in-law.

(12) *Severance pay*.

a. *Entitlements.* If the chief shall retire or die while in the employ of the city, he shall be entitled to the following severance pay to a beneficiary to be designated by him.

1. *Vacation.* If the chief is laid off, retired or separated from the service of the city, for any reason other than discharge, prior to taking his earned vacation for a given year, he shall be compensated in cash, in a lump sum at the time of termination, for the unused accumulated vacation at the time of separation as calculated below.

(i) The chief shall receive full payment at his base hourly rate on the effective date of his resignation, for all vacation accrued for the prior year of service under subsection (b)(12)a.1. of this section, which has not been utilized at the time of separation from employment, and for all vacation earned during the current year of service since the beginning of the calendar year as determined by the formula below:

(ii) The chief will be credited with 3.846 hours of vacation for each full week of service completed in the current calendar year after his anniversary date of hire based on uninterrupted continued employment with the city. Because the vacation time is earned effective as of the anniversary date, and presently the city posts a full year's accrual for all employees in January each year, an adjustment must be made. The employee agrees to return back to the city at the same rate of 3.846 hours of unearned vacation time per full week, if he should leave service earlier in the calendar year than his anniversary date of hire.

2. *Sick leave.* Sick leave shall accrue up to 408 days for purposes of sick leave payout at retirement. Employees shall receive their first 45 days of accumulated sick leave. In addition, employees shall receive one sick leave day of pay for each total increment of 12 accumulated sick leave days beyond the 45 days to a maximum of 66 days pay out at retirement. This subsection only applies to retirement sick leave benefits and does not impact the sick leave benefits under subsection (b)(8) of this section entitled "sick leave."

3. *Uniform allowance.* One-twelfth of the prevailing unpaid allowance per full month of employment in the year of termination.

4. *Holidays.* Accrued holiday pay shall be paid at the chief's straight time hourly rate. The chief shall not continue to accrue sick leave, vacation, holidays or any other benefits under this section after the effective date of resignation, which terminates his employment relationship with the city. The chief shall be compensated for the above benefits in cash, in one lump sum payment at the time of termination. Payments shall be made in accordance with the state law within 15 days of the date of termination.

b. *Notice of severance or retirement.* Two weeks' notice must be given to the city in the event an employee voluntarily resigns their employment with the city. A 60 calendar-day notice must be given to the city in the event of retirement. If these notices are not timely provided, the accrued vacation would be forfeited.

(Code 2004, § 4.09; Ord. No. 2135, 2-1-2005)

Sec. 22-28. Records.

(a) *Inspection of police records.* The police department shall make police records available to the public in a timely manner, subject to the limitations prescribed by state law. The department shall cooperate fully and impartially with the public in their effort to gather factual information of public concern where such activities do not subvert the ends of justice, infringe upon individual rights to a fair and impartial trial or the efficient operation of the department in accordance with Wis. Stats. § 19.35, which deals with access to public records and includes police department records within its scope. Access includes inspection, copying and receiving copies.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Police department records means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by the police department. The term "record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes, including computer tapes and computer printouts. The term "record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working. The provisions of Wis. Stats. § 19.32(2) shall apply.

Release of records means:

(1) Any person has the right to inspect a record and to receive a copy of any record as provided in Wis. Stats. § 19.35(1).

(2) Records will be available for inspection and receiving copies during regular business hours.

(3) A request for records form shall be completed by the requester.

(c) *Refusal to disclose records.*

(1) *General circumstances*. A record may be refused under the following circumstances:

a. Records obtained under official pledges of confidentiality which are necessary and given in order to obtain the information contained in them.

b. Records of current deliberations after a quasi-judicial hearing.

c. Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance or discipline of any city officer or employee or the investigation of charges against a city officer or employee unless the employee consents to such disclosure.

d. Records concerning current strategy for crime detection or prevention.

e. Records that reveal the identity of children arrested, involved or suspected, except as allowed for media personnel, as stated in Wis. Stats. § 48.396(1).

f. Records of cases currently under investigation.

g. Records of current deliberations or negotiations on the purchase of city property, investing of city funds or other city business wherever competitive or bargaining reasons require nondisclosure.

h. Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or date.

i. Communications between legal counsel for the city and any officer, agent or employee of the city, when advice is being rendered concerning strategy with respect to current litigation in which the city or any of its officers, agents or employees is or is likely to become involved or communications which are privileged under Wis. Stats. § 905.03.

j. Performance of any person in a polygraph test or the refusal to take a polygraph test or any other type of truth verification process.

k. Investigation involving organized crime, undercover operations and internal affairs.

(2) *Access and inspection of juvenile records*. Access, inspection and disclosure of law enforcement juvenile records shall only be made upon the order of the court with the following exceptions:

a. Exchange of information with other law enforcement agencies.

b. Exchange of information with social welfare agencies.

c. Exchange of information between law enforcement and public or private school officials where the child attends.

d. The appropriate representative of the public, most commonly the district attorney or corporation counsel, shall have access to all law enforcement records of children.

e. News-gatherers who wish to obtain information for the purpose of reporting news. The identity of the child involved shall not be revealed by the news-gatherer.

f. Records of a child relating to an offense which has resulted in a waiver to adult court and adult court jurisdiction in proceedings against children 16 or older for violations of Wis. Stats. §§ 30.50 to 30.80 (Boating Laws), Wis. Stats. chs. 341 to 351 (Traffic Laws, excluding Wis. Stats. § §§ 346.06(2), 344.48(1) and 346.67) and Wis. Stats. § 167.32 (Safety at Sporting Events).

g. Any request for a law enforcement record which does not fall within one of these exceptions shall not be granted. An individual who receives law enforcement records, whether by exception or court order, shall keep the records confidential.

(3) *Storage of juvenile records*.

a. Juvenile arrest/identification records will be stored separate from adult records in manual files and by computer query. Access to those records is on a need to know basis only, normally for police investigative, social service or school purposes.

b. Those records not destroyed as part of the department's normal retention period will be maintained for police purposes only and disclosed for other than police investigative purposes only upon court order.

c. Juvenile records, regardless of the subject's age, shall be maintained by the department and shall comply with the provisions of Wis. Stats. § 48.78 (Confidentiality of Records).

(d) *Criminal history records.*

(1) *Criminal justice agencies*. Record checks may be disseminated by department personnel to criminal justice agencies. If such a record check is requested by telephone, the officer or clerk releasing information shall verify the identity of the requesting agency.

(2) *Public availability of certain records*. Upon request, specific criminal history records may be available to the public. The records shall include only convictions of subjects arrested for offenses occurring within the city. These records will be available to the requesting party only after review and approval of the chief of police or his designee.

(3) *Dissemination by radio*. Criminal history information will not be disseminated via the radio.

(e) *Accident reports*. The police department completes the MV4000 Accident Report, a two-part form supplied by the state department of transportation. The original of all accident reports shall be maintained by the police department. The carbon copy of accident reports shall be sent to the state. Information pertaining to juveniles involved in accidents may be released to the general public.

(f) *Record retention.*

(1) *Retention period*. Department records for which a specific retention period has not been established in state statutes, federal law or regulation shall be retained by the depart-

ment for not less than seven years. Records shall not be destroyed prior to the retention period unless they have been photographically reproduced as original records under Wis. Stats. § 16.61(7).

(2) *Notice prior to destruction*. The state historical society shall receive a 60-day notice under Wis. Stats. § 19.21(5)(d) prior to destruction of records.

(3) *Paperless records*. Dispatch audio tapes, telephone audio tapes, jail videos, audio surveillance tapes and in-squad video and surveillance tapes shall be retained for 120 days. At the end of the 120-day retention period the specified tape shall be erased and placed back into the appropriate service rotation.

(Code 2004, § 4.04; Ord. No. 1605, 5-18-1993; Ord. No. 1671, 10-4-1994)

Sec. 22-29. Fingerprinting policy and charges.

The police department may accommodate residents, nonresidents and city employees, all as time and manpower permit, furnishing voluntary requests for fingerprint identification, but shall impose the following charges for such services:

(1) City residents and employees of the city: No charge.

(2) All others: Fee as provided in the city fee schedule.

(Code 2004, § 4.07; Ord. No. 2056, 3-4-2003)

Sec. 22-30. Other police department fees and charges.

The following fees and charges are hereby authorized to be charged by the police department to the individual requesting same or involved in same:

(1) Photocopying: Fee as provided in the city fee schedule.

(2) Arrest warrants; enforcement of same outstanding from other jurisdictions: Fee as provided in the city fee schedule.

(Code 2004, § 4.08; Ord. No. 2130, 12-21-2004)

Sec. 22-31. Parking storage fees.

Any vehicle which comes into the care or custody of the police department as a result of involvement in unlawful activity shall not be released until the claimant or owner pays storage fees as provided in the city fee schedule for inside storage and fees as provided in the city fee schedule for outside storage in or on the municipal parking lot or building.

(Code 2004, § 9.23; Ord. No. 1669, 9-6-1994; Ord. No. 2139, 3-15-2005)

Sec. 22-32. False alarm charges.

(a) Any false alarm from a business, school or residential alarm system connected to the police alarm board in excess of two false alarms in a calendar year shall be subject to a charge as provided in the city fee schedule for each response made by the police department. For the purposes of this section, false alarm means any false alarm, whether inadvertently turned in or caused by defect or malfunction of alarm system.

(b) If the penalty assessment is not paid within 20 days after notification by the police department, the department may cause the violator's alarm system to be disconnected from the police department board.

(c) Any reports to the police department from alarm and reporting security systems which results in false alarm responses in excess of three per calendar year at a single location shall be subject to a charge as provided in the city fee schedule for each response. False responses are defined in subsection (a) of this section and if the penalty assessment is not paid within 20 days of notification, it shall be placed upon the tax bill of the property to which the false alarm response was made and become a lien upon the property.
(Code 2004, § 9.24; Ord. No. 1558, 11-26-1991; Ord. No. 2138, 3-15-2005)

Chapter 23

RESERVED

Chapter 24

MANUFACTURED AND MOBILE HOMES

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ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

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

Mobile home means that which is or was originally constructed, designed and intended to be used primarily for sleeping, eating and living quarters, mounted on wheels, jacks or supports, capable of being moved by its own power or transported by another vehicle. The definition of "mobile home" does not include a device used exclusively upon stationary rails or tracks.

Mobile home court means any park, court, camp site, plot, parcel or tract of land designed, maintained, intended or used for the purpose of supplying a location or accommodation for mobile homes, including all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the mobile home court and its facilities. A mobile home court shall not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.

Space means a plot of ground in a mobile home court of not less than 2,000 square feet and designed for the location of not less than two automobiles and one mobile home.

Unit means a mobile home unit.
(Code 2004, § 12.30(1); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-2. Location of mobile homes.

No occupied mobile home within the city shall be located between the recognized setback line for the zoning district in which such mobile home is located and the street or highway, nor less than 20 feet from any other building or mobile home or ten feet from the boundary line of the premises on which it is located.
(Code 2004, § 12.30(7); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-3. Location outside courts.

(a) *Prohibited*. No person shall park or occupy any mobile home on any street, alley or highway or other public place or on any tract of land owned by any person within the city not properly zoned and not an approved mobile home court.

(b) *Exceptions*.

(1) Emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than one hour, subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or ordinances for that street, alley or highway.

(2) The parking of only one unoccupied mobile home in an accessory private garage or in a rear yard is permitted, provided no living quarters shall be maintained or any business practiced in such mobile home while such mobile home is so parked or stored.

(Code 2004, § 12.30(2); Ord. No. 789, Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-4. Alterations prohibited.

(a) No person shall park or occupy any mobile home unit that has gone beyond the definition of a mobile home as defined in this section as a result of additions, attachments and annexations, foundations and appurtenances.

(b) No licensee shall permit any person residing in his mobile home park or trailer park to remove the wheels of his mobile home or trailer, except for temporary purposes of repair, or to block up a trailer, or to enclose the space beneath the trailer; nor shall any person occupying or owning a mobile home or trailer or a licensee of such park build or cause to be constructed any foundation, pier, posts, lean-to sheds or additions to the mobile home or trailer while parked within any licensed mobile home park or trailer park.

(c) Nothing herein contained shall prohibit the use of commercially manufactured stabilizing equipment.

(Code 2004, § 12.30(3); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-5. Accessory buildings.

No licensee or occupant shall erect upon any licensed mobile home park any tent, sectional or prefabricated cabin or cottage or any other structure intended to be used for dwelling purposes or to be used in connection with or added to any unit legally located on a space in such mobile home park; except one accessory building, not attached to a unit, of a size not to exceed five feet by seven feet shall be allowed on any one mobile home space. The accessory building shall be no closer than three feet to any mobile home unit.

(Code 2004, § 12.30(4); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-6. Parking permit fees.

There is imposed on each occupied nonexempt mobile home located in the city a parking permit fee in an amount as determined in accordance with Wis. Stats. § 66.0435. Such fees shall be paid to the city treasurer on or before the tenth day of the month following the month for which such fees are due. The licensee of a mobile home park shall collect such fees from each

occupied nonexempt mobile home therein and remit such fees to the city treasurer. Failure to do so shall be treated like a default in payment of personal property taxes and subject to all procedures and penalties applicable under Wis. Stats. chs. 70 and 74.
(Code 2004, § 12.30(14); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Secs. 24-7—24-30. Reserved.

ARTICLE II. MANUFACTURED HOME PARKS

Sec. 24-31. License for mobile home courts.

(a) *Required*. No person shall establish, operate or maintain, or permit to be established, operated or maintained upon any property owned, leased or controlled by him, a mobile home court within the city except in an area specifically zoned to allow such operation of a mobile home court and only after such person has obtained a license for each such court from the city council. Such license shall expire one year from the date of issuance but may be renewed under the provisions of this section for additional periods of one year.

(b) *Application*.

(1) The application for a license or a renewal thereof shall be filed with the city clerk on forms furnished by him and shall include the name and address of the owner in fee of the tract and such legal description of the premises upon which the mobile home court is or will be located as will readily identify and definitely locate the premises. If the owner is some person other than the applicant, a duly verified statement by that person that the applicant is authorized by him to construct or maintain the mobile home court and make the application shall be included.

(2) The application shall be accompanied by four copies of the court plan showing the following, either existing or as proposed:

a. The extent and area used for court purposes.

b. Roadways and driveways.

c. Location of units for mobile homes.

d. Location and number of sanitary conveniences, including toilets, washrooms, laundries and utility rooms to be used by occupants of units.

e. Method and plan of sewage disposal.

f. Method and plan of garbage disposal and removal.

g. Plan for water supply.

h. Plan for electrical lighting of units.

i. The location of all sewer and water pipes and connections.

(c) *Fee and bond*. The application for such license or the renewal thereof shall be accompanied by an annual fee for each space in the existing or proposed court and a surety bond for each 50 mobile homes or fraction thereof. This bond shall guarantee the collection by the licensee of the monthly parking permit fee provided for in section 24-6 and the payment of such fees to the city treasurer, and the payment by the licensee of any fine or forfeiture, including legal costs imposed upon or levied against such licensee, for any violation of this section. A fee shall be paid for each transfer of a license. Fees are as provided in the city fee schedule on file in the city clerk's office.

(d) *Number restricted*. The city shall issue not more than one mobile home court license.

(e) *Size restricted*. No mobile home court shall be licensed within the city which contains more than 125 spaces.
(Code 2004, § 12.30(5); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-32. Inspection and enforcement.

(a) *Required*. No mobile home court license shall be issued until the city clerk notifies the chief of police, the health officer, the fire chief and the building inspector, or their authorized agents, of such application. These officials shall inspect or cause to be inspected each application and the premises to determine whether the applicant and the premises on which mobile homes will be located comply with the regulations, ordinances and laws applicable thereto. Such officials shall furnish to the city council in writing the information derived from such investigation, and a statement as to whether the applicant and the premises meet the requirements of the department for whom the officer is certifying. No license shall be renewed without reinspection of the premises.

(b) *Right of entry*. For the purpose of making inspections and securing enforcement, such officials or their authorized agents may enter on any premises on which a mobile home is located or is about to be located and inspect the same and all accommodations connected therewith at any reasonable time.

(c) *Special inspection warrant*. Upon a refusal of entry for such inspection by either the licensee of the mobile home court or the owner of the mobile home unit, any of such officials shall apply for a special inspection warrant under Wis. Stats. § 66.0119 granting entry into the desired area.

(d) *Penalty*. If such mobile home court operator or owner of a mobile home unit refuses entry upon such warrant, such person shall be subject to a forfeiture of not less than $50.00 nor more than $200.00, and upon default of the payment of such forfeiture and costs, shall be

imprisoned in the house of correction or county jail until the payment of such forfeiture, but not exceeding 90 days for each violation. Each day of violation shall constitute a separate offense.
(Code 2004, § 12.30(6); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-33. Court plan.

(a) Every application for a mobile home court license shall be accompanied by a court plan drawn and prepared by a certified surveyor showing each space and its proper location and dimensions. If the application is a renewal and the properly described plat is on file with the city and the court remains unchanged from previous years, the licensee need not submit a new up-to-date certified survey of the mobile home court in the immediate year of application.

(b) Every mobile home or mobile home court shall be located on a well-drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other waters. No mobile home or mobile home court shall be located in any area so situated that drainage from any barnyard, outdoor toilet or any other source of filth can be deposited in its location.

(c) Mobile home spaces shall be staked with metal pipe as required by state law for surveys and clearly defined in accordance with the dimensions of the court plan and shall be a minimum of 2,000 square feet in area and not less than 30 feet wide. The court site shall be so arranged that all spaces face or abut on a roadway of not less than 20 feet in width, giving easy access from all units to a public street. Such roadway shall be graveled or paved and maintained in good condition, having natural drainage, and well lighted at night, and shall not be obstructed. Mobile home spaces shall be of such a dimension that no mobile home on such space is closer than 20 feet from any building or other mobile home, or ten feet from any boundary line of the space upon which it is located.

(d) Every mobile home space shall be furnished with an electric service outlet. Such outlet shall be equipped with an externally operated switch or fuse of not less than 30 amps capacity and a heavy duty outlet receptacle. Electrical outlets shall be weatherproof, and no power lines shall be less than 15 feet above ground.

(e) No mobile home unit shall be parked in a court outside of a designated space.
(Code 2004, § 12.30(8); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-34. Water supply.

(a) An adequate supply of pure water, furnished through a pipe distribution system connected directly with the public water main, with supply faucets located not more than 200 feet from any dependent mobile home, shall be furnished for drinking and domestic purposes in all courts.

(b) Individual water service connections provided for direct use of mobile home units shall be so constructed that they will not be damaged by the parking of such units and shall conform to the applicable state administrative regulations. Individual permits to connect to such water service connections shall be procured from the plumbing inspector prior to the connection to such services by the mobile home owner.

(c) No common drinking vessels or drinking water faucets shall be placed in any toilet room.
(Code 2004, § 12.30(9); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-35. Service building.

(a) Every mobile home court shall have erected thereon suitable buildings for housing laundry facilities as required by this section, such buildings to be known as service buildings. Service buildings shall be located not closer than 15 feet to any mobile home space. Such buildings shall be of permanent construction and adequately lighted, screened and ventilated.

(b) Laundry facilities shall be provided in the ratio of one double tray unit and one conventional type washing machine or one automatic washing machine with electric outlet for each eight units, and sufficient drying facilities shall be available. Floors of the laundry shall be of concrete, tile or similar material impervious to water and easily cleaned and pitched to a drain on the floor.
(Code 2004, § 12.30(10); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-36. Waste and garbage disposal.

(a) All liquid waste from showers, toilets, laundries, faucets, lavatories, etc., shall be discharged into a sewer system extended from and connected with the public sewer system.

(b) Every space designed to serve a mobile home unit shall be provided with sewer connections which shall comply with the state plumbing code. Every mobile home owner shall, prior to connecting to such a sewer connection, procure from the plumbing inspector a permit to connect or hook up to the sewer connection for his designated space.

(c) All sanitary facilities in any unit which are not connected with a public sewer system by approved pipe connections shall be sealed and not used.

(d) Each faucet shall be equipped with facilities for drainage of waste and excess water.

(e) Every mobile home shall be provided with a substantial flytight, watertight metal garbage depository from which the contents shall be removed and disposed of in accordance with the garbage pickup regulations of the city.
(Code 2004, § 12.30(11); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-37. Management.

(a) In every mobile home court there shall be located the office of the attendant or person in charge of such court, and a copy each of the court license and of this section shall be posted therein. The court register shall at all times be kept in such office.

(b) The attendant or person in charge, together with the licensee, shall:

(1) Keep a register of all guests, to be open at all times to inspection by city, state and federal officers and an appropriate mobile homes committee, which shall show for all guests:

a. Names and addresses.

b. Number of children of school age.

c. State of legal residence.

d. Dates of entrance and departure.

e. License numbers of all mobile homes and towing or other vehicles.

f. State issuing such licenses.

g. Place of employment of each occupant.

(2) Maintain the camp in a clean, orderly and sanitary condition at all times.

(3) Ensure that the provisions of this article are complied with and enforced, and report promptly to the proper authorities any violations of this article or any other violations of law which may come to his attention.

(4) Report to the health officer all persons or animals affected or suspected of being affected with any communicable disease.

(5) Maintain in convenient places, approved by the fire chief, hand fire extinguishers in the ratio of one to each four units.

(6) Collect the monthly parking permit fee provided for in section 24-6. A book shall be kept showing the names of the persons paying such service charge and the amount paid.

(7) Prohibit the lighting of open fires on the premises.

(c) Snow plowing shall be provided by the mobile home court owner for all of the service driveways, and an adequate access shall be provided to each mobile home to accommodate the city's firefighting equipment.

(d) No stripped, junked or wrecked vehicles, not in good and safe operating condition, shall be allowed anywhere in the mobile home court, and any such vehicles shall be subject to the provisions of section 26-6.
(Code 2004, § 12.30(12); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-38. Applicability of plumbing, electrical and building codes.

All plumbing, electrical, building and other work on or at any court licensed under this article shall be in accordance with this Code and the requirements of the state plumbing, electrical and building codes and the regulations of the state department of health and social services. Licenses and permits granted under this article grant no right to erect or repair any structure or do any plumbing or electrical work.
(Code 2004, § 12.30(13); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-39. Revocation and suspension.

The city council may revoke any license or permit issued hereunder in accordance with Wis. Stats. § 66.0435 .
(Code 2004, § 12.30(15); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Sec. 24-40. Penalty.

In addition to the penalty established for violations of this chapter in section 1-15, the city attorney may, as an alternate method of enforcement against any person operating a mobile home court without a license, procure injunctive relief in favor of the city against such person.
(Code 2004, § 12.30(16); Ord. No. 789, 11-21-1967; Ord. No. 2143, 3-15-2005; Ord. No. 2369, 11-15-2011)

Chapter 25

RESERVED

Chapter 26

NUISANCES

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ARTICLE I. IN GENERAL

Sec. 26-1. Public nuisances prohibited.

(a) *Generally.* No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the city. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

(1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;

(2) In any way render the public insecure in life or in the use of property;

(3) Greatly offend the public morals or decency; or

(4) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

(b) *Health.* The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the general definition of this section.

(1) *Adulterated food.* All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.

(2) *Unburied carcasses.* Carcasses of animals, birds or fowl not intended for human consumption or food that are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(3) *Breeding places for vermin, etc.* Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin may breed.

(4) *Stagnant water.* All stagnant water in which mosquitoes, flies or other insects can multiply.

(5) *Water pollution.* The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(6) *Noxious odors, etc.* Any use of property, substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoys, discomforts, injures or inconveniences the health of any appreciable number of persons within the city.

(7) *Street pollution.* Any use of property which causes any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the city.

(8) *Air pollution.* The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the city or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the city.

(c) *Morals and decency.* The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency within the general definition of this section:

(1) *Disorderly houses.* All disorderly houses, bawdy houses, houses of ill-fame, and buildings or structures kept or resorted to for the purpose of prostitution or promiscuous sexual intercourse.

(2) *Gambling places.* As defined in Wis. Stats. § 823.20.

(3) *Unlicensed sale of liquor and beer.* All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the city.

(4) *Continuous violation of city ordinances.* Any place or premises within the city where city ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(5) *Illegal drinking.* Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state.

(6) *Drug or criminal houses.* As defined in Wis. Stats. § 823.113.

(7) *Dilapidated buildings.* As defined in Wis. Stats. § 823.21.

(d) *Peace and safety.* The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the general definition of this section:

(1) *Dangerous signs, billboards, etc.* All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(2) *Illegal buildings.* All buildings erected, repaired or altered in violation of the provisions of the ordinances of the city relating to materials and manner of construction of buildings and structures within the city.

(3) *Unauthorized traffic signs.* All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public roadway or railway crossing which purport

to be or may be mistaken as official traffic control devices, railroad signs or signals or which, because of its color, location, brilliance or manner of operation, interfere with the effectiveness of any such device, sign or signal.

(4) *Tree limbs.* All limbs of trees which project over and less than ten feet above any public sidewalk, street or other public place.

(5) *Dangerous trees.* All trees that, in the opinion of the city arborist, are a danger to public safety or are considered invasive or a disease threat with regard to the city's urban forest.

(6) *Fireworks.* All use or display of fireworks, except as provided by the laws of the state and ordinances of the city.

(7) *Dilapidated buildings.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use.

(8) *Wires and cables over streets.* All wires and cables over streets, alleys or public grounds that are strung less than 15 feet above the surface thereof.

(9) *Noisy animals or fowl.* The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the city.

(10) *Obstructions of streets.* All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the city or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or do not conform to the permit.

(11) *Open cisterns, basements or other dangerous excavations.* No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person; and any cover shall be of a design, size and weight that the same cannot be removed by small children.

(12) *Unlawful assemblies.* Any unauthorized or unlawful use of a public street, alley or sidewalk, or of property abutting thereon, which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(13) *Abandoned or unattended ice boxes, etc., prohibited.* No person shall leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device that may

not be released from the inside without first removing such door or lid, snap lock or other locking device from such ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

(Code 2004, §§ 9.12(1), 9.13, 10.01—10.05; Ord. No. 960, 5-12-1972; Ord. No. 1158, 7-3-1979; Ord. No. 1317, 8-28-1984; Ord. No. 1426, 6-7-1988; Ord. No. 1473, 10-17-1989; Ord. No 1508, 7-17-1990; Ord. No. 1707, 6-20-1995; Ord. No. 1863, 10-6-1998; Ord. No. 1980, 11-21-2000; Ord. No. 2151, 6-7-2005; Ord. No. 2257, 7-17-2007; Ord. No. 2265.4, 6-25-2013)

Sec. 26-2. Weeds.

(a) *Declared a nuisance.* Any growth recognized by state law or rule as a noxious weed found growing in any lot or tract of land in the city is hereby declared a nuisance and no person shall permit any such weeds to grow or remain in any such place.

(b) *Weed commissioner.* The director of public works shall be the weed commissioner.

(c) *Removal; notice.* The weed commissioner shall serve or cause to be served a notice between May 1 and September 30 every year upon the owner of any premises on which weeds grow in violation of this section, demanding the abatement of the nuisance within ten days.

(d) *Abatement.* If the person so served does not abate the nuisance within ten days, the weed commissioner may proceed to abate such nuisance, keeping an account of the expense of the abatement, including a fee for administrative processing for abatements in the amount as provided in the city fee schedule and such expense shall be charged to and paid by such owner or occupant.

(e) *Lien*. Charges for such weed removal shall be a lien upon the premises. Whenever a bill for such charges remains unpaid for 60 days after it has been rendered, the clerk may file with the city treasurer a statement of lien claim. This statement shall contain a legal description of the premises, the expenses and costs incurred and the date the weeds were cut and a notice that the city claims a lien for this amount. The treasurer shall add such lien amount to the tax bill of the owner of the premises.

(Code 2004, § 10.03(6); Ord. No. 960, 5-12-1972; Ord. No. 1158, 7-3-1979; Ord. No. 1426, 6-7-1988; Ord. No. 1473, 10-17-1989; Ord. No. 1863, 10-6-1998; Ord. No. 2265.4, 6-25-2013)

Sec. 26-3. Cotton bearing poplars.

The female cotton bearing trees of the poplar family, commonly called the Easter Cottonwood (Populus deltoides) and the White Poplar (Populus alba), are hereby declared to be a public nuisance. No person shall plant or have planted such trees anywhere within the city limits after the effective date of the 1985 ordinance from which this section is derived. Cotton bearing poplars that generate complaints by the public shall be inspected by the city arborist and, if necessary, notice given to the property owner to remove trees at the property owner's cost.

Upon the owner's failure to remove trees within nine months of notice the city may remove the trees and the cost of removal and applicable administrative fee shall be charged to the property owner as an abatement.
(Code 2004, § 10.05(13); Ord. No. 1317, 8-21-1984; Ord. No. 1980, 11-21-2000; Ord. No. 2151, 6-7-2005; Ord. No. 2257, 7-17-2007)

Sec. 26-4. Traffic visibility obstructions.

(a) *Private property (traffic visibility restriction).* No owner or occupant of any property abutting a public street or alley shall permit any trees, shrubs, bushes, plant, sign, vehicles, trailers, material, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the street, sidewalk or alley at its intersection with another street or public thoroughfare. On all corner lots there shall be a vision triangular area as established by taking the corner property point and extending a line 15 feet along the property lines in each direction away from the corner intersecting point, then connecting those points to form a triangle. In case of arterial highways intersecting with other arterial highways or railways, the distance establishing the traffic visibility triangle shall be increased to 50 feet. Obstructions such as fences or vegetation may be permitted to a height not to exceed 2½ feet above the critical surface grade of the adjacent street or alley pavement as determined by the public works director.

(b) *Street parkway (edge of pavement to property line).* No obstructions such as utility boxes, switch cabinets, ground mounted transformers, structures or equipment that does not serve the operations of the intersection with a height greater than 2.5 feet as measured from the top of curb shall be placed within the street parkway abutting a vision triangle area.

(c) *Medians or traffic islands.* No obstructions such as utility boxes, switch cabinets, ground mounted transformers, structures, poles or equipment that does not serve the operations of the roadway shall be placed within the street median.
(Code 2004, § 10.05(4); Ord. No. 1317, 8-21-1984; Ord. No. 1980, 11-21-2000; Ord. No. 2151, 6-7-2005; Ord. No. 2257, 7-17-2007)

Sec. 26-5. Abandoned wells.

(a) *Purpose*. The purpose of this section is to protect contamination of groundwater and to protect public health, safety and welfare by assuring that unused, unsafe or noncomplying wells; or wells that may serve as conduits for groundwater contamination; or wells that may be illegally cross-connected to the municipal system, are properly abandoned.

(b) *Applicability.*

(1) All wells within the corporate limits of the city that are in unusable condition, unsafe or do not comply with Wis. Admin. Code ch. NR 812 or that may serve as conduits for

groundwater contamination shall be abandoned in accordance with this section within one year after connection to the municipal system becomes available, unless a well operation permit has been granted pursuant to this section.

(2) Premises where municipal water service is not available are exempt from this section.

(3) Where feasible, noncomplying wells and pump installations may be upgraded to comply with Wis. Admin. Code ch. NR 812. A private well may be temporarily abandoned under provisions of Wis. Admin. Code ch. NR 812. A well constructed for potable use may not be considered a nonpotable well to avoid the applicability of this section.

(4) If water from a private well is known to produce water which exceeds a state department of natural resources (DNR) health advisory, a primary standard in Wis. Admin. Code ch. NR 809 or an enforcement standard in Wis. Admin. Code ch. NR 140 a well operation permit shall not be issued without approval of the state department of natural ressources.

(5) An illegal cross-connection exists where a private well is connected to a plumbing system that is also connected to the municipal system.

(c) *Well operation permits*. A permit may be granted to a well owner to operate a private well for a period not to exceed five years. At the end of a permit period, the well owner may apply for a renewal of a permit upon submittal of updated information necessary for a permit application. The city may conduct inspections or have water quality tests conducted at the applicant's expense to obtain or verify information necessary for consideration of a permit. Permit applications shall be made on forms provided by the clerk. The following requirements must be met before a well operation permit is issued:

(1) The well has a functional pumping system and its use can be justified in addition to water provided by the public water system.

(2) The well has a history of producing bacteriological safe water and presently produces bacteriological safe water as demonstrated by providing a copy of the results of a least two water samples collected at least two weeks apart and analyzed at a state certified laboratory within three months preceding the request for the well operation permit or permit renewal.

(3) The well and pump installation meets the requirements of Wis. Admin. Code ch. NR 812, as certified by a state department of natural resources-licensed well driller or pump installer or by a state department of natural resources staff evaluation.

(4) No physical connection exists between the piping of the public water system and the private well.

(5) A fee as provided in the city fee schedule is paid to the city for processing a permit.

(d) *Abandonment methods*. Wells shall be abandoned according to the procedures outlined in Wis. Admin. Code ch. NR 812. The pump and piping must be removed and the well checked for obstructions prior to abandonment. Any obstruction or liner must be removed, if possible. Filling with unapproved materials or use of unacceptable procedures is prohibited.

(e) *Report and inspection*. An abandonment report form, state department of natural resources No. 3300-5, is available at the clerk's office and must be submitted to the clerk within ten days of abandonment completion. A 48-hour advance notice of well abandonment work must be provided to the clerk so the filling may be observed by a representative of the city. The clerk shall send a copy of Form 3300-5 to the appropriate state department of natural resources district office within ten days of receipt of the completed form.

(f) *Penalties*. Any person or other well owner violating any provisions of this section shall, upon conviction, be punished by a forfeiture of not less than $10.00 nor more than $2,000.00, together with the cost of prosecution. Each day during which a violation exists shall be deemed and constitute a separate offense. If any person fails to comply with this section for more than ten days after notice in writing, the city may impose a penalty or may cause the abandonment to be done and the expense thereof shall be assessed as a special tax against the property.
(Code 2004, § 9.12; Ord. No 1508, 7-17-1990; Ord. No. 1707, 6-20-1995)

Sec. 26-6. Storage of junked vehicles prohibited.

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

Owner means owners, tenants, lessees and occupants.

Vehicle means stripped, junked or wrecked motor vehicle not in good and safe operating condition.

(b) *Nuisance.* No vehicle shall be stored on the public right-of-way or property owned by the city. No vehicle shall be stored or allowed to remain in the open on private property within the city for more than 30 days, unless in connection with an authorized sales business enterprise located in a properly zoned area. Any violation of this section shall be deemed a nuisance. Each day of violation beyond 30 days shall constitute a separate violation.

(c) *Abatement by owner*. Vehicles stored on the public right-of-way or property owned by the city shall be removed in accordance with state law and the cost of removal and storage, plus any applicable administrative fees, shall be borne by the vehicle owner. The owner of any lot within the city upon which a vehicle is stored or permitted to remain in violation of this section shall jointly and severally abate such nuisance by the prompt removal of such vehicle into a completely enclosed building authorized to be used for such storage purposes if within the city or otherwise to remove the same to a location outside the city.

(d) *Vehicles upon private property.* Whenever the building inspector finds any such vehicle placed or stored in the open upon private property within the city, the owner of such property and the owner of the vehicle, if he can be located, shall be given a three-day written notice by certified mail to remove the same. If such vehicle is not removed within the time specified, the police department shall impound and dispose of the vehicle following the procedures of section 38-146(d)(6).

(e) *Salvage yard; excepted.* Subsection (b) of this section shall not apply to auto salvage yards and junkyards that are authorized under the ordinances of the city unless storage is within the public right-of-way.
(Code 2004, § 11.13; Ord. No. 1383, 10-21-1986; Ord. No. 1856, 8-4-1998)

Sec. 26-7. Loud and unnecessary noise prohibited.

(a) *Loud, disturbing or unnecessary sounds or noises.* No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises as may tend to annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park or any private residence.

(b) *Operation of motor vehicles.* No person shall operate a motor vehicle so as to cause the tires thereof to squeal, the horn to blow excessively or the motor to race excessively.

(c) *Music regulated.* No person shall play or permit to be played any mechanically operated phonograph, also known as jukebox, or any other musical instrument, radio, phonograph or other similar device, in taverns, restaurants, dance halls, parks, on any public or private property, apartment buildings and all residential dwellings or other places at a volume that is audible under normal conditions from a distance of 75 feet or more, unless the sound amplification device is being used to request assistance or warn against an unsafe condition.

(d) *Exceptions.* This section shall not apply to:

(1) Any vehicle of the city while engaged in necessary public business including but not limited to street sweeping, leaf collection, sewer cleaning, and snow and ice removal operations.

(2) Excavations or repairs of bridges, streets, highways and city-owned utilities by or on behalf of the city, county or state when the public welfare and convenience render it necessary to perform such work.

(3) The reasonable use of amplifiers or loudspeakers in the course of public addresses that are noncommercial in nature.

(4) The reasonable use of amplifiers by churches.

(5) Special events, such as festivals, 4th of July celebrations and similar community events, that are limited in duration and are generally acceptable to the people of the community; provided that precautions are taken to maintain the noises produced at the lowest practical level.

(Code 2004, § 9.10; Ord. No. 998, 10-16-1973; Ord. No. 1587, 7-21-1992; Ord. No. 2344, 6-22-2010)

Sec. 26-8. Abatement of public nuisances.

(a) *Enforcement.* The chief of police, fire chief, building inspector, public works director and health officer shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(b) *Summary abatement.* If the inspecting officer determines that a public nuisance exists within the city and that there is great and immediate danger to the public health, safety, peace, morals or decency, said officer shall cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(c) *Abatement after notice.* If the inspecting officer determines that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, the inspecting officer shall serve notice on the person causing or maintaining the nuisance to remove the same within seven days. If such nuisance is not removed within seven days, the proper officer shall cause the nuisance to be removed as provided in subsection (b) of this section.

(d) *Other methods not excluded.* Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the state.

(e) *Court order.* Except when necessary under subsection (b) of this section, an officer hereunder shall not use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

(f) *Cost of abatement; recovery.* In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the city shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance; and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(Code 2004, §§ 10.06, 10.07; Ord. No. 2282, 2-5-2008)

Secs. 26-9—26-34. Reserved.

ARTICLE II. CHRONIC NUISANCE PREMISES

Sec. 26-35. Findings.

The common council finds that any premises that has generated three or more calls for police or fire department service for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the city. The common council therefore directs the chief of police as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.
(Code 2004, § 10.08(1); Ord. No. 2075, 8-19-2003; Ord. No. 2113, 8-26-2004; Ord. No. 2265.4, 6-25-2013)

Sec. 26-36. Definitions.

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

Chronic nuisance premises means:

(1) a. A premises which has generated three or more calls for police services that have resulted in enforcement action for nuisance activities on three separate occasions within a 60-day period. Three or more calls for police services resulting in enforcement action for nuisance activities includes enforcement action taken against any person associated with the premises while at or within 200 feet of the premises for a nuisance activity;

b. A single-owner building with two to four dwelling units which has generated four or more calls for police services that have resulted in enforcement action for nuisance activities on four separate occasions within a 60-day period. Four or more calls for police services resulting in enforcement action for nuisance activities includes enforcement action taken against any person associated with the building while at or within 200 feet of the building for a nuisance activity; or

c. A single-owner building with five or more dwelling units which has generated six or more calls for police services that have resulted in enforcement action for nuisance activities on six separate occasions within a 60-day period. Six or more calls for police services resulting in enforcement action for nuisance activities includes enforcement action taken against any person associated with the building while at or within 200 feet of the building for a nuisance activity;

(2) A premises for which a court of law has determined that, pursuant to a search warrant requested, probable cause exists that manufacture, distribution or delivery of a controlled substance has occurred on or in association with the premises; or

(3) A premises which has one enforcement action associated with the premises resulting from the manufacture, delivery or distribution of a controlled substance) as defined in Wis. Stats. ch. 961.

Enforcement action means arrest, the issuance of a citation or the issuance of a verbal or written warning.

Nuisance activity means any of the following activities, behaviors or conduct whenever engaged in by premises owners, operators, occupants or persons associated with a premises:

(1) Any act of harassment as defined in Wis. Stats. § 947.013.

(2) Disorderly conduct as defined in Wis. Stats. § 947.01.

(3) Battery, substantial battery or aggravated battery as defined in Wis. Stats. § 940.19.

(4) Lewd and lascivious behavior as defined in Wis. Stats. § 944.20(1)(b).

(5) Keeping a place of prostitution as in Wis. Stats. § 944.34 or leasing a building for the purposes of prostitution.

(6) Littering of premises.

(7) Theft as defined in Wis. Stats. § 943.20.

(8) Burglary as defined in Wis. Stats. § 943.10.

(9) Entry to locked vehicle as defined in Wis. Stats. § 943.11.

(10) Criminal damage to property as defined in Wis. Stats. § 943.11.

(11) Arson as defined in Wis. Stats. § 934.02.

(12) Possession, manufacture or delivery of a controlled substance or related offenses as defined in Wis. Stats. ch. 961.

(13) Gambling as defined in Wis. Stats. § 945.02.

(14) Keeping a prohibited dangerous animal.

(15) Trespass to land as defined in Wis. Stats. § 943.13 or criminal trespass to dwelling as defined in Wis. Stats. § 943.14.

(16) Any act of aiding and abetting any of the activities, behaviors or conduct enumerated herein.

(17) Graffiti as defined in Wis. Stats. § 943.017.

(18) Harboring a runaway as prohibited by this Code.

(19) Truancy related calls as prohibited by this Code.

(20) Personal assistance or health calls, which relate to non-life-threatening situations and that are normally and ought be addressed by private care providers or otherwise tended to without engaging city resources.

(21) Any conspiracy to commit as defined in Wis. Stats. § 939.31 or attempt to commit as defined in Wis. Stats. § 939.32 any of the activities, behaviors or conduct enumerated herein.

(22) Discharge of a firearm or any other related firearm or dangerous weapons offense, state or municipal, including carrying a concealed weapon, air gun, pellet gun, or paint ball gun.

(23) The production or creation of excessive noise.

(24) Loitering.

(25) Public drinking or any underage alcohol code violations.

(26) Owning, keeping, having or harboring any bird or animal that causes a disturbance of the peace.

(27) Misuse of emergency telephone numbers.

Owner means the owner of the premises or his or her agents.

Persons associated with means any person who, whenever engaged in a nuisance activity, enters, patronizes, visits or attempts to enter, patronize or visit, or waits to enter, patronize or visit, a premises or person present on a premises, including any officer, director, customer, agent, employee or independent contractor of a premises owner.

Premises means an individual dwelling unit or an individual business premises and areas associated with such unit or premises.
(Code 2004, § 10.08(2); Ord. No. 2075, 8-19-2003; Ord. No. 2113, 8-26-2004; Ord. No. 2265.4, 6-25-2013)

Sec. 26-37. Determination of nuisance and notice.

(a) *Determination and notice.* Whenever the chief of police determines three or more nuisance activities have occurred at a premises on separate days during a 60-day period, the chief may notify the premises owner in writing. In reaching this determination, the chief shall not count nuisance activities that were reported by the owner of the premises. This notice shall contain:

(1) The street address or legal description sufficient for identification of the premises.

(2) A description of the nuisance activities that have occurred at the premises and a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises.

(3) A statement that the premises owner shall within ten days respond to the chief of police either with an appeal or to propose a written course of action to abate the nuisance activities that is acceptable to the chief.

(b) *Service of notice.* This notice shall be deemed to be properly delivered if sent either by first-class mail to the premises owner's last known address or if delivered in person, to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first-class mail to the last known address of the owner as identified by the records of the city assessor.
(Code 2004, § 10.08(3); Ord. No. 2075, 8-19-2003; Ord. No. 2113, 8-26-2004; Ord. No. 2265.4, 6-25-2013)

Sec. 26-38. Additional nuisance activity.

Whenever the chief determines that additional nuisance activity has occurred at a premises for which notice has been issued pursuant to the above and either this nuisance activity has occurred not less than 13 days after notice nor more than 180 such days, and that reasonable efforts have been made to abate the nuisance activity, the chief may calculate the cost of police response and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge. An administrative cost and police response time costs will be placed in an addendum attached to the ordinance from which this section derives and will be updated annually by the city accountant by November first of every year. The chief shall notify the premises owner of the decision and the premises owner's right to appeal per section.
(Code 2004, § 10.08(4); Ord. No. 2075, 8-19-2003; Ord. No. 2113, 8-26-2004; Ord. No. 2265.4, 6-25-2013)

Sec. 26-39. Appeal.

Appeal of the determination of the chief pursuant to this section may be submitted in writing to the common council. Wis. Stats. ch. 68 shall not apply to such an appeal.
(Code 2004, § 10.08(5); Ord. No. 2075, 8-19-2003; Ord. No. 2113, 8-26-2004; Ord. No. 2265.4, 6-25-2013)

Chapter 27

RESERVED

Chapter 28

OFFENSES

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ARTICLE I. IN GENERAL

Sec. 28-1. Offenses against state laws subject to forfeiture.

The following statutes following the prefix "28" defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the city, provided that any amendments, repeals, and renumbering of the statutes and any new enactments into Wis. Stats. chs. 941—948 and 951 shall, upon passage by the legislature be automatically incorporated into this chapter. The penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under section 1-15.

28.110.075(7)	Producing/Using Inspection Sticker Fraudulently
28.118.163	Municipal Truancy Ordinances
28.134.06	Bonus to Chauffeurs for Purchases, Forbidden
28.167.31	Safe Use and Transportation of Firearms and Bows
28.175.25	Storage of Junked Automobiles
28.175.60	License to Carry a Concealed Weapon
28.218.0146	Motor Vehicles/Prohibited Acts
28.218.0147	Purchase or Lease of Motor Vehicle by Minor
28.254.76	Causing Fires by Tobacco Smoking
28.813.12(8)	Domestic Abuse Violation of Restraining Order or Injunction.
28.939.05	Parties to Crime
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28.961.572	Determination of Drug Paraphernalia
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28.961.575(1), (2)	Delivery of Drug Paraphernalia to a Minor
28.968.075(1), (5), (6m)	Domestic Abuse Violation of No-Contract Order

(Code 2004, §§ 9.110.075(7)—9.968.075; Ord. No. 2291, 6-17-2008; Ord. No. 2352.2, 12-20-2001)

Sec. 28-2. Firearms and weapons.

(a) *Sale of firearms and weapons.*

(1) *To minors prohibited*. No person shall sell to a minor and no such minor shall purchase any blackjack, billyclub, bludgeon, metal knuckles or hand gun.

(2) *To felons prohibited*. No person shall sell a firearm or other dangerous weapon to a person who has been convicted of a felony unless such person has been pardoned.

(b) *Use of firearms and weapons.*

(1) *Prohibited*. No person shall discharge any firearm within the city.

(2) *Exceptions*. Firearms may be discharged within the city as follows:

a. By an authorized police or peace officer.

b. By any person in lawful defense of person or property.

c. Under permit granted by the chief of police. The chief of police may grant permits to the following organizations and individuals under regulations imposed by him to ensure protection of persons and property. Any person granted hereunder by the chief of police may be revoked by him or by the city council at any time.

d. By wildlife management activities conducted on county lands managed by General Mitchell International Airport under the supervision of qualified wildlife personnel consistent with federal or state regulations as follows:

1. Organized rifle or sporting clubs.

2. Shooting galleries and ranges constructed and maintained as required by the building inspector.

3. Adults for the purpose of destroying birds and animals causing damage to crops or property. No firearms shall be discharged under such permit within 500 feet of a building or residence or a public street.

(c) *Firearm possession.* Any state laws that regulate firearms adopted within this chapter, and any additions or amendments to the statutes or this chapter, shall remain in full force and effect.

(Code 2004, § 9.02; Ord. No. 1538, 7-2-1991; Ord. No. 2353, 12-7-2010; Ord. No. 2411, § 1, 11-18-2014)

Sec. 28-3. Throwing or shooting of projectiles restricted.

(a) *Non-hunting use of projectiles.* No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the city.

(b) *Bow/arrow and crossbow hunting.* Per Wis. Stats. § 29.038(3)(b)3, the city prohibits either of the following within the jurisdiction of this local governmental unit:

(1) Hunting with a bow and arrow or crossbow within 100 yards from a building located on another person's land. This restriction does not apply if the person who owns the land on which the building is located allows the hunter to hunt within the specified distance of the building.

(2) Hunting with a bow and arrow or crossbow and discharging the arrow or bolt from the respective weapon in a direction other than toward the ground.

(Code 2004, § 9.03; Ord. No. 2398, 2-19-2014)

Sec. 28-4. Sale and discharge of fireworks restricted.

(a) *Fireworks regulated.*

(1) *Prohibitions*. No person shall sell, expose, offer for sale, use, keep, discharge or explode any firecrackers, blank cartridges, toy pistols, cannons or toy canes in which explosives are used. Contrivances using explosive caps or cartridges, sparklers, display wheels, balloons which require fire underneath to propel them, torpedoes, sky rockets, Roman candles, aerial salutes, American or Chinese bombs, fireworks of light construction, fireworks containing explosive or flammable compound or tablets or devices commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any other explosives shall be prohibited for use within the city, except as hereinafter provided.

(2) *Public displays; permits required*. Nothing herein contained shall prohibit the use of fireworks, other than those prohibited by Wis. Stats. § 167.10 for pyrotechnic displays given by public authorities, fair associations, amusement parks, park boards, civic organizations or groups or individuals that have been granted a permit for such display by the mayor.

(3) *Issuance of permit*. The mayor may require an indemnity bond with sufficient sureties for the payment of claims that may arise due to the use or discharge of fireworks under the permit referred to in subsection (a)(2) of this section. The bond, if required, together with a copy of the permit, shall be filed in the office of the city clerk.

(4) *Permissible uses.* Nothing herein contained shall prohibit the use or sale of blank cartridges for circus or theatrical purposes; signal purposes in athletic contests or sports events or use by militia, police or military organizations; wildlife management activities conducted on county lands managed by General Mitchell International Airport under the supervision of qualified wildlife personnel consistent with federal or state regulations; nor the use or sale of colored flares or torpedoes for railway, aircraft or highway signal purposes.

(b) *Dealers and wholesalers, regulations.* Fireworks other than those prohibited by Wis. Stats. § 167.10, may be sold by resident wholesalers, dealers or jobbers only when they are shipped or delivered directly outside the state or to an organization or group granted a permit of the kind referred to in subsection (a)(3) of this section by any issuing officer of any city, village or town in the state.

(c) *Storage of fireworks.* The provisions of Wis. Stats. § 167.10 regulating the storage and handling of fireworks are hereby adopted by reference as part of this section.

(d) *Liability of parent or guardian.* A parent or legally appointed guardian of any minor who shall knowingly permit such minor to purchase, have in his possession or discharge any fireworks prohibited by this section shall be deemed to have violated this section and such parent or guardian shall be personally liable for any damage caused by such possession or discharge of fireworks as provided in Wis. Stats. § 167.10.
(Code 2004, § 9.04; Ord. No. 2411, § 2, 11-18-2014; Ord. No. 1216, 4-8-1981)

Sec. 28-5. Loitering prohibited.

(a) *Loitering or prowling considered an unlawful offense.* No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

(b) *Prohibitions.* No person shall do any of the following:

(1) *In dwelling areas*. Hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.

(2) *In public restrooms*. Loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

(3) *In schools*. Loiter in or about any school or public place at or near which children or students attend or normally congregate. As used in this section, the term "loiter" means to delay, linger or idle in or about any such school or public place without a lawful purpose for being present.

(4) *In public buildings*. Lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.

(5) *In restaurants, taverns*. Loiter in or about a restaurant, tavern or other public building. As used in this section, the term "loiter" means, without just cause, to remain in a restaurant, tavern or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.

(6) *Soliciting*. To loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested is that such person is a known prostitute or panderer; repeatedly beckons to stop or attempts to stop or engages male or female passersby in conversation; or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest shall be made for a violation of this section, unless the arresting officer first affords such person an opportunity to explain such conduct and no one shall be convicted of violating this section if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this section:

a. *Public place* is an area generally visible to public view and includes streets; sidewalks; bridges; alleys; plazas; parks; driveways; parking lots; automobiles, whether moving or not; buildings open to the general public, including those which serve food or drink or provide entertainment; and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

b. *Known prostitute or panderer* means a person who within one year previous to the date of arrest for violation of this section had within the knowledge of the arresting officer been convicted in Milwaukee municipal court or county circuit court of an offense involving prostitution.

c. *Public property* is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots; automobiles, whether moving or not; buildings open to the general public, including those which serve food or drink or provide entertainment; and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(7) *Begging*. To approach persons on private or public property, except as an agent or employee of a recognized and legitimate benevolent, religious or charitable organization, acting in the course of agency or employment, for the purpose of begging or soliciting funds or goods.

(Code 2004, § 9.05; Ord. No. 1516, 10-16-1990; Ord. No. 1711, 8-1-1995)

Sec. 28-6. Obstruction of aisles and exits prohibited.

No person shall obstruct the aisle or entrance or exit of a place of public assemblage when such place is being used for a public assembly.
(Code 2004, § 9.06)

Sec. 28-7. Unlawful assemblies.

(a) *Prohibited.* No person shall fail or refuse to withdraw from an unlawful assembly which he knows has been ordered to disperse.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Unlawful assembly is an assembly of three or more persons which causes such a disturbance of public order that it is reasonable to believe the assembly shall cause injury to persons or damage to property unless it is immediately dispersed. The term "unlawful assembly" includes an assembly of persons who block or obstruct the lawful use by any other person of any private or public thoroughfare, property or any access to or exit from any private or public building or dwelling place or any portion thereof.
(Code 2004, § 9.07)

Sec. 28-8. Intoxicating liquor on public property; private property open to use of public.

(a) Prohibited. No person shall possess, consume, sell or convey any fermented malt beverage or intoxicating liquor in or upon any property, building or other structure which is owned by or under the control of the city or the city board of education, except in such places as may be designated by the city and unless written permission is given by the city council.

(b) Consumption or possession of intoxicants on streets.

(1) No person shall possess, for purposes other than transport in a sealed container, or consume any intoxicating liquor or fermented malt beverage while in or upon any public street, alley, sidewalk or other public way.

(2) All purchases of alcohol or fermented malt beverages by the glass or in open containers shall be consumed on the licensed premises where served and shall not be removed to exterior areas of the premises or to public streets or sidewalks in the city.

(c) No person shall possess, for purposes other than transport in a sealed container, or consume any intoxicating liquor or fermented malt beverage while in or upon any privately owned business or commercial property including, but not limited to, parking lots or access ways that are normally available for the use of business invitees and the public.

(d) No person licensed under section 8-55, nor agents or representatives of the licensee, shall permit any area, other than the licensed premises during permitted open hours, to be used for the possession or consumption of any intoxicating liquor or fermented malt beverage.
(Code 2004, §§ 9.08—9.085; Ord. No. 1017, 9-17-1974; Ord. No. 1142, 5-1-1979; Ord. No. 1180, 5-6-1980; Ord. No. 1427, 6-7-1988)

Sec. 28-9. Loitering by gang members.

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

Criminal gang means an ongoing organization, association or group of three or more persons, whether formal or informal, that has as one of its primary activities the commission of one or more of the criminal acts, or acts that would be criminal if the actor were an adult, specified in subsections (a)(1) to (a)(20) of this section, that has a common name or a common identifying sign, or symbol; and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

Criminal gang activity means the commission, attempted commission or solicitation of the offenses, listed in subsections (a)(1) to (a)(20) of this section, provided that the offenses are committed by two or more persons, or by an individual at the direction of, or in association with, any criminal gang, with the specific intent of promoting, furthering or assisting in any criminal conduct by gang members.

Gang loitering means remaining in any one place under circumstances that would warrant a reasonable person to believe that the purpose or effect of that behavior is to enable a criminal gang to establish control over identifiable areas, to intimidate others from entering those areas or to conceal illegal activities.

Pattern of criminal gang activity means the commission of, attempt to commit or solicitation to commit two or more of the following crimes, or acts that would be crimes if the actor were an adult, at least one of those acts or crimes occurs after December 31, 2000, the last of those acts or crimes occurred within three years after a prior act or crime, and the acts or crimes are committed, attempted or solicited on separate occasions or by two or more persons:

(1) Manufacture, distribution or delivery of a controlled substance or controlled substance analog, as prohibited in Wis. Stats. § 961.41(1).

(2) First-degree intentional homicide, as prohibited in Wis. Stats. § 940.01.

(3) Second-degree intentional homicide, as prohibited in Wis. Stats. § 940.05.

(4) Battery, as prohibited in Wis. Stats. § 940.19 or 940.195.

(5) Battery, special circumstances, as prohibited in Wis. Stats. § 940.20.

(6) Mayhem, as prohibited in Wis. Stats. § 940.21,

(7) Sexual assault, as prohibited in Wis. Stats. § 940.225.

(8) False imprisonment, as prohibited in Wis. Stats. § 940.30.

(9) Taking hostages, as prohibited in Wis. Stats. § 940.305.

(10) Kidnapping, as prohibited in Wis. Stats. § 940.31.

(11) Intimidation of witnesses, as prohibited in Wis. Stats. § 940.31.

(12) Intimidation of victims, as prohibited in Wis. Stats. § 940.44 or 940.45.

(13) Criminal damage to property, as prohibited in Wis. Stats. § 943.01.

(14) Criminal damage to or threat to criminally damage the property of a witness, as prohibited in Wis. Stats. § 943.01 or 943.017(2m).

(15) Arson of building or damage by explosives, as prohibited in Wis. Stats. § 943.02

(16) Burglary, as prohibited in Wis. Stats. § 943.10

(17) Theft, as prohibited in Wis. Stats. § 943.20

(18) Taking, driving or operating a vehicle, or removing a part or component of a vehicle, without the owner's consent, as prohibited in Wis. Stats. § 943.23

(19) Sexual assault of a child, as prohibited in Wis. Stats. § 948.02

(20) Repeated acts of sexual assault of the same child, as prohibited in Wis. Stats. § 948.025.

Public place means the public way and any other location open to the public, whether publicly or privately owned.

(b) *Gang loitering prohibited.*

(1) It shall be unlawful for a member of a criminal gang to engage in gang loitering with one or more persons in any public place designated by the chief of police for the enforcement of this section.

(2) Whenever a police officer observes a member of a criminal gang engaged in gang loitering with one or more other persons in any public place designated by the chief of police under subsection (c) of this section for the enforcement of this section, the police officer shall, subject to applicable procedures promulgated by the chief of police:

a. Inform all such persons that they are engaged in gang loitering within an area in which loitering by groups containing criminal gang members is prohibited.

b. Order such persons to disperse and remove themselves from within sight and hearing of the place at which the order was issued.

c. Inform those persons that they will be subject to arrest if they fail to obey the order promptly or engage in further gang loitering within sight and hearing of the place at which the order was issued during the next three hours.

(c) *Designated areas.*

(1) The chief of police may by written directive designate areas of the city in which the enforcement of this section is necessary because gang loitering has enabled criminal gangs to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal illegal activities. Prior to making a determination under this subsection, the chief shall consult, as he or she deems appropriate, with persons who are knowledgeable about the effects of gang activity in areas in which this section may be enforced. Such persons may include, but need not be limited to, members of the police department with special training or experience related to criminal gangs; other personnel of the department with particular knowledge of gang activities in the proposed designated area; elected and appointed officials of the area; and community-based organizations familiar with the area. The chief may develop and implement procedures for the periodic review and update of designations made under this subsection.

(2) The chief of police shall by written directive promulgate procedures to prevent the enforcement of this section against persons who are engaged in collective advocacy activities that are protected by the Constitution of the United States or the State of Wisconsin.

(d) *Penalty.* Any person violating this section shall, upon conviction, forfeit not less than $500.00 nor more than $1,000.00, together with the costs of prosecution and, in default of payment shall be imprisoned in the house of correction or jail not to exceed 20 days, or until such forfeiture costs are paid in full.
(Code 2004, § 9.115; Ord. No. 2197, 7-18-2006)

Sec. 28-10. Radio and television interference prohibited.

No person shall operate any machine or equipment which causes interference with radio or television interception when such interference can be prevented by repairs, adjustments, the installation of corrective appliances or other practicable alterations at a reasonable expense.
(Code 2004, § 9.17; Ord. No. 1933, 3-21-2000)

Sec. 28-11. Harassing or obscene phone calls.

Whoever does any of the following by means of telephone calls originating within or received within the limits of the city shall be deemed to have violated this chapter:

(1) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent.

(2) Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers.

(3) Makes or causes the telephone of another repeatedly or continuously to ring with intent to harass any person at the called number or numbers.

(4) Makes repeated telephone calls during which conversation ensues solely to harass any person at the called number or numbers.

(5) Knowingly permits any telephone under his control to be used for any purpose prohibited by this section.

(6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

(Code 2004, § 9.19; Ord. No. 1159, 10-16-1979)

Sec. 28-12. Abuse of the 911 phone system.

No person shall utilize the 911 emergency telephone number system for any purpose other than to report an emergency. No person shall report an emergency on the 911 emergency telephone number knowing that the fact situation which he reports does not exist. An "emergency" is when an immediate response by public safety personnel is essential and an existing or very probable situation exists of:

(1) Bodily harm or life threatening illness or condition;

(2) Property damage or loss; or

(3) Escape of a suspect in a criminal offense or its municipal offense counterpart.

(Code 2004, § 9.195; Ord. No. 1541, 8-6-1991; Ord. No. 1550, 11-5-1991)

Sec. 28-13. Conduct on public buses.

(a) No person shall on a county transit system motor bus:

(1) Smoke or hold a lighted cigar, pipe, cigarette or other lighted material.

(2) Play radios and tape players, except if a device such as an ear plug is used by the listener.

(3) Consume any beverages (shall not apply to any bus operator).

(4) Dispose of any litter, garbage or refuse.

(b) A sign substantially bearing the words "No Smoking, Radio and Tape Playing, Consumption of Beverages or Littering—County Ordinance" shall be displayed in a conspicuous place in each motor bus.

(Code 2004, § 9.20; Ord. No. 1162, 12-4-1979)

Sec. 28-14. Synthetic marijuana.

(a) *Possession, sale and use prohibited.* No person shall possess, purchase, display for sale, attempt to sell, sell, give, barter or use any chemical derivative of marijuana, or any other substance, designed to mimic the physical, psychological, intoxicating, narcotic or other effects of marijuana.

(b) *Medical and dental use allowed.* Acts prohibited under subsection (a) of this section shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided use is permitted under state and federal laws.

(c) *Penalties.* Persons violating this section shall be subject to a forfeiture of not less than $100.00 nor more than $500.00.
(Code 2004, § 9.206; Ord. No. 2353, 12-7-2010)

Sec. 28-15. Injuring guide board markers.

(a) *Prohibited.* No person shall injure, deface or remove any sign, guide board, mile post, signal or marker erected by the state or the city for the warning, instruction or information of the public. The following warning shall be affixed to the front of each such sign, guide board, mile post, signal or marker: "WARNING: $25.00 to $100.00 forfeiture or imprisonment for removing or tampering with this sign."

(b) *Possession of markers.* No person shall possess any such marker unless he can demonstrate that he obtained it in a legal manner. Possession of such a sign, guide board, mile post, signal or marker shall create a rebuttable presumption of illegal possession. In this subsection, the term "possession" shall mean the presence of such a sign, guide board, mile post, signal or marker on premises owned or controlled by the person including, but not limited to, a rented apartment, rented room or dormitory room. Persons who voluntarily notify a law enforcement agency of the presence on their premises of such a sign, guide board, mile post, signal or marker shall be exempt from prosecution hereunder.

(c) *Penalty.* Any person who violates this section shall be subject to a forfeiture of $25.00 for the first violation, $100.00 for a subsequent violation, and upon default of payment, imprisonment in the county jail until such forfeiture is paid, but not to exceed 60 days. In addition, the court may order such person to either restore or replace any damaged marker or pay the cost thereof. On conviction of any person of a violation of this section, the court shall pay the person who informed against and aided in prosecution of the person to conviction one-half the amount of the forfeiture paid into the court.
(Code 2004, § 9.22; Ord. No. 1181, 5-6-1980)

Sec. 28-16. Injury to property prohibited.

(a) No person shall willfully, maliciously or wantonly deface, draw, scratch, brush or spray paint upon, injure or destroy any public property or any private property of another.

(b) Any person given a written order from the police department to remove, clean up or repair property injured as referred to in subsection (a) of this section shall have ten days in which to comply. Each day of noncompliance shall be a violation of the order.

(c) Any person who shall violate any provision of this chapter, or any regulation, rule or order made hereunder, shall be subject to a penalty as provided in section 1-15. In addition to any penalty imposed for violation of Wis. Stats. § 9.943.01(1), any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent of any unemancipated minor child who violates Wis. Stats. § 9.943.01(1), may also be held liable for the cost of repairing such damaged or destroyed property in accordance with Wis. Stats. § 895.035.
(Code 2004, §§ 9.225, 9.30; Ord. No. 1640, 12-7-1993; Ord. No. 2339, 3-16-2010)

Sec. 28-17. Prepayment for fuel.

(a) *Purpose.* The purpose of this section is to lower the number of drive-off fuel thefts in the city and reduce the burden of investigating these crimes on the police department.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Automobile service station refers to the definition found in section 44-4.

Fuel means gasoline, diesel fuel, ethanol or any combination thereof.

Preapproval means the automobile service station has issued an identification card to the purchaser that verifies and records the purchaser's driver's license information.

Prepayment means payment in advance for any quantity of fuel sold at any time by cash, credit card, debit card, check, or any other legal means. Using a valid credit or debit card that is authorized at the pump, or by an employee of the automobile service station, immediately prior to the time of fuel purchase shall be considered a valid prepayment.

(c) *Prohibited conduct.* No automobile service station owner, manager, supervisor, or employee shall:

(1) Activate any gasoline or diesel fuel pumping device prior to receiving prepayment in full for the fuel or granting preapproval for the sale; or

(2) Allow or permit any person to dispense fuel from a pumping device at an automobile service station unless the person has first made prepayment in full or received preapproval from the automobile service station.

(d) *Penalty.* Failure or refusal to comply with this section may be the basis for nonrenewal of a business license. The police department will not investigate any theft involving fuel where prepayment was not required unless force, threat of force, or fraud was involved.
(Code 2004, § 12.37; Ord. No. 2379, 12-18-2012)

Secs. 28-18—28-38. Reserved.

ARTICLE II. SEX OFFENDERS

Sec. 28-39. Purpose.

This article is a regulatory measure aimed at protecting the health and safety of children in the city from the risk that convicted sex offenders may re-offend in locations close to their residences. The city finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders, and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools, day care centers and other places children frequent. The city finds and declares that in addition to schools and state licensed child day care centers, children congregate or play at public parks.
(Code 2004, § 9.29(1); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-40. Definitions.

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

Crime against children means any of the following offenses set forth within the state statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction, respectively:

(1) Wis. Stats. § 940.225(1), First Degree Sexual Assault;

(2) Wis. Stats. § 940.225(2), Second Degree Sexual Assault;

(3) Wis. Stats. § 940.125(3), Third Degree Sexual Assault;

(4) Wis. Stats. § 940.22(2), Sexual Exploitation by Therapist;

(5) Wis. Stats. § 940.30, False Imprisonment—Victim was minor and not the offender's child;

(6) Wis. Stats. § 940.31, Kidnapping victim was minor and not the offender's child;

(7) Wis. Stats. § 944.01, Rape (prior statute);

(8) Wis. Stats. § 944.06, Incest;

(9) Wis. Stats. § 944.12, Enticing Child for Immoral Purposes (prior statute);

(10) Wis. Stats. § 948.02(1), First Degree Sexual Assault of a Child;

(11) Wis. Stats. § 948.02(2), Second Degree Sexual Assault of a Child;

(12) Wis. Stats. § 948.025, Engaging in Repeated Acts of Sexual Assault of the Same Child;

(13) Wis. Stats. § 948.05, Sexual Exploitation of a Child;

(14) Wis. Stats. § 948.055, Causing a Child to View or Listen to Sexual Activity;

(15) Wis. Stats. § 948.06, Incest with a Child;

(16) Wis. Stats. § 948.07, Child Enticement;

(17) Wis. Stats. § 948.075, Use of a Computer to Facilitate a Child Sex Crime;

(18) Wis. Stats. § 948.08, Soliciting a Child for Prostitution;

(19) Wis. Stats. § 948.095, Sexual Assault of a Student by School Instructional Staff;

(20) Wis. Stats. § 948.11(2)(a) or (am), Exposing Child to Harmful Material felony sections;

(21) Wis. Stats. § 948.12, Possession of Child Pornography;

(22) Wis. Stats. § 948.13, Convicted Child Sex Offender Working with Children;

(23) Wis. Stats. § 948.30, Abduction of Another's Child;

(24) Wis. Stats. § 971.17, Not Guilty by Reason of Mental Disease of an included offense; and

(25) Wis. Stats. § 975.06, Sex Crimes Law Commitment.

Loiter free zones means the 500-foot radius surrounding all restricted places.

Loitering means, whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.

Person means a person who has been convicted of, or has been found delinquent of, or has been found not guilty by reason of disease or mental defect of a sexually violent offense and/or a crime against children.

Residence (reside) means the place where a person sleeps, or which qualifies as a residence under the holdings of the state supreme court, and which may include more than one location, and may be mobile or transitory.

Sexually violent offense shall have the meaning as set forth in Wis. Stats. § 980.01(6)(a) and (am), as amended from time to time.
(Code 2004, § 9.29(2); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-41. Residency restrictions.

A person shall not reside within 500 feet of the real property comprising any of the following:

(1) Any facility for children (which means a public or private school, a group home, as defined in Wis. Stats. § 48.02(7); a residential care center for children and youth, as defined in Wis. Stats. § 48.02(15d); a shelter care facility, as defined in Wis. Stats. § 48.02(17); a foster home, as defined in Wis. Stats. § 48.02(6); a treatment foster home, as defined in Wis. Stats. § 48.02(17q); a day care center licensed under Wis. Stats. § 48.65; a day care program established under Wis. Stats. § 120.13(14); a day care provider certified under Wis. Stats. § 48.651; or a youth center, as defined in Wis. Stats. § 961.01(22)); and/or

(2) Any facility used for:

a. A public park, parkway, parkland, park facility;

b. A public swimming pool;

c. A public library;

d. A recreational trail;

e. A public playground;

f. A school for children;

g. Athletic fields used by children;

h. A movie theatre;

i. A state-licensed day care center;

j. Any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;

k. A public or private golf course or range; and

l. Aquatic facilities open to the public;

The distance shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above-enumerated uses.
(Code 2004, § 9.29(3); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-42. Residency restriction exceptions.

A person residing within 500 feet of the real property comprising any of the uses enumerated in section 28-41, does not commit a violation of this section if any of the following apply:

(1) The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

(2) The person has established a residence prior to the effective date of the ordinance from which this section is derived (February 15, 2008) which is within 500 feet of any of the uses enumerated in section 28-41 or such enumerated use is newly established after such effective date and it is located within such 500 feet of a residence of a person which was established prior to the effective date of the ordinance from which this section is derived.

(3) The person is a minor or ward under guardianship.

(Code 2004, § 9.29(4); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-43. Original domicile restriction.

In addition to and notwithstanding the foregoing, but subject to section 28-42, no person and no individual who has been convicted of, or adjudicated delinquent for, or been found guilty by reason of mental disease or defect of a sexually violent offense and/or a crime against children, shall be permitted to reside in the city, unless such person was domiciled in the city at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense and/or crime against children.

(Code 2004, § 9.29(5); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-44. Child safety zones.

No person shall enter or be present upon any real property upon which there exists any facility used for or which supports a use of:

(1) A public park, parkway, parkland, park facility;

(2) A public swimming pool;

(3) A public library;

(4) A recreational trail;

(5) A public playground;

(6) A school for children;

(7) Athletic fields used by children;

(8) A movie theatre;

(9) A state-licensed day care center;

(10) Any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;

(11) A public or private golf course or range;

(12) Aquatic facilities open to the public; and

(13) Any facility for children (which means a public or private school, a group home. as defined in Wis. Stats. § 48.02(7); a residential care center for children and youth, as defined in Wis. Stats. § 48.02(15d); a shelter care facility, as defined in Wis. Stats. § 48.02(17); a foster home, as defined in Wis. Stats. § 48.02(6); a treatment foster home, as defined in Wis. Stats. § 48.02(17q); a day care center licensed under Wis. Stats. § 48.65; a day care program established under Wis. Stats. § 120.13(14); a day care provider certified under Wis. Stats. § 48.651; or a youth center as defined in Wis. Stats. § 961.01(22)
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(Code 2004, § 9.29(6); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-45. Child safety zone exceptions.

A person does not commit a violation of section 28-44 and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

(1) The property supporting an enumerated use under section 28-44 also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "church"), subject to the following conditions:

a. Entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and

b. Written advance notice is made from the person to an individual in charge of the church and approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the person; and

c. The person shall not participate in any religious education programs which include individuals under the age of 18.

(2) The property supporting an enumerated use under section 28-44 also supports a use lawfully attended by a person's natural or adopted children, which child's use reasonably requires the attendance of the person as the child's parent upon the property, subject to the following conditions:

a. Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and

b. Written advance notice is made from the person to an individual in charge of the use upon the property and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the person.

(3) The property supporting an enumerated use under section 28-44 also supports a polling location in a local, state or federal election, subject to the following conditions:

a. The person is eligible to vote;

b. The designated polling place for the person is an enumerated use; and

c. The person enters the polling place property, proceeds to case a ballot with whatever usual and customary assistance is provided to any member of the electorate; and the person vacates the property immediately after voting.

(4) The property supporting an enumerated use under section 28-44 also supports an elementary or secondary school lawfully attended by a person as a student under which circumstances the person who is a student may enter upon that property supporting the school at which the person is enrolled, as is reasonably required for the educational purposes of the school.

(Code 2004, § 9.29(7); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-46. Prohibited location and/or acts.

(a) *Restricted zone restrictions.* It is unlawful for any designated offender to be physically present within a restricted zone under any of the following circumstances:

(1) When children are present or are reasonably presumed or known to be present; or

(2) Monday through Saturday, in a school or day care center restricted zone and between 7:00 a.m. and 11:00 p.m.; or

(3) In a park or playground restricted zone and between 7:00 a.m. and 11:00 p.m.

(b) *Restricted zone restriction exceptions.* A designated offender may be physically present on any day or time within a restricted zone if all of the following are present:

(1) The designated offender has official business, which is determined by the reasonable person standard; and

(2) The designated offender is accompanied by another adult who is not a designated offender.

(c) *Loitering.* It is unlawful for a designated offender to loiter within a restricted zone or loiter free zone.

(Code 2004, § 9.29(8); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-47. Holiday prohibition.

It is unlawful for any designated offender to participate in a holiday event involving children under 16 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the designated offender is the parent or guardian of the children involved, and no nonfamilial children are present, are exempt from this section.

(Code 2004, § 9.29(9); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-48. Violations.

If a person violates any provision of this section listed above, without any exception as also set forth above, the city attorney, upon referral from the chief of police and the written determination by the chief of police that upon all of the facts and circumstances and the purpose of this section, such residence occupancy presents an activity or use of property that interferes substantially with the comfortable enjoyment of life, health, safety of another or others, shall bring an action in the name of the city in the circuit court for the county to permanently enjoin such residence as a public nuisance. If a person violates any provision of this section, in addition to the aforesaid injunctive relief, such person shall be subject to the general penalty provisions set forth under section 1-15. Each day a violation continues shall constitute a separate offense.

(Code 2004, § 9.29(10); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-49. Property owners prohibited from renting real property to sexual offenders.

It is unlawful to let or rent any place, structure or part thereof, manufactured home, trailer, or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to the terms of this article, if such place, structure or part thereof, manufactured home, trailer, or other conveyance, is located within 500 feet of any premises where children commonly gather, including, but not limited to, a school, day care facility, playground, public or private youth center, public swimming pool, video arcade facility, or children's oriented eating establishment, as those terms are defined in this article.

(Code 2004, § 9.29(11); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Sec. 28-50. Sex offender residence appeal.

The above requirements of this article may be waived upon approval of the common council through appeal by the affected party. Such appeal shall be made to the city clerk's office who

shall forward the request to the common council, which shall receive reports from the police department on such appeal. The common council shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation, the board shall forward its decision in writing to the police department for their information and action. A written copy of the decision shall be provided to the affected party.
(Code 2004, § 9.29(12); Ord. No. 2254, 3-20-2007; Ord. No. 2277, 2-5-2008; Ord. No. 2369, 11-15-2011)

Secs. 28-51—28-75. Reserved.

ARTICLE III. JUVENILES

Sec. 28-76. Juvenile curfew.

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

Curfew hours means from 11:00 p.m. on any day of a seven-day week until 5:00 a.m. of the following day.

Custodian means a person at least 18 years of age who has been authorized by a parent or guardian to have the care and custody of the juvenile.

Juvenile means any person who is at least 12 years of age but less than 17 years of age.

(b) *Prohibition.* It shall be unlawful for any juvenile to be upon the streets, alleys or public places within the city during curfew hours.

(c) *Exceptions.* The following shall constitute valid exceptions to the regulation of curfew hours in subsection (b) of this section:

(1) At any time, if the person is accompanied by his parent, legal guardian, or other responsible person who is at least 18 years of age and who is approved by the person's parent or legal guardian.

(2) Performing an errand as directed by a parent, guardian or person having lawful custody.

(3) At any time, in the event of an emergency that would justify the reasonableness of the person's presence.

(4) A business or occupation that the laws of this state authorize a person less than 17 years of age to perform.

(5) Participating in, going to, or returning from a school sanctioned activity with advance permission of the juvenile's parent or guardian.

(6) Participating in, going to, or returning from a religious event, with advance permission of the juvenile's parent or guardian.

(7) If the person is coming directly home from a public meeting or place of public entertainment such as a movie, play, or school, church or sporting event. This exception will apply for one-half hour after the completion of such event, but in no case beyond 12:30 a.m. If the event is not commercial in nature or does not have a fixed publicly known time at which it will end, the sponsoring organization must register the event with the police department at least 24 hours in advance informing the department of the time such event is scheduled to be, the place at which it will be held, the time at which it shall end, and the name of the sponsoring organization.

(8) Is an "emancipated minor" who is or has been married; a minor who has previously given birth; or a minor who has been freed from the care, custody and control of his or her parents, with little likelihood of returning to the care, custody and control prior to marriage or prior to reaching the age of majority pursuant to the provisions of Wis. Stats. § 48.375(2)(e).

(9) Interstate or international travel for lawful purposes.

(10) If the person is coming directly home from a private home which has been approved by the person's parent or legal guardian.

(11) Until the hour of 12:30 a.m. if the person is on the property of or the sidewalk directly adjacent to the building in which he resides or the buildings immediately adjacent thereto.

(12) The juvenile was exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech or the right to assembly. An activity involving the exercise of the juvenile's rights protected under the First Amendment to the United States Constitution or sections 3, 4 and 18 of the Constitution of the State of Wisconsin such as the freedom of speech, the right of assembly, and free exercise of religion.

(d) *Parental violation.* It shall be unlawful for any parent, legal guardian or custodian to knowingly cause or permit a juvenile to be in violation of the ordinance from which this section was derived.

(e) *Responsibility of operators of places of amusement.* No person operating a place of amusement or entertainment within the city, or any agent, servant or employee of any such person, shall permit a child under the age of 17 years to enter or loiter in such place of amusement or entertainment between 11:00 p.m. and 5:00 a.m. the next day unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child.

(f) *Responsibility of hotels, motels and roominghouses.* No person operating a hotel, motel or lodginghouse or roominghouse within the city, or any agent, servant or employee of such person, shall permit any child under the age of 17 years to visit, idle, wander or stroll in any portion of such hotel, motel or lodginghouse or roominghouse between 11:00 p.m. and 5:00 a.m. the next day unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child.

(g) *Enforcement.* Prior to issuing a citation for a violation of subsection (b) or (d) of this section, a police officer shall ask the juvenile's age and reason for being in the public place. A police officer shall not issue a citation under subsection (b) or (d) of this section unless the officer reasonably believes that an offense has occurred and that none of the exceptions found in subsection (c) of this section apply.

(h) *Penalties.*

(1) Any person who violates subsection (b) of this section is subject to a forfeiture of not less than $15.00 nor more than $75.00.

(2) Any person who violates subsections (d), (e) or (f) of this section shall be subject to a forfeiture of not less than $75.00 nor more than $400.00.

(Code 2004, § 9.09; Ord. No. 2305, 2-17-2009)

Sec. 28-77. Harboring minors.

(a) No person shall knowingly allow, assist, permit, or board any minor child at his or her residence, property, or place of business, or in any other place whatsoever, where the person knew or should have known the child to be a runaway from his or her parent, guardian, or legal custodian. A runaway is any minor child away from home without permission from his or her parent or legal custodian.

(b) No person shall knowingly assist, aid or abet a runaway child to escape apprehension or flee from his parents, legal guardian or authorities, including but not limited to:

(1) Provide transportation to said runaway child; or

(2) Provide money, clothing or any other useful instrument to the runaway child to aid the runaway child in escape or concealment; or

(3) Obstruct by providing false or untrue information regarding the location or plan of the runaway child; or

(4) Refuse to provide information to law enforcement officers when questioned about the runaway child, which information was known to them at the time and would assist in the apprehension of the runaway child; or

(5) Assist, aid or abet the runaway child any other way for the purpose of hindering law enforcement officers or the child's parents, guardian or legal custodian from learning the whereabouts of the child.

(Code 2004, § 9.095; Ord. No. 1918, 12-7-1999)

Sec. 28-78. Sale of spray paint and wide-tipped markers to minors.

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

Graffiti means any inscription, word, figure or design marked, scratched, etched, drawn or painted with spray paint, liquid paint, ink, chalk, dye or other similar substances on buildings, fences, structures and other similar places without the express permission of the owner or operator of the property.

Spray paint means any container, regardless of the material from which it is made, which is made or adapted for the purpose of spraying paint.

Wide-tipped markers means any indelible marker or similar implement with a tip which, at its broadest width, is one-quarter inch or greater.

(b) *Prohibited conduct.*

(1) *Sale of spray paint and wide-tipped markers to minors*. No person, except a parent or legal guardian, employer, teacher or other person authorized to supervise minors, may sell or give away or in any way furnish spray paint or wide-tipped markers to any person under the age of 18.

(2) *Possession of spray paint and wide-tipped markers*. No person under the age of 18 may possess spray paint or wide-tipped markers in a public or private place, without the express permission of the owner or operator of the property.

(c) *Display of spray paint and wide-tipped markers.* Every person who owns, conducts, operates or manages a retail commercial establishment selling spray paint or wide-tipped markers shall:

(1) Place a sign in clear public way view at or near the display of such products stating:

GRAFFITI IS AGAINST THE LAW. THE DEFACING OF PUBLIC OR PRIVATE PROPERTY IS PUNISHABLE BY A FINE OF UP TO $5,000.00 OR IMPRISONMENT FOR UP TO 90 DAYS.

(2) Place a sign in direct view of persons responsible for accepting customer payment for spray paint, wide-tipped markers stating:

SELLING SPRAY PAINT OR WIDE-TIPPED MARKERS TO PERSONS UNDER 18 YEARS OF AGE IS AGAINST THE LAW. VIOLATORS CAN BE FINED UP TO $5,000.00 OR IMPRISONED UP TO 90 DAYS.

(3) Display such paint or markers in such a manner as to make them inaccessible to a customer present in the area allocated for customer use without assistance from an employee of that establishment.

(4) Display such items, if the person chooses not to comply with the display requirements set forth in this subsection (c), such that minors, cameras or personnel can readily observe customers during all times such establishment is open to the public.

(d) *Penalties.* Any person convicted of violating any provision of this section, shall forfeit not less than $500.00 nor more than $5,000.00 per violation, or upon default of payment be imprisoned for not more than 90 days. Any person convicted of violating subsection (b)(2) of this section shall forfeit $200.00 per violation.
(Code 2004, § 9.226; Ord. No. 1666, 9-6-1994)

Sec. 28-79. Parental responsibility for juvenile misconduct.

(a) *Purpose.* The purpose of this section is to reduce the incidents of misconduct by juveniles by requiring proper supervision on the part of custodial parents.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Child means a person under the age of 18 years.

Custodial parent means a parent or legal guardian of a minor child who has custody of said child.

Custody means either physical custody of a child under a court order under Wis. Stats. § 767.0225 or 767.41, custody of a child under a stipulation under Wis. Stats. § 767.34 or actual physical custody of the child. Custody does not include legal custody, as defined under Wis. Stats. § 48.02(12) by an agency or a person other than a child's birth or adoptive parent. In determining which parent has custody of a child for purposes of this section, the court shall consider which parent had responsibility for caring for and supervision of the child at the time that the child's ordinance violations occurred.

(c) *Prohibited conduct.* Every custodial parent has a duty to properly supervise his or her child. Any custodial parent whose child is convicted of a Code violation twice in a six-month period or three or more times within a 12-month period is guilty of failing to properly supervise said child. The six-month and 12-month periods shall be measured from the date of the first violation.

(d) *Penalty.* The offense described under subsection (c) of this section shall be subject to a penalty of a minimum of $100.00 and a maximum of not more than $1,000.00.

(e) *Defenses.*

(1) The following shall be defenses to a violation of subsection (c) of this section :

a. Where the parent has made all reasonable and available efforts under the circumstance to prevent the juvenile misconduct;

b. Where the parent is not legally responsible for the supervision of the juvenile at the time the misconduct occurred; or

c. Where the parent has a physical or mental disability or incompetency rendering him incapable of supervising the juvenile at the time the misconduct occurred.

(2) It is not a defense where the parent assigns parental responsibility to another, except pursuant to legal proceedings which result in a court order effectuating the same.

(3) The parent has the burden of proving their defense by clear and satisfactory evidence.
(Code 2004, § 9.28; Ord. No. 2114, 10-5-2004)

Sec. 28-80. Tobacco products; sales and use by children.

Wis. Stats. § 134.66 and 254.92 which prohibit sales and use of tobacco products by children are hereby adopted by reference as if fully set forth herein.
(Code 2004, § 12.23; Ord. No. 1596, 10-6-1992)

Chapter 29

RESERVED

Chapter 30

PARKS, RECREATION, AND OTHER PUBLIC FACILITIES

Article I. In General

Secs. 30-1—30-18. Reserved.

Article II. Library

Sec. 30-19. Overdue library materials.
Sec. 30-20. Damaging library materials prohibited.

ARTICLE I. IN GENERAL

Secs. 30-1—30-18. Reserved.

ARTICLE II. LIBRARY

Sec. 30-19. Overdue library materials.

No person shall keep any library materials which are the property of the city library for longer than 60 days from its current due date.
(Code 2004, § 9.18(1); Ord. No. 1424, 5-17-1988)

Sec. 30-20. Damaging library materials prohibited.

No person shall burn, tear, mutilate, deface, destroy or damage any book, periodical, magazine, pamphlet, newspaper, photograph records, compact discs, tapes or other library material which is the property of the library.
(Code 2004, § 9.18(2); Ord. No. 1424, 5-17-1988)

Chapter 31

RESERVED

Chapter 32

SOLID WASTE

Article I. In General

Sec. 32-1. Unlawful dumping.
Sec. 32-2. Littering prohibited.
Secs. 32-3—32-22. Reserved.

Article II. Solid Waste Collection and Disposal

Sec. 32-23. Definitions.
Sec. 32-24. Conditions of collection.
Sec. 32-25. Residential collection service.
Sec. 32-26. Fees.
Sec. 32-27. Payment schedule.
Sec. 32-28. Enforcement.
Secs. 32-29—32-59. Reserved.

Article III. Landfill

Sec. 32-60. Regulations.
Sec. 32-61. Definitions.
Sec. 32-62. Landfilling standards.
Sec. 32-63. Minor landfilling.
Sec. 32-64. Major landfilling.
Sec. 32-65. Penalties.
Secs. 32-66—32-88. Reserved.

Article IV. Recycling

Sec. 32-89. General provisions.
Sec. 32-90. Definitions.
Sec. 32-91. Conditions of collection.
Sec. 32-92. Fees.
Sec. 32-93. Separation of recyclable materials.
Sec. 32-94. Separation requirements exempted.
Sec. 32-95. Care of separated recyclable materials.
Sec. 32-96. Management of lead acid batteries, scrap tires, major appliances, waste oil, and yard waste.
Sec. 32-97. Preparation and collection of recyclable materials.
Sec. 32-98. Responsibilities of owners or designated agents of multiple-family dwellings.
Sec. 32-99. Responsibilities of owner or designated agents of nonresidential facilities and properties.
Sec. 32-100. Prohibitions on disposal of recyclable materials separated for recycling.
Sec. 32-101. Hauler licensing.

Sec. 32-102. Processing facilities.
Sec. 32-103. Antiscavenging or unlawful removal of recyclables.
Sec. 32-104. Hauler restrictions.
Sec. 32-105. Right to reject materials.
Sec. 32-106. Reporting requirements.
Sec. 32-107. Establish fees.
Sec. 32-108. Delinquent fees to be placed on tax bill.
Sec. 32-109. Ownership of recyclables.
Sec. 32-110. Exemptions.
Sec. 32-111. Specified containers.
Sec. 32-112. Placement of recyclables for collection.
Sec. 32-113. Space for recycling in public buildings.
Sec. 32-114. Procurement of recycled products.
Sec. 32-115. Enforcement.

ARTICLE I. IN GENERAL

Sec. 32-1. Unlawful dumping.

No person shall deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stones, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, liquid snow, ice, grass, leaves, twigs, shrubs, construction waste, garbage or other offensive or noxious material in any public street or alley, upon any public property or upon any private property, vacant or occupied, except upon approved private dumps and except where certain of these materials are used in a normal manner for improving property by grading, fertilizing or resurfacing.
(Code 2004, § 11.07; Ord. No. 1517, 10-16-1990)

Sec. 32-2. Littering prohibited.

(a) No person shall place, dump, throw or deposit any paper, bottles, cans, glass, construction debris, earth or ground, grass clippings, snow or ice, refuse, fecal matter, petroleum products or any other litter upon the public sidewalks, streets, alleys, highways, public parks, public parking lots, drainage ditches, sewers or other property of the city or into the waters of Lake Michigan and the watercourses that flow into such lake.

(b) No person shall place, dump, throw or deposit any paper, bottles, cans, glass, construction debris, earth or ground, grass, clippings, snow or ice, refuse, petroleum products or any other litter or permit any animal under his control to defecate upon any private property without the permission of the owner of the property, or any other person in legal possession of the property who has authority from the owner to grant permission.

(c) No owner or caretaker of any animal may appear with the animal on any public walk, street or way without a shovel, scoop, bag or other items for the removal of fecal matter. The owner or caretaker of an animal shall immediately, after deposit of fecal matter on such premises or upon any private premises without consent of owner or other person in legal possession who has authority to grant permission for same, remove all fecal matter by shovel, scoop, bag or other item and properly wrap and deposit the fecal matter in a waste container upon his own premises or in a container designed for such purposes.
(Code 2004, §§ 9.11, 11.08; Ord. No. 1297, 10-18-1987; Ord. No. 1846, 6-16-1998; Ord. No. 1891, 5-4-1999)

Secs. 32-3—32-22. Reserved.

ARTICLE II. SOLID WASTE COLLECTION AND DISPOSAL

Sec. 32-23. Definitions.

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

Board means the board of public works.

Bulk rubbish means any large material that cannot and/or may not be contained in a residential or commercial container. It shall include, but not be limited to, household furniture, appliances, carpeting or other similar large items.

Commercial container means a container to be used by a commercial solid waste generator, and of a reasonable size, and a style compatible with city collection vehicles and in a location as directed by the general manager of public works or his designee.

Commercial solid waste generator includes, but is not limited to, any miscellaneous waste resulting from operation of a business, enterprise or other nonresidential use or a combination of a business and any quantity of living units on a premises and includes garbage and ordinary waste from any office, store, business or other commercial enterprise, school, church and other organizations, excluding municipal, water and library building and property.

Construction waste means any waste resulting from, but not limited to, the demolition, repair, alteration, construction or remodeling of any structure, foundation or substructure, including concrete, dirt, aggregates, block, brick or unclassified fill.

Container location means a location determined by the public works director.

Department means the department of public works.

Drop off means a location at which residential or multifamily classifications may deposit various residential waste items, recyclable, construction waste, yard waste, waste drain oil, appliances or other city authorized materials at time designated by the city.

Family. See section 44-4 of this Code.

Hazardous waste means any waste classified as such by any responsible city, state or federal agency, including, but not limited to, flammable, explosive, toxic, noxious liquids or solids, pesticides, petroleum products, chemicals or any unlabeled container.

Manufacturing waste means any waste or by-product produced as a result of manufacturing by an industrial use on premises.

Multifamily solid waste generator means a property or premises on which more than four family units exist including, but not limited to, multi-unit apartments, townhouses, condomin-

iums, other than single-family condominium units having their own separate entrance and having a private attached garage, housing for the elderly and trailer parks, hotels, motels, clubs or institutions.

Normal volume means up to 90 gallons per week of residential solid waste for each residential unit.

Premises means a parcel or combination of parcels of land composed of one or more city lots, upon which any building is located and expressly applies when more than one building or group of buildings is located upon one or more contiguous lots under single ownership, partnership, corporation or management group.

Reasonable fees mean any cost associated with the administration, collection, transportation, handling or disposal of solid waste, which may be established and/or adjusted by the board of public works of the city.

Recycle materials mean any materials which can be reused or reprocessed for use which include, but are not limited to, paper, cardboard, glass, plastic, tin, aluminum, scrap metal or as designated from time to time by the city or state. The city will undertake recycling of materials as deemed appropriate and/or as required by any state or federal agency and at the direction of the board of public works.

Residential solid waste means the waste material resulting from the usual routine of residential housekeeping and includes garbage and rubbish normally generated on a weekly basis which is placed in a residential container.

Residential solid waste generator refers to the occupants of a single-, two-, three- or four-family living structure located on a single platted lot or a combination of lots defined as premises and including a single-family condominium unit having its own separate entrance and having a private attached garage.

Special/miscellaneous/hazardous waste generator means any person who produces or has the potential to produce any waste classified other than residential/commercial solid waste.

Special/miscellaneous waste means any waste classified as such by any responsible city, state or federal agency.

Unit means living unit or area capable of being occupied by a single family for the purpose of eating, sleeping or living.

Yard waste means leaves, plant material other than grass clippings, branches, or any other vegetative material designated by the city.
(Code 2004, § 8.12(1); Ord. No. 1922, 12-7-1999; Ord. No. 2185, 1-17-2006; Ord. No. 2228, 11-8-2006; Ord. No. 2228.2, 12-6-2011)

Sec. 32-24. Conditions of collection.

The collection of wastes is conditioned upon the observance of all provisions of this article that are expressed or implied herein.
(Code 2004, § 8.12(2); Ord. No. 1922, 12-7-1999; Ord. No. 2185, 1-17-2006; Ord. No. 2228, 11-8-2006; Ord. No. 2228.2, 11-8-2006)

Sec. 32-25. Residential collection service.

(a) A residential collection service will be provided on a weekly basis for a normal volume of residential solid waste when such waste is placed in a single residential container, owned and supplied by the city.

(b) The city will provide a residential container per unit for up to four units and shall be responsible for the normal maintenance and repair of the container. The property owner shall be responsible for the replacement of the container if it is stolen or damaged, unless the damage is caused by the city garbage collector.

(c) Service users shall be responsible to have the container in the designated collection location by 6:00 a.m. and removed from the right-of-way and placed within the private property hidden from street view by 8:00 p.m. on the designated collection day. Failure to remove containers from the public right-of-way out of street view shall constitute grounds for removal of the containers from the property by the city. If containers are removed by the city, the user must pick up the containers from the department of public works during regular business hours. If the user is unable to pick up containers, the department of public works will deliver the containers to the user's premises upon payment, prior to delivery, of a fee in the amount provided in the city fee schedule.

(d) For three- or four-family units, the public works director may, due to excess volume, improper placement or subsequent removal, with 30 days' notice by first class mail, direct that city containers be surrendered and that the property owner purchase, at the owner's cost, a commercial container and designate a permanent location for same.
(Code 2004, § 8.12(3); Ord. No. 1922, 12-7-1999; Ord. No. 2185, 1-17-2006; Ord. No. 2228, 11-8-2006; Ord. No. 2228.2, 11-8-2006)

Sec. 32-26. Fees.

(a) Fees for solid waste collection shall be as provided in the city fee schedule. Fees shall be set per residential unit or number of garbage receptacles, whichever is greater.

(b) Owners may request additional carts, subject to availability, for an additional fee, except that no additional cart is allowed for four family structures.

(c) Fees under this section shall be payable in advance each year, and shall become a lien against the property and can be added to the real estate tax bill as a separate line item as authorized by Wis. Stats. § 66.0627.

(d) Commercial or multifamily solid waste generators that are charged by the city for any solid waste collection or remediation shall make all payments within 30 days of billing. Payments made after 30 days are subject to interest of 1.5 percent per month or portion thereof and those payments not paid within 30 days shall become a lien against the property and can be added to the real estate tax bill as a separate line item as authorized by Wis. Stats. § 66.0627.
(Code 2004, § 8.12(4); Ord. No. 1922, 12-7-1999; Ord. No. 2185, 1-17-2006; Ord. No. 2228, 11-8-2006; Ord. No. 2228.2, 11-8-2006)

Sec. 32-27. Payment schedule.

A service charge for weekly service shall be made in advance of service at six-month intervals occurring during January and July of each year. All payments are due within 30 days of billing, and a late payment fee as provided in the city fee schedule will be assessed for each month thereafter. Payment, if not made, will become a lien against the property and included in the tax bill. In addition, the city reserves the right to terminate service within 90 days of billing past due date.
(Code 2004, § 8.12(5); Ord. No. 1922, 12-7-1999; Ord. No. 2185, 1-17-2006; Ord. No. 2228, 11-8-2006; Ord. No. 2228.2, 11-8-2006)

Sec. 32-28. Enforcement.

The public works director or an employee designated shall enforce the provisions of this article and, upon observance of any violation, shall take appropriate steps to ensure compliance.
(Code 2004, § 8.12(6); Ord. No. 1922, 12-7-1999; Ord. No. 2185, 1-17-2006; Ord. No. 2228, 11-8-2006; Ord. No. 2228.2, 11-8-2006)

Secs. 32-29—32-59. Reserved.

ARTICLE III. LANDFILL

Sec. 32-60. Regulations.

The public health, welfare and safety require the regulating of filling in the city in order to preserve natural watercourses and adequate drainage, avoid flooding, protect lateral support of adjoining properties, prevent the contamination of air and water, protect property values, avoid

fire hazards and prevent erosion. For the purpose of promoting the health, welfare and safety of the public, the practice of dumping is hereby declared offensive and shall be prohibited within the city.
(Code 2004, § 11.16(1); Ord. No. 1527, 5-7-1991; Ord. No. 1674, 11-15-1994)

Sec. 32-61. Definitions.

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

Dumping means the prohibited activity of depositing on public or private lands any material defined by the state statutes as solid or hazardous waste, any noxious, chemical, toxic, nauseous or obnoxious material including, but not limited to, garbage, dead animals, tannery wastes, acids or brines, organic materials, oils, grease or any materials which tend to pollute earth, air, streams, underground or surface waters.

Filling means the act of placing or depositing solid fill or noncombustible waste on land so that the existing contour is changed or the elevation is raised or decreased.

Noncombustible waste means inert noncombustible material including, but not limited to, brick, rubble, stone, cinders, broken concrete not exceeding one cubic foot, glass, metals and metal scraps and solid inert waste from manufacturing processes.

Person means any natural person, firm, corporation, municipal corporation, partnership or any combination thereof.

Solid fill means earth, clay, ground, gravel, natural sand or any combination thereof.

Transportation means the industry of hauling, carrying and/or conveying by any means upon streets of the city, solid fill or noncombustible waste material intended to be deposited upon a landfill site within the city.
(Code 2004, § 11.16(2); Ord. No. 1527, 5-7-1991; Ord. No. 1674, 11-15-1994)

Sec. 32-62. Landfilling standards.

No person may fill land or excavate in the city, except as follows:

(1) A person may fill pursuant to section 32-63;

(2) A person may fill pursuant to a permit issued under section 32-64;

(3) A person may fill without regard to volume a building site pursuant to a building permit issued pursuant to chapter 6 for a new building, structure or alteration or addition thereto, provided that the filling is done in accordance with the plans approved by the city and provided that failure to fill such property, as shown on the approved plan shall be cause for suspension or revocation of the building permit;

(4) A person may fill pursuant to a grading plan approved by the public works director in accordance with the development agreement approved by the city council; or

(5) The city may fill if the fill is from public works projects and if the fill is placed on city-owned property subject to plans approved by the city council.

(Code 2004, § 11.16(3); Ord. No. 1527, 5-7-1991; Ord. No. 1674, 11-15-1994)

Sec. 32-63. Minor landfilling.

If the filling operation involves 80 cubic yards or less of solid fill and if the area to be filled is one acre or less, the owner may fill the property, provided that the owner complies with the following:

(1) Filling under this section shall be limited to 80 cubic yards for each parcel of land within any one five-year period.

(2) No natural drainageways or swales shall be blocked and fill shall be placed in a manner to prevent formation of water nuisances or insect breeding ponds.

(3) Should any fill material erode into any watercourse or onto any adjoining property, the owner of the land being filled shall remove such material at his expense upon the order of the director of engineering.

(4) Prior to filling, all topsoil shall be stripped from the land to be filled. Completed fill shall be covered with a layer of topsoil, the surface smoothly graded to permit mowing and vegetation established on the surface area as soon as possible to prevent erosion or scouring of the fill area. As portions of the fill are completed, the topsoil cover shall be placed and seeded to enhance the appearance of the area and eliminate nuisances caused by windblown material.

(Code 2004, § 11.16(4); Ord. No. 1527, 5-7-1991; Ord. No. 1674, 11-15-1994)

Sec. 32-64. Major landfilling.

If the filling operation involves more than 80 cubic yards of solid fill, if the area to be filled is more than one acre or if the fill is to contain noncombustible waste, the owner may fill the property, provided that the following are complied with:

(1) *Permit*. Prior to the start of filling, the owner shall apply for and be granted a landfill permit by the public works director. The application for the permit shall contain the following:

a. Name, address, signature of owner and the date of signature.

b. Legal description of the property to be used as a landfill site.

c. Type and character of fill intended to be deposited and locality of source.

d. A complete narrative description of the proposed method of operation involved in the depositing and distributing of fill material on site, including the projected date of completion of the landfill operation.

e. The applicant shall submit a grading plan prepared by a professional engineer registered in the state, at a scale of not more than one inch equals 100 feet with two-foot contour intervals, using city datum. Such plan shall show existing grades, existing grades along each abutting property line, proposed grades, the proposed fill area, existing contours, existing and final drainage patterns and other pertinent information necessary to clearly indicate the orderly development of the fill area.

f. The applicant shall follow all erosion control requirements provided in chapter 14, article II.

(2) *Application fee*. All persons applying and receiving a landfill permit shall pay an annual fee as provided on the city fee schedule for the first year of operation.

(3) *Permit year.* A landfill permit shall run from January 1 to December 31. The board of public works may issue a license with a duration of less than one year.

(4) *Renewals.* Application for renewal of a landfill permit shall be filed with the city clerk on or before November 1. The renewal fee shall be as provided on the city fee schedule.

(5) *General landfill regulations and conditions*.

a. All materials delivered to the landfill site shall be deposited in a manner to prevent erosion into any watercourses, roadside ditches or into adjoining properties.

b. All dump operations shall be confined to the hours of 7:00 a.m. to 5:00 p.m. daily and 7:00 a.m. to 12:00 noon on Saturdays, unless otherwise approved by the board of public works.

c. No permittee hereunder shall operate equipment or otherwise cause noise which interferes with nearby property owners in the peaceful enjoyment of their properties.

d. No natural drainageways or swales shall be blocked and fill shall be placed in a manner to prevent formation of water nuisances or insect breeding ponds.

e. Should any fill material erode into any watercourse or onto any adjoining property, the permittee shall remove such material at his expense upon the order of the board of public works.

f. Any broken concrete, bricks or other materials that might create voids if dumped in piles shall be spread and mixed with earth or other fine material to eliminate voids and potential rodent harborages.

g. Prior to filling, all topsoil shall be stripped from the land to be filled, if deemed necessary, by the board of public works. Completed fill shall be covered with a layer of topsoil, the surface smoothly graded to permit mowing and vegetation established on the surface areas as soon as possible to prevent erosion or sourcing of the fill area. As portions of the fill are completed, the topsoil cover shall be placed and seeded to enhance the appearance of the area and eliminate nuisances caused by windblown material.

h. No permittee shall fail to obey a stop order or revocation order issued by the board of public works for a violation of this article .

(6) *Conditions of granting or renewal of landfill permit*. The board of public works may condition the granting of a new landfill permit or the renewal of a landfill permit on such other reasonable conditions as are deemed necessary by the board of public works to carry out the purposes of this section.

(Code 2004, § 11.16(5); Ord. No. 1527, 5-7-1991; Ord. No. 1674, 11-15-1994)

Sec. 32-65. Penalties.

(a) Any person violating the provisions of this section shall be guilty of maintaining a nuisance and, upon conviction, shall be subject to a penalty as provided in section 1-15 of this Code. Upon conviction, the board of public works may suspend or revoke the permit in addition to the penalty herein provided for such violation. Each day's violation shall constitute a separate offense.

(b) In addition to any other penalties, if fill was placed on land without a permit, the owner of such land shall remove the fill upon written notice from the board of public works. If the owner fails to remove the fill within 15 days of receipt of written notice by the city, the city may remove the fill and assess the costs of removal as a special charge against the property pursuant to the provisions of Wis. Stats. § 66.0703.

(Code 2004, § 11.16(6); Ord. No. 1527, 5-7-1991; Ord. No. 1674, 11-15-1994)

Secs. 32-66—32-88. Reserved.

ARTICLE IV. RECYCLING

Sec. 32-89. General provisions.

(a) *Purpose.* The purpose of this article is to promote recycling, composting, and resource recovery through the administration of an effective recycling program as provided in Wis. Stats. § 287.10 through 287.13 and Wis. Admin. Code ch. NR 544.

(b) *Abrogation and greater restrictions.* It is not intended by this article to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this article imposes greater restrictions, the provisions of this article shall apply.

(c) *Interpretation.* In their interpretation and application, the provisions of this article shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the state statutes. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this article is required by state statutes or by a standard in Wis. Admin. Code ch. NR 544, and where the article provision is unclear, the provision shall be interpreted in light of the state statutes and the Wis. Admin. Code ch. NR 544 standards in effect on the date of the adoption of this article, or in effect on the date of the most recent text amendment to this article.

(d) *Applicability.* The requirements of this article apply to all persons within the city as well as occupants and owners or designated agents of multiple-family dwellings and nonresidential facilities and properties.

(e) *Administration.* The provisions of this article shall be administered by the city's department of public works.
(Code 2004, § 8.20; Ord. No. 1674, 11-15-1994)

Sec. 32-90. Definitions.

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

Bi-metal container means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

Commercial recyclable material generator means:

(1) A property or premises on which more than four family-units exist including, but not limited to, multi-unit apartments, townhouses, housing for the elderly, hotels, motels, clubs and institutions.

(2) A property or premises from which recyclable materials result from operation of a business, enterprise or other nonresidential use, or a combination of a business and any quantity of living units on the premises including, but not limited to, any office, store, business, or other commercial enterprise, school, church, and other organization, excluding municipal buildings and property.

(3) A property or premises from which recyclable materials result from an industrial use or process on the premises.

Container board means corrugated paperboard used in the manufacture of shipping containers and related products.

Foam polystyrene packaging means packaging made primarily from polystyrene that satisfies one of the following criteria:

(1) Is designed for serving food or beverages.

(2) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

(3) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

HDPE means high density polyethylene, labeled by the SPI code #2.

LDPE means low density polyethylene, labeled by the SPI code #4.

Magazines means magazines and other materials printed on similar paper.

Major appliance means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, refrigerator, stove, residential or commercial furnace, boiler, dehumidifier, or water heater. Microwaves are not defined as "major appliances" and may be disposed of in a landfill after the capacitor has been removed in a manner consistent with state and federal regulations.

Multiple-family dwelling means a property containing five or more residential units, including those which are occupied seasonally.

Newspaper means a newspaper and other materials printed on newsprint.

Nonresidential facilities and properties means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

Office paper means high grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.

Other resins or multiple resins means plastic resins, labeled by the SPI code #7.

Person includes any individual, corporation, partnership, association, local governmental unit, as defined in Wis. Stats. § 66.0131, state agency, authority or federal agency.

PETE means polyethylene terephthalate, labeled by the SPI code #1.

Plastic container means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

Postconsumer waste means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Wis. Stats. § 291.01(7), waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Wis. Stats. § 289.01(17).

PP means polypropylene, labeled by the SPI code #5.

Premises shall be a parcel or combination of parcels of land composed of one or more city lots, upon which any building is located and expressly applies when more than one building or a group of buildings is located upon one or more contiguous lots under single ownership, partnership, corporation or management group.

PS means polystyrene, labeled by the SPI code #6.

PVC means polyvinyl chloride, labeled by the SPI code #3.

Recyclable materials includes lead acid batteries, major appliances, waste oil; yard waste, aluminum containers, corrugated paper or other container board, foam polystyrene packaging, glass containers, magazines, newspaper, office paper, rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins, steel containers, waste tires and bi-metal containers.

Residential recyclable material generator refers to a single-, two-, three- or four-family living structure located on a single platted lot in the city.

Solid waste has the meaning specified in Wis. Stats. § 289.01(33).

Solid waste facility has the meaning specified in Wis. Stats. § 289.01(35).

Solid waste treatment means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. The term "treatment" includes incineration.

Total residential units. The total residential units used to establish the annual residential recycling charge shall be the total number of residential units registered as single-family to four-family units served by the city's recycling collection.

Unit means a living unit or area capable of being occupied by a single family for the purpose of eating, sleeping or living.

Waste tire means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

Yard waste means leaves, yard and garden debris and brush, including clean woody vegetative material no greater than six inches in diameter. This term does not include stumps, roots or shrubs and intact root balls.

(Code 2004, § 8.21; Ord. No. 1674, 11-15-1994; Ord. No. 1685, 2-7-1995; Ord. No. 1687, 2-7-1995; Ord. No. 1772, 12-17-1996)

Sec. 32-91. Conditions of collection.

The collection of recyclable materials is contingent upon the observance of all rules, regulations and procedures established by the department of public works for the separation and storage of recyclable materials.
(Code 2004, § 8.215; Ord. No. 1674, 11-15-1994; Ord. No. 1772, 12-17-1996; Ord. No. 1726, 12-19-1995; Ord. No. 1833, 1-6-1998)

Sec. 32-92. Fees.

(a) Fees for the collection and disposal of residentially generated recyclable materials shall be as on the city's fee schedule.

(b) Commercial recyclers shall be billed January 31 and July 31 of each year with all amounts due rounded up to the next full dollar.
(Code 2004, § 8.217; Ord. No. 1674, 11-15-1994; Ord. No. 1726, 12-19-1995; Ord. No. 1772, 12-17-1996; Ord. No. 1833, 1-6-1998; Ord. No. 2132, 12-21-2004)

Sec. 32-93. Separation of recyclable materials.

Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall separate the following materials from postconsumer waste.

(1) Lead acid batteries.

(2) Major appliances.

(3) Waste oil.

(4) Yard waste.

(5) Aluminum containers.

(6) Bi-metal containers.

(7) Corrugated paper and other container board.

(8) Foam polystyrene packaging.

(9) Glass containers.

(10) Magazines.

(11) Newspaper.

(12) Office paper.

(13) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins.

(14) Steel containers.

(15) Waste tires.

(Code 2004, § 8.22; Ord. No. 1674, 11-15-1994)

Sec. 32-94. Separation requirements exempted.

The separation requirements of section 32-93 do not apply to the following:

(1) Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties that send their postconsumer waste to a processing facility licensed by the state department of natural resources that recovers the materials specified in section 32-93 from solid waste in as pure a form as is technically feasible.

(2) Solid waste which is burned as a supplemental fuel at a facility if less than 30 percent of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

(3) A recyclable material specified in section 32-93(5) through (15) for which a variance has been granted by the state department of natural resources under Wis. Stats. § 287.11 or Wis. Admin. Code § NR 544.14.

(Code 2004, § 8.23; Ord. No. 1674, 11-15-1994)

Sec. 32-95. Care of separated recyclable materials.

To the greatest extent practicable, the recyclable materials separated in accordance with section 32-93 shall be clean and kept free of contaminants such as food or product residue, oil or grease or other nonrecyclable materials, including, but not limited to, household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain and other inclement weather conditions.

(Code 2004, § 8.24; Ord. No. 1674, 11-15-1994)

Sec. 32-96. Management of lead acid batteries, scrap tires, major appliances, waste oil, and yard waste.

Occupants of single-family and two- to four-unit residences, multiple-family dwellings and nonresidential facilities and properties shall manage lead acid batteries, major appliances, waste oil, scrap tires and yard waste as follows:

(1) Lead acid batteries shall be taken to one of numerous area retail businesses that sell lead acid batteries for vehicles or to any scrap metal recycling business that accepts lead acid batteries.

(2) Major appliances shall be delivered to the city recycling center during operating hours.

(3) Waste oil shall be disposed of properly at the city recycling center during operating hours or at a commercial establishment that accepts waste oil.

(4) Yard waste shall be properly disposed of at the city recycling center during operating hours.

(5) Scrap tires shall be recycled by delivering them to private tire dealers or scrap yards that may accept them for a fee; or, occupants of single-family and two- to four-unit residences may deliver them to the city recycling center during operating hours where they shall be subject to the tire recycling fees provided on the city fee schedule.

(Code 2004, § 8.25; Ord. No. 1674, 11-15-1994)

Sec. 32-97. Preparation and collection of recyclable materials.

Except as otherwise directed by the city's department of public works, occupants of single-family and two-unit to four-unit residences shall do the following for the preparation and collection of the separated materials in section 32-93(5) through (15) :

(1) Aluminum containers shall be rinsed, reasonably clean and free from residue, and shall be placed in the provided recycling cart for alley/curbside collection on the specified collection day. Aluminum foil, plates, siding, chairs or other aluminum products or waste shall not be placed in the recycling cart.

(2) Bi-metal containers shall be rinsed and reasonably clean and free of residue. Labels need not be removed. They shall be placed in the provided recycling cart for alley/curbside collection on the specified collection day.

(3) Corrugated paper or other container board shall be free of debris, flattened, stacked, and tied, and placed on top of the other recyclable materials inside the provided recycling cart for curbside/alley collection on the specified collection day.

(4) Glass containers shall be rinsed and reasonably clean and free of product residue with caps and neck rings discarded, but labels need not be removed. They shall be placed in the provided recycling cart for alley/curbside collection on the specified collection day. Plate glass, crystal, light bulbs, ceramics, TV tubes, "milk glass" and other noncontainer glass shall not be placed in the recycling cart.

(5) Magazines shall be tied in bundles and placed on top of the other recyclable materials inside the provided recycling cart for curbside/alley collection on the specified collection day. If the recycling cart is full, the bundled magazines may be placed on or next to the recycling cart.

(6) Newspapers shall be tied in bundles or bagged in paper bags and placed on top of the other recyclable materials inside the provided recycling cart for curbside/alley collection on the specified collection day. If the recycling cart is full, the bundled newspapers may be placed on or next to the recycling cart.

(7) Office paper shall include junk mail, envelopes, flyers, computer paper, white or colored office paper, notebooks, file folder, books and the like and shall be kept loose or placed in brown paper bags and shall be free of nonpaper contaminants. Office paper shall be placed in the designated receptacle provided at nonresidential facilities.

(8) Rigid plastic containers shall be prepared and collected as follows:

a. Plastic containers made of PETE (#1), including soda bottles and salad dressing bottles shall be rinsed free of product residue with caps and neck rings discarded but labels need not be removed. The containers shall be placed in the provided recycling cart and placed upon the alley/curbside on the day designated for collection.

b. Plastic containers made of HDPE (#2), including milk jugs, laundry detergent bottles and some shampoo bottles shall be rinsed free of product residue and caps shall be removed and discarded but labels need not be removed. The containers shall be placed in the provided recycling cart and placed upon the curbside/alley on the day designated for collection.

1. Plastic containers labeled #3, #4, #5, #6 and #7 shall be rinsed free of product residue and caps shall be removed and discarded but labels need not be removed. The containers shall be placed in the provided recycling cart and placed upon the curbside/alley on the day designated for collection.

2. Foam polystyrene packaging shall be rinsed free of product residue and other contaminants and placed in the provided recycling can for alley/curbside collection on the specified collection day.

(9) Steel containers shall be emptied of contents and rinsed free of product residue but labels need not be removed. The containers shall be placed in the provided recycling cart for alley/curbside collection on the specified collection day.

(Code 2004, § 8.26; Ord. No. 1674, 11-15-1994)

Sec. 32-98. Responsibilities of owners or designated agents of multiple-family dwellings.

(a) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in section 32-93(5) through (15).

(1) Provide adequate, separate containers for the recyclable materials.

(2) Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established recycling program.

(3) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to the recycling facility.

(4) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(b) The requirements specified in subsection (a) of this section do not apply to the owners or designated agents of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the state department of natural resources that recovers for recycling the materials specified in section 32-93(5) through (15) from solid waste in as pure a form as is technically feasible.
(Code 2004, § 8.27; Ord. No. 1674, 11-15-1994)

Sec. 32-99. Responsibilities of owner or designated agents of nonresidential facilities and properties.

(a) Owners or designated agents of nonresidential facilities and properties shall do all of the following to recycle the materials specified in section 32-93(5) through (15):

(1) Provide adequate, separate containers for the recyclable materials.

(2) Notify in writing, at least semiannually, all users, tenants and occupants of the properties about the established recycling program.

(3) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.

(4) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(b) The requirements specified in subsection (a) of this section do not apply to the owners or designated agents of nonresidential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the state department of natural resources that recovers for recycling the materials specified in 32-93(5) through (15) .
(Code 2004, § 8.28; Ord. No. 1674, 11-15-1994)

Sec. 32-100. Prohibitions on disposal of recyclable materials separated for recycling.

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in section 32-93(5) through (15) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.
(Code 2004, § 8.29; Ord. No. 1674, 11-15-1994)

Sec. 32-101. Hauler licensing.

No person or corporation shall engage in the business of hauling recyclables within the city without being licensed by the state department of natural resources under Wis. Admin. Code § NR 502.06.
(Code 2004, § 8.30; Ord. No. 1674, 11-15-1994)

Sec. 32-102. Processing facilities.

Any contractor operating in the city shall not transport for processing any recyclables to a processing facility unless that facility has been approved in writing by the city or unless the contractor notifies the city which facility they are using and the facility has self-certified with the state department of natural resources under Wis. Admin. Code § NR 544.16.
(Code 2004, § 8.31; Ord. No. 1674, 11-15-1994)

Sec. 32-103. Antiscavenging or unlawful removal of recyclables.

It shall be unlawful for any person, unless under contract with or licensed by the city, to collect or remove any recyclable material that has been deposited or placed at the curb or in a container adjacent to a home or nonresidential building for the purposes of collection for recycling or deposited at the city drop-off site.
(Code 2004, § 8.32; Ord. No. 1674, 11-15-1994)

Sec. 32-104. Hauler restrictions.

(a) Haulers may not dispose in a landfill or burn in a solid waste facility any recyclable materials generated in the city that have been separated for recycling.

(b) Haulers shall not compact glass with paper during collection and transport of recyclables to a processing facility or market and shall maintain materials in marketable condition.
(Code 2004, § 8.33; Ord. No. 1674, 11-15-1994)

Sec. 32-105. Right to reject materials.

(a) The city or its contracted hauler has the right to reject or leave at the curb any recyclable material that is not prepared according to the specifications in this article (section 32-97) or in education material provided by the city and contractor to the service recipients. Materials may also be left if not separated from solid waste, placed in the proper container or are not designated recyclable materials for collection. The city or its designated hauler also has the right to refuse to pick up any solid waste if it contains recyclable containers and material. In such cases, the hauler shall notify the generator of the materials about the reasons for rejecting the items. The hauler shall also keep a list of such occurrences and provide it to the city quarterly.

(b) Hazardous wastes, including as examples, acids, blasting materials, ammunition, paints, lacquers and varnishes, combustible alloys or chemicals and/or radioactive material, shall not be included with collection of refuse and/or recyclables.
(Code 2004, § 8.34; Ord. No. 1674, 11-15-1994)

Sec. 32-106. Reporting requirements.

The recycling haulers and processors operating in the city are required to maintain records and report in writing to the city clerk at least twice each year. Reports shall include the amount of solid waste and recyclables collected and transported from the city, the amount of solid waste and recyclables processed and or marketed by item type from the city, and the final disposal location of solid waste and recyclable material. Failure to report shall be cause for the city to revoke any license or sever any contract with the hauler/processor.
(Code 2004, § 8.35; Ord. No. 1674, 11-15-1994)

Sec. 32-107. Establish fees.

(a) The city shall establish fees for recipients of recyclable collection service and for material dropoffs at the city's recycling center.

(b) Upon failure to pay required fees, city garbage and recycling collection service may be discontinued until the fee is paid.
(Code 2004, § 8.36; Ord. No. 1674, 11-15-1994)

Sec. 32-108. Delinquent fees to be placed on tax bill.

Any unpaid fees for recycling collection service may be levied as a special charge against the premises as authorized by Wis. Stats. ch. 287.
(Code 2004, § 8.37; Ord. No. 1674, 11-15-1994)

Sec. 32-109. Ownership of recyclables.

Recyclable materials, upon collection by any permitted collector, shall become the property of the contractor.
(Code 2004, § 8.38; Ord. No. 1674, 11-15-1994)

Sec. 32-110. Exemptions.

The city's board of public works reserves the right to designate additional solid waste materials as recyclable or currently collected materials as no longer recyclable in accordance with state law and to either add or delete them from any collection services provided by the municipality or its contractors. The municipality shall provide written notice to its service recipients of this declaration.
(Code 2004, § 8.39; Ord. No. 1674, 11-15-1994)

Sec. 32-111. Specified containers.

Recyclables shall be placed in the provided 64-gallon carts. If there is a greater amount of recyclables than can be contained in the designated cart the excess material may be disposed of at the city's drop-off center during designated hours of operation.
(Code 2004, § 8.40; Ord. No. 1674, 11-15-1994)

Sec. 32-112. Placement of recyclables for collection.

(a) The city will provide a residential recycling container per unit for up to four units and shall be responsible for the normal maintenance and repair of the container. The property owner shall be responsible for the replacement of the container if it is stolen or damaged, other than damage caused by the city recycling collector.

(b) Service users shall be responsible to have the container in the designated collection location by 6:00 a.m. on the day of the designated collection. The users shall be responsible to have the container removed from the right-of-way and placed within the private property hidden from street view by 8:00 p.m. on the designated collection day. Failure to remove containers from the public right-of-way out of street view shall constitute grounds for removal of the containers from the property by the city. If containers are removed by the city, the user must pick up the containers from the department of public works during regular business hours. If the user is unable to pick up containers, the department of public works will deliver the containers to the user's premises upon payment, prior to delivery, of a fee in the amount provided in the city fee schedule.

(c) For three- or four-family units, the public works director may, due to excess volume, improper placement or subsequent removal, with 30 days' notice by first class mail, direct that city containers be surrendered and that the property owner purchase, at the owner's cost, a commercial container and designate a permanent location for same.
(Code 2004, § 8.41; Ord. No. 1674, 11-15-1994)

Sec. 32-113. Space for recycling in public buildings.

Any person in the city owning or occupying a new building or a building that is remodeled or expanded by 50 percent or more in floor area, shall provide a designated area for the separation, temporary storage and collection of solid waste and recyclables within or adjacent to the building.
(Code 2004, § 8.42; Ord. No. 1674, 11-15-1994)

Sec. 32-114. Procurement of recycled products.

The city shall, to the extent practicable, make purchasing decisions to maximize the purchasing of products made from recycled and recovered materials; and such purchase shall include 40 percent content of all paper. The city shall, to the extent practicable, award contracts for

equipment and supplies on the basis of recyclability and ultimate disposition of products to discourage the purchase of single-use disposable products and require purchases of multiple-use durable products.
(Code 2004, § 8.43; Ord. No. 1674, 11-15-1994)

Sec. 32-115. Enforcement.

(a) For the purpose of ascertaining compliance with the provisions of this article, any authorized officer, employee or representative of the city department of public works may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the city who requests access for purposes of inspection and who presents appropriate credentials. No person shall obstruct, hamper or interfere with such an inspection.

(b) Any person who violates a provision of this article may be issued a citation by the public works director and be subject to the forfeitures as hereinafter set forth. The issuance of a citation shall not preclude proceeding under all other ordinances or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

(c) Penalties for violating this ordinance may be assessed as follows:

(1) Any person who violates section 32-100 may be required to forfeit $50.00 for a first violation, $200.00 for a second violation, and not more than $2,000.00 for a third or subsequent violation.

(2) Any person who violates a provision of this article, except section 32-100, may be required to forfeit not less than $10.00 nor more than $1,000.00 for each violation.

(Code 2004, § 8.50; Ord. No. 1674, 11-15-1994)

Chapter 33

RESERVED

Chapter 34

STREETS, SIDEWALKS AND RIGHTS-OF-WAY

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ARTICLE I. IN GENERAL

Sec. 34-1. State construction standards adopted.

(a) *Roadway construction.* The most recent edition of Standard Specifications for Road and Bridge Construction, as published by the state department of transportation, division of highways, is adopted by reference, including all addenda and modifications, as though fully set forth in this chapter. A copy of the adopted specifications is on file in the office of the public works director.

(b) *Sewer and water construction.* The most recent edition of Standard Specifications for Sewer and Water Construction in Wisconsin is adopted by reference, including all addenda and modifications, as though fully set forth in this chapter. A copy of the adopted specifications is on file in the office of the public works director.
(Code 2004, § 8.11(2))

Sec. 34-2. Grades of streets and alleys.

The city council shall establish the grades of all streets and alleys in the city and such grades shall be kept on file in the office of the public works director. No street or alley shall be constructed until the grade thereof is established.
(Code 2004, § 8.01)

Sec. 34-3. Request to allow private use of, or encroach upon city property.

(a) If a property owner, business or establishment requests to allow private use of or encroach upon city property or the right-of-way, a fee as provided in the city fee schedule shall be submitted with the request. If the request is denied by the common council, then a portion of the fee, as provided in the city fee schedule, shall be refunded to the petitioner. If the agreement is drafted and approved by the common council, but not signed by the petitioning party, the fee is retained by the city.

(b) The public works director shall review each request and make a recommendation to the common council about the nature of the request and the effect to the city.

(c) Upon approval in principal by the common council to grant the conditional use of city property or city right-of-way, the city attorney shall draft the appropriate hold harmless agreement and forward it to the common council for final approval.

(d) Sidewalk cafes may be permitted encroachments on sidewalks within the right-of-way, provided a license has been granted to such establishments in accordance with section 8-372.

(e) The petitioner shall have 45 days from final common council approval to sign the hold harmless agreement, or it shall be declared null and void.
(Code 2004, § 8.015; Ord. No. 2192, 3-7-2006; Ord. No. 2341, 5-18-2010)

Sec. 34-4. Opening of streets, alleys and sidewalks.

(a) *Permit required.* No person shall open or excavate any street, alley, sidewalk, parkway or other public place in the city without first obtaining a permit from the director of public works and performing all work in compliance with this section.

(1) *Relocation of permittee facilities.* It shall be understood that the public right-of-way has been obtained and in many instances purchased for city-owned utilities, sidewalks, roadways, signs and street trees and the use of these rights-of-ways by permittees shall not restrict the city's use of, or cause the city shortterm or longterm hardship. Changes in the location or need of city-owned infrastructure may require the permittee to relocate their infrastructure, and there will be no compensation to any permittee for the relocation of permittee facilities outside of those dictated by law. Relocation, if necessary, shall be on a schedule mutually agreed upon by both parties but relocation shall occur no longer than a year from the date the permittee is requested to relocate the facility.

(2) *Public trees to be unaffected by use.* Parkways are designed for the installation of street trees and trees shall not be cut, removed or altered due to a permittee's requirements.

(b) *Insurance required.*

(1) A permit shall be issued only after the applicant submits a certificate of insurance outlining the minimum requirements as established by the city and on file in the office of the public works director evidencing that such insurance protects the city from all claims up to the following amounts:

a. Personal injury.

1. One person—$100,000.00.

2. One accident—$300,000.00.

b. Property—$50,000.00.

(2) The evidence of insurance shall also provide that the city be notified at least 30 days prior to cancellation or expiration of the insurance.

(c) *Information to accompany application.* The applicant shall submit to the director of public works, at the time the permit is applied for, sufficient information on the proposed work to enable the director to properly evaluate the work to be done. The director shall determine whether sufficient information has been submitted, but in no case shall it be less than the following:

(1) Where the proposed opening is less than 20 square feet in area, or less than 30 feet in length, the applicant shall state the nature and location of the work, the reason for the work and the proposed method of doing the work.

(2) Where the proposed opening exceeds 20 square feet in area or 30 feet in length, the applicant shall submit in duplicate a plan or sketch of the proposed work showing the location, nature, reason and method of doing the work.

(d) *Fee or deposit guaranteeing surface restoration.*

(1) *Applicant responsible*. The applicant shall, in all cases, be responsible for restoring the surface.

(2) *Fee or deposit.* The applicant shall pay a permit fee, plus a deposit based upon the surface area to be torn up and the unit prices established by the board of public works, sufficient to cover the necessary repairs. Upon completion and inspection by the department of public works of the work in a satisfactory manner, the permitee shall request a refund of the deposit.

(3) *Permit fees*. The permit fees shall be as provided in the city fee schedule.

(e) *Permit to be displayed.* The permit shall be displayed on the site at all times.

(f) *Automatic expiration of permit.* If work is not commenced within 30 days of the issuance of the permit, the permit shall automatically expire and a new permit shall be obtained and an additional fee charged. The director of public works may extend the time limit for sufficient cause. All permits expire on December 31 of each year.

(g) *Notices required.*

(1) *To affected persons*. The applicant shall notify all public and private individuals, firms and corporations affected by the work at least 24 hours before the work is to start.

(2) *To director*. The applicant shall notify the director of public works at least 24 hours prior to the commencement of work and again at least four hours prior to backfilling and/or restoring the surface.

(h) *Emergency work.* When an immediate excavation is necessary for the protection of public or private property and the city offices are closed, the same shall be reported to the police department, which shall grant permission to make the necessary excavation upon condition that an application be made in the manner herein provided before 12:00 noon of the next business day.

(i) *Tearing up of new pavement.* Whenever it is necessary to tear up street, alley or sidewalk pavement within ten years of the construction of the pavement, the applicant shall pay and forfeit as damages to the city the following charges based upon the size of the impacted area per the unit prices as established by the board of public works for the year in which the opening is made, such charges to be in addition to the restoration costs incurred by the applicant:

(1) First year, 100 percent of the unit price.

(2) Second year, 95 percent of the unit price.

(3) Third year, 90 percent of the unit price.

(4) Fourth year, 85 percent of the unit price.

(5) Fifth year, 80 percent of the unit price.

(6) Year 6, 75 percent of the unit price.

(7) Year 7, 70 percent of the unit price.

(8) Year 8, 65 percent of the unit price.

(9) Year 9, 55 percent of the unit price.

(10) Year 10, 45 percent of the unit price.

(j) *Construction of new facilities.* Within six months after notification by the city that a new street, alley or sidewalk pavement is to be constructed, all public and private utilities, firms and individuals shall construct the facilities necessary without interfering with the paving work. Failure to complete work within such six months shall subject such utility, firm or individual to the requirement of tunneling or augering new pavement for five years after completion of the pavement.

(k) *Maximum street opening.* Not more than 600 lineal feet of trench shall be opened at one time.

(l) *Time limit for completion of work.* No excavation shall remain open in excess of three calendar days, unless permission is obtained from the director of public works prior to the third day. For each day or fraction thereof the excavation remains open in excess of three days, the applicant shall pay to the city $25.00.

(m) *Method of doing work.*

(1) *Excavating*. The trench shall be excavated to a sufficient width and depth to permit the laying of the pipe conduit, using special care to avoid damaging existing conduits or pipes. All work shall be done to conform to the applicable standards of the Department of Industry, Labor and Human Relations, and applicable Occupational Safety and Health Administration (OSHA) regulations and to the rules and regulations of the city. All refuse and excess excavated material shall be removed from the street limits as the work progresses and shall not be deposited on the site unless permission is obtained from the director of public works.

(2) *Maintenance of opening.* The applicant shall backfill the opening immediately upon the completion of the work in the manner required by this section and place at least ten inches of 1¼-inch crushed concrete or similar material into the opening, topped with not less than two inches of temporary asphalt or concrete pavement. The applicant

shall maintain such temporary pavement in good condition until the permanent surface has been restored, provided such guaranteed maintenance period shall not be less than 12 months.

(3) *Backfilling.* Backfilling shall be done with due care in a workmanlike manner and shall be consolidated by flooding or tamping according to approved methods so as to prevent the settling of the facility. In all existing or proposed pavement areas all excavated material shall be removed and the trench shall be completely backfilled with aggregate slurry unless permission is obtained from the director to use crushed concrete for backfill.

(4) *Safeguarding the worksite.* Each opening made in the street or public way shall be enclosed with sufficient barricades and barriers. Barricading shall meet the requirements of the state Manual on Uniform Control Devices. Amber lights shall be kept burning from sunset to sunrise, one such light to be placed at each end of the opening in the street and other lights to be placed at intervals not to exceed ten feet along such opening. All necessary precautions shall be taken to prevent personal injury or property damage from the beginning to the end of the work.

(5) *Restoration of surface.* Should any person fail to restore the surface within seven calendar days or within a period determined by the director, the city shall make such repairs and deduct the cost thereof from the deposit or invoice the permittee accordingly.

(6) *Landscaping.* The area around any utility box, switch cabinet, control cabinet, ground mounted transformer, or equipment of similar nature with a footprint greater than one square foot, placed in the street right-of-way where the abutting properties are residential in nature, shall be landscaped to reduce the visual impact of said facility. The landscaping shall be installed and maintained by the owner of the facility in accordance with the landscape plan approved by the public works director.

(Code 2004, § 8.02; Ord. No. 1295, 7-5-1985; Ord. No. 1557, 11-26-1991; Ord. No. 2078, 10-7-2003; Ord. No. 2192, 3-7-2006; Ord. No. 2257, 7-17-2007)

Sec. 34-5. Sidewalk construction.

(a) *License required; surety bond.* No person shall construct, lay or rebuild any sidewalk on any public street, alley or other public way within the city without first being licensed to do so by the city. Such person shall also furnish to the city a surety bond, approved by the city attorney, to guarantee completion of the work according to the specifications, to protect against unfaithful, imperfect or inadequate work and to save harmless the city from all liability for accidents or damages caused by negligence in protecting the work being performed or by inadequate work, such bond to cover a period commencing at the time the work is started and terminating two years after completion of the work.

(b) *Issuance of license; fee; term.* Application for a license shall be made to the city clerk, who shall issue such license upon approval by the public works director and upon receipt of the insurance certificate and payment of the annual license fee as provided in the city fee schedule. The license period shall run from January 1 to December 31 and all insurance policies and bonds shall be coordinated with such license.

(c) *Construction standards.* The council may, from time to time, by resolution, establish the width, determine the materials and prescribe the standard methods of construction of sidewalks, driveway approaches and curb and gutters. The standards so fixed may be different for different streets.

(d) *Licensee to comply with regulations.* Any licensee to whom is issued a license under this section shall comply with all rules, regulations and standard specifications established by the council for the constructing, laying or rebuilding of sidewalks, driveway approaches and curb and gutters.
(Code 2004, § 8.03; Ord. No. 1557, 11-26-1991)

Sec. 34-6. Sidewalk repairs.

(a) *State statutes adopted.* Wis. Stats. §§ 66.0907 and 66.0909 are adopted by reference and made a part hereof.

(b) *Sidewalks laid in city.* All sidewalks laid in the city shall be kept in good repair by the adjacent owner. If the owner fails to comply with this subsection, repairs will be made in accordance with subsection (f) of this section.

(c) *Sidewalk, curb side and gutter installation.* Sidewalks, curb sides and gutters may be constructed on each side of the street and adjacent to each property in the city whenever new streets are added and installed, or when existing streets are replaced, or when otherwise directed by the common council, except when in violation of federal or state law, or when the department of public works deems such construction not feasible under the specific circumstances of the individual neighborhood or neighborhoods. The standard width of sidewalks shall be six feet unless a different width is specified by the engineering department. Standard sidewalks shall be constructed of concrete only, which shall be not less than five inches thick.

(d) *Contractor to perform satisfactory work.* The contractor shall construct the sidewalk, driveway approach or curb and gutter so no settlement, crack or any other defect due to bad material or faulty workmanship shall appear therein for during the two-year bond guaranty period. If the walk fails to conform to this requirement, the contractor shall repair it or, if necessary, reconstruct it, according to any order that may be given by the city.

(e) *Trees to be preserved.* Trees shall not be injured, cut down or otherwise disturbed except by permission of the city. Root removal and protection shall be in compliance with the standard specifications.

(f) *Compulsory repair.*

(1) *Board of public works may order*. The board of public works may order any sidewalk which is unsafe, defective or insufficient to be repaired or removed and replaced with a sidewalk in accordance with the standard fixed by the council.

(2) *Notice to property owner*. An order directing such removal, replacement or repair shall be served upon the owner of each lot or parcel of land in front of which such work has been ordered by the board by personally delivering the same to the owner or his agent or, if the owner or his agent cannot be found in the city, by mailing a copy of such order to the last known address of the owner.

(3) *Default of owner*. Whenever any owner fails for 20 days after service of such notice to remove, replace or repair such sidewalk, the city may cause such work to be done at the expense of such owner pursuant to Wis. Stats. § 62.15(2).

(4) *Minor repairs*. When the cost of repair of any sidewalk in front of any lot or parcel of land does not exceed $150.00, the board may immediately repair such sidewalk without notice and charge the owner thereof the cost of such repair in the manner provided in subsection (f)(1) of this section.

(5) *Expense*. The board of public works shall keep an accurate account of the expense of the work done and report the same to the comptroller, who shall enter the amount in the tax roll as a special tax against such lot or parcel of land. The council may provide that the director of public works or his representative shall perform the duties imposed by this section on the board of public works.

(Code 2004, § 8.04; Ord. No. 2111, 8-17-2004; Ord. No. 2111.2, 5-19-2009)

Sec. 34-7. Driveway approach and curb and gutter construction.

(a) *Written permit required.*

(1) No person shall construct a driveway approach between an existing curb and sidewalk or construct a curb and gutter without first obtaining a permit as provided in this section. Upon application and upon payment of a fee, the public works director shall issue a permit to construct, repair or rebuild any curb or driveway approach, provided such construction conforms with the rules and regulations of the board of public works.

(2) Permit fees shall be as provided in the city fee schedule.

(b) *Specifications.* All driveway approaches shall be constructed of concrete seven inches in depth on roadways that have curb and gutter or on any surfaced alley. Driveway aprons on roadways having no curb and gutter shall be either three inches of asphalt pavement or seven inches of concrete pavement.. Driveways on private property shall be paved with either concrete or asphalt.

(c) *Driveways upon complete street paving.* All driveway approaches shall be completed and paved in concrete in accordance with subsection (b) of this section as part of the street paving project whenever a street is completely constructed or reconstructed.

(d) *Driveways made during street repaving.* Where there is a complete repaving of a street, any non-surfaced driveway shall be paved in accordance with subsection (b) of this section within 30 days of completion of the street paving.
(Code 2004, § 8.05; Ord. No. 1557, 11-26-1991)

Sec. 34-8. Railroad street crossings to be maintained.

Any railroad company maintaining tracks in the city shall keep its street crossings in repair as required by Wis. Stats. §§ 86.12 and 86.13.
(Code 2004, § 8.055)

Sec. 34-9. Obstruction of streets and sidewalks.

(a) *Building material; permit required.* No person shall place or cause to be placed any material in any sidewalk, street, alley or public place without a permit from the public works director.

(b) *Other constructions prohibited.* No person shall place or cause to be placed in any sidewalk, street, alley or other public place within the city any article or obstruction which interferes with its convenient use or which is liable to injure any person or animal or damage the wheels or tires of any vehicle.

(c) *Removal of obstructions.* Whenever there is an obstruction or interference prohibited under subsection (b) of this section, the board of public works or the public works director may order the owner or occupant of the abutting property or the person who placed or caused the obstruction or interference to remove the same within the time period specified in such order. The public works director shall serve a copy of such order upon the person against whom the order is directed by delivering to him a copy of the same. Such person shall remove such material or cause the same to be removed at his own expense within the time limited in such order.
(Code 2004, § 8.06; Ord. No. 1498, 6-19-1990)

Sec. 34-10. Snow and ice removal.

(a) *Owner to clean sidewalk.* The owner, occupant or person in charge of a building or lot fronting upon or adjoining any street shall clean the entire width of the sidewalk abutting such building or lot of snow and ice and shall cause the same to be kept clear of snow and ice within 24 hours after the snow ceases to fall or accumulate, thereon. Such person shall keep the same safe by applying an abrasive material or salt within the time referred to. When premises are

occupied, the occupant or person in charge shall be responsible for compliance with the provisions hereof. Nothing in this subsection shall be interpreted to affect any rights of the city, applicable state statutes or any other law.

(b) *Depositing snow on streets and railroad tracks.* No person shall throw, pile or place any snow or ice on any street or public place or upon railroad tracks and within three feet of the rails.

(c) *Snow and water on roofs.* Every person occupying, having charge of or owning any building abutting upon or near any street or sidewalk so as to create a hazard because of snow falling from the roofs of such building shall cause all snow and ice to be removed from such roof within six hours of daylight following cessation of the snowfall or shall provide suitable guards to prevent the snow or ice from falling upon the adjacent sidewalks or streets.

(d) *Duty of police.* Any police officer who observes any snow or ice covered sidewalks, and the person responsible for such sidewalk has neglected to comply with subsection (a) of this section, shall report such neglect to the superintendent of streets, who shall arrange to spread sand or other abrasive substances upon them.

(e) *City may effect compliance.* Whenever any person having charge of any lot or parcel fails or neglects to remove snow and ice from any sidewalk or roof, the director of public works, without notice, shall have the snow and ice removed therefrom.

(1) The director of public works shall keep an accurate account of the expense of keeping sidewalks clear of snow and ice where owners or occupants of abutting lots fail to do so. The department of public works shall invoice the property as soon as practical. If the owner fails to pay the invoice, the department of public works shall forward the unpaid cost of the work to the clerk to be placed on the tax bill as a special charge against the lot affected.

(2) In addition to the charges levied under subsection (a) of this section, a service charge to cover processing and administrative costs shall be assessed against the property from which ice or snow is removed. The service fee shall be calculated annually based on actual administrative costs proposed in that year. The service fee shall be collected in the same way as the removal charges in subsection (a) of this section.

(3) Appeals of determination to subsection (a) of this section shall be reviewed by the board of public works. Requests to appeal the decision shall be made within 15 days from the date of the invoice. The request shall be in writing and filed with the clerk. The board of public works shall review the appeal within 60 days of receipt of request. The board of public works may reduce or reverse the charge by $^{2}/_{3}$ majority vote.

(Code 2004, § 8.07; Ord. No. 1382, 10-21-1986; Ord. No. 1617, 5-18-1993; Ord. No. 1789, 4-17-2001; Ord. No. 2310, 12-2-2008; Ord. No. 2310, 12-2-2010; Ord. No. 2383, 3-19-2013)

Sec. 34-11. Numbering of streets and buildings.

(a) *Identifying thoroughfares.*

(1) The term "thoroughfare" for the purpose of this section includes all avenues, boulevards, lanes, courts, drives and terraces open to public travel.

(2) On all thoroughfares running north and south, the prefix "South" shall be added to the street name.

(3) On all thoroughfares running east and west, the prefix "East" shall be added to the street name.

(b) *Uniform numbering system.*

(1) *Established*. A uniform system of numbering all buildings and lots fronting on all streets, avenues, alleys and highways is established.

(2) *Base lines.* The base lines used in the city of Milwaukee shall be considered the basis for enumeration.

(3) *Numbers specified.*

a. The numbers for buildings and lots south of E. Lunham Ave. shall begin with 4300 South; and the numbers on all buildings and lots on streets running south from E. Lunham Ave. shall be extended upon the basis of one number for each 15 feet of property frontage wherever possible. All even numbers shall be placed upon buildings and lots on the east side of such thoroughfares and all odd numbers upon buildings and lots on the west side of such thoroughfares.

b. The numbers of buildings and lots east of Pennsylvania Ave. on the west city limits shall begin with 2400 East and all buildings and lots on streets running east and west from such streets shall be extended upon the basis of one number for each 15 feet of property frontage wherever possible. All even numbers shall be placed upon buildings and lots on the north side of such thoroughfares and all odd numbers shall be placed on buildings and lots on the south side of such thoroughfares.

(4) *City assessor to assign numbers.* The city assessor shall make the necessary survey and assign to each building and lot located on any thoroughfare in the city its respective number under the uniform system described in this section. It shall be the responsibility of the owner to furnish and install address numbers on the front of the building as provided herein and also on the alley side of buildings as required by Code section 6-15, to the extent any inconsistency exists between this section and section 6-14, the provision in section 6-14 shall control.

(5) *Payment.* The cost of replacement of any number or numbers after its initial installation shall be borne by the owner or occupant of any building.

(6) *Additional numbers at same location.* Where only one number is available for any building and the owner, occupant or agent of such house or building desires distinctive numbers for the upper and lower portion of any such building fronting on any street, such owner, occupant or agent shall use the suffix "A," "B," "C," etc.

(7) *Size of numbers.* All numbers placed on houses and buildings shall be not less than three inches high, including background, and shall be distinctly legible and shall be posted in a conspicuous place on the front of each building so as to be easily seen and read from the public way. The number itself, where a background is used, shall be not less than two inches in height.

(8) *Newly constructed buildings.* Whenever any structure or building is erected in the city, in order to preserve the continuity and uniformity of the numbers of the buildings and structures, the owner or his agent shall procure the correct number as designated by the city assessor for the property and shall immediately fasten the number assigned upon such house, building or structure in a conspicuous place at its entrance. No building permit shall be issued for any building or structure until the owner or his agent has obtained from the city assessor the official number of the premises.

(9) *Unlawful to alter number.* No person shall alter any number or retain any but a properly assigned number.

(Code 2004, § 8.08; Ord. No. 2058, 4-15-2003; Ord. No. 2110, 7-20-2004)

Sec. 34-12. Signs and advertisements in public places prohibited.

No person shall erect, fasten, post, paint or maintain any sign or advertisement within the street right-of-way or within any public place or public ground.

(Code 2004, § 8.09)

Secs. 34-13—34-42. Reserved.

ARTICLE II. TREES, SHRUBS AND OTHER VEGETATION

Sec. 34-43. Purpose.

It is the purpose of this article to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance, protection and removal of trees and shrubs within the city.

(Code 2004, § 1.44(1))

Sec. 34-44. Definitions.

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

Planting strip means the area between the curb and sidewalk and the area between sidewalk and private property line that is city owned property, the unpaved area between the edge of the pavement and the right-of-way, or an area on private property where an easement is given to the city for the purpose of planting trees.

Private trees mean any trees growing on private property within the city's limits as of or after the effective date of the ordinance from which this section is derived and which are not defined or designated in this chapter as street trees, park trees or public trees.

Public trees mean all trees growing on any street, park or any public place owned and/or managed by the city as of or after the effective date of the ordinance identified in this chapter or its successor ordinances.

Public right-of-way means a portion of property reserved for public use and accepted for such use by the city to provide circulation and travel to abutting properties, including, but not limited to, streets, alleys, sidewalks, provisions for public utilities, cut and fill slopes and public open spaces.

Public utility means any public, private or cooperatively owned line, facility, or system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, wastewater, stormwater, which directly or indirectly serves the public or any part thereof within the corporate limits of the city.

Tree topping means the specific reduction in the overall size of a tree or the cutting back of branches or limbs to such a degree so as to remove the normal canopy and disfigure the tree.

Urban forestry program means the program which is a part of the department of public works and which is responsible for the care and maintenance of the urban forest resources located on city property.

Public hazard means any tree or shrub or part thereof growing upon private or public property which is interfering with the safe use of any public area, infected with an infectious pest, or endangers the life, health, safety, or welfare of persons or property can be declared a public hazard. Sewer backup resulting from tree roots in the sewer system does not meet the definition of a hazard, and removal of a public tree for that purpose is forbidden.
(Code 2004, § 1.44(5))

Sec. 34-45. Master street tree plan.

The city may develop a master tree plan. The master street tree plan shall consist of city-wide, street-by-street written inventory of existing trees and an evaluation of all space and site factors which will aid in the determination of new tree species best suited to a particular planting site in regard to growing habits, shape, form, health, disease and pest resistance, conflicts with wires, lights, pavement, traffic, pedestrians, sidewalks, environmental pollution, sewers, space availability, or other factors. The evaluation of the space and site factors and the species selection for a particular street shall be made by the city arborist.
(Code 2004, § 1.44(17))

Sec. 34-46. Landscape plan review; new and existing trees.

(a) *Tree species.* The city develops and maintains a list of desirable trees for planting along streets in three size classes; short, and medium and large. A list of trees not suitable for planting will also be created and enforced by the city.

(b) *Spacing.* The spacing of street trees shall be as directed by the city arborist. It is the intent of the city that a street tree be planted in the parkway on every residential lot regardless of the wishes of the property owner.

(c) *Utilities.* No street trees other than those species listed herein as small trees may be planted under or within ten lateral feet of any overhead utility wire.

(d) *Distance from sidewalk.* The distance a property owner may place the center of the trunk of a private tree relative to the public sidewalk is as follows:

(1) Small trees, two feet;

(2) Medium trees, three feet; and

(3) Large trees, four feet.

(e) *Topping.* It shall be unlawful as a normal practice for any person, firm, or city department to top any public tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the city arborist.
(Code 2004, § 1.44(8))

Sec. 34-47. Adjacent landowner responsibility.

No person shall plant, remove, prune, cut roots, or disturb any public tree on any street, park, or other public place.
(Code 2004, § 1.44(9))

Sec. 34-48. Traffic visibility triangle.

No owner or occupant of any property abutting a public street or alley shall permit any trees, shrubs, bushes, plant, sign, vehicles, trailers, material, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the street, sidewalk or alley at its intersection with another street or public thoroughfare. On all corner lots, there shall be a vision triangular area as established by taking the corner property point and extending a line 15 feet along the property lines in each direction away from the corner intersecting point, then connecting those points to form a triangle. In case of arterial highways intersecting with other arterial highways or railways, the distance establishing the traffic visibility triangle shall be

increased to 50 feet. Obstructions such as fences or vegetation may be permitted to a height not to exceed 2½ inches above the critical surface grade of the adjacent street or alley pavement as determined by the public works director.
(Code 2004, § 1.44(10))

Sec. 34-49. Dead, diseased or hazardous trees on private property.

The city arborist or his official designee has the authority to enter onto private property to investigate a complaint regarding a tree, shrub, plant part that is suspected to be public hazard. Upon the discovery of any destructive and communicable disease, pestilence or hazardous condition that endangers the public or the growth or health of trees, or threatens to spread disease or infestations, the city arborist shall at once cause written notice to be served upon the owner of the property upon which such diseased or infested tree is situated, and the notice shall require such property owner to eradicate, remove or otherwise control such condition within reasonable time to be specified in such notice. If the property owner fails to remove or control the hazard within the stated period, the city shall have the authority to remove the hazard and the cost of such removal shall be borne by the property owner. No person shall interfere with the city or its authorized agent while they are engaged in carrying out any work or activities associated with this section.
(Code 2004, § 1.44(11))

Sec. 34-50. Landmark trees.

The city arborist shall have as one of its duties the location, selection and identification of any trees which qualify as landmark trees. A tree may qualify as a landmark tree if it meets one or more of the following criteria: size, species rarity, old age, association with a historical event or person, abnormality, scenic enhancement, etc.
(Code 2004, § 1.44(12))

Sec. 34-51. Building moving permits.

The city arborist, along with other affected city departments, shall review and approve all applications for building moving permits before the city will grant said permit.
(Code 2004, § 1.44(13))

Sec. 34-52. Public utilities required to have permission and work plan.

(a) All utilities shall prepare a work plan and be required to meet with the city arborist for approval prior to the removal, trimming, pruning, cutting or altering of any public tree or shrub. The city arborist shall limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provisions of the permit, and the expense of such inspection or supervision shall be charged to the utility at the usual city rate.

(b) A public utility may secure an annual working agreement with the department of public works that gives the city arborist the authorization to supervise and direct work done associated with trees and shrubs.
(Code 2004, § 1.44(14))

Sec. 34-53. Prohibitions and restrictions.

(a) *Planting.* No person shall plant or cause to be planted any tree in any public right-of-way within the city without a permit from the city arborist.

(b) *Trimming or removing trees.* No person shall injure, trim or remove any tree planted in any public right-of-way within the city, or cause the injury or removal of any device set for the protection of any tree in any public right-of-way.

(c) *Deleterious materials prohibited.* No person shall cause or permit any substance deleterious to tree life to enter the soil about the base of a tree in any public right-of-way in the city, or onto a sidewalk, road or pavement at a point from which such substance may enter such soil or injure such tee.

(d) *Placing stone, cement, etc., around trees.* No person, except under permit from the city arborist, shall place or maintain in any public right-of-way within the city any stone, cement or other material which may obstruct the free access of air and water to the roots of any tree thereon. Unless otherwise provided for in such permit, there shall be maintained about the base of the trunk of each shade tree at least six square feet of open ground for a tree of four inches in diameter, and for every two inches of increase of such diameter, there shall be an increase of at least one square foot of open ground.

(e) *Electric wires contacting trees prohibited.* No person shall cause a wire or other conductor charged with electricity to come into contact with any tree in a public right-of-way.

(f) *Attaching wires and objects to trees prohibited.* No person shall attach to any tree in any public right-of-way in the city, or to the guard or stake intended for the protection of such tree, any rope, wire, sign or other similar device.

(g) *Tying animals to trees prohibited.* No person shall tie any animal to any tree in any public right-of-way within the city, allowing or causing such animal to injure such tree.

(h) *Protecting of trees during construction.* During the erection, repair, alteration or removal of any building or structure within the city, no person in charge of such work shall leave any street tree in the vicinity of such building or structure without sufficient guards or protectors to prevent injury to such tree.

(i) *Treatment and removal of diseased, infected or infested trees, etc.*

(1) *Permit required to transport diseased trees, etc.* No person shall carry or transport in the city any dead, diseased, infected or infested trees, vines, hedges, plants, logs or branches without a permit from the city arborist, who shall, upon issuing such permit, designate a suitable disposal area.

(2) *Inspection and investigation.* The city arborist shall inspect all trees, vines, hedges, plants, logs and branches within the city. He may enter upon any private property to make such examination. If any tree, vine, hedge, plant, log or branch is found dead, diseased, infected or infested and, in the opinion of the city arborist, is liable to spread any disease or is found to harbor destructive insects, or if any tree, vine, hedge, plant, log or branch is dangerous to the public, the city arborist shall give a five-day written notice to the owner, agent or occupant of such premises of such condition, directing the owner, agent or occupant to remove and destroy the tree, vine, hedge, plant, log or branch. If the owner, agent or occupant fails to comply with the directions given within the time specified, the city arborist may enter upon the premises and remove such diseased, infected or infested trees, vines, hedges, plants, logs or branches or any part thereof and the cost of such removal shall be charged to the owner of the land upon which such vegetation stands and shall be levied and collected as a special tax against the property. If the owner or his agent cannot be found in the city, the city arborist shall attach to such dead, diseased, infected or infested trees, vines, hedges, plants, logs or branches a written notice stating if such posted vegetation is not removed within five days from the posting thereof, such vegetation shall be removed by the city arborist and the expense thereof charged to the owner of such land as herein specified.

(Code 2004, § 8.10)

Sec. 34-54. Enforcement.

The city shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, spraying, removal, planting, pruning and protection of trees and shrubs upon the right-of-way of any street, alley, sidewalk or other public open space in the city. (Code 2004, § 1.44(15))

Sec. 34-55. Penalties, claims and appeals.

(a) *Violations.* Any person who violates any provision of this ordinance or who fails to comply with any notice issued pursuant to provisions of this ordinance, upon being found guilty of violation, shall be subject to a fine not to exceed $500.00 for each separate offense. Each day during which any violation of the provisions of this ordinance shall occur or continue shall be a separate offense. If, as a result of the violation of any provision of this ordinance, the injury, mutilation, or death of a tree, shrub or other plant located on city owned property is

caused, the cost of repair or replacement of such tree, shrub or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with publications of the International Society of Arboriculture.

(b) *Assessment of claim.* In the event that a hazard is not abated by the date specified in the notice, the city arborist is authorized to cause the abatement of the hazard. The reasonable cost of such abatement shall be filed as a lien against the property on which the abatement was completed.. In addition, the owner of the property upon which the hazard was located shall be subject to prosecution.

(c) *Appeals.* Any person who receives a determination or order from the city and objects to all or part thereof may appeal to the board of public works within seven days of receipt of the order, and the board shall hear such appeal within 45 days of receipt of written notice of the appeal. After such hearing, the board may reverse, affirm or modify the order or determination, and shall state the grounds for its decision in writing. The board shall, by letter, notify the party appealing the order or determination of its decision within ten days after the hearing has been concluded and file its written decision with the city clerk.
(Code 2004, § 1.44(16))

Chapter 35

RESERVED

Chapter 36

SUBDIVISIONS

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ARTICLE I. IN GENERAL

Sec. 36-1. Purpose.

The purpose of this chapter is to promote the public health, safety and general welfare of the community, and these regulations are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; to facilitate the further resubdivision of larger tracts into smaller parcels of land. These regulations are made with reasonable consideration, among other things, of the character of the city with a view of conserving the value of the buildings placed upon land, providing the best possible environment for human habitation, and for encouraging the most appropriate use of land throughout the city.
(Code 2004, § 18.01)

Sec. 36-2. Subdivisions.

Any division of land within the city which results in a subdivision as defined herein shall be, and any other division may be, surveyed and a plat thereof approved and recorded as required by this chapter and Wis. Stats. ch. 236.
(Code 2004, § 18.02)

Sec. 36-3. Divisions.

Any division or joining of land other than a subdivision within the city for which a plat has not been approved and recorded shall be surveyed and a certified survey map of such division or joining approved and recorded as required by section 36-58 and Wis. Stats. ch. 236.
(Code 2004, § 18.03; Ord. No. 929, 6-15-1971)

Sec. 36-4. Exceptions.

The provisions of this chapter shall not apply to:

(1) Transfers of interest in land by will or pursuant to court order, which do not result in the actual division of land, but merely create undivided interests in such land.

(2) Leases for a term not to exceed five years, mortgages or easements.

(Code 2004, § 18.04; Ord. No. 929, 6-15-1971)

Sec. 36-5. Definitions.

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

Final plat means a map of a subdivision which has been accurately surveyed and such survey marked on the ground so streets, alleys, blocks, lots and other divisions thereof can be identified and which meets the approval requirements of Wis. Stats. § 236.20.

Joining of parcels. Whenever a joining of parcels is required under the provisions of this Code, such joining shall take place via approval and recordation of a certified survey map or subdivision plat in conformance with this chapter and applicable provisions of Wis. Stats. ch. 236.

(1) There shall be a joining of parcels when any number of platted lots or tracts is combined into larger parcels or tracts, either for the purpose of total use or subsequent redivision into parcels larger than any one of the original individual lots or tracts

(2) Joining of parcels shall occur when exterior boundaries of the individual lots, tracts or parcels are changed.

(3) Joining of parcels shall occur when structures are built or remodeled over existing boundary lines.

Owner includes the plural as well as the singular and means either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of any of them.

Preliminary plat means a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.

Street means a way for vehicular traffic, other than an alley.

(1) *Arterial streets* are those streets whose primary function is to deliver traffic from the collector streets and carry such traffic to other local, collector, arterial or freeway systems.

(2) *Collector streets* are those which carry traffic from minor streets to the system of major streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

(3) *Local streets* are those which are used primarily for access to the abutting properties.

(4) *Marginal access streets* are minor streets which are parallel to and adjacent to major streets and highways and which provide access to abutting properties and protection from through traffic.

Subdivider means any person laying out or making a land division for the purpose of first sale, offering for first sale, or first selling for himself or others, a subdivision or any part thereof.

Subdivision means a division of a lot, parcel or tract of land by the owner thereof or his agent for the purpose of sale or of building development, where:

(1) The act of division creates five or more parcels or building sites of 1½ acres each or less in area.

(2) Five or more parcels or building sites of 1½ acres each or less in area are created by successive divisions within five years.

(Code 2004, § 18.05; Ord. No. 929, 6-15-1971; Ord. No. 1940, 4-18-2000; Ord. No. 2420, § 1, 10-20-2015)

Secs. 36-6—36-28. Reserved.

ARTICLE II. PRELIMINARY AND FINAL PLATS

Sec. 36-29. Preliminary plat.

(a) *Consultation.* Before filing a preliminary plat, the subdivider may consult the plan commission and its staff for advice and assistance.

(b) *Submittal and approval measures.*

(1) *Submission to city clerk*. Before submitting a final plat for approval, the subdivider shall submit a preliminary plat and such copies thereof as shall be required to the city clerk, who shall forthwith forward the plat to the plan commission and shall forward copies thereof to the state department of local affairs and development as required by Wis. Stats. § 236.12.

(2) *Approval or rejection*. After review of the preliminary plat and negotiations with the subdivider on changes deemed advisable and the kind and extent of public improvements which will be required, the plan commission shall within 40 days of its submission approve, approve conditionally or reject the plat. The subdivider shall be notified in writing of any conditions of approval or the reasons for rejection.

(3) *Effect of approval*. Approval of the preliminary plat shall entitle the subdivider to final approval of the layout shown by such plat if the final plat conforms substantially to such layout and conditions of approval have been met.

(c) *Data and information.* The following information shall be provided at the time of the preliminary consultation or upon filing the preliminary plat if no preliminary consultation is held:

(1) *Existing situation; subdivision proposal*. Information including data on existing covenants, land characteristics and available community facilities and utilities; and information describing the subdivision proposal such as number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park area and other public areas, tree planting, proposed protective covenants and proposed utilities and street improvements.

(2) *Location map*. A location map showing the relationship of the proposed subdivision to existing community facilities which serve or influence it, including development name

and location of main traffic arteries, public transportation lines, shopping centers, elementary and high schools, parks and playgrounds, principal places of employment, other community features such as railroad stations, hospitals, airports and churches, title, scale, north arrow and date.

(3) *Sketch plan*. A sketch plan showing in simple sketch form the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan may be a free hand pencil sketch made directly on a print of the topographic survey.

(d) *Form.* The preliminary plat shall be drawn with waterproof nonfading black ink or legibly drawn with pencil on tracing cloth or tracing paper of good quality to a size of 8½ inches by 11 inches or multiples thereof on a scale of not more than 100 feet to an inch and shall show correctly on its face:

(1) Date, scale and north point.

(2) The proposed subdivision name, which shall not duplicate the name of any plat previously recorded in the county.

(3) The name and address of the owner, the subdivider and the engineer or surveyor preparing the plat.

(4) Location of the subdivision by government lot, quarter-quarter section, sections, township, range and county.

(5) A small scale drawing of the section or government subdivision of the section in which the subdivision lies, with the location of the subdivision indicated thereon.

(6) The exact length and bearing of the exterior boundaries of the subdivision.

(7) Location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land.

(8) Zoning on and adjacent to the subdivision.

(9) Location, widths and names of all existing and platted streets, alleys or other public ways and easements, railroad and utility rights-of-way, parks, cemeteries, water courses, drainage ditches, permanent buildings, bridges and other pertinent data as determined by the plan commission.

(10) The water elevations of adjoining lakes or streams at the date of the survey and the approximate low and high water elevations of such lakes or streams. All elevations of such lakes or streams shall be referred to some permanent established datum plane.

(11) Layout, width and approximate grades of all new streets and rights-of-way, such as alleys, highways, easements for sewers, water mains and other public utilities.

(12) Direction and distance to nearest water and sewer main.

(13) Approximate dimensions and areas of lots.

(14) Proposed building lines.

(15) Approximate radii of all curves and lengths of tangents.

(16) Approximate location and area of property proposed to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision with the conditions, if any, of such dedication or reservation.

(17) Contours at vertical intervals of not more than five feet or at more frequent intervals if required by the plan commission for land of usual topography.

(Code 2004, § 18.06)

Sec. 36-30. Final plat.

(a) *Submission.* The final plat and such copies thereof as shall be required shall be submitted to the city clerk within six months of approval of the preliminary plat. However, if approval of the preliminary plat must be obtained from another approving authority subsequent to approval by the plan commission, the final plat shall be submitted within six months of such approval.

(b) *Approval or rejection.* The city clerk shall forthwith forward the plat to the plan commission and shall forward copies of the plat to the state department of local affairs and development as required by Wis. Stats. § 236.12. The plan commission shall refer the final plat with its recommendation to the city council within 30 days of its submission unless the time is extended by the council. The council shall approve or reject the final plat within 60 days of its submission to the city clerk, unless the time is extended by agreement with the subdivider. Reasons for rejection shall be stated in the minutes of the council meeting, and a copy thereof or a written statement of such reasons shall be supplied the subdivider.

(c) *Copy may be filed.* If the original of the final plat has been filed with another approving authority, the subdivider may file a true copy of such plat in lieu of the original. However, before approval of the council will be inscribed on the original of the final plat, the surveyor or the subdivider shall certify the respects in which the original of the final plat differs from the true copy, and all modifications shall first be approved.

(d) *Form.* A final plat of subdivided land shall comply with the requirements of Wis. Stats. § 236.20 which is adopted by reference.

(e) *Affidavits and certificates.* The affidavits and certificates required by Wis. Stats. ch. 236, shall be lettered or printed legibly with black, durable ink or typed legibly with black ribbon on the final plat.

(f) *Fee*. A fee as provided in the city fee schedule shall be charged to the subdivider to reimburse the city for review of the final plat. The surveyor shall be responsible for filing the plat and shall pay all submittal and filing fees. Upon the filing of the final plat, the surveyor shall supply the city engineering department with a Mylar auto-positive reproduction of the recorded subdivision.
(Code 2004, § 18.07; Ord. of 11-16-1978)

Secs. 36-31—36-48. Reserved.

ARTICLE III. OTHER REQUIREMENTS

Sec. 36-49. Requirements subdivisions must comply with.

The proposed subdivision shall conform to:

(1) The provisions of Wis. Stats. ch. 236.

(2) All applicable ordinances of the city.

(3) The official street map.

(4) The rules of the state department of health and social services relating to lot size and lot elevation, if the subdivision is not served by a public sewer and provision for such service has not been made.

(5) The rules of the state department of transportation relating to safety of access and preservation of the public interest and investment in the streets, if the subdivision or any lot contained therein abuts on a state highway or connecting street.

(Code 2004, § 18.08)

Sec. 36-50. Streets.

(a) *General considerations.* The streets shall be designed and located with regard to existing and planned streets, to topographical conditions and natural terrain features such as streams and existing tree growth and to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

(b) *Official street map*. The arrangement, width, grade and location of all streets shall conform to the official street map.

(c) *Arrangement.*

(1) *Arterial streets*. Arterial streets shall be properly integrated with the existing and proposed system of major streets and highways.

(2) *Collector streets*. Collector streets shall be properly related to the mass transit system, to special traffic generating from facilities such as schools, churches and shopping centers, to population densities and to major streets into which they feed.

(3) *Local streets.* Local streets shall be laid out to conform as much as possible to topography, to discourage use by through traffic, to permit efficient drainage and sewer systems and to require the minimum amount of street necessary to provide convenient, safe access to property.

(d) *Railroad rights-of-way or limited access highways.* Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the plan commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of such right-of-way and at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts or for commercial or industrial purposes in other districts.

(e) *Arterial streets.* Where a subdivision borders on or contains an existing or proposed major street, the plan commission may require that marginal access streets be provided, that the backs of lots abut the major streets and be provided with screen planting contained in a non-access reservation along the rear property line, that deep lots with rear service alleys be provided or that other provisions be made for the adequate protection of residential properties and the separation of through and local traffic.

(f) *Width.* The right-of-way and roadway of all streets shall be of the width specified on the official street map or master plan; or, if no width is specified there, they shall be not less than the width specified below:

(1) *Arterial streets*. Right-of-way, 80 feet; roadway, 48 feet.

(2) *Collector streets*. Right-of-way, 60 feet; roadway, 36 feet.

(3) *Minor and marginal access streets*. Right-of-way, 60 feet; roadway, 30 feet.

(g) *Grades.* The grades of major and collector streets shall not exceed six percent unless necessitated by exceptional topography and approved by the plan commission. The grades of all other streets shall not exceed ten percent. The minimum grade of all streets shall be eight tenths percent.

(h) *Horizontal curves.* A minimum sight distance with clear visibility, measured along the centerline, shall be provided for at least 300 feet on major streets, 200 feet on collector streets and 100 feet on minor streets.

(i) *Vertical curves.* All changes in street grades shall be connected by vertical curves of a minimum length equivalent to 15 times the algebraic difference in the rate of grade for major streets and collector streets, and one-half of this minimum length for all other streets.

(j) *Tangents.* A tangent at least 100 feet long shall be introduced between reverse curves on major and collector streets.

(k) *Street names.* New street names shall not duplicate the names of existing streets; but streets that are continuations of other streets already in existence and named, whether within or without the city, shall bear the name of the existing streets.

(l) *Cul-de-sac or dead end streets.* Streets designed to have one end permanently closed shall not exceed 500 feet in length and shall terminate with a turn-around of not less than 100 feet in diameter of right-of-way and a roadway turn-around of 80 feet in diameter.

(m) *Reserve strips.* Reserve strips controlling access to streets shall be prohibited except where their control is placed in the city under conditions approved by the plan commission.

(n) *Half-streets.* There shall be no half-streets in a subdivision. Where an existing half-street is located adjacent to a subdivision, the other half of the street shall be dedicated by the subdivider. All of the boundary streets of a subdivision shall be full width streets.

(o) *Intersections.*

(1) Streets shall intersect as nearly as possible at right angles, and not more than two streets shall intersect at one point unless approved by the plan commission.

(2) Street jogs with centerline offsets of less than 125 feet shall be avoided. Where streets intersect major streets, their alignment shall be continuous.

(Code 2004, § 18.09; Ord. No. 692, 1-21-1964)

Sec. 36-51. Alleys.

(a) *Commercial and industrial districts.* Alleys shall be provided in all commercial and industrial districts; except the plan commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading and parking consistent with and adequate for the uses proposed.

(b) *Residential areas.* Alleys shall not be approved in residential areas unless necessary because of topography or other exceptional circumstances.

(c) *Width.* The width of alleys shall be not less than 24 feet.

(d) *Dead ends.* Dead end alleys are prohibited except under very unusual circumstances, and crooked and "T" alleys shall be discouraged. Where dead end alleys are unavoidable, they shall be provided with adequate turn-around facilities at the dead end.

(Code 2004, § 18.10)

Sec. 36-52. Easements.

(a) *Utility easement.* A perpetual easement shall be reserved along the rear of each platted lot for installation and maintenance of electric and telephone wires, poles, cables, anchors and other devices for purposes of transmission of electric energy. Any such easement shall be at least 12 feet wide. Utility companies or municipalities operating such utilities or services may enter upon such land for the purpose of installation and maintenance and may trim all trees so they will not interfere with the transmission of energy. Whenever the recorded plat shows other or larger easements, the recorded plat shall prevail.

(b) *Stormwater easement.* Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction, or both, as will be adequate for the purpose. Wherever possible, the drainage shall be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.
(Code 2004, § 18.11; Ord. No. 874, 2-17-1970)

Sec. 36-53. Blocks.

The lengths, widths and shapes of blocks shall be appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed 1,500 feet nor be less than 400 feet between street lines.
(Code 2004, § 18.12)

Sec. 36-54. Pedestrian crosswalks.

Pedestrian crosswalks not less than ten feet wide may be required by the plan commission through the center of blocks more than 900 feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.
(Code 2004, § 18.13)

Sec. 36-55. Lots.

(a) *Generally.* The size, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(b) *Lot dimensions.* Lot dimensions shall conform to the requirements of the zoning chapter. Residential lots to be served by private sewerage disposal facilities shall comply with the rules of the state department of health and social services. The depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contem-

plated, and as specified in the zoning chapter. Residential lots fronting on major streets and highways should be platted with extra depth to permit generous distances between the buildings and such traffic ways. Excessive depth in relation to width shall be avoided.

(c) *Access to public streets.* Every lot shall front or abut on a public street. Lots with an access only to private drives or streets shall be permitted only with plan commission approval.

(d) *Lots at right angles.* Lots at right angles to each other should be avoided wherever possible, especially in residential areas.

(e) *Lot lines.* Side lot lines shall be substantially at right angles or radial to street lines.

(f) *Large lots.* If a tract is subdivided into parcels containing one or more acres, such parcels shall be arranged to allow the resubdivision of any parcels into normal lots in accordance with the provisions of this section.

(g) *Municipal boundaries.* Lots shall follow municipal boundary lines whenever practicable, rather than cross them.

(h) *Double and reversed frontage.* Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
(Code 2004, § 18.14)

Sec. 36-56. Public sites and open spaces.

In the design of the plat, due consideration shall be given by the subdivider and the plan commission to the reservation of suitable sites of adequate area for future schools, parks, playgrounds and other public purposes.
(Code 2004, § 18.15)

Sec. 36-57. Required improvements.

(a) *Monuments.* The subdivision shall be monumented as required by Wis. Stats. § 236.15, which is adopted by reference.

(b) *Utility and street improvements.* Reference herein to the performance of work by the subdivider refers to responsibility for installation of improvements; actual performance is governed by subsections (e) and (f) of this section.

(1) *Street grading*. Street grades shall be determined by the director of public works to conform with a master layout plan. The subdivider shall cause all streets to be rough graded to grades approved by the director of public works. After all street underground utilities are installed, final grading shall be performed to prepare the street for surface

improvements. Any sub-base and base preparation deemed necessary by the director of public works to provide a suitable roadbed shall be performed before final surfacing will be authorized.

(2) *Storm sewers*. The subdivider shall provide proper drainage for all surface water which flows through or from the area shown on the plat. This shall include the installation by the subdivider of storm sewer mains and appurtenances including catch basins and manholes pursuant to plans and specifications which have been approved by the director of public works and in conformance with the master plan of storm sewer drainage in the city. Such storm sewer mains shall be not less than 12 inches in diameter. Where the master drainage plan of the city requires the installation of mains larger than 18 inches in diameter within the area described in the subdivision plat, or requires open ditches as determined and approved by the director of public works, the city may elect to participate in the cost of the installation thereof.

(3) *Sanitary sewers*. The subdivider shall install adequate sanitary sewer facilities meeting the specifications of the metropolitan sewerage commission and the master plan for sanitary sewer extensions for the city, including the installation of manholes, intersection mains, connections and all other facilities.

(4) *Water mains*. The subdivider shall install adequate water distribution facilities as directed by the director of public works to conform to the master layout plans. Water mains shall be a minimum of six inches in diameter and, where larger mains are required, the city may elect to participate in the cost thereof. This installation shall include all hydrants, valves, intersection connections and all other facilities and appurtenances.

(5) *House laterals*. All lots having sewer and water access shall have laterals installed to the property line immediately following the main installation or at least one year prior to any street paving. A record showing the actual location of the terminus of such laterals as referenced to a lot corner shall be furnished on a copy of the plat of the subdivision and filed with the director of public works.

(6) *Street surfacing*.

a. After sanitary sewer, storm sewer, water utilities, laterals, gas and any other underground utilities have been installed by the subdivider as herein required, the subdivider shall surface or cause to be surfaced a roadway in the center of the right-of-way. Such surfacing shall consist of six inches of crushed stone and a seal coat. The grade of such surface when complete shall be seven inches below the finished grade of such streets as determined by the director of public works. After the expiration of one year from the completion of such surfacing, the subdivider shall install a permanent concrete roadway seven inches in thickness and in conformance with the specifications of the director of public works.

b. Contemporaneously with the installation of such concrete roadway, the subdivider shall install integral concrete curb and gutter or vertical face curb and gutter as directed by the director of public works, making provision in such curb and gutter for driveway openings where necessary. The total cost of such road surfacing together with the total cost of subsequent pavement and the installation of curb and gutter including all work at intersections shall be borne by the subdivider.

(7) *Sidewalks*. The subdivider shall install concrete sidewalks throughout the subdivision in conformance with the specifications of the director of public works. The entire cost of such sidewalk installation including all work at corners and intersections shall be borne by the subdivider.

(8) *Ornamental lighting*. The subdivider shall install adequate ornamental street lighting facilities pursuant to the master plan for residential street lighting extensions in the city and the ornamental lighting specifications of the city. All underground wiring and duct work which necessitates excavation in any roadway within the subdivision shall be completed prior to street surfacing as required in subsection (f) of this section.

(9) *Drainage and lot grading*.

a. Before proceeding with any home construction and before any permits for same will be issued, lots within the subdivision shall be graded in accordance with an approved grading plan for the block or area, which shall be furnished by the subdivider and approved by the director of public works. The only exception to this requirement will be in a situation where fill from basement excavations is needed to provide the necessary amount of material. In such case, rough grading of lots shall be accomplished before construction begins and final grading completed when basement fill becomes available. No occupancy permits shall be granted for such premises until final grading is completed.

b. Where the topography of the subdivision is such that the relative finished grade of residential lots will create obstructions to normal surface water drainage, and where no alleys are included in such subdivision, the subdivider shall install concrete swales together with proper storm sewer drainage along the rear lot lines in such subdivision or at other locations as is most practical in the judgment of the director of public works and the plan commission. Such drainage facilities shall be integrated with the storm sewer installation within such subdivision.

(10) *Public utilities*.

a. Facilities for distribution of electric and telephone utility service within any subdivision shall be installed underground, except where the plan commission upon recommendation of the director of public works finds that adverse soil conditions or problems of service distribution make such installation prohibi-

tively expensive or impractical. Transformers, junction boxes, meter points or similar equipment may be installed upon the ground surface, subject to plan commission approval of a landscape screening plan if such is required by the plan commission.

b. Where telephone, electric and gas service lines are placed underground entirely throughout a subdivision area, conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other municipal underground services.

c. All utility lines for telephone and electric service shall be placed in rear line easements where practicable and side lot line easements, where necessary, when carried on overhead poles.

(c) *Approval.* The utility and street improvements and all other improvements required in subsection (b) of this section shall comply with all plans and specifications prepared or approved by the department of public works, and such improvements shall be subject to the inspection and approval of the city engineering department and the board of public works.

(d) *Surveying.* After completion of final lot grading, all lot and block corners shall be monumented permanently in the manner shown on the final plat.

(e) *Work to be done by city.* The following work in any new subdivision shall be done only by city contract. Plans, specifications and contracts shall be prepared by the city, in addition to surveying for utility and street improvements and inspection of the work and inspection by the Metropolitan Sewage District of Milwaukee County where applicable. The subdivider shall provide the necessary preliminary information, such as street profiles, elevations of existing sewers and manholes and other information necessary to prepare plans.

(1) Water mains and laterals.

(2) Sanitary sewers and laterals.

(3) Storm sewers.

(4) Street paving, curb and gutter and sidewalks.

(5) Alley paving.

(6) Ornamental street lighting.

(f) *Work to be done by subdivider.* All other required work shall be done by the subdivider subject to inspection and approval by the director of public works prior to release of the security required in subsection (g) of this section.

(g) *Security and charges.*

(1) *Deposit; engineering and administrative fees*. Prior to final approval of a subdivision plat or a certified survey map by the council, a suitable surety bond, certified check,

cash deposit, irrevocable letter of credit, or other satisfactory security guaranteeing the performance of the work required to be done by the subdivider under subsection (f) of this section, together with funds to cover the estimated cost of all improvements required under subsection (b) of this section, shall be filed with the city clerk. The amount required shall be determined by the director of public works. The actual cost of all such improvements shall be paid by the subdivider, including the additional charge for engineering and administrative fees, except the deposit for storm sewers and ornamental street lighting, shall be the only charge for such improvement. The engineering and administrative fees shall be ten percent of the final contract price.

(2) *Withdrawals from deposit; additional deposit*. The subdivider shall be advised monthly of the cost of completed work, and such amount shall then be withdrawn from his cash deposit and transferred to the proper city fund for payment to the contractor. If the cost of the work exceeds the amount of the deposit, the subdivider shall deposit such excess amount within ten days after notification thereof, and his failure to do so shall constitute a violation of this section. Any excess deposit remaining after final payment for all improvements shall be refunded to the subdivider on approval of the council.

(3) *Exceptions*. When the platting of lands involves only a portion of the full width of a street right-of-way, a short length of street, or some other condition in which the full improvement of such street is not practical at the time of platting, the council may elect by resolution to either:

a. Hold the necessary security in a special deposit as full payment for the work at some future date; or

b. Waive security deposit for such work in favor of future assessments against the benefited property.

(4) *Serving property not in subdivision*. When street improvements other than storm sewers are to be installed and will serve abutting property which is not within the subdivision, the subdivider may petition for the installation of such improvements by the city in the next succeeding public works program. If the council approves such procedure, the costs of installation of such improvements shall be assessed by the city against all the property benefitting thereby. As a condition of such approval, the subdivider shall pay the assessments against his property out of his security deposit at the time the assessment is levied and may not elect to pay the same in installments.

(Code 2004, § 18.16; Ord. No. 11-1-77, 11-1-1977; Ord. No. 1230, 10-20-1981)

Sec. 36-58. Land divisions other than subdivisions.

(a) *Procedure.* The divider shall file a certified survey map with the plan commission, which shall within 40 days approve, approve conditionally or reject the map. The divider shall be notified in writing of any conditions of approval or the reasons for rejection.

(b) *Requirements*.

(1) To the extent reasonably practicable, the division shall comply with the provisions of this chapter relating to general requirements and design standards and required improvements.

(2) All land in a single legal description or ownership which is divided by certified survey map shall show buildable remnants and designate such land as a parcel in the certified survey map. Remnant nonbuildable parcels shall be designated as outlots. All lots, parcels and outlots shall be monumented in accordance with the requirements of state law.

(3) The survey shall be performed and the map prepared by a registered surveyor.

(4) All corners shall be monumented in accordance with Wis. Stats. § 236.15(1)(c) and (d).

(5) The map shall be prepared in accordance with Wis. Stats. § 236.20(2)(a), (b), (c), (e), (f), (g), (h), (j), (k) and (l), on durable white paper 8½ inches wide and 14 inches long. All lines shall be made with nonfading black ink on a scale of not more than 500 feet to an inch.

(c) *Certificates and affidavits.*

(1) The map shall include the affidavit of the surveyor who surveyed and mapped the parcel, typed, lettered or reproduced legibly with nonfading black ink, giving a clear and concise description of the land surveyed by bearings and distances, commencing with some corner marked and established in the U. S. Public Land Survey or some corner providing reference to a corner marked and established in the U. S. Public Land Survey. Such affidavit shall include the statement of the surveyor to the effect that he has fully complied with the requirements of this section.

(2) The certificate of approval of the plan commission shall be typed, lettered or reproduced legibly with nonfading black ink on the face of the map.

(3) The requirements of Wis. Stats. § 236.21, relative to certificates to accompany a plat, shall also be applied to certified survey maps submitted under these sections to the Code.

(d) *Certified survey map.* The map shall be filed for the divider for recording with the register of deeds by the city engineering department. A fee as set forth in the city's fee schedule, plus the county review and recording fees, shall be charged to the divider to reimburse the city for the costs and disbursements incurred in filing the map.
(Code 2004, § 18.17; Ord. No. 929, 6-15-1971; Ord. No. 1638, 11-30-1993)

Sec. 36-59. Subdivisions created by successive divisions.

(a) Where it is not practicable to require that a final plat of a subdivision created by successive divisions be filed in accordance with this chapter, the council may in lieu thereof order an assessor's plat to be made under Wis. Stats. § 70.27, and may assess the cost thereof as provided in such section or to the subdivider.

(b) Regardless of the type of plat filed, any such subdivision shall comply with all provisions of this chapter to the extent that they may reasonably be applied.
(Code 2004, § 18.18)

Sec. 36-60. Special assessments.

(a) Special assessments levied under Wis. Stats. ch. 66, shall be paid in full prior to final approval by the council of any division of land that is subjected to a special assessment levy or hookup.

(b) All final subdivision plats, certified survey maps and resolutions of approval of land divisions shall contain a certification of the city clerk that these special assessments have been paid.

(c) Any special assessment levied for sewer or water utility installations on lands capable of being divided but upon which payments have been deferred shall be paid in full at the time of connection or utilization of the utility installation, unless the lands have been previously divided, at which time subsection (b) of this section shall apply.

(d) Special assessments which are levied under Wis. Stats. ch. 66, and financed by issuance of Special Assessment B Bonds, shall be paid in conformance with Wis. Stats. § 66.0713.
(Code 2004, § 18.19; Ord. No. 904, 1-5-1971; Ord. No. 1246, 4-7-1982)

Sec. 36-61. Penalties and remedies.

Any person who fails to comply with any provision of this chapter or any regulation, rule or order made hereunder shall upon conviction thereof be subject to forfeiture as provided by section 1-15. In addition, the remedies provided by Wis. Stats. §§ 236.30, 236.31, and 236.32 shall be available to the city.
(Code 2004, § 18.25; Ord. No. 2394, 12-17-2013)

Chapter 37

RESERVED

Chapter 38

TRAFFIC AND VEHICLES

Article I. In General

Sec. 38-1. State law and administrative regulations adopted.
Sec. 38-2. Railroad trains not to block streets.
Sec. 38-3. Keys, leaving in unattended vehicles prohibited.
Sec. 38-4. Semi-trailers, use for operation of business prohibited.
Sec. 38-5. Radios or other electric sound amplification devices.
Secs. 38-6—38-30. Reserved.

Article II. Speed and Street Use Restrictions

Sec. 38-31. Arterial streets.
Sec. 38-32. Collector streets.
Sec. 38-33. Speed limits.
Sec. 38-34. One-way streets and alleys.
Sec. 38-35 . Truck route; no through trucking.
Sec. 38-36. No right turn signs.
Sec. 38-37. No left turn signs.
Sec. 38-38. U-turn and Y-turn prohibitions.
Sec. 38-39. Special traffic rules near Lincoln Elementary School.
Sec. 38-40. Stop signs.
Sec. 38-41. Traffic control signals.
Secs. 38-42—38-68. Reserved.

Article III. Stopping, Standing and Parking

Sec. 38-69. Parking limits.
Sec. 38-70. Firelane and other areas restricting parking to authorized vehicles.
Sec. 38-71. Bus and taxi stands.
Sec. 38-72. Parking during snow emergencies.
Sec. 38-73. All night parking prohibited.
Sec. 38-74. Unregistered motor vehicle parking prohibited.
Secs. 38-75—38-91. Reserved.

Article IV. Snowmobiles and Other Terrain Vehicles

Sec. 38-92. Operation of terrain vehicles.
Sec. 38-93. Snowmobiles.
Secs. 38-94—38-114. Reserved.

Article V. Bicycles and Other Play Vehicles and Devices

Sec. 38-115. Bicycles.

Sec. 38-116. Skateboards, roller skates, roller skis and play vehicles.
Secs. 38-117—38-145. Reserved.

Article VI. Abandoned Vehicles

Sec. 38-146. Control of abandoned and nonoperable vehicles; removal; disposal.
Secs. 38-147—38-175. Reserved.

Article VII. Administration and Enforcement

Sec. 38-176. Traffic engineer.
Sec. 38-177. Traffic commission.
Sec. 38-178. Authority of police chief to make additional regulations.
Sec. 38-179. Emergency traffic restrictions.
Sec. 38-180. Tow and storage costs.
Sec. 38-181. Procedure.
Sec. 38-182. Penalties.

ARTICLE I. IN GENERAL

Sec. 38-1. State law and administrative regulations adopted.

(a) Pursuant to Wis. Stats. § 349.06, the following statutory provisions following the prefix "38," describing and defining regulations with respect to vehicles and traffic, and any amendments, repeals, repeals and recreations as a different statute section and any renumbering or passage of new statutes by the state legislature shall, upon passage by the legislature, be automatically incorporated into this chapter, inclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of such statutes, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter.

38.340.01	Words and phrases defined
38.341.01	
38.342.01	
38.343.01	
38.344.01	
38.346.01	
38.347.01	
38.348.01	
38.341.04	Operating unregistered or improperly registered vehicle
38.341.045	Use of registered farm trucks
38.341.05	When vehicles exempt from registration
38.341.07	Certain vehicles to be registered by resident lessee
38.341.08	Application for registration
38.341.11(4)	Display of registration certificates
38.341.15	Display of registration plates
38.341.16(2)	Surrender of illegible plates
38.341.51	Registration of dealer, distributor, manufacturer or transporter
38.341.55	Misuse of plates
38.341.61	Improper use of evidence of registration
38.341.62	False evidence of registration
38.341.63(3)	Surrender of plates upon suspension
38.342.05	Certificate of title required
38.342.06	Application for certificate of title
38.342.15	Transfer of interest in a vehicle
38.342.16	Transfer to or from dealer
38.342.30(2), (3)	Assignment and stamping of new identification numbers
38.342.31(2)	Report of stolen or abandoned vehicle
38.342.33	Sale of vehicle used as taxicabs
38.342.34	Destruction of vehicles
38.343.05(1),(2)(b), (2)(c)	Licenses required to operate motor vehicles, cycles and mopeds

38.343.07(1)(d)1,2, (4)(b)1, 2	Instruction permits required
38.343.10	Occupational licenses
38.343.12	School bus operators to obtain special license
38.343.125	Chauffeurs to obtain special license
38.343.18	License to be carried
38.343.19	Duplicate licenses
38.343.22	Notice of change of address or name
38.343.28(3)	Courts to report convictions and forward licenses to the department (am. #1218)
38.343.30(6)	Suspension and revocation by the courts (am. #1218)
38.343.305	Implied consent
38.343.35	Surrender of license upon revocation, cancellation or suspension
38.343.45	Permitting unauthorized persons to drive
38.343.46	Renting vehicles
38.344.45	Surrender of license and registration upon suspension
38.344.46	Transfer of ownership to defeat financial responsibility
38.344.51, 38.344.52	Financial responsibility for rented vehicles
38.344.61—38.344.65	Mandatory liability insurance (cr. #2346)
38.345.28(5), (7)	Nonmoving traffic violations (cr. #1319)
38.345.55	Traffic officers not to profit from arrests
38.346.02	Applicability of ch. 346
38.346.03	Authorized emergency vehicles
38.346.04(1), (2)	Obedience to traffic officers, signs and signals
38.346.05	Vehicles to be driven on right side of roadway
38.346.06	Meeting of vehicles
38.346.07	Overtaking and passing on left
38.346.075	Overtaking and passing bicycles
38.346.08	When overtaking and passing on right permitted
38.346.09	Limitations on overtaking on left or driving on left side of roadway
38.346.10	When passing at railroad crossing or intersection prohibited
38.346.11	Passing or meeting frightened animal
38.346.12	Driving through safety zones prohibited
38.346.13	Driving on roadways laned for traffic
38.346.14	Distance between vehicles
38.346.15	Driving on divided highway
38.346.16	Use of controlled access highways, expressways and freeways
38.346.18	General rules of right-of-way
38.346.19	What to do on approach of emergency vehicle
38.346.20	Right-of-way of funeral processions and military convoys
38.346.21	Right-of-way of livestock
38.346.23	Crossing controlled intersection or crosswalk
38.346.24	Crossing at uncontrolled intersection or crosswalk
38.346.25	Crossing at place other than crosswalk
38.346.26	Blind pedestrian on highway

38.346.27	Persons working on highway
38.346.28	Pedestrians to walk on left side of highway; pedestrians on sidewalks
38.346.29	When standing or loitering in roadway or highway prohibited
38.346.31	Required position and method of turning at intersections
38.346.32	Required position for turning into private road or driveway
38.346.33	Where turns prohibited
38.346.34	Turning movements and required signals on turning and stopping
38.346.35	Method of giving signals on turning and stopping
38.346.37	Traffic control signal legend
38.346.38	Pedestrian control signals
38.346.39	Flashing signals
38.346.40	Whistle signals
38.346.41	Display of unauthorized signs and signals prohibited
38.346.42	Interference with signs and signals prohibited
38.346.44	All vehicles to stop at signal indicating approach of train
38.346.45	Certain vehicles to stop at all railroad crossings
38.346.46	Vehicles to stop at stop signs and school crossings
38.346.47	When vehicles using alley or non-highway access to stop
38.346.48	Vehicles to stop for school buses displaying flashing lights
38.346.50	Exceptions to stopping and parking restrictions
38.346.505	Stopping, standing or parking prohibited in places reserved for vehicles displaying special registration plates or special identification cards
38.346.51	Stopping, standing or parking outside of business or residence districts
38.346.52	Stopping prohibited in certain specified places
38.346.53	Parking prohibited in certain specified places
38.346.54	How to park and stop on streets
38.346.55	Other restrictions on parking and stopping
38.346.57(2)	Reasonable and prudent speed
38.346.57(3)	Conditions requiring reduced speed
38.346.57(4)(a)—(c)	Fixed speed limits in school or safety zones
38.346.57(4)(d)—(h)	Fixed speed limits
38.346.57(4)(i)	Speeding in park or recreation area
38.346.57(5)	Zoned and posted speed limits
38.346.58	Special speed restrictions for certain vehicles
38.346.59	Minimum speed regulations
38.346.595	Motorcycles and mopeds
38.346.61	Applicability of sections relating to reckless and drunken driving
38.346.62(1)	Reckless driving (first offense within four years)
38.346.63(1)	Operating under influence of intoxicant (first offense within five years)
38.346.66	Applicability of sections relating to accidents and accident reporting
38.346.68	Duty upon striking unattended vehicle
38.346.69	Duty upon striking property on or adjacent to highway
38.346.70	Duty to report accident
38.346.71	Coroners or medical examiners to report

38.346.72	Garages to keep record of repairs of accident damage
38.346.73	Accident reports confidential
38.346.77	Responsibility of parent or guardian of violation of bicycle and play vehicle regulations
38.346.78	Play vehicles not to be used on roadway
38.346.79	Special rules applicable to bicycles
38.346.80	Riding bicycle on roadway
38.346.802	Riding bicycle on bicycle lane
38.346.803	Riding bicycle on bicycle way
38.346.804	Riding bicycle on sidewalks
38.346.87	Limitations on backing
38.346.88	Obstruction of operator
38.346.89	Inattentive driving
38.346.90	Following emergency vehicle
38.346.91	Crossing fire hose
38.346.92	Illegal riding
38.346.93	Intoxicants in vehicles carrying minors
38.346.935	Drinking in motor vehicles
38.346.94	Miscellaneous prohibited acts
38.347.02	Applicability of ch. 347
38.347.03	Sale of prohibited equipment unlawful
38.347.04	Improperly equipped vehicle
38.347.06	When lighted lamps required
38.347.07	Special restrictions on lamps and the use thereof
38.347.08	Determining the visibility distance and mounted height of lamps
38.347.09	Headlamps on motor vehicles
38.347.10	Headlamp specifications for motor vehicles other than mopeds and motor bicycles
38.347.11	Headlamp specifications for mopeds and motor bicycles
38.347.12	Use of multiple-beam headlamps
38.347.13	Tail lamps and registration plate lamps
38.347.14	Stop lamps
38.347.15	Direction signal lamps or devices
38.347.16	Clearance lamps and reflectors
38.347.17	Color of clearance and marker lamps and reflectors
38.347.18	Mounting of clearance lamps and reflectors
38.347.19	Visibility of clearance lamps and reflectors
38.347.20	Lamp or flag on projecting load or fixture
38.347.21	Lamps and flags on trains of agricultural vehicles
38.347.22	Lamps on farm tractors and self-propelled farm implements
38.347.23	Lamps on highway maintenance equipment
38.347.24	Lamps on nonmotor vehicles and equipment
38.347.245	Identification emblem on certain slow moving vehicles

38.347.25	Special warning lamps on emergency vehicles, school buses and funeral vehicles
38.347.26	Restrictions on certain optional lighting equipment
38.347.27	When lighted lamps required on parked vehicles
38.347.28	Certain vehicles to carry flares or other warning devices
38.347.29	Display of warning devices for certain vehicles when standing on highway
38.347.35	Brakes
38.347.36	Performance ability of brakes
38.347.38	Horns and warning devices
38.347.39	Mufflers
38.347.40	Mirrors
38.347.41	Speed indicators
38.347.415	Odometer tampering
38.347.42	Windshield wipers
38.347.43	Safety glass
38.347.44	Painting requirements for school buses; restrictions as to painting other vehicles
38.347.45	Tire equipment
38.347.46	Fenders and mudguards
38.347.47	Drawbars, trailer hitches and mobile home couplings
38.347.48	Safety belts and child safety restraint systems
38.347.48(2m)	Wisconsin seat belt law (cr. #1409)
38.347.485	Protective headgear for use on type 1 motorcycles
38.347.486	General requirements (motorcyclists)
38.347.487	Seating requirements (motorcyclists)
38.347.488	Moped equipment
38.347.489	Lamps and other equipment on bicycles and motor bicycles
38.347.49	Equipment of vehicles transporting flammable liquids
38.348.02	Applicability of ch. 348
38.348.05	Width of vehicles
38.348.06	Height of vehicles
38.348.07	Length of vehicles
38.348.08	Vehicle trains
38.348.09	Projecting loads on side of vehicles
38.348.10	Special limitations on load
38.348.15	Weight limitations on Class "A" highways
38.348.16	Weight limitations on Class "B" highways
38.348.17	Special or seasonal weight limitations
38.348.175	Seasonal operating rights of vehicles hauling peeled or unpeeled forest products cut crosswise
38.348.18	Weight limitations apply to publicly owned vehicles; exceptions
38.348.185	Empty weight to be indicated on side of certain vehicles; rules
38.348.19	Traffic officers may weigh vehicles and require removal of excess load
38.348.20	Policy in prosecuting weight violations

38.348.25	General provisions relating to permits for vehicles and loads of excessive size and weight
38.348.26	Single trip permits
38.348.27	Annual, consecutive month or multiple trip permits
38.348.28	Permits to be carried
38.350.01—38.350.19	Snowmobiles
38.941.01	Negligent operation of vehicle

(b) The following sections of Wis. Admin. Code ch. Trans. 305, are incorporated by reference:

38.305.02	Applicability
38.305.03	Enforcement
38.305.05	Definitions
38.305.06	Identification of vehicles
38.305.07	Definitions
38.305.075	Auxiliary lamps
38.305.08	Back-up lamp
38.305.09	Direction signal lamps
38.305.10	Hazard warning lamps
38.305.11	Headlamps
38.305.12	Parking lamps
38.305.13	Registration plate lamp
38.305.14	Side marker lamps, clearance lamps and reflectors
38.305.15	Stop lamps
38.305.16	Tail lamps
38.305.18	Bumpers
38.305.19	Doors, hoods, locks and latches
38.305.20	Exhaust and air pollution control systems
38.305.21	Floor pan and firewall
38.305.22	Fenders and projecting parts
38.305.23	Frames
38.305.24	Fuel systems
38.305.25	Horn
38.305.26	Mirrors
38.305.27	Restraining devices and seats
38.305.28	Speed indicator and odometer
38.305.29	Steering and suspension
38.305.30	Tires and rims
38.305.31	Modifications affecting height of a vehicle
38.305.32	Vent, side and rear windows
38.305.33	Windshield defroster-defogger
38.305.34	Windshields
38.305.35	Windshield wipers
38.305.37	Applicability of subchapter II

38.305.38	Brakes
38.305.39	Exhaust system
38.305.40	Fenders and bumpers
38.305.41	Fuel system
38.305.42	Horn
38.305.43	Lighting
38.305.44	Mirrors
38.305.45	Sidecars
38.305.46	Suspension systems
38.305.48	Definitions
38.305.485	Applicability of subchapter II
38.305.49	Axle control valves
38.305.50	Bed and body on trailers and semitrailers
38.305.51	Brakes on heavy trucks, trailers and semitrailers
38.305.52	Coupling devices
38.305.53	Fenders and mud guards
38.305.54	Frames on heavy trucks, trailers and semitrailers
38.305.55	Lighting devices
38.305.56	Rear end protection
38.305.57	Suspension system on heavy trucks, trailers and semitrailers
38.305.58	Wiring
38.86.06	Travel upon highways during construction

(Code 2004, §§ 6.340.01—6.941.01; Ord. No. 2034, 9-17-2002)

Sec. 38-2. Railroad trains not to block streets.

No officer or operator of any railway shall direct or operate such railway in such a manner as to prevent the use of any street for longer than five minutes, except when the train or cars, other than those engaged in switching, are in motion.
(Code 2004, § 6.07)

Sec. 38-3. Keys, leaving in unattended vehicles prohibited.

(a) No person shall permit a motor vehicle to stand or remain unattended upon any street, alley or public place in the city without first stopping the engine, locking the ignition and removing the key.

(b) Whenever any police officer of the city shall find any such vehicle standing in violation of subsection (a) of this section, he may remove the key left in such vehicle and deliver it to the officer in charge of the traffic bureau. The officer shall attach to such vehicle a notice that the key will be returned upon presentation of such notice and proof of ownership and payment of the forfeiture for violation of this section.
(Code 2004, § 6.08)

Sec. 38-4. Semi-trailers, use for operation of business prohibited.

No person shall erect, construct, maintain or use any semitrailer, operative or inoperative, in the city for storage, warehousing or location for the operation of any business in the city. This section shall not apply to temporary parking in properly zoned areas while awaiting unloading. (Code 2004, § 6.09; Ord. No. 804, 5-7-1968)

Sec. 38-5. Radios or other electric sound amplification devices.

(a) Except as provided in Wis. Stats. § 347.38(1), no person may operate or park, stop or leave standing a motor vehicle while using a radio or other electric sound amplification device emitting sound from the vehicle that is audible under normal conditions from a distance of 75 feet or more, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition.

(b) This section does not apply to any of the following:

(1) The operator of an authorized emergency vehicle when responding to an emergency call, when in the pursuit of an actual or suspected violator of the law or when responding to, but not upon returning from, a fire alarm.

(2) The operator of a vehicle of a public utility as defined in Wis. Stats. § 11.40(1)(a).

(3) The operator of a vehicle that is being used for advertising purposes.

(4) The operator of a vehicle that is being used in a community event or celebration, procession or assemblage.

(5) The activation of a theft alarm signal device.

(6) The operator of a motorcycle being operated outside of a business or residence district.

(7) Any person violating this section may be required to forfeit not less than $20.00 nor more than $40.00 for the first offense and not less than $50.00 nor more than $100.00 for the second or subsequent conviction within a year.

(Code 2004, § 6.23; Ord. No. 1587, 7-21-1992)

Secs. 38-6—38-30. Reserved.

ARTICLE II. SPEED AND STREET USE RESTRICTIONS

Sec. 38-31. Arterial streets.

The following streets in the city are hereby designated arterial streets:

(1) East Layton Avenue from west city limits to South Lake Drive.

(2) East Grange Avenue from South Pennsylvania Avenue to South Lake Drive.

(3) East Ramsey Avenue from South Pennsylvania Avenue to South Lake Drive.

(4) East College Avenue from west city limits to South Lake Drive.

(5) South Pennsylvania Avenue from East College Avenue to East Layton Avenue.

(6) South Whitnall Avenue from East Grange Avenue to East Layton Avenue, including East Ladish Avenue to South Packard Avenue.

(7) South Packard Avenue from East College Avenue to East Plankinton Avenue.

(8) South Kinnickinnic Avenue from East Layton Avenue to East Lunham Avenue.

(9) South Lake Drive from East College Avenue to East Lunham Avenue.

(10) South Nicholson Avenue from South Whitnall Avenue to South Pennsylvania Avenue.

(11) East Plankinton Avenue from South Packard Avenue to South Kinnickinnic Avenue.

(Code 2004, § 6.01)

Sec. 38-32. Collector streets.

The following streets in the city are designated collector streets:

(1) E. Allerton Avenue from S. Lake Drive to S. Kinnickinnic Avenue.

(2) E. Barnard Avenue from S. Kingan Avenue to S. Lake Drive.

(3) E. Holmes Avenue from S. Packard Avenue to S. Lake Drive.

(4) E. Edgerton Avenue from S. Packard Avenue to S. Lake Drive.

(5) E. Morris Avenue from S. Packard Avenue to S. Lake Drive.

(6) E. Birchwood Avenue from S. Packard Avenue to S. Swift Avenue.

(7) E. Dale Avenue from S. Swift Avenue to S. Lake Drive.

(8) E. Kimberly Avenue from S. Packard Avenue to S. Swift Avenue.

(9) E. Klieforth Avenue from S. Swift Avenue to S. Lake Drive.

(10) E. Dale Avenue from S. Pennsylvania Avenue to S. Barland Avenue.

(11) E. Donald Avenue from S. Pennsylvania Avenue to S. Illinois.

(12) S. Lipton Avenue from E. Lunham to S. Kinnickinnic Avenue.

(13) S. Packard Avenue from E. Plankinton Avenue to E. Lunham Avenue.

(14) S. Swift Avenue from E. College Avenue to E. Lunham Avenue.

(15) S. Illinois Avenue from E. College Avenue to E. Grange Avenue.

(16) S. Kingan Avenue from E. Layton Avenue to E. Barnard Avenue.

(17) S. Barland Avenue from E. College Avenue to E. Grange Avenue.
(Code 2004, § 6.015, Ord. No. 2172, 10-18-2005)

Sec. 38-33. Speed limits.

The speed limit on the streets and highways of the city shall be 25 miles per hour, except as hereinafter designated.

(1) *30 miles per hour.* Thirty miles per hour limit on:

a. South Kinnickinnic Avenue from East Lunham Avenue south to 4600 South Kinnickinnic Avenue.

b. South Kinnickinnic Avenue from 4570 South Kinnickinnic Avenue north to East Lunham Avenue.

c. East Layton Avenue from 2525 East Layton Avenue east to South Nicholson Avenue.

d. Whitnall Avenue from South Nicholson Avenue southeast to East Ladish Avenue.

(2) *35 miles per hour.* Thirty-five miles per hour limit on:

a. East Layton Avenue from the west city limits east to 2525 East Layton Avenue.

b. East College Avenue from South Lake Drive west to 2230 East College Avenue.

c. East College Avenue from 2230 East College Avenue east to South Lake Drive.

d. South Lake Drive from East College Avenue north to East Grange Avenue.

e. South Lake Drive from East Grange Avenue south to East College Avenue.

(3) *40 miles per hour.* Forty miles per hour limit on:

a. East College Avenue from 2230 East College Avenue west to the west city limits.

b. South Pennsylvania Avenue from East Layton Avenue south to East College Avenue.

c. South Pennsylvania Avenue from East College Avenue north to East Layton Avenue.

(4) *15 miles per hour.* Fifteen miles per hour limit in all alleys and restricted areas as provided for in Wis. Stats. § 346.57(4).

(5) *School zones.* Fifteen miles per hour in school zones designated herein. Appropriate signage shall designate "15 mph School Zone" and when leaving such zones "Resume 25 mph" shall also be posted.

a. South Barland Ave., both directions, near the middle school

b. East Grange Ave., both directions, near the middle school
(Code 2004, § 6.016; Ord. No. 1710, 8-1-1995; Ord. No. 1968, 9-5-2000)

Sec. 38-34. One-way streets and alleys.

(a) *Vehicles to comply with signs.* Upon those streets, parts of streets and alleys designated by the city council from time to time, vehicles shall move only in the direction indicated by signs maintained at each intersection where movement in the opposite direction is prohibited.

(b) *Alternating directions of traffic.* The council may designate streets, parts of streets or lanes where vehicular traffic shall proceed in one direction during one period of the day and the opposite direction during another period of the day.

(c) *One-way traffic.* In addition to all prior council actions designating one-way traffic limitations and from this date forward, the following one-way traffic designations are adopted in this Code:

(1) East Carpenter Avenue from South Packard Avenue to South Kirkwood Avenue, one-way eastbound.

(2) North-South Alley approximately 120 feet east of and parallel to South Packard Avenue from East Layton Avenue to East Barnard Avenue, one-way southbound.

(3) North-South Alley approximately 120 feet west of and parallel to South Packard Avenue from East Barnard Avenue to a point approximately 149 feet south of the centerline of East Barnard Avenue, one-way southbound.

(4) North-South Alley approximately 120 feet west of and parallel to South Packard Avenue from East Barnard Avenue to East Layton Avenue, one-way northbound.

(5) North-South Alley approximately 120 feet west of and parallel to South Packard Avenue from East Plankinton Avenue to East Cudahy Avenue, one-way northbound.

(6) South Kinnickinnic Avenue from East Plankinton Avenue to East Layton Avenue, one-way southbound.

(Code 2004, § 6.02; Ord. No. 2296, 8-4-2008)

Sec. 38-35 . Truck route; no through trucking.

(a) *Where prohibited.* No person shall operate any vehicle with a gross weight in excess of 8,000 pounds on streets or portions of streets, or alleys, except those designated for through trucking or truck route other than for the following purposes:

(1) Use of a street or highway for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence which has an entrance on such street or highway.

(2) Governmentally owned vehicles for the purpose of maintaining streets and alleys.

(3) Contractors hired by the city to provide city services.

(b) *Heavy traffic routes.*

(1) E. Birchwood Ave., from S. Pennsylvania Ave. to the west.

(2) E. College Ave., from the westerly city limits to S. Lake Dr.

(3) E. Ladish Ave., from S. Whitnall Ave. to S. Packard Ave.

(4) E. Layton Ave., from the westerly city limits to S. Lake Dr.

(5) E. Norse Ave., from S. Pennsylvania Ave. to the west.

(6) E. Plankinton Ave., from S. Packard Ave. to S. Kinnickinnic Ave.

(7) S. Ace Industrial Dr., from E. College Ave. to E. Norse Ave.

(8) S. Kingan Ave., from E. Layton Ave. to E. Barnard Ave.

(9) S. Kinnickinnic Ave., from E. Layton Ave. to E. Lunham Ave.

(10) S. Lake Dr., from E. College Ave. to E. Lunham Ave.

(11) S. Packard Ave., from E. College Ave. to E. Plankinton Ave.

(12) S. Pennsylvania Ave., from E. College Ave. to E. Layton Ave.

(13) S. Whitnall Ave., from E. Layton Ave. to E. Ladish Ave.

(c) *Signs.* The director of public works shall erect "truck route" signs at the beginning of each route.

(d) *Map.* The director of public works shall provide a map showing through trucking routes.
(Code 2004, § 6.03; Ord. No. 1451, 3-7-1989; Ord. No. 2351, 11-3-2010)

Sec. 38-36. No right turn signs.

The director of public works shall erect the appropriate traffic control signs prohibiting right turns at the following intersections: S. Swift Ave., southbound traffic, no right turn onto E. Iona Terrace, Monday through Friday, between 7:45 a.m. and 8:30 a.m., and 2:45 p.m. and 3:30 p.m. (except for buses).
(Code 2004, § 6.035; Ord. No. 1622, 7-20-1993; Ord. No. 2163, 7-19-2005; Ord. No. 2173, 11-1-2005)

Sec. 38-37. No left turn signs.

The director of public works shall erect the appropriate traffic control signs prohibiting left turns at the following intersections:

(1) S. Delaware Ave. from the refueling station drive, just north of E. Edgerton Ave., no left turn onto S. Delaware Ave.

(2) S. Swift Ave., northbound traffic, no left turn onto E. Iona Terrace, Monday through Friday, between 7:45 a.m. and 8:30 a.m., and 2:45 p.m. and 3:30 p.m. (except for buses).

(3) S. Lake Dr, southbound traffic, no left turn onto Cudahy High School driveway at or near Somers Avenue.

(Code 2004, § 6.036; Ord. No. 1967, 9-5-2000; Ord. No. 2163, 7-19-2005; Ord. No. 2419, § 1, 9-1-2015)

Sec. 38-38. U-turn and Y-turn prohibitions.

The operator of a motor vehicle is prohibited from making a U-turn or Y-turn in the following areas, at all times: E. Allerton Ave., north side, S. Packard Ave. to S. Kirkwood Ave (U-turn or Y-turn).

(Ord. No. 2423, § 3, 10-20-2015)

Sec. 38-39. Special traffic rules near Lincoln Elementary School.

(a) *Northbound traffic S. Packard Ave. at E. Allerton Ave.* There shall be no right turn from northbound on S. Packard Ave. to eastbound onto E. Allerton Ave., Monday through Friday, between 7:45 a.m. and 8:30 a.m. and 2:45 p.m. and 3:30 p.m.

(b) *Southbound traffic S. Packard Ave. at E. Allerton Ave.* There shall be no left turn from southbound on S. Packard Ave. to eastbound onto E. Allerton Ave., Monday through Friday, between 7:45 a.m. and 8:30 a.m. and 2:45 p.m. and 3:30 p.m.

(Code 2004, § 6.037; Ord. No. 2108, 7-6-2004; Ord. No. 2120, 11-16-2004)

Sec. 38-40. Stop signs.

The public works director shall erect the appropriate traffic control signs or signals controlling stops at the locations referred to in the Stop Sign Addendum on file in the office of the city clerk, and no person shall proceed through any stop sign or signal without first bringing his vehicle to a complete stop.

(Code 2004, § 6.04; Ord. No. 1621, 8-3-1993; Ord. No. 1637, 12-7-1993; Ord. No. 1662, 7-19-1994; Ord. No. 1768, 11-19-1996; Ord. No. 1797, 6-3-1997; Ord. No. 1835, 1-6-1998; Ord. No. 1895, 7-6-1999; Ord. No. 1902, 9-7-1999; Ord. No. 1908, 9-21-1999; Ord. No. 1925, 12-7-1999; Ord. No. 2044, 10-1-2002; Ord. No. 2072, 8-19-2003; Ord. No. 2133, 1-18-2005; Ord. No. 2160, 6-20-2005; Ord. No. 2172, 10-18-2005; Ord. No. 2270, 12-4-2007; Ord. No. 2366, 9-6-2011; Ord. No. 2386, 7-16-2013; Ord. No. 2390, 9-3-2013; Ord. No. 2421, 11-3-2015)

Sec. 38-41. Traffic control signals.

The public works director shall erect traffic control signals (green, amber, red sequence) at locations designated by the city council from time to time, a schedule of which is on file in the office of the city clerk.

(Code 2004, § 6.045; Ord. No. 1853, 8-4-1998)

Secs. 38-42—38-68. Reserved.

ARTICLE III. STOPPING, STANDING AND PARKING

Sec. 38-69. Parking limits.

(a) *No parking.*

(1) The operator of a vehicle shall not park at any time at the locations hereinafter designated in this section. The owner of the vehicle of record at the state department of transportation shall be presumed to be the operator of the vehicle.

(2) Signs shall be erected and maintained designating the no parking restriction established by this section and shall be posted in the manner and form provided for in the administrative regulations of the state department of transportation.

(3) The operator of a motor vehicle, except buses, shall not park, stop or stand between 7:00 a.m. and 5:00 p.m. Monday through Friday at the following locations:

a. East Morris Ave., north side, across from 3725 East Morris Ave. from the school driveway to electric pole #69-8863, being the second electric pole west of the driveway.

b. East Pulaski Ave., north side, beginning from the east side of Lake Dr. to the Cudahy High School parking lot.

(4) No vehicles shall be parked between 7:00 a.m. and 3:30 p.m. in front of the following locations: East Cudahy Avenue, North Side in front of 3766 (St. Paul's School).

(5) No vehicle shall at any time park on any parking lot, right-of-way, in any alley, or upon any walk owned by a city governing body, whether a city permanent, subordinate, or separate body political unit within the city. City governing bodies may determine otherwise for site specific areas.

(b) *Parking restrictions.* The operator of a motor vehicle shall not park more than two hours at a time between 8:00 a.m. and 6:00 p.m. upon the following city streets. These restrictions shall not apply on Sundays and holidays nor shall they contravene special parking restrictions posted within the following time zones:

(1) E. Adams Ave., between S. Packard and S. Kirkwood Aves.

(2) E. Barnard Ave., from S. Kingan to S. Kirkwood Aves.

(3) E. Grange Ave., between S. Packard and S. Kirkwood Aves.

(4) E. Grange Ave., north side, from S. Kirkwood Ave. to S. Swift; south side from S. Kirkwood to S. Rosewood Ave.

(5) E. Hammond Ave., between S. Packard and S. Kirkwood Aves.

(6) E. Hammond Ave., north side, 3700 Block.

(7) E. Hammond Ave., north side of street from driveway at 3708 E. Hammond Ave. west to S. Kirkwood Ave.

(8) Hately Ave., east and west from East Somers to East Holmes Avenue.

(9) S. Hately Ave., 4300 Block, both sides.

(10) E. Holmes Ave., from S. Hately Ave. to S. Lake Dr.

(11) S. Kingan Ave., from E. Barnard Ave. to E. Plankinton.

(12) S. Kirkwood Ave.

a. East side of street from E. Layton Ave. to 120 feet south to alley.

b. East side of street from E. Morris Ave. to 287 feet north of E. Mallory Ave.

(13) S. Kirkwood Ave., west side, from the alley between S. Pulaski and E. Underwood Aves. south to E. Underwood Ave.

(14) S. Lake Dr. Service Drive., west side, from E. Klieforth to E. Henry, from E. Ramsey to E. Iona Ter., except that these restrictions shall not apply to the area abutting the property owned by the Cudahy United Methodist Church.

(15) E. Layton Ave., from S. Barland to S. Packard Ave., except for the north side of the street between the railroad tracks to the eastern most portion of 3250 E. Layton Ave.

(16) E. Layton Ave., north side, from the alley next to 3620 E. Layton Ave. to a point 60 feet east thereof.

(17) E. Layton Ave., north side of street in front of 3928 E. Layton Ave.

(18) E. Mallory Ave., south side, from corner of S. Kirkwood Ave. easterly to 3709 E. Mallory Ave.

(19) E. Martin Ave., north side, between the alley immediately to the west and S. Lake Dr.

(20) S. Packard Ave., west side, five parking spaces north of Grange Avenue between Grange and Adam Avenue.

(21) S. Packard Ave., west side, five parking spaces north of Underwood between Underwood and Pulaski Avenue.

(22) S. Packard Ave., west side, E. Pulaski to E. Plankinton; east side, E. Grange to E. Plankinton.

(23) E. Pulaski Ave., between S. Packard and S. Kirkwood Aves.

(24) E. Somers Ave., from S. Hately to alley west of S. Lake.

(25) E. Somers Ave., 3900 Block, both sides.

(26) E. Squire Ave., from S. Kingan to alley east of Packard.

(27) E. Squire Ave., 3600 Block, south side of street.

(28) S. Swift Ave., west side, from E. Iona Ter. to E. Birchwood Ave; east side, from E. Ramsey Ave. to E. Iona Ter.

(29) S. Trinthammer Ave., northerly from E. Ramsey Ave. on the west side of S. Trinthammer to the north lot line of 5859 S. Trinthammer, Tuesdays, Thursdays, and Saturdays; and on the east side of S. Trinthammer to the north lot line of 5854 S. Trinthammer, Mondays, Wednesdays, Fridays and Sundays.

(30) E. Underwood Ave., between S. Packard and S. Kirkwood.

(31) E. Underwood Ave., north side, from the northwest corner at E. Underwood and S. Swift Aves., westerly to the west end of the Ryczek-Larson Bros. Funeral Home driveway.

(32) E. Wanda Ave., north side, from S. Packard to 340 feet east.

(c) *Parking spaces.*

(1) *Designation*. The city traffic engineer shall designate the parking spaces adjacent to the curb with appropriate markings upon the curb and/or the pavement of the street. Parking spaces so designated shall be of appropriate length and width to be accessible from the traffic lanes of such street.

(2) *Occupying space*. No person shall park a vehicle in any such designated parking space during the restricted and regulated time applicable to the parking zone in which such space is located so that any part of such vehicle occupies more than one such space or protrudes beyond the markings designating such space; except a vehicle which is too large to be parked within a single designated parking space may occupy two adjoining spaces.

(3) *Handicap parking*.

a. *Reserved for Sundays only.* The two southernmost spaces for two vehicles on the west side of the service drive parallel to S. Lake Dr. in front of the United Methodist Church, 5865 S. Lake Dr., shall be reserved for handicap parking on Sundays only and appropriate signage posted.

b. *Restricted for handicap parking only.* The following locations shall be restricted for handicap parking only, at all times:

1. 3802 E. Squire Ave., one space in front of St. Nikola's Church.

2. 4700 Block of S. Swift Ave., east side of street, one space adjacent to St. Nikola's Church.

3. 3400 Block of E. Barnard Ave., south side of street adjacent to the library, two spaces.

4. E. Allerton Ave., north side of street, east of Packard Avenue, three handicapped spaces.

(Code 2004, § 6.10; Ord. No. 1121, 8-5-1978; Ord. No. 1589, 7-21-1992; Ord. No. 1657, 5-3-1994; Ord. No. 1670, 9-20-1994; Ord. No. 1673, 10-18-1994; Ord. No. 1675, 12-6-1994; Ord. No. 1677, 12-6-1994; Ord. No. 1682, 12-20-1994; Ord. No. 1691, 3-4-1995; Ord. No. 1701, 4-18-1995; Mo. of 10-24-1995; Ord. No. 1722, 12-5-1995; Ord. No. 1724, 12-19-1995; Ord. No. 1734, 2-7-1996; Ord. No. 1744, 7-2-1996; Ord. No. 1748, 7-16-1996; Ord. No. 1751, 9-3-1996; Ord. No. 1756, 9-17-1996; Ord. No. 1765, 11-6-1996; Ord. No. 1766, 11-6-1996; Ord. No. 1771, 12-3-1996; Ord. No. 1782, 3-4-1997; Ord. No. 1790, 5-6-1997; Ord. No. 1804, 8-19-1997; Ord. No. 1805, 8-19-1997; Ord. No. 1806, 8-19-1997; Ord. No. 1807, 8-19-1997; Ord. No. 1811, 10-7-1997; Ord. No. 1812, 9-16-1997; Ord. No. 1813, 9-16-1997; Ord. No. 1851, 8-4-1998; Ord. No. 1852, 8-4-1998; Ord. No. 1869, 12-15-1998; Ord. No. 1885, 2-16-1999; Ord. No. 1886, 2-16-1999; Ord. No. 1895, 7-6-1999; Ord. No. 1906, 9-7-1999; Ord. No. 1915, 10-19-1999; Ord. No. 1916, 10-19-1999; Ord. No. 1924, 12-17-1999; Ord. No. 1945, 4-18-2000; Ord. No. 1961, 6-20-2000; Ord. No. 1966, 9-5-2000; Ord. No. 1987, 2-6-2001; Ord. No. 1989, 4-2-2001; Ord. No. 1991, 4-2-2001; Ord. No. 2005, 11-20-2001; Ord. No. 2006, 11-20-2001; Ord. No. 2024, 3-18-2002; Ord. No. 2026, 3-19-2002; Ord. No. 2028, 5-7-2002; Ord. No. 2046, 11-19-2002; Ord. No. 2059, 5-6-2003; Ord. No. 2071, 8-19-2003; Ord. No. 2087, 10-21-2003; Ord. No. 2147, 4-19-2005; Ord. No. 2147.2, 1-4-2011; Ord. No. 2164, 7-19-2005; Ord. No. 2165, 7-19-2005; Ord. No. 2166, 7-19-2005; Ord. No. 2168, 9-6-2005; Ord. No. 2169, 9-6-2005; Ord. No. 2206, 6-6-2006; Ord. No. 2210, 7-18-2006; Ord. No. 2218, 9-5-2006; Ord. No. 2266, 11-6-2007; Ord. No. 2298, 9-16-2008; Ord. No. 2298.2, 2-4-2014; Ord. No. 2302, 3-3-2009; Ord. No. 2314, 1-6-2009; Ord. No. 2315, 1-6-2009; Ord. No. 2322, 3-3-2009; Ord. No. 2343, 5-18-2010; Ord. No. 2348, 9-21-2010; Ord. No. 2349, 10-5-2010; Ord. No. 2371, 6-6-2012; Ord. No. 2381, 12-18-2012; Ord. No. 2400, 2-19-2014; Ord. No. 2404, § 1, 5-20-2014; Ord. No. 2407, § 1, 9-16-2014; Ord. No. 2410, § 1, 10-21-2014; Ord. No. 2412, § 1, 12-6-2014; Ord. No. 2422, § 1, 10-20-2015; Ord. No. 2423, §§ 1, 2, 10-20-2015; Ord. No. 2424, § 1, 10-20-2015)

Sec. 38-70. Firelane and other areas restricting parking to authorized vehicles.

(a) When the fire or police chief approves, or when state, federal, county or local law mandates or authorizes restrictions in parking lanes for access and use by fire and other emergency vehicles, whether on public or private property, that restricted area shall be clearly designated by signage, yellow painted curbing or symbols upon the pavement.

(b) The space between the fire lane and the building shall be free of permanent obstructions that may impede firefighting access, such as fences, hedges, walls, substantial grade changes or waterways.

(c) Fire lanes shall be maintained free of all obstructions at all times, including parked vehicles and snow.

(d) Parking shall be prohibited in any area designed as a fire lane or other emergency vehicle parking area. Failure to comply with this article shall result in the issuance of a citation by any police officer or community service officer.
(Code 2004, § 6.101; Ord. No. 2210, 7-18-2006; Ord. No. 2302, 3-3-2009)

Sec. 38-71. Bus and taxi stands.

No person shall stop, stand or park a vehicle other than a bus in a bus stop stand or other than a taxi in a taxicab stand when any such stop or stand has been officially designated and appropriately signed; except the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.
(Code 2004, § 6.11)

Sec. 38-72. Parking during snow emergencies.

(a) A snowstorm means a driving snowstorm accompanied by moderate to heavy snow falling at a minimum rate of one inch per hour and accumulating to at least four inches or more, which is accompanied by wind in excess of 25 miles per hour, or driving snow in such a manner as to produce a congestion of traffic or impede the operation of emergency vehicles.

(b) Emergency vehicles shall include police squad cars, firefighting apparatus, ambulances, rescue squad cars, snow removal equipment and machinery and other emergency vehicles.

(c) The mayor, or in his absence the president of the council or the director of public works, during periods of driving snowstorms or immediately thereafter may declare a state of public emergency by public proclamation which may be made by radio, placards or other public means of communication.

(d) No person shall park any vehicle or load or unload any merchandise, freight, truck or vehicle on the incorrect side of any street within the city during the period designated as a snow emergency. The correct side of the street shall be designated during the snow emergency. Declaration of a snow emergency means that all vehicles need to be parked on the designated side (one-side) only during the period specified. A snow emergency may last 48 hours with alternate side parking for each of the 24 hours designated.

(e) The director of public works or any employee under his supervision and direction, may remove any vehicle which interferes with the operation of any snow removal equipment or emergency vehicle. The director of public works may charge the cost of removing such vehicle to the owner or operator thereof. The director either may cause removal to be made by his own department with city help or may contract or farm out such removal to any garage man, service man or other person.

(f) No person shall permit any vehicle to park or stop upon any uncleared street or alley, other than an emergency thoroughfare, either during a driving snow storm, immediately thereafter or during a state of declared emergency, in such manner as to interfere with snow removal equipment unless with reasonable diligence he could not avoid it.

(g) Signage. The following notice shall be posted on signage visible to passing motorists entering the city at or reasonably near all corporate limits:

SNOW EMERGENCIES

THE CITY OF CUDAHY HAS DECLARED A SNOW EMERGENCY:

There will be no parking on the even side of all streets from 10:00 p.m. [date TBD] to 10:00 p.m. [date TBD] and no parking on the odd side of all streets from 10:05 p.m. [date TBD] to 10:00 p.m. [date TBD].

(Code 2004, § 6.12; Ord. No. 1753, 9-3-1996; Ord. No. 1767, 11-6-1996; Ord. No. 1983, 6-6-2001; Ord. No. 2362, 6-7-2011)

Sec. 38-73. All night parking prohibited.

(a) *Hours.* No person shall park any vehicle on any street in the city between 2:30 a.m. and 5:30 a.m. of any day, except under subsections (b) and (c) of this section.

(b) *Parking limits.* Residents of the city may park all night on the streets, subject to the following conditions:

(1) Every resident desiring overnight parking privileges on city streets shall purchase a permit sticker from the police department, the price of which shall be as provided in the city fee schedule. The sticker shall be displayed on the vehicle as directed by the police department.

(2) Persons may obtain four parking permissions per month, per license plate, not to exceed eight overall parking permissions per year.

(3) Vehicles shall be parked seven days per week on the odd-numbered side of the street on the calendar date, before midnight, that is odd-numbered, and on the even-numbered side of the street on the calendar date, before midnight, that is even-numbered.

(4) All night parking privilege shall not be used for storage of vehicles on the public streets. Failure to move a vehicle during a 72-hour period is prima facie evidence of storage of the vehicle. Each day thereafter that the vehicle is not moved shall be a separate violation of this section.

(5) Exemption. The prohibition of subsection (b)(1) of this section shall not apply between Friday evening through Monday morning, New Years Eve Day, Memorial Day weekend, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.

(c) *Exception.* No all night parking shall be permitted on South Lake Drive, or as posted.
(Code 2004, § 6.13; Ord. No. 2327.2, 12-1-2009)

Sec. 38-74. Unregistered motor vehicle parking prohibited.

(a) *State law adopted.* The statutory provisions itemized in Wis. Stats. § 341.65 describing and defining regulations with respect to prohibited parking of unregistered vehicles upon any alley, street, highway, public way or thoroughfare is hereby adopted by reference and made part of this section as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this section.

(b) *Penalty.* In addition to impoundment or immobilization, or both, as provided in the statute adopted under subsection (a) of this section, penalty for violation of this section shall be in accordance with article VII of this chapter.
(Code 2004, § 6.155; Ord. No. 2361, 5-3-2011; Ord. No. 2361.2, 10-18-2011)

Secs. 38-75—38-91. Reserved.

ARTICLE IV. SNOWMOBILES AND OTHER TERRAIN VEHICLES

Sec. 38-92. Operation of terrain vehicles.

(a) *Regulated.* No person shall operate a motor or power driven vehicle or cycle, including the type commonly known as minibikes, or a motor or power driven mini-motor vehicle, including the types commonly known as dune buggies, go-carts and similar terrain vehicles:

(1) On the property of another without his written consent.

(2) Between the hours of 9:00 p.m. and 8:00 a.m. within 50 feet of a dwelling.

(3) On the shoulders or in the drainage ditches of public streets, highways, public rights-of-way or on public sidewalks.

(4) In excess of 25 mile per hour.

(5) With more than one passenger.

(6) Without protective headgear.

(7) On a public street or highway, unless the driver has an operator's license and the vehicle is licensed by and meets the equipment requirements of the state.

(8) Who is under 12 years of age.

(9) So as to race the engine or otherwise cause unnecessary or unusual noise which annoys, disturbs, injures or endangers the comfort, health, peace or safety of others.

(10) In a park in the city, except where designated by the parks and recreation commission.

(11) In addition to the regulations provided for in the foregoing subsections, Wis. Stats. § 23.33 is adopted by reference and made a part of this section as if fully set forth herein.

(b) *Liability for minors.* The parent, parents or guardian having legal custody of an unemancipated minor shall be liable for the penalties and costs imposed for violations of this section where such minor is unable to pay them, including the jail sentence imposed for nonpayment thereof.
(Code 2004, § 6.166; Ord. No. 1430, 7-19-1988; Ord. No. 1470-A, 10-17-1989)

Sec. 38-93. Snowmobiles.

(a) *State snowmobile laws adopted.* Except as otherwise specifically provided in this article, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the state statutes are hereby adopted by reference and made part of this section as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this section:

(1) Wis. Stats. § 350.01, Definitions.

(2) Wis. Stats. § 350.02, Operation of snowmobiles on or in vicinity of highway.

(3) Wis. Stats. § 350.03, Right-of-way.

(4) Wis. Stats. § 350.04, Snowmobile races, derbies and routes.

(5) Wis. Stats. § 350.045, Public utility exemption.

(6) Wis. Stats. § 350.047, Local ordinance to be filed.

(7) Wis. Stats. § 350.05, Operation by youthful operators restricted.

(8) Wis. Stats. § 350.055, Safety certification program established.

(9) Wis. Stats. § 350.06, Firearms and bows.

(10) Wis. Stats. § 350.07, Driving animals.

(11) Wis. Stats. § 350.08, Owner permitting operation.

(12) Wis. Stats. § 350.09, Headlamps, tail lamps and brakes.

(13) Wis. Stats. § 350.10, Miscellaneous provisions for snowmobile operation.

(14) Wis. Stats. § 350.12, Registration of snowmobiles.

(15) Wis. Stats. § 350.13, Uniform trail signs and standards.

(16) Wis. Stats. § 350.15, Accident and accident reports.

(17) Wis. Stats. § 350.17, Enforcement.

(18) Wis. Stats. § 350.18, Local ordinances.

(19) Wis. Stats. § 350.19, Liability of land owners.

(b) *Applicability of rules of the road to snowmobiles.* The operator of a snowmobile upon a roadway shall in addition to the provisions of Wis. Stats. ch. 350 be subject to Wis. Stats. §§ 346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1) and 346.94(1), (6), (6m) and (9).

(c) *Operation on public property.*

(1) Except as provided in Wis. Stats. §§ 350.02 and 350.03, no person shall operate a snowmobile upon any public right-of-way, in any public park, golf course or on any other public property in the city except property designated by the council.

(2) Snowmobiles operated on designated snowmobile routes over public highways shall observe the rules of the road for motor vehicles set forth in Wis. Stats. ch. 346. Any act required to be performed or prohibited by such laws is required or prohibited by this section.

(d) *Additional regulations.*

(1) *Speed*. No person shall operate a snowmobile upon any public right-of-way or highway within the city at a speed in excess of that permitted or posted.

(2) *Hours of operation*. No person shall operate a snowmobile upon any public highway or other public property, public or private recreational area or upon any private premises open to public for snowmobiling within the city between midnight and 7:00 a.m.

(3) *Unattended vehicles*. No person shall leave or allow a snowmobile owned or operated by him to remain unattended on any public highway or property. No snowmobile shall be left unattended on public or private property with the key in the ignition switch.

(4) *Operation on sidewalks or malls prohibited*. No person shall operate a snowmobile on any sidewalk or pedestrian way within the city.

(5) *Operation on private premises restricted*. No person shall operate a snowmobile on any private property not owned or controlled by him within the city without the express consent or permission of the owner, nor within 100 feet of an occupied dwelling without the occupant's consent.

(6) *Snow cover*. No person shall operate a snowmobile within the city in any previously designated area in the absence of an average snow cover in that area of less than three inches.

(e) *Permitting operation by improper persons prohibited.* No owner or person having charge or control of a snowmobile shall authorize or permit any person to operate such snowmobile who is not permitted under state law to operate such snowmobile or who is under the influence of an intoxicant, or dangerous or narcotic drug.

(f) *Operation while under influence prohibited.* Wis. Stats. § 346.63 shall apply to the operation of a snowmobile any place within the city.

(g) *Written consent of owner required.* The consent required under Wis. Stats. § 350.10(6), (11), (12) and (13) shall be a written consent dated and limited to two years. If the property is owned or leased by more than one person, the consent of each shall be obtained. This consent shall be filed with the police department.
(Code 2004, § 6.20; Ord. No. 1027, 4-2-1975)

Secs. 38-94—38-114. Reserved.

ARTICLE V. BICYCLES AND OTHER PLAY VEHICLES AND DEVICES

Sec. 38-115. Bicycles.

(a) *Traffic ordinances apply to persons driving bicycles.* Every person driving a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by state law declaring rules of the road applicable to vehicles or by the traffic ordinances of the city as adopted in this article, except as to special regulations in this section and as to those provisions of laws and ordinances which by their very nature would have no application to bicycles.

(b) *Registration.*

(1) *Registration and fee.* Every owner or operator of any bicycle customarily kept within the city shall file with the city clerk a description in writing of such bicycle upon a blank form, to be provided for that purpose, and the required registration fee as provided on file in the office of the city clerk. The filing of such description and payment of the fee shall constitute a registration of such bicycle. Such registration shall be serially numbered and kept by the city clerk office as a public record.

(2) *Registration term.* Registration shall commence on January 1 of each year and shall expire on December 31 of the following year. Every owner and operator of a bicycle shall file his registration not later than January 10 of the first year of the two-year period. Any person registering a new bicycle during the registration period, but after December 31 of the first year, shall pay one-half the fee provided for the full registration period. All bicycles shall be registered within ten days of the date of purchase.

(c) *Responsibility of parent or guardian for violation of bicycle and play vehicle regulations.* No parent or guardian of any child shall authorize or knowingly permit such child to violate any of the provisions of Wis. Stats. ch. 346.

(d) *Play vehicles not to be used on roadway.* No person riding upon any coaster, roller skates, sled, toboggan or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

(e) *Special rules applicable to bicycles.* Whenever a bicycle is operated upon a highway, the following rules apply:

(1) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(2) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(3) No person operating a bicycle shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handle bars.

(4) No person riding a bicycle shall attach himself or his bicycle to any vehicle upon a roadway.

(f) *Riding bicycle on roadway.*

(1) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(2) Persons riding bicycles upon a roadway shall ride single file.

(3) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(g) *Lamps and other equipment on bicycles.*

(1) No person may operate a bicycle upon a highway, bicycle lane or bicycle way during hours of darkness unless such bicycle is equipped with or the operator is wearing a lamp emitting a white light visible from a distance of at least 500 feet to the front of such bicycle. Such bicycle shall also be equipped with a red reflector that has a diameter of at least two inches of surface area on the rear so mounted and maintained as to be visible from all distances from 50 to 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to but not in lieu of the red reflector.

(2) No person shall operate a bicycle upon a highway unless it is equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement and with a bell or other device capable of giving a signal audible for a distance of at least 100 feet; but a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(h) *Parking.* No person shall park any bicycle against windows or on the main travelled portion of the sidewalk, nor in such manner as to constitute a hazard to pedestrians, traffic or property.

(i) *Rental agencies.* A rental agency shall not rent or offer any bicycle for rent unless the bicycle is registered and a registration plate is attached thereto as provided herein and such bicycle is equipped with the lamps and other equipment required by the state vehicle code.

(j) *Nonresident.*

(1) Any nonresident may operate a bicycle which is duly registered in any municipality and equipped with registration plates without obtaining a local registration.

(2) All nonresident bicyclists shall comply with applicable city ordinances.

(Code 2004, § 6.16; Ord. No. 1006, 1-15-1994; Ord. No. 2409, § 1, 10-7-2014)

Sec. 38-116. Skateboards, roller skates, roller skis and play vehicles.

(a) No person shall operate or ride a skateboard, roller skates, roller skis or play vehicle as defined in Wis. Stats. § 340.01 in any of the following places:

(1) On any city street.

(2) On any sidewalk in any business district. For purposes of this section, business district shall be defined as any area primarily commercial in nature.

(3) In any public parking ramp or parking lot.

(4) On any public property where signs prohibit it.

(5) On private property, unless permission has been received from the owner, lessee or person in charge of that property.

(b) Operators or riders of skateboards, roller skates, roller skis or play vehicles shall yield the right-of-way to other pedestrians using city sidewalks and shall not otherwise endanger or interfere with pedestrian traffic on those sidewalks.

(Code 2004, § 6.165; Ord. No. 1425, 6-7-1988)

Secs. 38-117—38-145. Reserved.

ARTICLE VI. ABANDONED VEHICLES

Sec. 38-146. Control of abandoned and nonoperable vehicles; removal; disposal.

(a) *Purpose.* The purpose of this section is to prevent blight, secure health and humane living conditions, protect the integrity of investments in real property, prevent the decline of real estate values, improve aesthetics and protect public health, safety and welfare. In order to secure this goal, activities contrary to this section are deemed to be regulated or prescribed through the exercise of the city's police power.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Abandoned motor vehicle. No person shall leave unattended for such a time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned without permission of the property owner or on a public highway or public property for more than 48 hours in the city. A motor vehicle shall not be considered an abandoned motor vehicle when it is in a garage or enclosed structure or when designated as not abandoned by the chief of police or his authorized designee.

Motor vehicle. Includes mobile home, moped, motor bicycle, motor bus, motorcycle, motor driven cycle, motor home, motor truck, trailer, semi-trailer and motor vehicle as defined in Wis. Stats. ch. 340.

Nuisance motor vehicle. Includes inoperable, unlicensed, unroadworthy, disassembled or wrecked motor vehicles. A vehicle for which a license has been applied for shall be herein deemed a licensed vehicle if proof of application is prominently displayed on the front windshield.

(c) *Prohibition.* No person shall keep, place or store any nuisance motor vehicle or abandoned motor vehicle upon any public thoroughfare, street or highway or any private or public property within the city limits in a manner inconsistent with this section.

(d) *Limitations.* Nuisance motor vehicles may be kept, placed or stored outside of a garage or enclosed structure only in conjunction with an authorized and licensed auto sales, repair or salvage business lawfully operating within a properly zoned area and in compliance with all state and local laws, rules, regulations, licenses and permits.

(1) *Notice of intent to tow*.

a. *Private property.* The owner of any vehicle in violation of this section, which is on private property, shall be notified of a violation of this section and provided with ten full calendar days to repair, assemble, make the vehicle operable and roadworthy and license any vehicle which may not be licensed or, in the alternative, place such vehicle in a garage or enclosed structure or place such vehicle within an authorized and licensed sales, repair or salvage business lawfully operating within a properly zoned area and in compliance with all state and local laws, rules, regulations, licenses and permits.

b. *Public property and right-of-way.* The owner of any vehicle which is in violation of this section, which is upon public property or public right-of-way, shall be notified of a violation of this section and provided with 48 hours to repair, assemble, make the vehicle operable and roadworthy and license any vehicle which may not be licensed or, in the alternative, place such vehicle in a garage or enclosed structure

or place such vehicle within an authorized and licensed sales, repair or salvage business lawfully operating within a properly zoned area and in compliance with all state and local laws, rules, regulations, licenses and permits.

c. *Computation of time, private property.* If the owner of a vehicle in violation of this section, which is located on private property, can be reasonably determined, service of intent to tow shall be attempted thereon by personal service. If unable to notify through personal service, such notification shall be by mail. In addition thereto, a sticker shall be posted on the vehicle, which shall be deemed adequate notice of intent to tow. The ten-day time limit provided to procure voluntary compliance with this section shall commence to run at 12:59 p.m. of the day notice of intent to tow is applied to the vehicle.

(2) *Extension of time*. The chief of police or his designee for good cause, upon request, may grant a reasonable extension of any time limit imposed herein to enable owner to voluntarily comply with this section.

(3) *Other ordinances and laws*. A motor vehicle may be towed under authority of any other ordinance or law pursuant to procedures therein specified where a tow is authorized by another ordinance for reasons other than a violation of this section.

(4) *Non-tolling of period of time provided to comply*. The period of time with which an owner is provided hereunder to comply with this section in order to avoid towing shall not be tolled by the fact of a temporary removal of the vehicle from the place whereunder the violation of this section was noticed to occur under the circumstances where the vehicle continues to be in violation of this section.

(5) *Sanction for noncompliance*.

a. The owner of a motor vehicle in violation of this section who fails in a timely manner to comply with this section shall be subject to have the vehicle towed and stored at owner's expense.

b. Each day of violation of this section shall be deemed a separate offense. A citation for violation of this section is not a precondition for the vehicle being towed under authority of this section.

(6) *Impoundment*. Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under subsection (7) of this section, except that if it is deemed by the chief of police or his designee that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the city or county prior to expiration of the impoundment period upon determination by the chief of police or sheriff having jurisdiction that a vehicle is not stolen or otherwise wanted for evidence or other reasons. All substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with subsection (9) of this section.

(7) *Forfeiture*. In addition to the removal and disposal of vehicles in violation of this section, a forfeiture may be imposed to recover the cost.

(8) *Owner responsible for costs*. The owner of a vehicle in violation of this section, except a stolen vehicle, is responsible for all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the city against the owner. Whether or not the city recovers the cost of towing and enforcement, they shall be responsible to the towing service for requisitional towing service and reasonable charges for impoundment.

(9) *Disposal by sealed bid or auction sale*. Any vehicle in violation of this section not disposed of under subsection (6) of this section shall be retained in storage for a minimum period of ten days after certified mail notice has been sent to the owner and lienholder of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model and serial number of the vehicle in violation, the place where the vehicle is being held and shall inform the owner and any lienholder of their rights to reclaim the vehicle. The notice shall state that the failure of the owner or lienholder to exercise their rights to reclaim the vehicle under this subsection shall be deemed a waiver of all right, title and interest in the vehicle and consent to the sale of the vehicle. Each retained vehicle not reclaimed by its owner or lienholder may be sold. The city may dispose of the vehicle by sealed bid or auction sale as provided by ordinance. At such sale the highest bid for any such vehicle shall be accepted, unless the same is deemed inadequate by the chief of police or his designee, in which event all bids may be rejected. If all bids are rejected or no bid is received, the city may either readvertise the sale, adjourn the sale to a definite date, sell the vehicle at a private sale or junk the vehicle. Any interested person may offer bids on each vehicle to be sold.

(10) *Public sale*. A public sale notice shall be posted at the office of the police department. The posting of the notice at the police department shall be in the same form as the certified mail notice to the owner or lienholder of record. Upon sale of the vehicle, the city shall supply the purchaser with a completed form, designated by the department of transportation, enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have ten days to remove the vehicle from the storage area, but shall pay a reasonable storage fee established by the city for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the city shall be made available to any interested person or organization which makes a written request for such a list. The city shall charge a fee for the list as provided in the city fee schedule.

(11) *City to advise department of transportation*. Within five days after the sale or disposal of a vehicle as provided in subsection (6) of this section, the city shall advise the department of transportation of the sale or disposition on a form supplied by the department of transportation.

(12) *Hearing; private property*. The notice of intent to tow shall provide the owner of the vehicle with an opportunity to request a hearing before the chief of police or his designee to enforce this section. Where a hearing is requested within the time provided for section compliance in the notice, nonaction shall be taken to tow the vehicle or issue a citation hereunder until the hearing is held. However, the owner may be required to appear for a hearing to be scheduled within 24 hours of the request. The failure of the owner to appear at the scheduled hearing shall constitute a waiver of the right to a hearing. Hearings may be conducted over the telephone at the request of or with the consent of the vehicle owner. The purpose of a hearing hereunder is to permit the vehicle owner to show that the vehicle sought to be towed is not, in fact, a motor vehicle in violation of this section subject to tow hereunder. The person conducting the hearing shall be informal, shall note in writing the facts presented and position of vehicle owner, shall mark and retain exhibits, if any, and shall determine in writing whether or not this section has been violated. If this section has been determined by the person to have been violated, the owner of the vehicle shall be notified of a compliance date, which shall be reasonable under all circumstances.

(13) *Appeal*. Appeal shall be as hereinafter provided. The city elects not to be governed by Wis. Stats. ch. 68. An aggrieved party desiring to appeal from a hearing determination under subsection (1) of this section may file a written notice of appeal which must be received by the police department prior to the expiration of the time for compliance with this section provided for in the notice of intent to tow. The notice of appeal shall state the error alleged in the initial decision and shall provide the address and phone number of appellant. The appeal shall be heard by the city attorney. The review shall be upon the record and a written determination affirming or denying the initial decision maker shall be made. No vehicles shall be towed until the appeal process is completed and then only where the decision of the initial decision maker finding a violation of this section is upheld and only after the appellant has been notified of the appeal decision and given at least 24 hours to comply with this section.

(Code 2004, § 6.15; Ord. No. 1586, 7-7-1992)

Secs. 38-147—38-175. Reserved.

ARTICLE VII. ADMINISTRATION AND ENFORCEMENT

Sec. 38-176. Traffic engineer.

(a) *Director of public works to be traffic engineer.* The office of traffic engineer is established. The director of public works shall serve as traffic engineer in addition to his other functions and shall exercise the powers and duties with respect to traffic as provided in this article.

(b) *Duties and authority.*

(1) The traffic engineer shall determine the installation, proper timing and maintenance of traffic control devices, conduct engineering investigations of traffic conditions, plan the operation of traffic on the streets and highways of the city, cooperate with other city officials in the development of ways and means to improve traffic conditions, and shall carry out the additional powers and duties imposed by ordinances of the city.

(2) The traffic engineer may test traffic control devices under actual conditions of traffic.

(c) *Street closing.* The traffic engineer shall close streets or portions thereof when such streets are under construction or repair or at any other time when, in his sole discretion, he deems it advisable and in the public interest to close such streets or portions thereof to vehicular or pedestrian traffic. He shall place or cause to be placed and maintained appropriate markings, signs and barriers giving notice that such area is closed to traffic.
(Code 2004, § 6.17)

Sec. 38-177. Traffic commission.

(a) *Established.* There is hereby established a traffic commission to serve without compensation, consisting of the director of public works, chief of police or a member of the police department designated representative, and such other persons as may be appointed by the mayor and confirmed by the city council. Members shall serve three-year terms. The chairman of the commission shall be appointed by the mayor and removed by him. The term of such appointed persons shall be coextensive with that of the mayor.

(b) *Powers and duties.* The traffic commission shall coordinate traffic activities, supervise the preparation and publication of traffic reports, receive complaints having to do with traffic matters, recommend to the city council and to the board of public works and other city officials ways and means for improving traffic conditions and the administration and enforcement of traffic regulations.
(Code 2004, § 6.18; Ord. No. 1498, 6-19-1990; Ord. No. 2392, 10-1-2013)

Sec. 38-178. Authority of police chief to make additional regulations.

The chief of police shall make regulations necessary to effect the provisions of this chapter and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than 90 days.
(Code 2004, § 6.19)

Sec. 38-179. Emergency traffic restrictions.

(a) *Purpose.* Whenever it is deemed necessary and expedient for the health, safety, welfare and good order of the city to exercise authority in an emergency existing under conditions of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot or civil

commotion, act of God and conditions, without limitation because of enumeration, which would impair transportation, food or fuel supplies, medical care, fire, health or police protection or other vital facilities of the city, the council may, by ordinance, resolution or order, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from the local highways; and any person violating any ordinance, resolution or order shall be subject to a penalty as provided in article VII of this chapter.

(b) *Authority.* If, because of such emergency conditions, the council is unable to meet promptly, the mayor or acting mayor shall exercise all of the powers conferred upon the council necessary and expedient for the purposes herein set forth; but such shall be subject to ratification, alteration, modification or repeal by the council as soon as the council is able to meet; provided such ratification, alteration, modification or repeal by the council shall not affect the prior validity or force or effect of such proclamation.
(Code 2004, § 6.06; Ord. No. 776, 8-1-1967)

Sec. 38-180. Tow and storage costs.

Whenever any vehicle is towed and/or stored by or at the request of the city or any of its employees or agents acting under authority of this position, the owner and operator shall each be liable for the costs of tow and storage. This shall not apply to stolen vehicles
(Code 2004, § 6.24; Ord. No. 2077, 10-7-2003)

Sec. 38-181. Procedure.

(a) *State law applicable.* This article shall be enforced according to Wis. Stats. §§ 23.33, 66.12, 345.11 to 345.61 and Wis. Stats. ch. 800 except as otherwise specifically provided.

(b) *Deposit.*

(1) Any person arrested for a violation of this article may make a deposit of money as directed by the arresting officer at the police station or the office of the clerk of court, or by mailing the deposit to such places. The arresting officer or the person receiving the deposit shall notify the arrested person, orally, or in writing, that:

a. If the person makes a deposit for a violation of a traffic regulation, the person need not appear in court at the time fixed in the citation and the person will be deemed to have tendered a plea of no contest and submitted to a forfeiture and penalty assessment if required by Wis. Stats. § 165.87, a jail assessment if required by Wis. Stats. § 53.46(1), plus any applicable fees prescribed in Wis. Stats. ch. 814 not to exceed the amount of the deposit that the court may accept as provided in Wis. Stats. § 345.37.

b. If the person fails to make a deposit for a violation of a traffic regulation or appear in court at the time fixed in the citation, the court may enter a default judgment finding the person guilty of the offense or issue a warrant for his arrest.

(2) The amount of the deposit shall be determined in accordance with the deposit schedule established by the state judicial conference. The deposit shall include court costs, penalty assessment established under Wis. Stats. § 165.87 and a jail assessment if required by Wis. Stats. § 53.46(1).

(3) The arresting officer or the person receiving the deposit shall issue the arrested person a receipt therefor as required by Wis. Stats. § 345.26(3)(b).

(4) If a deposit schedule has not been established, the arresting officer shall require the alleged offender to deposit not less than the maximum forfeiture permitted under this article, plus penalty assessment and costs, where applicable.

(c) *Petition to reopen judgment.* Whenever a person has been convicted in this state on the basis of a forfeiture of deposit or a plea of guilty or no contest and the person was not informed as required under Wis. Stats. § 345.27(1) and (2), the person may, within 60 days after being notified of the revocation or suspension of the operating privilege, petition the court to reopen the judgment and grant him an opportunity to defend on merits. If the court finds that the petitioner was not informed as required under section 345.27(1) and (2), the court shall order the judgment reopened. The court order reopening the judgment automatically reinstates the revoked or suspended operating privilege.

(d) *Notice of demerit points and receipt.*

(1) Every officer accepting a forfeited penalty or money deposit under this section shall receipt therefor in triplicate as provided in Wis. Stats. § 345.26(3)(b). Every officer accepting a stipulation under the provisions of this section shall comply with the provisions of Wis. Stats. §§ 343.28, 343.28, 345.26(1)(a) and 345.27(2) and shall require the alleged violator to sign a statement of notice in substantially the form contained on the uniform traffic citation and complaint promulgated under Wis. Stats. § 345.11.

(2) Parking stipulation schedule. The police department shall have the authority to determine the administrative costs of enforcement in collection of forfeitures for parking violations under this section, from time to time as may be necessary to adjust the same, and shall keep the municipal court informed of the same, which court shall assess the same against violators, and cause such to be collected along with stipulation, but, in no event, shall such costs be less than the following, which shall also apply to sections 38-69 and 38-73:

a. If paid within ten days of date of issue, $25.00.

b. After ten but within 15 days, $35.00.

c. After 15 days or a first notice has been sent, $60.00.

d. After 28 days or a second notice has been sent, or the citation has been referred to the department of transportation for suspension or refusal of registration as permitted above, $80.00.

(e) *Forfeitures in treasury; officer to post bond, qualify.* Any officer accepting deposits or forfeited penalties under this article shall deliver them to the city treasurer within 20 days after receipt. Any officer authorized to accept deposits under Wis. Stats. § 345.26 or this section, shall qualify by taking the oath prescribed by Wis. Stats. § 19.01 and filing an official bond as described by Wis. Stats. § 19.01.
(Code 2004, § 6.31; Ord. No. 2092, 12-16-2003; Ord. No. 2179, 12-20-2005)

Sec. 38-182. Penalties.

The penalty for violation of any provision of this article shall be a forfeiture and penalty assessment if required by Wis. Stats. § 165.87, a jail assessment if required by Wis. Stats. § 53.46(1), plus any applicable fees prescribed in Wis. Stats. ch. 814.

(1) *Uniform offenses.* Forfeitures for violation of any provision of Wis. Stats. chs. 341 to 348, inclusive, adopted by reference in this article, shall conform to forfeitures for violation of the comparable state offense, including any variations or increases for second offenses.

(2) *Reckless driving and drinking in moving vehicles.* The forfeiture for violation of any provision of Wis. Stats. §§ 941.01(1) and 947.045, shall be not less than $50.00 nor more than $500.00.

(3) *Local regulations.* The forfeiture for violation of sections 38-31 through 38-93 with the exception of sections 38-69 and 38-73 shall be not less than $5.00 nor more than $200.00 for the first offense and not less than $10.00 nor more than $500.00 for the second offense within two years.

(Code 2004, § 6.30; Ord. No. 1115, 2-22-1978; Ord. No. 1267, 12-7-1982; Ord. No. 1558, 11-26-1991; Ord. No. 1996, 8-7-2001; Ord. No. 2179, 12-20-2005; Ord. No. 2327, 10-20-2009; Ord. No. 2372.2, 12-1-2009; Ord. No. 2327.3, 10-4-2011)

Chapter 39

RESERVED

Chapter 40

UTILITIES

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ARTICLE I. IN GENERAL

Sec. 40-1. Construction specifications to apply.

The following specifications are adopted by reference, including all addendums and modifications as kept on file in the office of the director of public works:

(1) *General specifications.* Part I of "Standard Specifications for Sewer and Water Construction in Wisconsin," most recent edition.

(2) *Sewer and water construction specifications.* "Standard Specifications for Sewer and Water Construction in Wisconsin," most recent edition.

(Code 2004, § 8.11)

Sec. 40-2. Compulsory connection to sewer and water.

(a) *Notice to connect*. Whenever sewer and water becomes available to any public, commercial, mercantile or business building or building used for human habitation, the health officer shall notify in writing the owner, agent or occupant thereof to connect thereto all facilities required by the health officer. If such person to whom notice has been given fails to comply within ten days after notice, the health officer shall cause the necessary connections to be made, and the expense thereof shall be assessed as a special tax against the property pursuant to Wis. Stats. § 281.45.

(b) *Deferred payment*. The owner or his agent or the occupant may within 30 days after completion of the work file a written option with the city treasurer electing to pay the amount of the assessment in five equal installments with interest on the unpaid balance at eight percent per year.

(c) *Privies and cesspools prohibited*. After connection of any building to a sewer main hereunder, no privy, cesspool or waterless toilet shall be used in connection with such building.

(Code 2004, § 11.05)

Sec. 40-3. Water rates, rules and regulations.

(a) *To be approved*. The rates, rules and regulations of the water utility shall be those approved by the city council and on file and approved by the state public service commission as Docket 1480-WR-1.

(b) *Operating rules*.

(1) All persons now receiving a water supply from the utility, or who may hereafter make application therefor, shall be considered as having agreed to be bound by all rules and regulations as filed with the state public service commission.

(2) Public service commission rules adopted. The following provisions of Wis. Admin. Code ch. PSC 185 are adopted by reference and made a part of these rules as if set forth in full. A violation of any such rules shall constitute a violation of this section and shall be punishable as provided in section 1-15.

Wis. Admin. Code § PSC 185.11	Authorization For and Application of Rules
Wis. Admin. Code § PSC 185.12	Definitions
Wis. Admin. Code § PSC 185.13	General Requirements
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Wis. Admin. Code § PSC 185.16	Protection of Utility Facilities
Wis. Admin. Code § PSC 185.17	Interference With Public Service Structures
Wis. Admin. Code § PSC 185.18	Location of Records
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Wis. Admin. Code § PSC 185.21	Schedules to be Filed with the Commission
Wis. Admin. Code § PSC 185.22	Information Available to Customers
Wis. Admin. Code § PSC 185.31	Metered Service
Wis. Admin. Code § PSC 185.32	Meter Readings and Billing Periods
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Wis. Admin. Code § PSC 185.39	Dispute Procedures
Wis. Admin. Code § PSC 185.41	Employees Authorized to Enter Customer's Premises
Wis. Admin. Code § PSC 185.42	Customer Complaints
Wis. Admin. Code § PSC 185.43	Construction Records
Wis. Admin. Code § PSC 185.44	Records and Reports of Service Interruptions
Wis. Admin. Code § PSC 185.45	Pumpage Records
Wis. Admin. Code § PSC 185.46	Meeting Equipment Records
Wis. Admin. Code § PSC 185.47	Other Records
Wis. Admin. Code § PSC 185.51	Requirement for Good Engineering Practice
Wis. Admin. Code § PSC 185.52	Construction Standards
Wis. Admin. Code § PSC 185.61	Meters
Wis. Admin. Code § PSC 185.65	Accuracy Requirements for Customer Meters
Wis. Admin. Code § PSC 185.71	Meter Testing Facilities and Equipment
Wis. Admin. Code § PSC 185.72	Calibration of Meter Testing Equipment
Wis. Admin. Code § 183.73	Testing of Customer Meters
Wis. Admin. Code § PSC 185.74	Test Flows
Wis. Admin. Code § PSC 185.75	Required Tests of Customer Meters
Wis. Admin. Code § PSC 185.76	Periodic Tests
Wis. Admin. Code § PSC 185.77	Complaint Tests
Wis. Admin. Code § PSC 185.78	Referee Tests
Wis. Admin. Code § PSC 185.79	Testing of Metering Installations Having Remote Registers
Wis. Admin. Code § PSC 185.795	Jumpering Meter Settings

Wis. Admin. Code § PSC 185.81	Quality of Water
Wis. Admin. Code § PSC 185.815	Adequacy of Water Supply
Wis. Admin. Code § PSC 185.82	Pressure Standards
Wis. Admin. Code § PSC 185.83	Station Meters
Wis. Admin. Code § PSC 185.84	Emergency Operation
Wis. Admin. Code § PSC 185.85	System Losses
Wis. Admin. Code § PSC 185.86	Flushing Mains
Wis. Admin. Code § PSC 185.87	Operation of Distribution System Valves and Hydrants
Wis. Admin. Code § PSC 185.88	Interruptions of Service
Wis. Admin. Code § PSC 185.89	Thawing Frozen Services

(c) *Other regulations; use of fire hydrants for temporary water supply.*

a. In cases where no other water supply is available, permission may be granted by the water utility to use a fire hydrant. Fire hydrant use permits may be obtained from the water utility business office. In no case will any employee of the utility turn on water for construction work unless the contractor first presents a valid permit and installs backflow protection.

b. Application for permits for the use of hydrants shall be made prior to use and shall not be granted for a period to exceed 90 days. At the end of such time, the permit shall become void. The permit shall be in possession of person using hydrant at all times of use. The application shall indicate the exact location of hydrant to be used, type of work being performed and approximate amount of water to be used.

c. The charge for a fire hydrant use permit shall be as provided in the city fee schedule plus water consumption (estimated or metered at utility discretion) at established rates.

d. Water consumption charges will be billed to the permit holder upon expiration of the hydrant permit.

e. Any person, except an employee of the water utility, department of public works or fire department using a fire hydrant or drawing water from such hydrant without having first obtained a permit to do so, shall be subject to a penalty as provided in section 1-15.

f. Contractors and all other persons are strictly prohibited from actions which may cause damage to a fire hydrant. Whenever such damage to property pertaining to fixtures of the water utility is traceable to any contractor or other person, the expense of repairing same shall be collected from such person or contractor by suit or lien on any estimate due such contractor from the city.

g. Hydrants shall only be operated with a standard hydrant wrench which shall be provided by the permit holder.

(Code 2004, § 13.02; Ord. No. 1362, 12-17-1985)

Sec. 40-4. Sewer rates.

The rates for city sewer services shall be as provided in the city fee schedule.
(Code 2004, § 8.13; Ord. No. 1733, 1-16-1996; Ord. No. 1780, 2-4-1994; Ord. No. 1838, 1-20-1998; Ord. No. 1882, 1-19-1999; Ord. No. 1931, 2-1-2000; Ord. No. 1998, 9-8-2001)

Sec. 40-5. Water cross connection control.

(a) *Definitions*. A cross connection shall be defined as any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the city water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

(b) *Cross connections prohibited*. No person shall establish or permit to be established or maintain or permit to be maintained, any cross-connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply, other than the regular public water supply of the city, may enter the supply or distribution system of such municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the city water utility and by the state department of natural resources in accordance with Wis. Admin. Code § NR 811.09(2).

(c) *Inspection*. It shall be the duty of the city water utility and the plumbing inspection department to cause inspections to be made of all properties served by the public water system where cross-connections with the public water system is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the city water utility and as approved by the state department of natural resources .

(d) *Right of entry*. Upon presentation of credentials, a representative of the city water utility or the city plumbing inspection department shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the city for cross-connections. If entry is refused, such representative shall obtain a special inspection warrant under Wis. Stats. § 66.0119. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

(e) *Disconnection.* The city water utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination to the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Wis. Stats. ch. 68 except as provided in subsection (f) of this section. Water service to such property shall not be restored until the cross-connection has been eliminated in compliance with the provisions of this section.

(f) *Emergency disconnection*. If it is determined by the city water utility superintendent that a cross-connection or an emergency endangers public health, safety or welfare and requires immediate action, and a written finding to that effect is filed with the city clerk and delivered to the occupant of the affected premises, service may be immediately discontinued. The customer shall have an opportunity for hearing under Wis. Stats. ch. 68 within ten days of such emergency discontinuance.
(Code 2004, § 11.20; Ord. No. 1248, 5-4-1982; Ord. No. 1708, 6-20-1995)

Sec. 40-6. Enforcement.

Any police officer, plumbing inspector or supervisory employee of the department of public works shall enforce the provisions of this chapter and, upon observing any violation thereof, shall take appropriate steps to ensure compliance.
(Code 2004, § 8.14; Ord. No. 1988, 9-8-2001)

Secs. 40-7—40-30. Reserved.

ARTICLE II. STORMWATER UTILITY

DIVISION 1. GENERALLY

Sec. 40-31. Establishment.

There is hereby established a city stormwater utility to be operated as part of the public works department. The operation of the stormwater utility shall be under the supervision of the city council. The director of the stormwater utility will be the general manager of the water utility/public works department.
(Code 2004, § 8.52; Ord. No. 1988, 9-8-2001)

Sec. 40-32. Authority.

The stormwater utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities as are deemed by the utility to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation by enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls and ponds, and such other facilities as will support a stormwater management system.
(Code 2004, § 8.53; Ord. No. 1988, 9-8-2001)

Sec. 40-33. Definitions.

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

Developed property. A property shall be considered developed pursuant to this article:

(1) Upon issuance of a certificate of occupancy, or upon completion of construction or final inspection if no such certificate is issued; or

(2) Where construction is at least 50 percent complete and construction is halted for a period of three months.

Director means the dirfector of public works, or his designee.

Dwelling unit means any residential space identified for habitation by the city building code. A dwelling unit includes, but is not limited to, single-family residences, and two-, three-, or four-family apartments, condominiums, or townhouse living units.

Equivalent runoff unit (ERU) means the statistical average horizontal impervious area of "single-family homes" within the city on the date of adoption of the ordinance from which this chapter is derived. The horizontal impervious area includes, but is not limited to, all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks.

Impervious area or *impervious surface* means a horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. It includes, but is not limited to, semi-impervious surfaces such as compacted gravel or clay, as well as streets, roofs, sidewalks, parking lots and other similar surfaces.

Multifamily property means any residential space identified for habitation attached to two, three, or four dwelling units, mixed use on less than a lot of 5,400 square feet, or as classified by the city building code.

Nonresidential property nonresidential property means any developed lot or parcel not exclusively residential as defined herein, including, but not limited to, transient rentals (such as hotels and motels), multifamily apartment buildings of five or more units, commercial, industrial, institutional, governmental property, and parking lots.

Residential property means any lot or parcel developed exclusively for residential purposes including, but not limited to, single-family homes, and manufactured homes, condominiums, and multifamily apartment buildings with four or less units.

Single-family property means a residential space identified for habitation with exactly one dwelling unit.

Undeveloped property means that which has not been altered from its natural state by the addition of any improvements such as a building, structure, or impervious surface. Land which is currently in agriculture or part of an agricultural operation shall be classified as undeveloped property.
(Code 2004, § 8.54; Ord. No. 1988, 9-8-2001)

Sec. 40-34. Rates and customer classes.

(a) *Established.* In this article, the city council is establishing the rate classifications upon each lot and parcel within the city for services and facilities provided for stormwater management. The actual charges to be imposed pursuant to these rate classifications, and any future changes in those rates, shall be made by resolution or ordinance. All rates established pursuant to this article will be fair and reasonable. The current rates, following approval by the city council, will be on file with the general manager of the water utility/public works department.

(b) *Types of classifications.* There shall be at least three rate classifications that may be used to share the costs of the stormwater utility. These rate classifications are:

(1) *Base charge (BC)*. The BC may be imposed on all property in the city. The base charge will be designed to reflect the fact that all property benefits from the stormwater management activities of the city and that all property contributes in some way to the stormwater discharge or pollution of stormwater that must be managed by the city. The BC may be designed to collect the administrative costs and operation and maintenance costs of the stormwater utility operations. The BC may be based on the size of a parcel of property, impervious area, or other method.

(2) *Equivalent charge (EC)*. The EC may be imposed on all property that has any developed impervious area. The EC will be designed on the basis of a typical single family property (an ERU). Other units of property will be charged multiples of the EC based on the impervious area.

(3) *Special charge (SC)*. An SC may be imposed on property that is in an area specially benefited by a particular stormwater management facility. This charge will be developed to reflect the benefits in a particular area that may not be appropriate to allocate to property throughout the city. The SC will be calculated on an EC basis.

(c) *Other classifications for distribution of costs.* The city council may make such other rates and customer classifications to provide reasonable and fair distribution of the costs of the stormwater utility. In so doing, the city council may allow adjustments to certain charges set forth in this section for facilities installed and maintained by the property owner.

(d) *Billing; failure to pay; property lien assessed.* The charges established hereunder will be billed to the stormwater utility customer at the same time as the sanitary sewer or water bill. The property owner shall be responsible for payment of the stormwater utility charge. A bill shall be sent to any property not taking service from the sanitary sewer or water utility. Failure

to pay the charges when due will be subject the same penalties as established and documented by the city water utility in the rate file including late payment charges and charges for checks returned for insufficient funds. Unpaid charges may be assessed as a lien against the property pursuant to Wis. Stats. § 66.0821.
(Code 2004, § 8.55; Ord. No. 1988, 9-8-2001)

Sec. 40-35. Customer classification.

(a) For purposes of imposing the stormwater charges, all lots and parcels within the city are classified into the following five customer classes:

(1) Residential single-family.

(2) Residential two-family to four-family.

(3) Residential condominiums and mixed use on property less than 5,400 square feet.

(4) Nonresidential.

(5) Undeveloped.

(b) The director shall prepare a list assigning the customer classification designation for each lot and parcel within the city.

(c) The average square footage of impervious area of the ERU is established to be equivalent to 2,700 square feet.

(d) The charges imposed for single-family residential properties shall be the fee for one EC.

(e) The charges imposed for two-family to four-family residential properties shall be the fee for one EC per each individual dwelling unit existing on the property, i.e.:

(1) Two-family charge = EC fee × 2 dwelling units × 1 ERU per dwelling unit.

(2) Three-family charge = EC fee × 3 dwelling units × 1 ERU per dwelling unit.

(3) Four-family charge = EC fee × 4 dwelling units × 1 ERU per dwelling unit.

(f) The charges imposed for condominium residential properties as defined herein shall be the fee for one EC, multiplied by the numerical factor obtained by dividing the total square footage of impervious area of the property by the square footage of one ERU and divide by the number of dwelling units. The factor shall be rounded down to the nearest 0.1, i.e.:

Condominium Residential Charge = EC fee × total impervious area 2,700 square feet ÷ the number of condominium dwelling units in the complex.

(g) The charges imposed for nonresidential properties as defined herein shall be the fee for one EC, multiplied by the numerical factor obtained by dividing the total square footage of impervious area of the property by the square footage of one ERU. The factor shall be rounded down to the nearest 0.1, i.e.:

Nonresidential Charge = EC fee × total impervious area ÷ 2,700 square feet.

(h) The charges imposed for undeveloped properties as defined herein shall be zero until changed by resolution by the city council.

(i) The director shall be responsible for determining the impervious area based on the best available information, including, but not limited to, data supplied by the city assessor, aerial photography, the property owner, tenant or developer. The director may require additional information as necessary to make the determination. The number of ERUs shall be updated by the director based on any additions to the impervious area as approved through the building permit process.

(j) The minimum charges for any customer charged a fee shall be equal to the rate of 0.3 of one ERU.
(Code 2004, § 8.56; Ord. No. 1988, 9-8-2001; Ord. No. 2425, § 1, 11-17-2015)

Sec. 40-36. Stormwater fees.

The city council may, by resolution or ordinance, set or adjust the base charge, equivalent charge and the special charge to reflect the cost of the stormwater management program. Stormwater fees will be kept on file with the city clerk and the director.
(Code 2004, § 8.57; Ord. No. 1988, 9-8-2001)

Sec. 40-37. Adjustment.

(a) The city council shall adopt, by separate resolution, criteria recommended by the director for providing adjustments.

(b) Adjustments may be considered for customers who own and properly maintain stormwater management facilities such as a retention or detention basin except as provided in subsection (i) of this section. In considering such a request, the director shall consider whether and to what extent the city's cost of providing service or making service available to a property has been lessened by the retention or detention basin. If the city's cost of providing service or making service available to a property has not been lessened by the retention or detention basin, the request for the lowered adjustment multiplier shall be denied. If the city's cost of providing service or making service available to a property has been lessened by the retention or detention basin, the customer may be eligible for an adjustment.

(c) If all of the stormwater from a property discharges directly into a qualifying receiving stream without crossing the property of another and the discharge does not result in exceeding federal, state or local water quality standards, the customer may be eligible for an adjustment.

(d) If all of the stormwater from a property discharges directly into a qualifying receiving stream without crossing the property of another and the nonresidential customer is a holder of or has filed a proper and complete application for a municipal stormwater discharge permit as provided in Wis. Stats. § 283.33 and as further defined in Wis. Admin. Code § NR 216.01 through 216.11, the customer may be eligible for an adjustment.

(e) If all of the stormwater from a property discharges directly into a stormwater collection system constructed and maintained by the Milwaukee Metropolitan Sewerage District ("MMSD") without crossing the property of another, the customer may be eligible for an adjustment.

(f) If all of the stormwater from a property discharges directly into a storm sewer constructed and maintained by the city on the nonresidential customer's property pursuant to an easement and if after the stormwater travels through the easement area it is discharged as provided in subsection (c) or (d) of this section, the customer may be eligible for an adjustment.

(g) In considering a request for an adjustment, the director may, in his discretion, separately examine multiple drainage areas on one piece of property and may recommend allowing an adjustment for a portion of the property if the characteristics of one or more drainage areas meets the criteria set forth in this section.

(h) The director, at his discretion, may recommend allowing an adjustment which may be as low as zero for a property for reasons other than as specifically set forth in this section, provided that the adjustment is reasonable and not unjustly discriminatory.

(i) No adjustments shall be considered for structural or nonstructural best management practices that are required in order to comply with any local, state, or federal regulation such as this article, MMSD Ch. 13, or Wis. Admin. Code chs. NR 216, 30 and 103.

(j) No adjustments shall be considered for any "natural" features such as, but not limited to, wetlands, lakes and floodplains or water impoundment of any kind in existence prior to passage of the ordinance from which this article is derived.

(k) Director's review procedure.

(1) The director shall issue a written determination as to whether a written request for adjustment will be granted, denied, or granted in part and denied in part, within 30 days of receipt of all materials and reports required by the director on the request for an adjustment. The determination shall be sent to the customer requesting adjustment.

(2) A customer may appeal a determination under section 40-38(b) within 30 days of receipt of the director's determination, by submitting a written request to the board of public works asking to review the determination.

(3) If no timely written request for appeal is received pursuant to section 40-38(d), the determination of the director shall be final.

(4) The board of public works review of the appeal to the determination shall be completed within 45 days of the receipt of the written request for appeal. The board of public works shall review the appeal and determine whether the director's determination should be approved, modified, or rejected. The determination of the board of public works shall be in writing and set forth in detail the reason or reasons for its decision and shall inform the customer.

(l) Application of adjustment. Any adjustment or adjustment multiplier granted shall thereafter be used to calculate the customer's user charges. The reduction shall only apply for the period of time subsequent to the granting of the request for adjustment. There shall be no retroactive adjustment for user charges imposed prior to the granting of the request.

(m) Recertification. Recipients of adjustment shall, every five years, file a recertification of the conditions under which the adjustment was granted. Failure to do so may result in revocation of the adjustment.
(Code 2004, § 8.58; Ord. No. 1988, 9-8-2001)

Sec. 40-38. Method of review.

(a) As a condition precedent to challenging any stormwater utility charge, the charge must be paid under protest to the city.

(b) Within 30 days of payment, a written challenge to the stormwater charge must be filed with the city clerk on behalf of the customer, specifying all bases for the challenge and the amount of the stormwater charge the customer asserts is appropriate. Failure to file a challenge within 30 days of payment waives all right to later challenge the charge.

(c) The board of public works will determine whether the stormwater charge is fair and reasonable, or whether a refund is due the customer. The board of public works may act, with or without a hearing, and will inform the customer in writing of its decision.

(d) The customer has 30 days from the decision of the board of public works to file a written appeal to the city council.

(e) If the council determines that a refund is due the customer, the refund will be applied as a credit on the customer's next stormwater bill.
(Code 2004, § 8.59; Ord. No. 1988, 9-8-2001)

Sec. 40-39. Special assessment authority.

In addition to any other method for collection of the charges established pursuant to this ordinance for stormwater utility costs, the city council finds that these charges may be levied on property by special assessment pursuant to Wis. Stats. § 66.0627. The charges established by the

special assessment must reasonably reflect the benefits conferred on property. The mailing of the bill for such charges to the owner will serve as notice to the owner that failure to pay the charges when due may result in them being assessed pursuant to the authority of Wis. Stats. § 66.0627. In addition, the city may provide notice each October of any unpaid charges to the stormwater utility, which charges, if not paid by November 15, may be placed upon the tax roll under Wis. Stats. § 66.0627.
(Code 2004, § 8.60; Ord. No. 1988, 9-8-2001)

Sec. 40-40. Budget; excess revenues.

The city shall separately account for the stormwater utility finances. The stormwater utility shall prepare an annual budget, which is to include all operation and maintenance costs, costs of borrowing and other costs related to the operation of the sewer utility. The budget is subject to approval by the city council. The costs shall be spread over the rate classifications and as determined by the council. Any excess of revenues over expenditures in a year will be deposited into a stormwater maintenance fund, which will be used to defer the costs of capital improvements or to retire debt.
(Code 2004, § 8.61; Ord. No. 1988, 9-8-2001)

Secs. 40-41—40-68. Reserved.

DIVISION 2. POST-CONSTRUCTION STORMWATER MANAGEMENT

Sec. 40-69. Authority and findings of fact.

(a) This section is adopted by the city under the authority granted by Wis. Stats. § 62.234. This section supersedes all provisions of an ordinance previously enacted under Wis. Stats. § 62.23 that relate to stormwater management regulations.

(b) The city finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

(1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature;

(2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;

(3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads;

(4) Reduce the quality of groundwater by increasing pollutant loading;

(5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways and other minor drainage facilities;

(6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes;

(7) Undermine floodplain management efforts by increasing the incidence and levels of flooding; and

(8) Aggravate excessive infiltration and inflow of water into sanitary sewer connections during peak storm events causing the conveyance system to surcharge, overflow or backup into basements.

(Code 2004, § 8.70(1), (2); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-70. Purpose.

This section integrates federal and state construction post-construction site stormwater water quality standards with duties to reasonably manage the quantity and quality of water runoff for regional flood abatement. This section implements the Milwaukee Metropolitan Sewerage District rules, within the MMSD jurisiction, on release rates for development creating more than a de minimis amount of new impervious surface, to reduce the probability of increased regional floods as the metropolitan area approaches full build-out forecast for 2050.

(Code 2004, § 8.70(3); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-71. Stormwater quality and quantity management applicability.

(a) Generally.

(1) The water quality and quantity management duties apply to property development disturbing one or more acres within the city, and the water quantity management duties apply to development that increases impervious surface by one-half acre or more within MMSD jurisdictional waterways, unless the site is exempt under subsection (b) or (c) of this section.

(2) Informational note to users: The one acre land disturbance threshold is the state and federal law regarding applicability of construction site erosion control permits. The half acre or more of new impervious surface is the MMSD criteria and applies only to MMDS jurisdictional waterways.

(b) A site meeting any one of the following criteria is exempt from stormwater quality requirements:

(1) A redevelopment post-construction site with no increase in exposed parking lots or roads.

(2) A post-construction site with less than ten percent connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.

(3) Nonpoint discharges from agricultural facilities and practices.

(4) Nonpoint discharges from silviculture activities.

(5) Routine maintenance for project sites under five acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

(6) Underground utility construction such as water, sewer and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

(7) Notwithstanding the applicability requirements in subsection (a) of this section, this section applies to post-construction sites of any size that, in the opinion of the board of public works, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(c) Water quantity management duties do not apply if:

(1) Residential infill where the lot is five acres or less, the development is exclusively residential, the net increase in the area of impervious surface is less than 20 percent of the area of the site; and each boundary of the site is contiguous to: sites that contain earlier development served by sanitary sewers, streets, or public water supply when the governmental unit receives the plans for the new development or parkland; or other public land, a utility right-of-way or a watercourse; or

(2) Sites where the area of impervious surface after development will be five percent or less of the total area of the site;

(3) Recreational trails if the trail is less than or equal to ten feet in width and has a continuous pervious buffer at least five feet wide on each side, disregarding interruption by streets, driveways or other impervious surfaces crossing the trail;

(4) Sites that are riparian to Lake Michigan.

(5) Notwithstanding the applicability requirements in subsection (a) of this section, this section applies to post-construction sites of any size that, in the opinion of the board of public works, is likely to result in runoff that exceeds the capacity of the existing

drainage facilities or the level of flooding protection in a watercourse that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(Code 2004, § 8.70(4); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-72. Definitions.

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

Administering authority means a governmental employee under Wis. Stats. § 62.234 designated by the city to administer this article.

Agricultural facilities and practices has the meaning given in Wis. Stats. § 281.16.

Authorized enforcement agency means the city.

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical. In this article for nonpoint source pollution loadings, the following year and location has been selected as average annual rainfall: Milwaukee, 1969 (March 28—December 6).

Best management practice or *BMP* means structural or nonstructural measures, practices, techniques or devices employed to:

(1) Avoid or minimize sediment or pollutants carried in runoff to waters of the state; or

(2) Manage the rate or volume of runoff.

Business day means a day the offices of the city are routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

Combined sewer system means a system for conveying both sanitary sewage and stormwater runoff.

Connected imperviousness means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

Critical time means the period starting at the time of peak rainfall intensity with a duration equal to the time of concentration of the watershed.

Design storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.

Development means construction of residential, commercial, industrial or institutional land uses and associated roads, including redevelopment.

Division of land means the creation from one parcel of two or more parcels or building sites.

Effective infiltration area means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

Exceptional resource waters means waters listed in Wis. Admin. Code § NR 102.11.

Extraterritorial means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures or employment of equivalent permanent stabilization measures.

Financial guarantee means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the city by the responsible party to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.

Governing body means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

Hazardous materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Illegal discharge means any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in section 40-80.

Illicit connections means illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Impervious surface means any pavement or structural element that prevents rain, surface water runoff, or melting snow from infiltrating into the ground below, including, but not limited to, roofs and paved roads, driveways, and parking lots.

In-fill area means an undeveloped area of land located within existing development.

Infiltration means the entry of precipitation or runoff into or through the soil.

Infiltration system means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

Karst feature means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

Land disturbing construction activity means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

Maintenance agreement means a legal document that provides for long-term maintenance of stormwater management practices.

MEP or *maximum extent practicable* means a level of implementing best management practices in order to achieve a performance standard specified in this section which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

MS4 means municipal separate storm sewer system.

New development means development resulting from the conversion of previously undeveloped land or agricultural land uses.

Nonstormwater discharge means a discharge to the storm sewer system created by some process other than the runoff from precipitation.

Off-site means located outside the property boundary described in the permit application.

On-site means located within the property boundary described in the permit application.

Ordinary high-water mark has the meaning given in Wis. Admin. Code § NR 115.03(6).

Outstanding resource waters means waters listed in Wis. Admin. Code § NR 102.10.

Percent fines.

(1) The term "percent fines" means the percentage of a given sample of soil, which passes through a #200 sieve.

(2) Informational note to users: Percent fines can be determined using the "American Society for Testing and Materials," volume 04.02, "Test Method C117-95 Standard Test Method for Materials Finer than 75-µm (No. 200) Sieve in Material Aggregates by Washing." Copies can be obtained by contacting the American Society for Testing and Materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, or phone 610-832-9585, or on line at: http://www.astm.org.

Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

Permit means a written authorization made by the public works director to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Permit administration fee means a sum of money paid to the city by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

Pervious surface means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

Pollutant means anything that causes or contributes to pollution and has the meaning in Wis. Stats. § 283.01(13). Pollutants may include, but are not limited to: paints, varnishes and solvents; oil, and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Pollution has the meaning given in Wis. Stats. § 281.01(10).

Post-construction site means a construction site following the completion of land disturbing construction activity and final site stabilization.

Predevelopment condition means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

Preventive action limit has the meaning given in Wis. Admin. Code § NR 140.05(17).

Public right-of-way means any road, alley, street, parking lot, sidewalk, plaza, mall, or pathway owned by or dedicated to a governmental unit.

Recreational trail means a path that is:

(1) Distinctly set apart from a roadway, street,or sidewalk;

(2) Designed for activities such as jogging, walking, hiking, bird-watching, bicycle riding, roller skating or similar recreational activities not involving the use of motorized vehicles; and

(3) Not a sidewalk according to Wis. Stats. § 340.01(58).

Regional flood means the peak flow and peak elevation of water with a one percent probability of occurring during any one year, considering rainfall time and intensity patterns, rainfall duration, area distribution, antecedent moisture and snow melt. The common misnomer, "100-year flood or floodplain" implies a temporal element rather than a one in 100 random probability of the event.

Redevelopment means new construction, modification or replacement of older development.

Responsible party means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMPs.

Runoff means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

(1) Is designed or used for collecting water or conveying runoff;

(2) Is not part of a combined sewer system;

(3) Is not draining to a stormwater treatment device or system; and

(4) Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.

Stop work order means an order issued by the public works director which requires that all construction activity on the site be stopped.

Stormwater conveyance system means any method employed to collect or convey stormwater runoff within and from a land development or redevelopment activity to the waters of the state. Examples of methods include, but are not limited to, any roads with drainage systems,

municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

Stormwater management plan means a comprehensive plan designed to reduce the discharge of pollutants from stormwater after the site has under gone final stabilization following completion of the construction activity.

Stormwater management system plan is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Time of concentration means the time period for the furthest runoff from the outlet of a watershed to contribute to flow at the watershed outlet.

Top of the channel means an edge, or point on the landscape, landward from the ordinary high water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet, landward from the ordinary high water mark, the top of the channel is the ordinary high water mark.

TR-55 means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

Type II distribution means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973." The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

Waters of the state has the meaning given in Wis. Stats. § 281.01(18).

Water quality management means the stormwater standards and duties established under the Clean Water Act, 33 U.S.C. 1251 et. seq., parallel state law regulating the discharge of pollutants, and implementing regulations.

Water quantity management means stormwater duties and practices to abate peaks flood flows during regional storm events pursuant to chapter 13 of the Milwaukee Metropolitan Sewerage District rules as implemented and enforced by this municipality.
(Code 2004, § 8.70(5); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-73. Technical standards.

The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of stormwater practices needed to meet the requirements of this section:

(1) Technical standards identified, developed or disseminated by the state department of natural resources under subchapter V of Wis. Admin. Code ch. NR 151.

(2) Where technical standards have not been identified or developed by the state department of natural resources, other technical standards may be used provided that the methods have been approved by the public works director.

(3) The most recent rainfall data available from the Southeastern Wisconsin Regional Planning Commission or more protective data shall be the basis for the water quantity analyses required by this section.

(Code 2004, § 8.70(6); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-74. Performance standards.

(a) *Responsible party*. The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.

(b) *Plan*. A written stormwater quality and quantity management plan in accordance with section 40-76 shall be developed and implemented for each post-construction site.

(c) *Requirements*. The water quality plan required under subsection (b) of this section shall include the following:

(1) *Total suspended solids.* BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

a. For new development, by design, reduce, to the maximum extent practicable, the total suspended solids load by 80 percent, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80 percent total suspended solids reduction to meet the requirements of this subdivision.

b. For redevelopment, by design, reduce, to the maximum extent practicable, the total suspended solids load by 40 percent, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40 percent total suspended solids reduction to meet the requirements of this subdivision.

c. For in-fill development under five acres that occurs within ten years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 40 percent, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40 percent total suspended solids reduction to meet the requirements of this subdivision.

d. For in-fill development that occurs ten or more years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 80 percent, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80 percent total suspended solids reduction to meet the requirements of this subdivision.

e. 1. Notwithstanding subsections (c)(1) a. to d. of this section, if the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

2. Informational note to users: Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids.

(2) *Water quantity and management of peak runoff.*

a. BMPS shall manage the volume, timing, and peak flow rate of runoff to prevent increases in the regional flood and stream bank erosion rates.

b. These BMPs may be implemented on either a watershed basis or an individual site basis.

c. When implemented on a watershed basis, the BMPs implemented at a particular site shall comply with the findings of the relevant local or regional stormwater management plan, rather than subsection (c)(2) d. and e. of this section.

d. 1. For the 50 percent/two-year, 24-hour design storm, BMPs shall be designed to either maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to predevelopment conditions, or achieve a maximum runoff release rate of 0.15 cubic feet per second per acre, whichever is more stringent.

2. Predevelopment conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when predevelopment land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in table 1 shall be used.

Table 1. Maximum Predevelopment Runoff Curve Numbers for Cropland Areas

Hydrologic soil group	A	B	C	D
Runoff curve number	56	70	79	83

e. 1. For the one percent/100-year, 24-hour design storm, BMPs shall be designed to achieve a runoff release rate that is less than or equal to either:

(i) 0.5 cubic feet per second per acre; or

(ii) A rate determined for the individual site that distributes runoff over the critical time sufficient to comply with subsection (c)(2)a. of this section.

2. Informational note to users: Section 13.11(3)(b)(2), MMSD Rules, permits an individual site exemption from the 0.5 cfs release rate if an analysis shows that the runoff will be distributed over the critical time (a defined term) so as not to reduce the level of protection downstream.

(3) *Infiltration.* BMPs to be installed on or after October 1, 2004, shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subsection (c)(3) e. through g. of this section.

a. For residential developments one of the following shall be met:

1. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least of the predevelopment infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the project site is required as an effective infiltration area.

2. Infiltrate 25 percent of the post-development runoff from the two-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1 percent of the project site is required as an effective infiltration area.

b. For nonresidential development, including commercial, industrial and institutional development, one of the following shall be met:

1. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the predevelopment infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.

2. Infiltrate ten percent of the runoff from the two-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent of the project site is required as an effective infiltration area.

c. 1. Predevelopment condition shall be the same as in subsection a.2 or b.2 of this section, as applicable.

2. Informational note to users: A model that calculates runoff volume, such as SLAMM, P8, or an equivalent methodology may be used.

d. 1. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subsection (c)(3)g. of this section. . Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

2. Informational note to users: To achieve the infiltration requirement for the parking lots or roads, maximum extent practicable should not be interpreted to require significant topography changes that create an excessive financial burden. To minimize potential groundwater impacts, it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollutant source areas such as parking lots.

e. Infiltration exclusions. The runoff from the following areas are prohibited from meeting the requirements of this section:

1. Areas associated with tier 1 industrial facilities identified in Wis. Admin. Code § NR 216.21(2)(a), including storage, loading, rooftop and parking.

2. (i) Storage and loading areas of tier 2 industrial facilities identified in Wis. Admin. Code § NR 216.21(2)(b).

(ii) Informational note to users: Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.

3. Fueling and vehicle maintenance areas.

4. Areas within 1,000 feet upgradient or within 100 feet downgradient of karst features.

5. Areas with less than three feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subsection (c)(3)e.5. of this section, does not prohibit infiltration of roof runoff.

6. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.

7. Areas within 400 feet of a community water system well as specified in Wis. Admin. Code § NR 811.16(4), or within 100 feet of a private well as specified in Wis. Admin. Code § NR 812.08(4) for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

8. Areas where contaminants of concern, as defined in Wis. Admin. Code § NR 720.03(2) are present in the soil through which infiltration will occur.

9. (i) Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a three-foot soil layer with 20 percent fines or greater; or at least a five-foot soil layer with ten percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subsection (c)(3)e.9. subd. (ix) does not prohibit infiltration of roof runoff.

   (ii) Informational note to users: The areas listed in subsection (c)(3)e. of this section are prohibited from infiltrating runoff due to the potential for groundwater contamination.

f. Infiltration exemptions. The following are not required to meet the requirements of this section:

1. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.

2. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.

3. Redevelopment post-construction sites.

4. In-fill development areas less than five acres.

5. Infiltration areas during periods when the soil on the site is frozen.

6. Roads in commercial, industrial and institutional land uses, and arterial residential roads.

g. Protecting groundwater quality.

1. Infiltration systems designed in accordance with this subsection (c)(3) shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Wis. Admin. Code ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

2. Notwithstanding subsection (c)(3)g.1. of this section, the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(4) *Protective areas.*

a. The term "protective area" means an area of land that commences at the top of the bank of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, the term "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in Wis. Admin. Code § NR 103.04: 75 feet.

2. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current: 50 feet.

3. For lakes: 50 feet.

4. For highly susceptible wetlands: 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Wis. Admin. Code § NR 103.08(1m). This subsection does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

5. For less susceptible wetlands: ten percent of the average wetland width, but no less than ten feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

6. In subsections (c)(4)a.1., 4, and 5. of this section, determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Wis. Admin. Code § NR 103.03.

7. For concentrated flow channels with drainage areas greater than 130 acres, ten feet.

b. This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subsection (c)(4)d. of this section.

c. The following requirements shall be met:

1. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

2. (i) Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Nonvegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

(ii) Informational note to users: It is recommended that seeding of nonaggressive vegetative cover be used in the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover can be measured using the line transect method described in the University of Wisconsin Extension publication number A3533, titled "Estimating Residue Using the Line Transect Method."

3. (i) Best management practices such as filter strips, swales, or wet detention basins that are designed to control pollutants from nonpoint sources may be located in the protective area.

(ii) Informational note to users: Other regulations, such as Wis. Stats. ch. 30 and Wis. Admin. Code chs. NR 103, 115, 116 and 117, and their associated review and approval process may apply in the protective area.

d. This section does not apply to:

1. Redevelopment post-construction sites.

2. In-fill development areas less than five acres.

3. Structures that cross or access surface waters such as boat landings, bridges and culverts.

4. Structures constructed in accordance with Wis. Stats. § 59.692(1v).

5. (i) Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

(ii) Informational note to users: A vegetated protective area to filter runoff pollutants from post-construction sites described in subsection (c)(4)d.5.

of this section is not necessary since runoff is not entering the surface water at that location. Other practices, necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants before the runoff enters a surface water of the state.

(5) *Fueling and vehicle maintenance areas.*

a. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

b. Informational note to users: A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials or any other structural or nonstructural method of preventing or treating petroleum in runoff.

(6) *Swale treatment for transportation facilities.*

a. *Applicability.* Except as provided in subsection (c)(6)b. of this section, transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this subsection, if the swales are designed to the maximum extent practicable to do all of the following:

1. (i) Be vegetated; however, where appropriate, nonvegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

(ii) Informational note to users: It is preferred that tall and dense vegetation be maintained within the swale due to its greater effectiveness at enhancing runoff pollutant removal.

2. (i) Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second based on a two-year, 24-hour design storm. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.

(ii) Informational note to users: Check dams may be included in the swale design to slow runoff flows and improve pollutant removal. Transportation facilities with continuous features such as curb and gutter, sidewalks or parking lanes do not comply with the design requirements of this section. However, a limited amount of structural measures such as curb and gutter may be allowed as necessary to account for other concerns such as human safety or resource protection.

b. *Exemptions.*

1. The board of public works may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2,500 and where the initial surface water of the state that the runoff directly enters is any of the following:

   (i) An outstanding resource water.

   (ii) An exceptional resource water.

   (iii) Waters listed in § 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.

   (iv) Waters where targeted performance standards are developed under Wis. Admin. Code § NR 151.004, to meet water quality standards.

2. Informational note to users: The department of natural resource's regional stormwater staff can determine if additional BMPs, beyond a water quality swale, are needed under this subsection.

(d) *General considerations for on-site and off-site stormwater management measures.* The following considerations shall be observed in managing runoff:

(1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

(2) Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(3) BMPs for water quantity management shall utilize the following techniques, in order of preference:

a. Preservation of the natural features of development sites, including natural storage and infiltration characteristics;

b. Preservation of existing natural streams, channels, and drainage ways;

c. Minimization of new impervious surfaces;

d. Conveyance of stormwater in open vegetated channels;

e. Construction of structures that provide both quantity and quality control, with structures serving multiple sites being preferable to structures serving individual sites; and

f. Construction of structures that provide only quantity control, with structures serving multiple sites being preferable to structures serving individual sites.

(e) *Location and regional treatment option.*

(1) The BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system within the same watershed.

(2) a. Runoff within a nonnavigable drainage way that flows into a BMP, such as a wet pond, is not required to meet water quality performance standards unless designed to provide treatment.

b. Informational note to users: This regional treatment option does not supersede any other federal, state or local regulation of post-construction runoff, such as Wis. Admin. Code chs. NR 103 and 30.

(3) The discharge of runoff from a BMP, such as a wet pond, or after a series of such BMPs is subject to this chapter.

(4) The public works director may approve off-site management measures provided that all of the following conditions are met:

a. The public works director determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the city and that contains management requirements consistent with the purpose and intent of this section.

b. The off-site facility meets all of the following conditions:

1. The facility is in place.

2. The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this section.

3. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

(5) Where a regional treatment option exists such that the board of public works exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the city. In determining the fee for post-construction runoff, the city shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(f) *Alternate requirements*. The board of public works may establish stormwater management requirements more stringent than those set forth in this section if the board of public works determines that an added level of protection is needed to protect sensitive resources.

(g) *Credit for removal of impervious surfaces.*

(1) *Same site credit.* The city may use the removal of pavement, covered structures or other impervious surfaces at the same property to calculate the net post construction imper-

vious acreage and corresponding water quantity management duties. Credit may equal, but not be larger than the acreage of impervious surfaces removed when runoff release rates and detention are the best management practices utilized at the site. When best management practices with a higher order of preference are utilized in lieu of detention, equivalent credit may be granted as determined by the city with the concurrence of the MMSD. Credit for reducing impervious surfaces at a site, not utilized by the development on the site, belongs to the city and may be banked for allocation to other development within the watershed under subsection (b) of this section.

(2) *Dispersed site in same watershed credit.* The city may bank the removal of impervious surfaces, which individually must be one half acre or more, within the same watershed, where the volume, timing and peak flow of runoff will be distributed over the critical time sufficient to assure the level of protection provided by MMSD flood abatement projects will not be reduced. The city may allocate banked credit to promote a policy of smart growth. The total acreage banked or allocated, or both, shall be reported, by watershed or subwatershed, annually to the MMSD for concurrence.

(Code 2004, § 8.70(7); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-75. Permitting requirements, procedures, and fees.

(a) *Permit required*. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the city prior to commencing the proposed activity.

(b) *Permit application and fees*. Any responsible party desiring a permit shall submit to the public works director a permit application made on a form provided by the city for that purpose.

(1) Unless specifically excepted, a permit application must be accompanied by a stormwater management plan, a maintenance agreement and a non-refundable permit administration fee.

(2) The stormwater management plan shall be prepared to meet the requirements of sections 40-74 and 40-76, the maintenance agreement shall be prepared to meet the requirements of section 40-77, the financial guarantee shall meet the requirements of section 40-78, and fees shall be those established by the city as set forth in section 40-79.

(c) *Review and approval of permit application*. The public works director shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee, as follows:

(1) Within 20 business days of the receipt of a complete permit application, including all items as required by subsection (b) of this section, the public works director shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this section.

(2) If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the public works director shall issue the permit.

(3) If the stormwater permit application, plan or maintenance agreement is disapproved, the public works director shall detail in writing the reasons for disapproval.

(4) The public works director may request additional information from the applicant. If additional information is submitted, the public works director shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(d) *Permit requirements*. All permits issued under this section shall be subject to the following conditions, and holders of permits issued under this section shall be deemed to have accepted these conditions. The public works director may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the public works director to suspend or revoke this permit may be appealed in accordance with section 40-82.

(1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state and local laws and regulations.

(2) The responsible party shall design and install all structural or identify nonstructural stormwater management measures, or both, in accordance with the approved stormwater management plan and this permit.

(3) The responsible party shall notify the public works director at least three business days before commencing any work in conjunction with the stormwater management plan, and within ten business days upon completion of the stormwater management practices. If required as a special condition under subsection (e) of this section, the responsible party shall make additional notification according to a schedule set forth by the public works director so that practice installations can be inspected during construction.

(4) Practice installations required as part of this section shall be certified, "as built." Completed stormwater management practices must pass a final inspection by the public works director or designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The public works director or designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

(5) The responsible party shall notify the public works director of any significant modifications it intends to make to an approved stormwater management plan. The public

works director may require that the proposed modifications be submitted to it for approval prior to incorporation into the stormwater management plan and execution by the responsible party.

(6) The responsible party shall maintain all stormwater management practices until the responsibility is transferred to subsequent private owners as specified in the approved maintenance agreement (section 40-77).

(7) The responsible party authorizes the city to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under section 40-78.

(8) If so directed by the public works director, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.

(9) The responsible party shall permit property access to the public works director or designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.

(10) Where site development or redevelopment involves changes in direction, increases in the peak rate or the total volume of runoff, the public works director may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

(e) *Permit conditions*.

(1) Permits issued under this subsection may include reasonable and necessary conditions established by board of public works in addition to the requirements needed to meet the performance standards in section 40-74 or a financial guarantee as provided for in section 40-78 .

(2) Informational note to users: "Reasonable and necessary" is the Wis. Stats. § 283.63(1) standard for permit conditions and duties in Clean Water Act permits.

(f) *Permit duration*. Permits issued under this section shall be valid from the date of issuance through the date the public works director notifies the responsible party that all stormwater management practices have passed the final inspection required under subsection (d)(3) of this section.

(Code 2004, § 8.70(8); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-76. Stormwater management plan.

(a) *Plan requirements*. The stormwater management plan required under section 40-75(b) shall contain at a minimum the following information:

(1) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person responsible for installation of stormwater management practices; and person responsible for maintenance of stormwater management practices prior to the transfer, if any, of maintenance responsibility to another party.

(2) A proper legal description of the property proposed to be developed, referenced to the U.S. public land survey system or to block and lot numbers within a recorded land subdivision plat.

(3) Predevelopment site conditions, including:

a. One or more site maps at a scale of not less than one inch equals 100 feet. The site maps shall clearly show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; impervious surfaces, including all buildings, structures, and pavement and provide a total square footage of impervious areas; topographic contours of the site at a scale not to exceed two feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all stormwater conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the regional flood (the one percent probability storm event) floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to Wis. Admin. Code § NR 811.16.

b. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map.

(4) Post-development site conditions, including:

a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.

b. Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protection plans and ordinances.

c. One or more site maps at a scale of not less than one inch equals 100 feet clearly showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement and provide a total square footage of impervious areas; post-construction topographic contours of the site at a scale not to exceed two feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all stormwater conveyance sections; location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

d. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map.

e. Results of investigations of soils and groundwater required for the placement and design of stormwater management measures. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment practices.

(5) A description and installation schedule for the stormwater management practices needed to meet the performance standards in section 40-74.

(6) A maintenance plan developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule.

(7) Cost estimates for the construction, operation, and maintenance of each stormwater management practice.

(8) Other information requested in writing by the public works director to determine compliance of the proposed stormwater management measures with the provisions of this section.

(9) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this section.

(b) *Alternate requirements*. The board of public works may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 40-74 (e).
(Code 2004, § 8.70(9); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-77. Maintenance agreement.

(a) *Maintenance agreement required*. The maintenance agreement required under section 40-75(b) for stormwater management practices shall be an agreement between the city and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance agreement shall be filed with the county register of deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.

(b) *Agreement provisions*. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by section (9)(a)6.:

(1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.

(2) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under section 40-75(b) .

(3) Identification of the responsible party, organization or city, county, town or village responsible for long term maintenance of the stormwater management practices identified in the stormwater management plan required under section 40-75(b).

(4) Requirement that the responsible party, organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in subsection (b)(2) of this section.

(5) Authorization for the city or its designee, and the Milwaukee Metropolitan Sewerage District to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.

(6) Agreement that the party designated under subsection (b)(3) of this section, as responsible for long term maintenance of the stormwater management practices, shall be notified by the public works director of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the public works director.

(7) Authorization of the city to perform the corrected actions identified in the inspection report if the responsible party designated under subsection (b)(3) of this section does

not make the required corrections in the specified time period. The city shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of Wis. Stats. ch. 66.

(Code 2004, § 8.70(10); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-78. Financial guarantee.

(a) *Establishment of the guarantee*. The board of public works may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the city. The financial guarantee shall be in an amount determined by the public works director to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the city the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the administering authority that the requirements of this section have not been met.

(b) *Conditions for release*. Conditions for the release of the financial guarantee are as follows:

(1) The board of public works shall release the portion of the financial guarantee established under this section, less any costs incurred by the city to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The board of public works may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.

(2) The board of public works shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater practices, less any costs incurred by the city, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

(Code 2004, § 8.70; Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-79. Fee schedule.

The fees referred to in other sections of this article shall be established by the city based on the actual engineering costs to review and oversee the stormwater plan and may, from time to time, be modified by resolution. A schedule of the fees established by the city shall be available for review in the office of the public works director.

(Code 2004, § 8.70(12); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-80. Illicit discharge prohibition and disconnection.

(a) *Controlling methods established for pollutant introduction in MS4.* This section establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(b) *Applicability*. This section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(c) *Responsibility for administration*. The authorized enforcement agency shall administer, implement, and enforce the provisions of this section. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated to persons or entities acting in the beneficial interest of or in the employ of the city.

(d) *Illicit discharge prohibitions*.

(1) No person shall discharge or cause to be discharged into the municipal storm sewer system or watercourses any materials, including, but not limited, to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

(2) Exemptions. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

a. The following discharges are exempt from discharge prohibitions established by this section: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one PPM chlorine), firefighting activities and any other water source not containing pollutants.

b. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

c. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

d. The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(e) *Illicit connection prohibitions*. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(f) *Suspension of MS4 Access.*

(1) *Suspension due to illicit discharges in emergency situations.* The authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

(2) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

(g) *Monitoring of discharges.*

(1) The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this section as often as may be necessary to determine compliance with this section.

(2) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility is a violation of a stormwater discharge permit and of this section. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this section.

(4) If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged and he is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this section or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(h) *Requirement to prevent, control and reduce stormwater pollutants by the use of best management practices*. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(i) *Watercourse protection*. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(j) *Notification of spills*. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized enforcement agency within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Code 2004, § 8.70(13); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-81. Enforcement.

(a) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this section by any person subject to the section provisions shall be deemed a violation unless conducted in accordance with the requirements of this section.

(b) The public works director shall notify the responsible party of any noncomplying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, or additional enforcement action which may be taken. Any technique that effectively provides actual and verifiable notice may be used.

(c) If the violations are likely to result in damage to properties, public facilities, or waters of the state, the city may enter the land and take corrective actions necessary to prevent such damage. The costs incurred by the city plus interest and legal costs shall be paid by the responsible party.

(d) Notice of illicit discharge/connection violation.

(1) Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this section, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

a. The performance of monitoring, analyses, and reporting;

b. The elimination of illicit connections or discharges;

c. That violating discharges, practices or operations shall cease and desist;

d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

e. The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed within 72 hours of notification. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(2) Any person that has violated or continues to violate this section shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of not less than $1,000.00 or more than $10,000.00, together with the costs of prosecution per violation per day, and/or imprisonment for a period of time not to exceed 90 days. The authorized enforcement agency may recover all attorney's fees, court costs, and other expenses associated with enforcement of this section, including sampling and monitoring expenses.

(e) If the public works director or designee determines that any person is in violation of this section or a stormwater permit, the city may issue a notice of violation, a stop work order, a cease and desist order, or revoke the permit, or refer the noncompliance to the city attorney for civil enforcement, penalties, injunctive orders or other appropriate relief.

(f) Every violation of this section is a public nuisance. Any person who violates this section, except as identified in subsection (d)(1) of this section, shall be subject to a forfeiture of not less than $1,000.00 or more than $10,000.00 per offense, together with the costs of prosecution. Each day each violation continues shall constitute a separate offense.

(g) When the public works director determines that the holder of a permit issued pursuant to this section has failed to follow practices, or has failed to comply with schedules in a stormwater management plan, the public works director or a party designated by the public works director may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The public works director shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to section 40-78. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.
(Code 2004, § 8.70(14); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Sec. 40-82. Appeals.

The board of public works shall hear and decide appeals where it is alleged that there is error in any order, decision, or determination made by the public works director in administering this section. Upon appeal, the board may authorize variances from the provisions of this section that are not contrary to the public interest and, where owing to special conditions, a literal enforcement of the section will result in unnecessary hardship. Any aggrieved person affected by any decision of the public works director may take appeals to the board of public works.
(Code 2004, § 8.70(15); Ord. No. 2050, 12-17-2002; Ord. No. 2089, 11-4-2003)

Chapter 41

RESERVED

Chapter 42

WEIGHTS AND MEASURES

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ARTICLE I. IN GENERAL

Sec. 42-1. Definitions.

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

City sealer means the sealer of weights and measures in the city.

Department means the Environmental Health Consortium consisting of the Cudahy, St. Francis and South Milwaukee health departments.

Duplicate permit fee means a fee for the replacement of the original permit.

Governing body means the local health department in that city in which the business is located or its successor organization if any, or in its absence, the public health administrator.

Late fee means a fee for failure to pay established fees by June 30 or the due date.

Permit/license means the document issued by the regulatory authority that authorizes a person to operate a weighing and measuring device. The terms "permit" and "license" as used throughout this chapter shall be interchangeable.

Reinspection fee means a fee for the third and subsequent inspections needed to address compliance issues with the statutes, administrative codes and city ordinance.

Weight means net weight when used in reference to a commodity.

Weights and measures means any device used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.
(Code 2004, § 24.01; Ord. No. 2047, 11-19-2002

Sec. 42-2. Adoption of state and federal standards.

The following are adopted by reference and shall be enforced under this chapter:

(1) State statutes:

a. Wis. Stats. ch. 97, Food Regulation.

b. Wis. Stats. ch. 98, Weights and Measures.

c. Wis. Stats. ch. 100, Marketing; Trade Practices.

(2) State administrative rules:

a. Wis. Admin. Code ch. ATCP 90, Fair Packaging and Labeling.

b. Wis. Admin. Code ch. ATCP 91, Selling Commodities by Weight, Measure or Count.

c. Wis. Admin. Code ch. ATCP 92, Weights and Measures.

d. Wis. Admin. Code ch. ATCP 109, Freezer Meat and Food Service Plans.

e. Wis. Admin. Code ch. ATCP 124, Price Comparison Advertising.

(3) Federal standards: National Institute of Standards and Technology (NIST) Handbook 44, U.S. Department of Commerce, Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices.

(Code 2004, § 24.02; Ord. No. 2047, 11-19-2002)

Sec. 42-3. Field standards and equipment.

There shall be supplied by the department such field standards and such equipment as may be found necessary to carry out the provisions of this chapter. The field standards shall be certified by the state weights and measures office as provided by Wis. Stats. § 98.04(1).

(Code 2004, § 24.03; Ord. No. 2047, 11-19-2002)

Secs. 42-4—42-25. Reserved.

ARTICLE II. CITY SEALER

Sec. 42-26. Appointment; powers and duties.

(a) *Appointment; compensation*. The city sealer shall be appointed by the mayor, subject to confirmation by the council. The sealer shall be allowed a salary as determined by the council.

(b) *General powers and duties*. The sealer shall have the custody of the city standards of weight and measure and of the other standards and equipment provided for by this chapter and shall keep accurate records of the same. The sealer shall enforce the provisions of this chapter and of the Wis. Stats. ch. 98 (Weights and Measures). He shall have and keep a general supervision over the weights and measures offered for sale, sold or in use in the city. The sealer shall keep a complete record of its work and annually shall file a report thereof with the state department of agriculture, trade and consumer protection and the common council.

(c) *Specific powers and duties*.

(1) *Testing at city-supported institutions.* The sealer shall, from time to time, test all weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which monies are appropriated by the council, reporting his findings in writing to the executive officer of the institution concerned.

(2) *General testing.*

a. When not otherwise provided by law, the sealer may inspect and test, to ascertain if they are correct, all weights and measures kept, offered or exposed for sale. The

sealer shall at least once within a 12-month period, and as more frequently as he may deem necessary, inspect and test, to ascertain if they are correct, all weights and measures commercially used:

1. In determining the weight, measurement or count of commodities or things sold or offered or exposed for sale on the basis of weight, measure or of count.
2. In computing the basic charge or payment for services rendered on the basis of weight, measure or count.

b. With respect to single-service devices, that is, devices to be used commercially only once and to be then discarded, and with respect to devices uniformly mass-produced as by means of a mold or die, and not susceptible of individual adjustment, tests may be made on representative samples of such devices; and the lots of which such samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such samples.

(3) *Investigations.* The sealer shall investigate complaints made to him concerning violations of the provisions of this chapter and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this chapter and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

(4) *Inspection of packages.* The sealer shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered or exposed for sale, sold or in the process of delivery to determine whether the same contain the amounts represented and are kept, offered or exposed for sale or sold in accordance with law; and when such packages or amounts of commodities are found not to contain the amounts represented or are found to be kept, offered or exposed for sale in violation of law, the sealer may order them off sale and may so mark or tag them as to show them to be illegal. In carrying out the provisions of this subsection, the sealer may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from the representative of such lot.

(5) *Disposition of correct and incorrect apparatus.* The sealer shall approve for use and seal or mark with appropriate devices such weights and measures as he finds upon inspection and test to be correct and shall reject and mark or tag as "rejected" such weights and measures as he finds, upon inspection or test, to be incorrect, but which in his best judgment can be satisfactorily repaired. The sealer shall condemn, and may seize and destroy, weights and measures found to be incorrect that in his best judgment cannot be

satisfactorily repaired. Weights and measures that have been rejected may be confiscated and destroyed by the sealer if not correct, or if used or disposed of contrary to this chapter.

(6) *Police powers; right of entry and stoppage.* With respect to the enforcement of this chapter and any ordinance or state statute dealing with weights and measures that he is or may be empowered to enforce, the sealer is vested with special police powers and may arrest, without formal warrant, any violator of this chapter, ordinance or statute, and seize for use as evidence, without formal warrant, incorrect or unsealed weights and measures or amounts or packages of commodity found to be used, retained, offered or exposed for sale or sold in violation of law. In the performance of his official duties, the sealer may enter or go into or upon, without formal warrant, any structure or premises and stop any person and require him to proceed, with or without any vehicle of which he may be in charge, to some place which the sealer may specify.

(Code 2004, § 24.04; Ord. No. 2047, 11-19-2002)

Sec. 42-27. Obstruction of city sealer.

No person may assault, restrain, threaten, intimidate, impede, interfere with or otherwise obstruct the city sealer or authorized agent in the performance of his or her duties under this section, nor shall the operator give false information with the intent to mislead the city sealer or authorized agent.

(Code 2004, § 24.045; Ord. No. 2047, 11-19-2002)

Secs. 42-28—42-57. Reserved.

ARTICLE III. LICENSING

Sec. 42-58. Required.

(a) No person shall operate weights and measures, weighing or measuring devices and systems and accessories relating thereto, which are used commercially within the city in determining the weight, measure or count of commodities or thing sold or purchased or offered or exposed for sale on the basis of weight, measure or count, unless licensed pursuant to the provisions of this chapter.

(b) Transients operating as a city farm market are exempted from this license.

(Code 2004, § 24.05; Ord. No. 2047, 11-19-2002)

Sec. 42-59. Application.

All applicants must apply on forms furnished by the department. All applications for permits shall be made in writing to the local governing body where the business is located. All

applications shall list the true, legal names of the owners or operators of the business, whether person, firm, partnership or corporation, address. All corporations applying for licensure shall be registered with the state and the name of the registered agents shall be placed on the application. The agent's name and address shall be kept current. The applicant shall provide documents, which reflect the aforementioned registration to the department. The department shall either approve the application or deny the permit within 30 days after receipt of a complete application.
(Code 2004, § 24.06; Ord. No. 2047, 11-19-2002)

Sec. 42-60. Appeal.

Any person refused or denied a license may appeal the denial through the appeal procedure provided under the provisions of Wis. Stats. §§ 68.07 through 68.16.
(Code 2004, § 24.07; Ord. No. 2047, 11-19-2002)

Sec. 42-61. Issuance; license fees.

The city sealer shall issue a license under this chapter to the applicant based on the total number of weighing and measuring devices operated by the applicant if the requirements of this chapter have been complied with and upon payment to the city of the applicable fee. The fee for licensing of weighing and measuring devices shall be on file with the city clerk.
(Code 2004, § 24.08; Ord. No. 2047, 11-19-2002)

Sec. 42-62. Procedure for issuing new or renewal license.

The department or authorized agent shall issue a license to each applicant for a new or renewal license that meets all the requirements of this section and has paid to the city the fee required in the city fee schedule. A licensee must get approval from the common council in which the business is located if its license has been suspended or revoked within the last three years.
(Code 2004, § 24.09; Ord. No. 2047, 11-19-2002)

Sec. 42-63. Display.

All persons licensed under the provisions of this chapter shall immediately post their license upon some conspicuously part of the premises on which the business is conducted and the license shall remain posted for the period the license is in force.
(Code 2004, § 24.10; Ord. No. 2047, 11-19-2002)

Sec. 42-64. Changes to be reported.

A licensee shall notify the department whenever there is a change in any information that is reported in the application form. The licensee shall make this notification in writing within five days after the change occurs. The owner of any premises for which a license has been granted shall promptly notify the department in writing of his intention to cease operations.
(Code 2004, § 24.105; Ord. No. 2047, 11-19-2002)

Sec. 42-65. Transfer; issuance to agent or employee.

No license issued under this article may be transferred unless otherwise provided for by the ordinances of the city. No license shall be issued to or used by any person acting for or in the employ of another.
(Code 2004, § 24.11; Ord. No. 2047, 11-19-2002)

Sec. 42-66. Insufficiency of funds; nonpayment of fees.

(a) If funds are to be found insufficient, lack of payment or any other reason the funds are not honored, the license will be null and void. Upon notification, the permit must be submitted to the department for retainment until the time of reissuance. A license will not be issued until all applicable fees, late fees and processing charges are paid.

(b) Any individual or corporation that owes the city for unpaid property taxes, late fees, or license fees relating to a current or previous weight and measures license shall pay all such outstanding fees, before a license is issued.
(Code 2004, § 24.12; Ord. No. 2047, 11-19-2002)

Secs. 42-67—42-90. Reserved.

ARTICLE IV. INSPECTIONS, SALES, CONTRACTS, ETC.

Sec. 42-91. Inspection and reinspection.

(a) One copy of the inspection report shall be given to the owner, operator or employee of the establishment and another copy shall remain on file at the department.

(b) As a condition of license renewal, all establishments licensed under this chapter shall consent to an annual inspection and reinspection. License renewal may be withheld pending inspection, reinspections and compliance with these regulations.

(c) Whenever an order or directive is issued by the city sealer which requires a reinspection to determine compliance, two reinspections shall be made without charge and documented by the department following the time period given in the order or directive.

(d) If, upon the second reinspection, the order or directivities is found not to have been complied with and additional reinspections are required, a fee shall be assessed the responsible party for each additional reinspections to compensate for the costs of such reinspections. Payment is due on written demand from the department.
(Code 2004, § 24.13; Ord. No. 2047, 11-19-2002)

Sec. 42-92. Duty of owners of incorrect apparatus.

Weights and measures that have been rejected under the authority of the sealer shall remain subject to his control until such time as suitable repair or disposition thereof has been made as required by this section. The owners of such rejected weight and measure shall cause the same to be made correct within 30 days or such longer period as may be authorized by the sealer or, in lieu of this, may dispose of the same in such manner as is authorized by the sealer. Weights and measures that have been rejected shall not again be used commercially until they have been officially reexamined and found to be correct or until specific written permission for such use is issued by the sealer.
(Code 2004, § 24.14; Ord. No. 2047, 11-19-2002)

Sec. 42-93. Construction of contracts.

Fractional parts of any unit of weight or measure shall mean like fractional parts of the value of such unit as prescribed or defined in Wis. Stats. § 98.02 and all contracts concerning the sale of commodities and services shall be construed in accordance with this requirement.
(Code 2004, § 24.15; Ord. No. 2047, 11-19-2002)

Sec. 42-94. Sale of commodities ordered off sale prohibited.

No person shall, except with the specific approval of the sealer, in any manner:

(1) Sell, keep, offer or expose for sale in intrastate commerce any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this chapter until such package or amount of commodity has been brought into full compliance with all legal requirements.

(2) Dispose of any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this chapter and that has not been brought into compliance with legal requirements.

(Code 2004, § 24.16; Ord. No. 2047, 11-19-2002)

Sec. 42-95. Misrepresentation of price.

Whenever any commodity or service is sold or is offered, exposed or advertised for sale by weight, measure or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted or labeled price per unit of weight, measure or

count include a fraction of a cent, all elements of the fractions shall be prominently displayed, and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of the numerals representing the whole cents.
(Code 2004, § 24.17; Ord. No. 2047, 11-19-2002)

Secs. 42-96—42-118. Reserved.

ARTICLE V. ENFORCEMENT

Sec. 42-119. Violations.

No person shall violate any provisions of this chapter.

(1) *Enforcement authority*. The department or its designee shall enforce any provision of this chapter.

(2) *Enforcement procedure*.

a. *Inspection.* If, upon inspection, the department or designee finds that any licensed or unlicensed place is conducted or managed in violation of the ordinances or regulations of the city, laws of the state or regulations of any agency of the state prescribing standards of weights and measures, the department or designee shall service a written order upon the licensee, his agent or employee in charge, of the premises, or the person responsible for the violation, notifying him of such violations.

b. *Noncompliance with order.* If a person does not comply with a written order form the department or designee, the person may be subject to one or more of the following actions, and/or penalties:

1. The issuance of a citation.
2. A reinspection fee.
3. Suspension of license.
4. Revocation of license.
5. Commencement of legal action against the person seeking a court imposed forfeiture and/or imprisonment.
6. Commencement of legal action against the person seeking an injunction to stop, abate the violations and/or correct the damage created by the violation.
7. Any other action authorized by this chapter or by other applicable laws as deemed necessary by the department or designees.

8. The initiation of one action or penalty under this section does not exempt the apparent violator from any additional actions and/or penalties listed in this section.

(Code 2004, § 24.18; Ord. No. 2047, 11-19-2002)

Sec. 42-120. Suspension.

Notwithstanding any other provisions of this chapter, whenever the city sealer finds that business on any premises licensed under this chapter is conducted or managed in such a manner that there are serious or repeated violations of this chapter, or violation of any ordinances or regulations of the city, the laws of the state or regulations of the National Institute of Standards and Technology relating to weights and measures, he may issue a written notice to the license holder, operator or employee in charge of the licensed premises, city citing such condition and specifying the corrective action to be taken. If deemed necessary, such order shall state that the license is immediately suspended and that all weight and measuring operations are to be discontinued. Any person to whom such an order is issued shall comply immediately.

(Code 2004, § 24.19; Ord. No. 2047, 11-19-2002)

Sec. 42-121. Reinstatement of a suspended license.

The license holder whose license has been suspended may at any time, make application for reinstatement of the license. Within one week after the receipt of satisfactory application, accompanied by a signed statement by the applicant that the violations have been corrected, the city sealer shall make a reinspection and thereafter as many additional reinspections as he deems necessary to assure himself that the applicant has complied with the requirements. If the finding indicates compliance the department may reinstate the license.

(Code 2004, § 24.20; Ord. No. 2047, 11-19-2002)

Sec. 42-122. Revocation.

For serious or repeated violations of any of the requirements of this chapter or for interference with the city sealer in the performance of his duties, the city sealer may permanently revoke the license issued under this chapter. Prior to such action, the city sealer shall notify the license holder in writing, stating the reasons for which the license is revoked. The license holder shall comply immediately. Any person whose license has been revoked may appeal the denial through the appeal procedure provided under the provisions of Wis. Stats. §§ 68.07 through 68.16.

(Code 2004, §§ 24.21, 24.22; Ord. No. 2047, 11-19-2002)

Sec. 42-123. Offenses subject to penalty.

The following offenses are subject to penalty:

(a) The use or possession for the purpose of using for any commercial purpose specified in section 42-26(c)(2)a or the sale or offering or exposing for sale or hire, or having in possession for the purpose of selling or hiring, an incorrect weight or measure or any device or instrument used to or calculated to falsify any weight or measure.

(b) The use or possession for the purpose of current use for any commercial purpose specified in section 42-26(c)(2)a, a weight or measure that does not bear a seal or mark such as is specified in section 42-26(c)(5), unless such weight or measure has been exempted from testing by the provisions of section 42-26(c)(2)b.

(c) The disposal of any rejected or condemned weight or measure in a manner contrary to law or regulation.

(d) The removal from any weight or measure, contrary to law or regulation, of any tag, seal or mark placed thereon by the appropriate authority.

(e) Selling or offering or exposing for sale less than the quantity he represents of any commodity, thing or service.

(f) Taking more than the quantity her represents of any commodity, thing or service when, as a buyer, he furnishes the weight or measure by means of which the amount of the commodity, thing or service is determined.

(g) Keeping for the purpose of sale or advertising or offering or exposing for sale or selling any commodity, thing or service in a condition or manner contrary to law or regulation.

(h) The use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, of a weight or measure that is not so positioned that its indications may be accurately read and the weighting or measuring operation observed from some position which reasonably be assumed by a customer.

(i) Violating any provision of this chapter or the regulation promulgated under the provision of this chapter for which a specific penalty has not been prescribed.
(Code 2004, § 24.23; Ord. No. 2047, 11-19-2002)

Sec. 42-124. Presumptive evidence.

For the purpose of this chapter, proof of the existence of a weight or measure or a weighing or measure device in or about any building, enclosure, stand or vehicle in which or from which it is shown that buying or selling is commonly carried on shall, in the absence of conclusive evidence to the contrary, be presumptive proof of the regular use of such weight or measure or weighting or measuring device for commercial purposes and of such use by the person in charge of such building, enclosure, stand or vehicle.
(Code 2004, § 24.24; Ord. No. 2047, 11-19-2002)

Sec. 42-125. Fees.

(a) *City fee schedule.* The fees for services and activities performed by the department in carrying out its responsibilities under this Code shall beas provided in the city fee schedule. All fees shall be accounted for separately and applied to the expenses under this chapter.

(b) *Fees to accompany application*. License fees imposed under this chapter shall accompany the license application. If a license is granted, the department shall issue the applicant a receipt for his license fee.

(c) *No proration*. There will be no proration for license fees.

(d) *Refunds*. No license fee paid shall be refunded, unless a refund is requested prior to an inspection.

(e) *Late fees*. A late fee, as enumerated in the city fee schedule, shall be charged for all licenses issued under provision of this chapter.

(1) This shall apply when an application is not renewed before the expiration date, unless waived by the department.

(2) A late fee shall also apply to a new establishment or any establishment with a new operator who does business before obtaining the required licenses, as provided for in this chapter.

(Code 2004, § 24.25; Ord. No. 2047, 11-19-2002)

Sec. 42-126. Expiration date.

The license issued under provisions of this chapter shall expire, unless otherwise ordered by the department or authorized agent on June 30.

(Code 2004, § 24.26; Ord. No. 2047, 11-19-2002)

Sec. 42-127. Renewal.

(a) Renewal notices shall be furnished by the department prior to the expiration date. It is the responsibility of the owner/operator to complete the application form and pay the appropriate fee before the expiration date of such license.

(b) Uncooperative, habitual violators may be refused license renewal.

(Code 2004, § 24.27; Ord. No. 2047, 11-19-2002)

Chapter 43

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Chapter 44

ZONING

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ARTICLE I. IN GENERAL

Sec. 44-1. Purpose.

The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of the city.
(Code 2004, § 17.0102)

Sec. 44-2. Intent.

It is the general intent of this chapter to regulate and restrict the use of all structures, lands, and waters; and to:

(1) Regulate lot coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage.

(2) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services and utilities.

(3) Regulate parking, loading, and access so as to lessen congestion in and promote the safety and efficiency of the streets and highways.

(4) Secure safety from fire, flooding, panic, pollution, contamination, and other dangers.

(5) Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters.

(6) Prevent flood damages to persons and property.

(7) Minimize expenditures for flood relief and flood control projects.

(8) Further the maintenance of safe and healthful water conditions.

(9) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways.

(10) Stabilize and protect existing and potential property values.

(11) Further the appropriate use of land and conservation of natural resources.

(12) Preserve and protect the beauty of the city.

(13) Facilitate the use of solar energy devices and other innovative development techniques.

(14) Implement those municipal, county, watershed, and regional comprehensive plans or plan components adopted by the city, including the city's adopted comprehensive development plan, April 1994.

(15) Provide for the administration and enforcement of this chapter and to provide penalties for its violation.

(16) Discourage development in floodplains if there is any practicable alternative to locate the activity, use, or structure outside of the floodplain.

(Code 2004, § 17.0103; Ord. No. 2219, 9-16-2006)

Sec. 44-3. Adoption and effective date.

The plan commission of the city recommended the adoption of this chapter at a meeting held on the October 9, 2001, following public informational meetings held on June 25, June 26, and June 27, 2001. The common council adopted this chapter at a meeting held on December 4, 2001, by Ordinance No. 2013, effective December 13, 2001.

(Code 2004, §§ 17.501, 17.1503, 17.1504)

Sec. 44-4. Definitions.

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

Accessory structure means a use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel, and serving a purpose customarily incidental to the principal structure.

Accessory use. See *Use, accessory.*

Adult day care home means a dwelling that provides care for part of a day in a group setting to adults who need an enriched health-supportive or social experience and who may need assistance with activities of daily living, supervision or protection, where care is provided for not more than ten adults.

Airport affected area means the area contiguous to an airport property in which mutually compatible land uses would be in the public interest. The total length of an airport affected area may not exceed five times the length of an existing or planned runway, and an airport affected area may not extend beyond the end of the runway by a distance exceeding twice the length of the existing or planned runway. The width of an airport-affected area may not exceed one-half mile on either side of the centerline of the existing or planned runway.

Airport owner means any city, village, town, county, or combination thereof which owns an approved airport.

Approved airport means any airport or future airport site:

(1) Which has been approved as an airport site by appropriate state and federal agencies;

(2) Which is included in the state airport system plan; and

(3) To which the fee simple is vested in the airport owner.

Alley means a special public right-of-way affording only secondary access to abutting properties.

Antenna means a device designed to receive or send broadcasts either as over the air signals from transmitters, including fixed television or radio signals, or microwave signals from earth orbiting communications satellites.

Antenna, earth station dish, means a dish-shaped antenna designed to receive television broadcasts relayed by microwave signals from earth-orbiting communication satellites.

Antenna, terrestrial, means any antenna designed to receive television and radio signals relayed from one ground location to another ground location. Such antennas are typically mounted on a tower or support on the rooftop of a structure, or on free-standing towers.

Antique store means a retail store where objects such as furniture, glass, coins, and other objects prized for their rarity, style, or historic period are sold. For the purpose of this chapter, antiques are generally objects that are at least 20 years old.

Antique store/shop means a place offering items for sale prized for their rarity, style or historic period such as glassware, coins, architectural components, furniture, furnishings, clothing, antique toys, tools, or other items having collectible value.

Art studio means an establishment engaged in the sale or exhibit of art works such as paintings, sculpture, macrame, knitted goods, stitchery, or pottery. Art studios are also engaged in the creations of such art works and often offer instruction in their creation. The term "art studio" does not include nude modeling and other pornographic exhibits.

Assembly means, when used in describing an industrial operation, the fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, welding or other similar technique. The term "assembly" shall not include the construction, stamping or reshaping of any of the component parts.

Automobile service station means a place where kerosene, gasoline, or any other automobile engine fuel or lubricating oil or grease for operating motor vehicles is sold directly to the public on the premises and including facilities for greasing, oiling, washing, and minor vehicle repair, but not including automatic car washing, body repair facilities or storage of vehicles for scrap, spare parts, or repair. Contemporary service stations may specialize in a single service such as providing fast oil changes. Contemporary services may also be associated with another principal use such as a convenience food store. In such instance, the facility is to comply with both the service station and food store requirements of this chapter.

Auto body shop means an establishment where repairs and replacements are made to motor vehicle bodies. Such work typically involves welding and requires state approved paint booths. All such work shall be conducted entirely within an enclosed structure.

Auto repair means general repair and servicing of the mechanical parts of a motor vehicle. Service include, but are not limited to, oil changes, tune-ups, engine overhaul, brake work, and exhaust system work. All such work shall be conducted entirely within an enclosed structure.

A Zones means areas of potential flooding shown on the city's flood insurance rate map which would be inundated by the regional flood as defined herein. These zones may be numbered as A0, A1 to A99, or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

Baby sitting means the act of providing care and supervision for fewer than four children. This definition does not apply when the baby sitter is related to the child, or when more than four children in one household are related.

Basement means that portion of any structure which is below grade, or which is partly below and partly above grade but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling.

Bed and breakfast establishment means any place of lodging that provides four or fewer rooms for rent for more than ten nights in a 12-month period; is the owner's personal residence; is occupied by the owner at the time of rental; and in which the only meal served to guests is breakfast.

Billboard means an off-premises sign with removable copy on which the copy is intended to be replaced with new copy after the termination of a specified rental period.

Bond. See *Surety.*

Buffer yard means an area of land which may contain sufficient area and width, landscape plantings, earth berms, fencing, walls, or other visual and/or sound barriers intended to eliminate or minimize land use conflicts between adjacent land uses.

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

Building height means the vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of the roof.

Car wash means any facility used for the washing of vehicles requiring the installation of special equipment, or machinery and plumbing affixed to or separate from the structure.

Channel means those portions of the floodplain normally occupied by a stream, lake bed, or other body of water under average annual high-water flow conditions while confined within generally well established banks.

Child day care home means a dwelling incensed as a day care center by the state pursuant to Wis. Stats. § 48.65 where care is provided for not more than eight children.

Clothing stores means retail stores where clothing is sold, such as department stores, dry goods and shoe stores, and dress, hosiery, and millinery shops.

Co-location means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Commercial child care center means an establishment providing care and supervision for four or more persons under the age of seven and licensed by the state pursuant to Wis. Stats. § 48.65.

Commercial recreation facility means indoor and outdoor recreation facilities operated for profit. Such facilities include, but are not limited to, arcades, billiard parlors, bowling alleys, baseball and football fields, go kart tracks, golf courses, gymnasiums, handball courts, miniature golf courses, race tracks, racquetball courts, rifle and pistol ranges, roller skating rinks, and volley ball courts. Bars, taverns, dance halls, and theaters are not considered commercial recreation facilities.

Commercial wireless telecommunication services means licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Community-based residential facility (CBRF) means a place where five or more unrelated adults reside in which care, treatment, or services above the level of room and board, but not including nursing care, are provided in the facility. A community-based residential facility is subject to State-level licensing and operational limitations as set forth in Wis. Stats. ch. 50.

Community living arrangement means the following facilities licensed and operated, or permitted under the authority of the state statutes:

(1) Child welfare agencies under Wis. Stats. § 48.60;

(2) Group foster homes for children under Wis. Stats. § 48.02(7); and

(3) Community-based residential facilities under Wis. Stats. § 50.01;

but does not include adult family homes, commercial child care centers, nursing homes, general hospitals, special hospitals, prisons, or jails. The establishment of community living arrangements is governed by Wis. Stats. §§ 46.03(22), 48.625, 59.69(15), and 62.23(7)(i).

Comprehensive plan means the comprehensive development plan for the city, dated April 1994, prepared by VandeWalle and Associates.

Conditional uses. See *Use, conditional.*

Condominium means a building, or group of buildings, in which units are owned individually, and the structure, common areas, and facilities are owned by all owners on a proportional, undivided basis. It is a legal form of ownership of real estate and not a specific building type or style.

Convention center means a building or portion thereof designated to accommodate 300 or more people in assembly. Convention centers may provide live entertainment, may serve alcohol beverages, and may provide full service or limited service restaurants when the owner or

operator holds the appropriate licenses and permits. Speakers and other entertainment when offered in meeting rooms attendant to a conference or convention are not considered live entertainment as regulated elsewhere in this chapter.

Control measure means a practice or combination of practices to control erosion and attendant pollution.

Control plan means a written description of the number, locations, sizes, and other pertinent information of control measures designed to meet the requirements of the construction site erosion control provisions of this chapter submitted by the applicant for review and approval by the city.

Convenient cash and similar business means a business licensed pursuant to Wis. Stats. § 218.05 or 138.09 engaged in the payday loan business, title loan business, currency exchange business (also known as check cashing), or any other substantially similar business. Convenient cash businesses do not include financial institutions as defined below. For purposes of this chapter the following definitions apply:

Business includes an individual or individuals, firm, partnership, association, corporation, limited liability partnership, limited liability company or any other business entity.

Currency exchange business per Wis. Stats. § 218.05 means any business except banks incorporated under the laws of this state and national banks organized pursuant to the laws of the United States and any credit union operating under Wis. Stats. ch. 186, pursuant to a certificate of authority from the state commissioner of credit unions, engaged in the business of and providing facilities for cashing checks, drafts, money orders and all other evidences of money acceptable to such community currency exchange for a fee, service charge or other consideration. The term "currency exchange business" does not include any person engaged in the business of transporting for hire, bullion, currency, securities, negotiable or nonnegotiable documents, jewels or other property of great monetary value nor any person engaged in the business of selling tangible personal property at retail nor any person licensed to practice a profession or licensed to engage in any business in this state, who in the course of such business or profession and, as an incident thereto, cashes checks, drafts, money orders or other evidences of money.

Financial institution means any business authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan associations and credit unions. The term "financial institution" does not include a currency exchange, payday loan business or a title loan business.

Payday loan business means a business that provides unsecured loans with an initial term of 91 days or less in which the amount borrowed does not exceed $2,000.00 and is usually for a period from the time of the loan until the borrowers next payday for which the lender charges either fees or interest for the loan.

Title loan business means any business providing loans to individuals in exchange for receiving title to the borrower's motor vehicle as collateral.

Dance hall means a place of assembly, open to the public and operated for profit, where dances, parties, receptions and other gatherings are held. Dance halls may provide live entertainment, may serve alcohol beverages, and may serve catered meals provided the owner or operator holds the appropriate licenses and permits.

Day care center. See *Commercial child care center.*

Development means any man-made change to improved or unimproved real estate, including, but not limited to, construction of or addition or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.

District, basic, means a part or parts of the city for which the regulations of this chapter governing the use and location of land and buildings are uniform, such as the residential, business, and manufacturing district classifications.

District, overlay, means a zoning designation that modifies the underlying basic use zoning district requirements in a specific manner.

Dormitory means a building used as group living quarters for a student body, religious order, or similar group of unrelated persons. Such a facility is generally an accessory to a college, university, boarding school, orphanage, convent, monastery, nursing home, or other similar institutional use. Group quarters may not have separate cooking, sleeping and sanitary facilities for each resident.

Drive-in restaurant means a free-standing establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises. Contemporary drive-in restaurants often offer drive-through service. For the purpose of this chapter, an eating establishment located in a shopping center with three or more attached business/retail establishments, which does not provide drive-through service and which may serve food, refreshments, or beverages in or on disposable plates and cups, is not considered to be a drive-in restaurant.

Dry land access means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land which is outside the floodplain, such as a road with its surface above the regional flood elevation and wide enough to accommodate wheeled vehicles.

Dwelling means a structure or portion thereof which is used exclusively for human habitation.

Dwelling, bi-level, means a two-level dwelling with one level above grade, and the other level partially below grade. The lower level may or may not have exterior access. For the purpose of measuring living area, the building inspector will determine functional areas as set forth in the definition of "living area" and the first floor area will be considered to be the first level that is entirely above grade.

Dwelling, manufactured, means a factory-built, single-family dwelling that meets the standards of the Wisconsin Uniform Dwelling Code, commonly referred to as the UDC. The term "manufactured dwelling" also is referred to as a "modular dwelling."

Dwelling, multiple-family, means a residential building designed for or occupied by three or more families, with the number of families in residence not to exceed the number of dwelling units provided.

Dwelling, single-family, means a detached building designed for or occupied exclusively by one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

Dwelling, two-family, means a detached building on a single lot containing two separate dwelling (or living) units, designed for occupancy by not more than two families. A two-family dwelling may also be known as a "duplex."

Dwelling, tri-level, means a three-level dwelling with two levels above grade, and a third level partially below grade. The lowest level may or may not have exterior access.

Dwelling unit means one or more rooms designed, occupied or intended to be occupied as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for exclusive use of a single-family maintaining a household.

Earth station dish antenna. See *Antenna, earth station dish.*

Election campaign period means:

(1) In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day that candidates would circulate papers were papers to be required, and ending the day of the election.

(2) In the case of a referendum, the period beginning on the day on which the question to be voted upon is submitted to the electorate and ending on the day on which the referendum is held.

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 or 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.

Erosion means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

Essential services means services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

Family means the body of persons related by blood, marriage or adoption, or not more than four unrelated persons who live together in one dwelling unit as a single housekeeping entity.

Federal Emergency Management Agency (FEMA) means the federal agency which administers the National Flood Insurance Program. This agency was formerly known as the Federal Insurance Administration (FIA) and was part of the U.S. Department of Housing and Urban Development (HUD).

Fence, decorative corner, means a fence near a property corner and limited to a single post not higher than 36 inches with one or two decorative rails attached to the post parallel to the lot line and not extending further than six feet from the post.

Fence, open, means a structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Open fences are those with more than 50 percent of their surface area open for free passage of light and air. Examples of such fences include barbed wire, chain link, picket, and rail fences.

Fence, security, means a fence intended to guard property against unauthorized entry, and to protect stored goods and products from theft and other unauthorized handling. Security fences usually exceed six feet in height, are often made of wrought iron or woven wire, and may incorporate additional security features such as barbed wire.

Fence, solid, means a structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Solid fences are those with 50 percent or less of their surface area open for free passage of light and air and designed to conceal from view the activities conducted behind them. Examples of such fences are stockade, board-on-board, board and batten, basket weave and louvered fences.

Flag means any fabric or bunting containing distinctive colors or patterns, and used as a symbol of a government, political subdivision, institution, or business.

Flea market means any premises where the principal use is the sale of new or used household goods, personal effects, tools, art work, small household appliances, and similar merchandise,

equipment or objects, in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser. Flea markets may be conducted within a structure or in the open air. Rummage sales and garage sales are not considered to be flea markets.

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

Flood frequency means the probability of a flood occurrence. A flood frequency is generally determined from statistical analysis. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.

Flood insurance study means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mud slide or mud flow, and/or flood-related erosion hazards. Such studies shall result in the publication of a flood insurance rate map showing the intensity of flood hazards in either numbered or unnumbered A Zones.

Floodplain means that land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway, the floodfringe, and general floodplain areas. The floodplain is all lands contained in the regional flood or 100-year recurrence interval flood, and is divided into the Floodway Overlay District and the Floodplain Fringe Overlay District.

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

Floodplain fringe means that portion of the floodplain, outside the floodway, that is subject to inundation by the 100-year recurrence interval flood. The floodplain fringe is included in the Floodplain Fringe Overlay District.

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.

Flood profile means a graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.

Flood protection elevation means a point two feet above the surface elevation of the 100-year recurrence interval flood. This safety factor, also called "freeboard," is intended to compensate

for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action, and obstructions of bridge openings.

Flood stage means the elevation of the floodwater surface above the officially established datum plane, which is mean sea level, 1929 adjustment, on the zoning map.

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

Floodway means a designated portion of the 100-year floodplain that will safely convey the regulatory flood discharge with small, upstream and downstream increases, limited in the state to less than 0.01 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures, and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.

Floor area means the sum of the gross horizontal area of all floors of a building except the basement or cellar, measured from the exterior faces of the exterior walls or, in the case of a common wall separating two buildings, from the centerline of such common wall. The term "floor area" shall not include porches, decks, or garages.

Footcandle means the illumination on a surface one square foot in area on which there is a uniformly distributed flux of one lumen. One footcandle equals one lumen per square foot. The standard for various light sources will be measured in footcandles.

Foster family home means the primary domicile of a foster parent which is for four or fewer foster children and which is licensed pursuant to Wis. Stats. § 48.62.

Freeboard means a flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the effects of any factors that contribute to flood heights greater than those calculated. These factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of a river or stream bed.

Garage, private, means a structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the families resident upon the premises.

Garage, public or commercial, means any garage other than a private garage.

Garage sale. See *Rummage sale.*

Gift stores means retail stores where items such as art, antiques, jewelry, books and notions are sold.

Group assembly means a company of persons gathered together for any purpose for a period of two or more hours.

Group foster home means any facility operated by a person required to be licensed by the state pursuant to Wis. Stats. § 48.62 for the care and maintenance of five to eight foster children.

Group quarters. See *Dormitory.*

Habitable building means any building, or portion thereof, used for human habitation.

Hardware stores means retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.

Hearing notice means publication or posting meeting the requirements of Wis. Stats. ch. 985.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the secretary of 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 local inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs which have been certified either by an approved state program, as determined by the Secretary of Interior; or directly by the Secretary of Interior in states without approved programs.

Home industry means a home occupation that is carried out in a structure separate from the principal structure; or the manufacture or assembly of a product, often on a contract basis, in a residence; or an occupation of a more intense nature than is normally defined as a home occupation.

Home, manufactured, means a factory-built, single-family structure that meets the National Manufactured Home Construction and Safety Standards Act (42 USC 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) Code.

Home occupation means an occupation or profession for financial gain or profit which is carried on entirely within a dwelling unit located on a lot, exclusive of attached garage or patio area, by resident occupants of the dwelling unit and which occupation is clearly incidental to and accessory to the principal residential use of the premises.

Hotel means a facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, and recreational facilities.

Housing for the elderly means a dwelling unit or units designed and constructed to be occupied by elderly persons. An elderly person is a person who is 62 years of age or older on the date such person intends to occupy the premises or a family, the head of which, or his spouse, is an elderly person as defined herein.

Human habitation means a human residence or dwelling.

Increases in regional flood height means a calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, determined by comparing existing conditions and proposed conditions and which is directly attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients, and discharge.

Junk or salvage yard means an area consisting of buildings, structures, or premises where junk waste and discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards and house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

Land developing activity means the construction of buildings, streets, parking lots, paved storage areas and similar facilities.

Land disturbing activity means any man-made change of the land surface including removing vegetation cover, excavating, filling and grading, but not including agricultural activities such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens, harvesting of trees and landscape modifications.

Landowner means any person holding title to or having an interest in land.

Land user means any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

Letter of map amendment (LOMA) means official notification from the Federal Emergency Management Agency stating that a flood hazard boundary map or flood insurance rate map has been amended. LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain, but is actually on natural high ground at or above the regional flood elevation (100-year recurrence interval flood elevation).

Letter of map revision-based on fill (LOMR-F) means official notification from the Federal Emergency Management Agency indicating that a structure or parcel has been elevated on fill to or above the regional flood elevation and is, therefore, excluded from being located in the floodplain as initially denoted in a municipality's flood hazard boundary map or flood insurance rate map.

Living area means the total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.

Loading area means a completely off-street space or berth on the same lot as the principal use it serves for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Lot means a parcel of land on which a principal building and its accessory building are placed, together with the required open spaces, provided that no such parcel shall be bisected by a public street and should not include any portion of a public right-of-way. No lands dedicated to the public or reserved for roadway purposes should be included in the computation of lot size.

Lot, corner, means a lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

Lot, double frontage, means a parcel of land, other than a corner lot, with frontage on more than one street or with frontage on a street and a navigable body of water.

Lot frontage, means the smallest dimension of a lot abutting a public street measured along the street right-of-way.

Lot, interior, means a lot with frontage on one street which is bounded by adjacent lots along each side and a lot behind fronting on a different street.

Lot, reverse frontage, means a through lot that is not accessible from one of the parallel or nonintersecting streets upon which it fronts.

Lot width means the width of a parcel of land measured at the setback line.

Machine shops means shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops and overhaul shops.

Manufacturing means, when used in describing an industrial operation, the making or processing of a product with machinery.

Mobile home or *manufactured home* means a structure transported 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 "mobile home" or "manufactured home" does not include recreational vehicles or travel trailers which remain licensed and ready for highway use and remain on-site less than 180 days.

Motel means a series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.

Motor vehicle means vehicles, including, but not limited to, automobiles, trucks, vans, boat trailers, travel trailers, utility trailers, motorcycles, recreational vehicles, or ATVs.

Mutually compatible uses means uses of land which neither create an airport hazard to the safe operation of aircraft using an airport, nor are in such a location relative to an airport that inhabitants might be unduly endangered or otherwise adversely affected by the lawful operation of aircraft using the airport.

Navigable water means Lake Michigan, all natural inland lakes within the state, and all rivers, streams, ponds, sloughs, flowages, and other waters within the territorial limits of the state which are navigable under the laws of this state. Navigable bodies of water are all bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. For the purpose of this chapter, rivers and streams will be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps until such time that the state department of natural resources has made a determination that the waterway is not, in fact, navigable.

Nonconforming lot means a lot, the area, dimensions, or location of which was lawful prior to the adoption or amendment of this chapter, but which fails by reason of such adoption or amendment to conform to the present requirements of this chapter. Vacant nonconforming lots may also be referred to as substandard lots.

Nonconforming structure means a building or structure lawfully existing at the time of adoption of this chapter which houses a use which is permitted in the district, but does not comply with all the applicable area, height, yard, and/or parking requirements of the district in which it is located.

Nonconforming use means any use of land, or land and buildings in combination, lawfully existing at the time of adoption of this chapter, which does not comply with the use regulations for the district in which it is located.

Nudity means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola, or the showing of the human male genitals in a discernible turgid state even if completely or opaquely covered.

Nursing home means an extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

Obstruction to flow means any development which physically blocks the conveyance of floodwaters such that this development by itself or in connection with any future similar development will cause an increase in regional flood height.

Open space means land areas not occupied by buildings, structures, parking areas, streets, driveways, alleys, or other impervious surfaces.

Ordinary high water mark means the point on the bank or shore of a body of water 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.

Overlay district. See *District, overlay.*

Parking means the act of placing or leaving an automobile or other motor vehicle standing for a time on a street, driveway, in a garage, or in a parking lot. The placing or leaving of an automobile, motor vehicle, boat, trailer, or equipment on a street, driveway, parking lot, or in a garage for a long period (exceeding 24 hours) without moving would be termed "storage."

Parking lot means a structure or premises containing ten or more parking spaces open to the public. Such spaces may be for rent or a fee.

Parties in interest means and includes all abutting property owners, all property owners within 300 feet, and all property owners of opposite frontages.

Pennant/streamer means any lightweight plastic, fabric, or other material, with or without any representation or writing thereon, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Planned mixed use means a mixed-use development is a real estate project with planned integration of some combination of retail, office, residential, hotel, recreation or other functions excluding industrial. It is pedestrian-oriented and contains elements of a live-work-play environment. It maximizes space usage, has amenities and architectural expression and tends to mitigate traffic and sprawl.

Portable storage container means a temporary, portable, weather-resistant container or receptacle designed and used for the storage and/or shipment of items such as, but not limited to, usable goods, wares, building materials or merchandise. Temporary or as it relates to the above described shall mean a relatively short period of time as may be approved by the plan commission. This definition does not include waste or trash containers and semi-trailers.

Premises means a lot, parcel, tract or plot of land together with the buildings and structures thereon.

Principal use. See *Use, principal.*

Processing means, when used in describing an industrial operation, the series of continuous actions that changes one or more raw materials into a finished product. The process may be chemical as in the processing of photographic materials; it may be a special method such as processing butter or cheese; it may be a mechanical process such as packaging a base product.

Professional home offices means residences of clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, real estate agents, artists, teachers, authors, musicians, or persons in other recognized professions used to conduct their professions where the office use is incidental to the residential use of the premises.

Public utility means persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose of this chapter, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.

Reach means a longitudinal segment of a stream generally including those floodplains wherein flood stages are primarily and commonly controlled by the same man-made or natural obstructions to flow.

Reclaimed materials means materials obtained from a waste product or by-product.

Regional flood means the flood determined to be representative of large floods known to have generally occurred in the state and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year, there is a one percent chance that the regional flood may occur or be exceeded. During a typical 30-year mortgage period, the regional flood has a 26 percent chance of occurrence.

Restaurant means an establishment where food and drink is prepared, served and consumed primarily within the principal structure. Serving food prepared in a microwave oven, radar oven, or toaster oven is not considered to be a restaurant for zoning purposes. See also *Drive-in restaurant*.

Rummage sale means the occasional sale of personal property at a residence conducted by one or more families in a neighborhood. Rummage sales do not exceed four consecutive days in length and are not conducted more often than three times per year. Rummage sales do not involve the resale of merchandise acquired for that purpose. Rummage sales are also known as "garage sales." "Flea markets," defined elsewhere in this section, are not rummage sales.

Seat means furniture upon which to sit having a linear measurement not less than 24 inches across the surface used for sitting.

Secondhand/thrift means a place offering previously used items for sale, such as clothing, appliances, furnishings or recreational equipment. These items would have useful value, but no collectible value. This does not include used motor vehicles, parts or accessories.

Setback. See *Yard, street (setback)*.

Set of one-year design storms means the rain intensities and rain volumes or corresponding values specific to the city for the storm durations of 0.5, one, two, three, six, 12, and 24 hours that occur approximately once per year. The following are typical characteristics of these one-year storms in most of the state:

Storm Duration (hours)	*Average Rain Intensity (inches/hour)*	*Total Rain (inches)*
0.5	1.8	0.9
1.0	1.1	1.1
2.0	0.7	1.3
3.0	0.5	1.5
6.0	0.3	1.7
12.0	0.2	2.0
24.0	0.1	2.3

Sexual conduct means acts or simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breasts.

Shopping center.

(1) The term "shopping center" means a group of commercial establishments planned, constructed, and managed as a total entity with ample customer and employee parking provided on-site, with provision for goods delivery separated from customer access, and with aesthetic considerations and protection from the elements. See also *Strip shopping area.*

(2) The term "shopping center' is further defined by size and service area and includes the term "neighborhood shopping centers" which occupy about five to ten acres and generally offer goods and services to meet the daily needs of customers; "community shopping centers" which occupy ten to 50 acres and generally include a junior department store or discount store, and a super market; and "regional shopping centers" which occupy 50 acres or more and generally feature a full-line department store and additional anchor stores.

Shorelands means those lands lying 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.

Sign means any medium, including its structure and component parts, which is used or intended to be used to attract attention for advertising or identification purposes.

Sign, abandoned, means a nonconforming sign, or part thereof, which has not been used for the purpose of advertising a bona fide business, service, or product for a period of 60 days or more. A conforming sign, including a conforming sign located on a nonconforming building or lot, is considered abandoned if it has not been used for the purpose of advertising a bona fide

business, service, or product for a period of one year or more. A structurally unsound sign, or part thereof, which has been left unrepaired for a period of 60 days or more after notification by the building inspector that such sign is in need of repair is also considered an abandoned sign.

Sign area means the area of the largest single face of the sign within a perimeter which forms the outside shape including any frame that forms an integral part of the display, but excluding the necessary supports or uprights on which the signs may be placed. If the sign is irregular shaped or consists of more than one section or module, the area shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign. In the case of wall signs, the area shall be computed by the area of the smallest regular polygon that will encompass the sign copy.

Sign, awning, means a fireproof space frame structure with translucent flexible reinforced vinyl or cloth covering designed in awning form, but whose principal purpose and use is signage. Such signs may be internally illuminated by florescent or other light sources in fixtures approved under national and local electrical codes.

Sign, canopy. See *Sign, awning.*

Sign copy means the message or advertisement, and any other symbols, on the face of a sign.

Sign face means the area or display surface used for the message.

Sign, freestanding, means any sign which is supported by structures or supports in or upon the ground and independent from any building.

Sign, ground, means any sign placed upon or supported by the ground independent of any other structure.

Sign height means the overall height of a sign or sign structure as measured from the adjacent ground surface to the highest point of the sign or sign structure. In the case where a sign is to be located on a berm, the grade shall be determined by the average of the grades measured at the toes of the slope at the front and back of the berm.

Sign, illuminated, means any sign which has characters, letters, figures, designs, or outlines illuminated by electric lights or luminous tubes.

Sign maintenance means the replacing or repairing of a part or portion of a sign made unusable by ordinary wear, tear, or damage beyond the control of the owner or the reprinting of existing copy without changing the wording, composition, or color of the copy.

Sign, master identification, means the primary sign, which is part of a master sign program identifying multitenant commercial, office or mixed-use building or center as a whole.

Sign, monument, means a sign independent from any building that has a structural base of not less than 75 percent of the width of the sign face (example: a sign with a face eight feet wide would require a structural base of six feet or more in width).

Sign, off-premises, means a sign which is not appurtenant to the use of the property where the sign is located, or to a product sold or a service offered upon the property where the sign is located, and which does not identify the place of business where the sign is located as purveyor of the merchandise or services advertised upon the sign.

Sign, permanent, means any sign which is intended to be, and is so constructed as to be, of lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear), and position, and in a permanent manner affixed to the ground, wall or building.

Sign, portable, means a sign that is not permanent, affixed to a building, structure, or to the ground. Such sign is sometimes mounted on wheels to make it transportable.

Sign, projecting, means a sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

Sign, real estate, means any temporary sign placed on a property which is for sale, rent or lease.

Sign, roof, means a sign that is mounted on the roof of a building and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

Sign, temporary, means any sign constructed of cloth, canvas, wood, light fabric, cardboard, wall board, plastic, or other similar materials, with or without frames, and not permanently attached to the ground, wall or building, intended to be displayed for a short period of time.

Sign, vehicle, means any vehicle parked temporarily or otherwise on a public right-of-way or on private property so as to be seen from a public right-of-way, which has attached thereto or located thereon any sign or advertising devise for the basic purpose of providing advertisement of products or services or directing people to a business activity located on the same or nearby property. Excepted from this definition shall be public and private passenger transit vehicles and rummage sale signs attached to a private vehicle that is legally parked.

Sign, wall, means a sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and which does not project more than 12 inches from such building or structure. This definition included signs composed of individual letters or symbols.

Storage facility, self-service, means a structure containing separate, individual, and private storage spaces of varying sizes, leased or rented on individual leases for varying periods of time.

Street means a public right-of-way not less than 50 feet wide providing access to abutting properties.

Street, arterial, means a public street or highway used or intended to be used primarily for fast or heavy through traffic, whose function is to convey traffic between activity centers and municipalities. Arterial streets and highways include freeways and expressways, state trunk and county trunk highways, and other heavily traveled streets and parkways.

Street, collector, means a public street that conducts and distributes traffic between land access and arterial streets.

Street, land access, means a public street that is designed to carry traffic at a slow speed and provide frontage for access to private lots, and carries traffic having a destination or origin on the street itself.

Strip shopping area means a pattern of commercial development located along one or both sides of a street which is generally one lot in depth and is characterized by multiple and relatively closely spaced driveways, low open space and landscaping ratios, and high floor area ratios. See also *Shopping center.*

Structural alterations means any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

Structure means any erection or construction, such as buildings, prefabricated or pre-built buildings, towers, masts, poles, booms, signs, fences, machinery or equipment. Also, any man-made object with form, shape and utility, either permanently or temporarily attached to or placed upon the ground, river bed, stream bed, or lake bed such as campers and trailers that are not constructed on site.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not however, include either:

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

(2) Any alteration of a designated historical structure or site documented as deserving preservation by the state historical society or listed on the National Register of Historic Places provided the alteration will not preclude the structure's continued designation as an historical structure. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components. Substantial improvement begins when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Surety, surety bond, or *bond* means and describes only an irrevocable letter of credit or a cash bond as approved by the city attorney.

Swimming pool means a receptacle for water, or an artificial pool of water, which has at any point a depth of more than two feet, whether above or below the ground, used or intended to be used by the owner thereof, or invitees, for bathing or swimming, and includes all structures, appurtenances, equipment, appliances, and other facilities appurtenant thereto.

Tavern means an establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold, but only as an accessory use. A tavern may also be called a "bar."

Terrestrial antenna. See *Antenna, terrestrial.*

Theater means a building or part of a building devoted to showing motion pictures, or for dramatic, musical, or live performances.

Tower means any ground or roof mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

Townhouses means a group of single-family dwellings, also called row houses, having an unpierced common wall between each adjacent section and the end units having side yards.

Transshipment depot means an establishment primarily engaged in undertaking the transportation of goods from shippers to receivers for a charge covering the entire transportation route, and in turn, making use of services of other transportation establishments as instruments in effective delivery.

Turning lane means an existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

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

Use means the purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

Use, accessory, means a subordinate use on the same lot which is incidental and customary in connection with the principal use.

Use, conditional, means a use of a special nature as to make impractical their predetermination as a principal use in a district.

Use, principal, means the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use is specifically authorized as a use-by-right in a particular zoning district and may be operated after securing the necessary building permit or use approval.

Utilities means public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

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

Vision clearance triangle means a triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

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.

Window sign means any sign placed inside or upon a window facing the outside of a building and which is usually intended to be seen from the exterior of the building. Signs displayed on glass panels which are integral to doors visible from the exterior of the building will be considered to be window signs for purposes of this chapter.

Wisconsin Construction Site Best Management Practice Handbook means a book published by the Wisconsin Department of Natural Resources, Bureau of Water Resources Management, Nonpoint Source and Land Management Section, originally published in April 1989 and periodically updated. For the purposes of this chapter, the latest edition shall apply.

Yard means an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

Yard, front. See *Yard, street (setback)*.

Yard, rear, means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard is opposite the street yard or one of the street yards on a corner.

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

Yard, street (setback), means a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the foundation of the principal structure. Double frontage lots have two such yards. Corner lots have one street yard and one side yard.
(Code 2004, § 17.1402; Ord. No. 2053, 2-4-2003; Ord. No. 2119, 11-16-2004; Ord. No. 2219, 9-16-2006; Ord. No. 2232, 11-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2283, 6-17-2008)

Sec. 44-5. Abrogation and greater restrictions.

It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, codes, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.
(Code 2004, § 17.0104)

Sec. 44-6. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other power granted by the state statutes.
(Code 2004, § 17.0105)

Sec. 44-7. Warning and disclaimer of liability.

The degree of flood protection provided for by this chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. On rare occasions, larger floods may occur or the flood height may be increased by man-made or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this chapter does not imply that areas outside the delineated floodplains or uses permitted within the floodplains will be totally free from flooding and the associated flood damages. Nor shall this chapter create a liability on the part of, or a cause of action against, the city or any officer or employee thereof for any flood damages that may result from reliance on this chapter.
(Code 2004, § 17.0107)

Sec. 44-8. Jurisdiction.

The jurisdiction of this chapter shall include all lands and waters within the corporate limits of the city.
(Code 2004, § 17.0201)

Sec. 44-9. Compliance.

No structure, land, or water shall hereafter be used or developed, and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the district in which it is located.
(Code 2004, § 17.0202)

Sec. 44-10. Municipalities and state agencies regulated.

Unless specifically exempted by law all cities, villages, towns, and counties are required to comply with this chapter and obtain all required permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the state department of transportation are exempt from compliance when Wis. Stats. § 30.12(4)(a) applies.
(Code 2004, § 17.0203)

Sec. 44-11. Use restrictions.

The following use restrictions and regulations shall apply:

(1) *Principal uses.* Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in that district.

(2) *Accessory uses.* Accessory uses and structures are permitted as specified in the district regulations but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry except home occupations and professional home offices as defined in this chapter.

(3) *Special uses.* Conditional uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the city plan commission in accordance with section 44-1317.

(4) *Unclassified or unspecified uses.* Unclassified or unspecified uses may be permitted by the city plan commission provided that such uses are similar in character to the principal uses permitted in the district.

(5) *Temporary uses.* Temporary uses such as real estate sales or rental field offices, model homes, shelters for materials and equipment being used in the construction of a

permanent structure, or onsite asphalt or concrete batch plants during construction may be permitted for a period of up to one year by the city plan commission. Temporary use permits may be renewed if the plan commission deems such renewal appropriate. Additional temporary uses may be permitted as conditional uses as provided in this chapter.

(Code 2004, § 17.0204)

Sec. 44-12. Site restrictions.

No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this city. The city building inspector, in applying the provisions of this section, shall in writing recite the particular facts upon which he bases his conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the city plan commission may affirm, modify, or withdraw the determination of unsuitability. In addition:

(1) All lots shall abut upon a public street, and each lot shall have a minimum frontage at the road right-of-way of 30 feet.

(2) All principal structures shall be located on a lot and only one principal structure shall be located, erected, or moved onto a lot in single-and two-family residential districts. The plan commission may permit more than one structure per lot in other districts where more than one structure is needed for the orderly development of the parcel. Where additional structures are permitted, the plan commission may impose additional yard requirements, landscaping requirements, or parking requirements, or require a minimum separation distance between principal structures. Lot coverage involving impervious structure or surfacing, where permitted in the required yards in all districts, shall not exceed 50 percent of the gross required yard area. Exceptions may be permitted by the city plan commission where approved stormwater management systems provide adequate compensatory capacity for onsite infiltration, detention, storage, drainage, landscaping and/or related functions and aesthetics.

(3) No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

(4) Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the

less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.

(5) A buffer yard shall be created and maintained around all business, manufacturing, and multifamily districts which abut single-and two-family residential districts. The plan commission may also require a buffer yard around business and industrial districts abutting park and institutional districts. Buffer yards shall be a minimum of 20 feet in width and shall screen business or manufacturing uses from adjoining lands in such a manner that:

a. If the buffer yard is composed entirely of plant materials, it shall be of sufficient initial depth and height and of such varieties as to provide adequate visual screening within no more than two years and during all seasons of the year.

b. Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such wall or fence to create an attractive view from the residential side, and all walls and fences shall be maintained in a structurally sound and attractive condition. Any wall or fence shall be no less than four feet nor more than six feet in height.

c. All landscaping shall be maintained by the owner or operator to the satisfaction of the plan commission.

d. Where the land adjacent to the buffer yard is a parking lot, the buffer yard shall be sufficiently opaque to prevent the penetration of headlight glare. Overhead lighting installed in or adjacent to a buffer yard shall not throw any rays onto adjacent residential properties.

e. No signs shall be permitted on or in any part of the buffer yard.

(Code 2004, § 17.0205)

Sec. 44-13. Reduction or joint use.

No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use. (Code 2004, § 17.0206)

Secs. 44-14—44-44. Reserved.

ARTICLE II. ZONING DISTRICTS

DIVISION 1. GENERALLY

Sec. 44-45. Establishment.

(a) For the purpose of this chapter, the city is hereby divided into 19 basic use districts and seven overlay districts as follows:

RS-1	Single-Family Residential District
RS-2	Single-Family Residential District
RS-3	Manufactured Home Residential District
RD-1	Single-Family and Two-Family Residential District
RD-2	Single-Family and Two-Family Residential District
RM-1	Multifamily Residential District
RM-2	Multifamily Residential District
RM-3	Multifamily Residential District
B-1	Neighborhood Business District
B-2	Community Business District
B-3	Central Business District
B-4	Office and Professional Business District
B-5	Highway Business District
M-1	Limited Manufacturing District
M-2	General Manufacturing District
TUC-1	Transportation and Utility Corridor District
I-1	Institutional District
P-1	Park District
C-1	Lowland Conservancy District
FWO	Floodway Overlay District
FFO	Floodplain Fringe Overlay District
HPD	Historic Preservation Overlay District
APO	Airport Overlay District
PUD	Planned Unit Development Overlay District
LKC	Lakeside Commons Overlay District
SOB	Sexually Oriented Business Overlay District

(b) Boundaries of these districts are hereby established as shown on the map entitled "Zoning Map for the City of Cudahy, Wisconsin," adopted by the common council with the most recent signed and attested copy on file in the city clerk's office. All notations and references shown on the zoning map are as much a part of this chapter as though specifically described herein. This chapter hereby incorporates herein any future changes or any later zoning maps that may be adopted by ordinance of the common council.

(c) The district boundaries in all districts, except the C-1 Lowland Conservancy District, the FWO Floodway Overlay District, and the FFO Floodplain Fringe Overlay District, shall be construed to follow: corporate limits; U.S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way, or such lines extended.

(d) Boundaries of the FWO Floodway Overlay District and the FFO Floodplain Fringe Overlay District shall be determined by the floodway and floodplain limits, respectively, shown on the large-scale topographic maps on file in the office of the public works director. The information shown on the large-scale topographic maps was developed from floodplain studies conducted by the Milwaukee Metropolitan Sewerage District for Edgerton Channel; National Survey and Engineering for Unnamed Tributary No. 1 to Oak Creek (formerly the upstream reach of Ebb's Creek); Earth Tech for the Wilson Park Creek tributary and Unnamed Tributary No. 2 to Oak Creek (formerly the upstream reach of Wilson Park Creek tributary); and the U.S. Army Corps of Engineers for Lake Michigan. Where a conflict exists between the floodplain limits as shown on the large-scale topographic maps and actual field conditions, the elevations from the 100-year recurrence interval flood profile shall be the governing factor in locating the regulatory floodplain limits.

(e) Boundaries of the C-1 Lowland Conservancy District were based on the wetland inventory maps prepared by the Southeastern Wisconsin Regional Planning Commission on the Commission's 1995 one inch equals 400 feet scale orthophotographs, and include, but are not limited to, all shoreland wetlands five acres or greater in area shown on those maps. The wetlands shown on the 1995 orthophotographs are intended to be illustrations of wetland limits. Precise wetland delineations shall be made by field investigation prior to development to verify C-1 district boundaries.

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

(g) Annexations to or consolidations with the city subsequent to the effective date of this chapter shall be placed in the RS-1 Single-Family Residential District, unless the annexation ordinance temporarily places the land in another district. Within one year, the city plan commission shall evaluate and recommend a permanent classification to the common council. Annexations containing floodplains and wetlands shall be placed in the FWO Floodway Overlay District, the FFO Floodplain Fringe Overlay District, or the C-1 Lowland Conservancy District, as may be appropriate.
(Code 2004, § 17.0301)

Sec. 44-46. Zoning map.

A certified copy of the zoning map shall be adopted and approved with the text as part of this chapter and shall bear upon its face the attestation of the mayor and the city clerk and shall be

available to the public in the office of the city clerk. Changes made thereafter to the zoning districts shall not become effective until entered and attested on the certified copy. The zoning map shall incorporate by reference the restrictions and requirements of the airport zoning map for General Mitchell International Airport and the attendant regulations set forth in chapter 84 of the Milwaukee County General Ordinances.
(Code 2004, § 17.0302)

Sec. 44-47. Temporary uses.

The following temporary uses are conditional uses and may be permitted as specified.

(1) General requirements. Temporary uses may be permitted in a B-1, B-2, B-3, B-5, or any manufacturing district for a period not to exceed ten days. Special requirements may be imposed by the plan commission for parking, sanitary facilities, lighting, and hours of operation. No temporary use listed herein shall be conducted within the street right-of-way. Temporary uses permitted under this section may erect one temporary sign not to exceed 16 square feet in area on one side and 32 square feet in area on all sides. All buildings, tents, equipment, supplies, and debris shall be removed from the site within five days following the temporary activity. The following temporary uses may be permitted:

a. Flea markets, carnivals, and outdoor group assemblies of 250 people or more.

b. Circuses and animal shows. The plan commission may limit or prohibit the display of dangerous animals such as tigers or snakes.

(2) Christmas tree sales for a period not to exceed 60 days per year.

(3) Farmers markets for a period not to exceed 150 days per year.

(Code 2004, § 17.1007)

Sec. 44-48. Preservation of topography.

In order to preserve the natural topography as much as possible and in order to protect against dangers and damage caused by man-made changes to the existing topography, and to avoid unsightly and hazardous exposed earth sections, no lots or portions of lots nor any parcels of land shall be excavated or filled unless the following conditions are met:

(1) No slope to be covered with sod, grass seed, or other natural plant material may exceed a gradient of one foot vertical to three feet horizontal.

(2) A slope protected by riprap construction shall not exceed a gradient of one foot vertical to one foot horizontal.

(3) A difference in adjacent grades may be protected by a retaining wall providing that the wall is engineered in such a manner as not to collapse. No retaining wall shall exceed

four feet in height. A retaining wall may be stepped to achieve greater height. Each step of the wall may be no greater than four feet in height and shall be set back a minimum of two feet from the previous step.

(4) Approval of any of the methods provided in this section shall be obtained in the following manner:

a. The applicant shall furnish a topographic survey with a maximum contour interval of two feet prepared by a professional engineer or registered land surveyor showing existing elevations on the subject lot and on adjacent lands within 25 feet of the area to be filled or excavated.

b. The applicant shall furnish a map showing existing drainage patterns and existing soil types on the subject lot and on adjacent land within 25 feet of the area to be filled or excavated.

c. The applicant shall furnish a plan showing typical cross-section of the proposed slope, riprap, or retaining wall, the proposed drainage pattern, a planting or sodding schedule and the proposed means of preventing erosion during construction. If a retaining wall is to be constructed, a registered professional engineer shall certify that the wall will not collapse.

d. The building inspector shall transfer the applicant's plans to the public works director for review and comment, and the building permit shall be issued only after receipt of the director's written report.

e. The applicant shall complete the proposed work in strict accordance with the approved plan and the time schedule specified in the permit.

(5) In every instance, no person, occupant, owner of land, or corporation shall remove or cause to be accumulated topsoil or subsoil on any industrial, business, institutional, recreational, or residential district without the proper review and approval of an application for such removal or accumulation by the plan commission. Such removal or accumulation includes, but is not limited to, piles of earth, dirt, topsoil, or subsoil, which has been formed, accumulated or pushed into mounds or piles and which obstruct view or pose a threat to the general safety or welfare of the city with the existence of trenches, holes, or pits caused by such removal or accumulation.

(Code 2004, § 17.1010)

Sec. 44-49. Landscaping.

Development in all districts except the RS-1, RS-2, RS-3, RD-1, and RD-2 residential districts shall be landscaped in accordance with this section and shall submit a landscaping plan as part of the required site plan. A minimum of 10 percent of the gross lot area shall be subject

to a managed landscape plan. The city plan commission may allow for substitution via public art, public open space, stormwater management features or other public amenities, in whole or part, to meet this requirement.

(1) *Contents of landscape plans.* Detailed landscape plans shall include the following information:

a. The name and address of the property owner, the landscape architect or designer who prepared the plan.

b. The name of the proposed project.

c. The date of the landscape plan preparation and any revisions thereto.

d. A graphic scale and a north point.

e. A legal description of the property.

f. A certified survey map, or a sketch drawn to scale approved by the zoning administrator.

g. The location and caliper (size) of all existing deciduous trees three inches or larger in diameter at breast height (dbh), all existing coniferous trees ten feet or greater in height, and the boundaries of any existing woodlots.

h. Identification of all trees three inches dbh or greater to be moved or destroyed.

i. The location of all proposed plantings.

j. A planting schedule showing all symbols intended to represent plantings, quantities of plant materials, size and caliper of plant materials, root specifications, and special planting instructions.

k. Typical sections and details of fences, walls, planting boxes, retaining walls, tot lots, picnic areas, berms, and other landscape improvements.

l. Typical sections of landscape islands and planter beds identifying materials to be used.

m. Details of planting beds and foundation plantings.

n. Delineation of sodded areas, seeded areas, and wilderness areas indicating square footage, materials to be used, and seed mixtures.

o. Where landscape or man-made materials are used to provide required screening or buffers from adjacent properties or public rights-of-way, a cross-section shall be provided drawn to a recognized engineering or architectural scale illustrating the perspective of the site from the neighboring property and property line elevation.

p. Details concerning the appropriate screening of trash dumpsters and mechanical equipment. Trash dumpsters and rooftop and grade-level mechanical equipment

should be installed to be unobtrusive and should be screened from public view. Trash dumpsters shall be screened on at least three sides by a solid wall or fence. The height of the wall or fence shall at least equal the height of the dumpster.

(2) *Relation to other plans.* All landscape plans shall be integrated with other required grading, drainage, buffer, screening, lighting, site, parking, and signage plans.

(3) *Required landscape planting.* The number of plant materials required in order to achieve an appropriate and complete landscape plan for a site shall be as provided below:

a. Required plant materials shall consist of a mixture of trees, shrubs, and ground cover as approved by the plan commission.

b. In addition to screening as required by this chapter, every developer shall provide trees at the rate of one tree for each 40 feet, or fraction thereof, of public street frontage. The trees shall be located in the front yard, as defined herein.

(4) *Required buffer planting.* Plant materials required for buffering or screening shall be in accordance with section 44-12(5).

(5) *Minimum size of plantings.* The minimum size of plantings required by this section shall be as follows:

a. Deciduous trees shall have a minimum caliper of two inches at a point 4.5 feet above grade.

b. Coniferous trees shall be a minimum of six feet in height.

c. Shrubs shall be a minimum of 18 inches in height or spread.

d. Ornamental trees shall have a minimum caliper of one inch at a point 4.5 feet above grade.

(6) *Method of installation.* All deciduous and coniferous trees shall be balled and burl aped, and staked and guyed in accordance with American Association of Nurserymen standards. Trees may also be transplanted with use of a tree spade. All shrubs shall be balled and burl aped, or potted.

(7) *Sodding, seeding and groundcover.* All open areas not occupied by buildings, parking, storage areas or planting beds shall be sodded, seeded or planted with groundcover.

(8) *Slopes and berms.* Slopes and berms steeper than one foot vertical for each three feet horizontal shall not be permitted without special treatment, such as terracing or retaining walls, as approved by the plan commission.

(9) *Plant protection.* All planting beds shall be provided with weed barriers, mulched, and provided with a permanent edge or curbing.

(10) *Woodland preservation.* It is the policy of the city to preserve the natural forest and woodland areas in the city, and with respect to specific site development to retain, as far as practical, substantial tree stands which should be incorporated into the site. Credit for the retention of existing trees which are of desirable and acceptable minimum size, species, and location may be given by the plan commission to satisfy other requirements of this section. In addition:

a. No clear cutting of woodland areas shall be permitted. Deciduous shade trees three inches or larger in caliper and coniferous trees ten feet or greater in height shall be preserved, unless it is demonstrated to the satisfaction of the plan commission that they will unduly restrict development of the site.

b. All trees destroyed during the development process which were not identified for destruction in the approved landscape plan shall be replaced.

c. Structures and other amenities shall be located in such a manner that the optimum number of existing trees will be preserved.

d. Forestation, reforestation, or landscaping shall utilize a variety of tree species and no species currently under disease epidemic shall be used. Species planted shall be hardy under local conditions and compatible with the local landscape.

(11) *Shoreland preservation.* Land and vegetation within 50 feet of any navigable body of water, or within 50 feet of a wetland shall be preserved, and shall not be altered except to reestablish native vegetation, or to seed or sod existing disturbed areas.

(12) *Location of trees.* Location of trees shall consider the mature height and spread of trees. Trees shall be located in such a manner that no part of the tree shall extend beyond the lot line.

(13) *Landscaping within utility easement.* No landscaping shall be permitted within utility easements, drainage easements, or road rights-of-way except with seed or sod. Other plant material may be used with the approval of the public works director.

(14) *Implementation of landscape plans.* The plan commission may permit a delay in the implementation of a landscape plan provided that landscaping will be completed within one full planting season and provided that sureties are provided to guarantee completion of the landscaping plan in accordance with section 44-1262(b).

(15) *Maintenance.* The owner shall tend and maintain all plant materials in a healthy growing condition. Plantings shall be replaced when necessary and kept free from refuse and debris. All planting material which is dying or damaged beyond recovery shall be replaced within six months or by the next planting season, whichever comes first.

(Code 2004, § 17.1011)

Secs. 44-50—44-71. Reserved.

DIVISION 2. RS-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 44-72. Intent.

The RS-1 Single-Family Residential District is intended to provide for single-family residential development at densities not to exceed 4.8 dwelling units per net acre.
(Code 2004, § 17.0303(intro.))

Sec. 44-73. Principal uses.

The following principal uses shall be permitted in the RS-1 Single-Family Residential District:

(1) Single-family dwellings with an attached garage.

(2) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity for eight or fewer persons, subject to the limitations set forth in Wis. Stats. § 62.23(7)(i).

(3) Foster family homes.

(4) Adult day care homes.

(5) Child day care homes.

(6) Essential services.
(Code 2004, § 17.0303(A))

Sec. 44-74. Accessory uses.

Accessory uses shall comply with the requirements of article V of this chapter.
(Code 2004, § 17.0303(B))

Sec. 44-75. Conditional uses.

The following conditional uses shall be permitted in the RS-1 Single-Family Residential District:

(1) Bed and breakfast establishments, provided that:

a. A site plan and plan of operation shall be submitted to the plan commission. The site plan shall include a parking plan.

b. Traffic conditions in the neighborhood shall not be adversely impacted by access to the property, traffic generated by the use, or any other aspects of the proposal.

c. Adequate off-street parking shall be provided as set forth in section 44-845(9).

d. All requirements set forth in Wis. Stats. § 254.74 and Wis. Admin. Code ch. DHS 197 shall be fully complied with. Necessary state permits and licenses shall have been secured.

e. The owner of the bed and breakfast establishment shall reside in the establishment. No bedrooms shall be permitted to be located in an accessory structure.

f. No more than four rooms shall be rented for such use in any establishment which is located in an area which is predominantly comprised of single-family homes.

g. Dwellings being considered for conversion to bed and breakfast establishments shall exhibit unique architectural or historic characteristics.

h. Individual rentals shall not exceed five consecutive days in length.

i. One exterior advertising sign, not exceeding four square feet in area, may be erected on the premises.

(2) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity of nine or more persons.

(3) Utility substations, municipal wells, pumping stations, and towers provided that the use is not less than 50 feet from any lot line.

(4) Solar energy collectors erected as an accessory structure.

(Code 2004, § 17.0303(C); Ord. No. 2359, 4-6-2011)

Sec. 44-76. Lot area and width.

Lots shall be a minimum of 9,000 square feet in area and shall be not less than 75 feet in width.

(Code 2004, § 17.0303(D))

Sec. 44-77. Building height and area.

(a) No principal building or part of a principal building shall exceed 35 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height.

(b) The minimum floor area of a principal building shall be 1,400 square feet.

(c) Detached accessory structures shall comply with the area requirements set forth in section 44-903(1)d.

(Code 2004, § 17.0303(E))

Sec. 44-78. Setback and yards.

(a) There shall be a minimum setback of 25 feet from the street right-of-way. Only one such street yard shall be required for corner lots.

(b) There shall be a side yard on each side of all buildings of not less than ten feet in width.

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

(Code 2004, § 17.0303(F))

Sec. 44-79. Plans and specifications to be submitted for review and approval.

To encourage a residential environment that is compatible with the residential character of the city, building permits for permitted uses in the RS-1 Single-Family Residential District shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress, egress, parking, landscaping and open space utilization in accordance with sections 44-49 and 44-1262.

(Code 2004, § 17.0303(G))

Secs. 44-80—44-101. Reserved.

DIVISION 3. RS-2 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 44-102. Intent.

The RS-2 Single-Family Residential District is intended to provide for single-family residential development at densities not to exceed 6.1 dwelling units per net acre.

(Code 2004, § 17.0304(intro.); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-103. Principal uses.

The following principal uses shall be permitted in the RS-2 Single-Family Residential District:

(1) Single-family dwellings, with or without an attached garage.

(2) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity for eight or fewer persons, subject to the limitations set forth in Wis. Stats. § 62.23(7)(i):

(3) Foster family homes.

(4) Adult day care homes.

(5) Child day care homes.

(6) Essential services.

(Code 2004, § 17.0304(A); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-104. Accessory uses.

Accessory uses shall comply with the requirements of article V of this chapter.
(Code 2004, § 17.0304(B); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-105. Conditional uses.

The following conditional uses shall be permitted in the RS-2 Single-Family Residential District:

(1) Bed and breakfast establishments, provided that:

a. A site plan and plan of operation shall be submitted to the plan commission. The site plan shall include a parking plan.

b. Traffic conditions in the neighborhood shall not be adversely impacted by access to the property, traffic generated by the use, or any other aspects of the proposal.

c. Adequate off-street parking shall be provided as set forth in section 44-845(9).

d. All requirements set forth in Wis. Stats. § 254.74 and Wis. Admin. Code ch. DHS 197, shall be fully complied with. Necessary state permits and licenses shall have been secured.

e. The owner of the bed and breakfast establishment shall reside in the establishment. No bedrooms shall be permitted to be located in an accessory structure.

f. No more than four rooms shall be rented for such use in any establishment that is located in an area which is predominantly comprised of single-family homes.

g. Dwellings being considered for conversion to bed and breakfast establishments shall exhibit unique architectural or historic characteristics.

h. Individual rentals shall not exceed five consecutive days in length.

i. One exterior advertising sign, not exceeding four square feet in area, may be erected on the premises.

(2) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity of nine or more persons.

(3) Utility substations, municipal wells, pumping stations, and towers provided that the use is not less than 50 feet from any lot line.

(4) Solar energy collectors erected as an accessory structure.

(Code 2004, § 17.0304(C); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011; Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 44-106. Lot area and width.

Lots shall be a minimum of 7,200 square feet in area and shall be not less than 60 feet in width.
(Code 2004, § 17.0304(D); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2273, 12-18-2007; Ord. No. 2359, 4-6-2011)

Sec. 44-107. Building height and area.

(a) No principal building or part of a principal building shall exceed 35 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height.

(b) The minimum floor area of a principal building shall be 1,100 square feet.

(c) Detached accessory structures shall comply with the area requirements set forth in section 44-903(1)d.
(Code 2004, § 17.0304(E); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-108. Setback and yards.

(a) There shall be a minimum setback of 25 feet from the street right-of-way. Only one such street yard shall be required for corner lots.

(b) There shall be a side yard on each side of all buildings of not less than five feet in width.

(c) There shall be a rear yard of not less than 25 feet.
(Code 2004, § 17.0304(F); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-109. Plans and specifications to be submitted for review and approval.

To encourage a residential environment that is compatible with the residential character of the city, building permits for permitted uses in the RS-2 Single-Family Residential District shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress, egress, parking, landscaping and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0304(G); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Secs. 44-110—44-131. Reserved.

DIVISION 4. RS-3 MANUFACTURED HOME RESIDENTIAL DISTRICT

Sec. 44-132. Intent.

The RS-3 residential district is intended to provide for the location of manufactured home parks and manufactured home subdivisions in a residential setting that is compatible with adjacent land uses. Manufactured homes are declared herein to be residential structures and entitled to the same protection from incompatible uses as is afforded in other residential districts.

(Code 2004, § 17.0305(intro.); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2119, 11-16-2004)

Sec. 44-133. Permitted uses.

The following uses shall be permitted in the RS-3 Manufactured Home Residential District:

(1) Individual manufactured homes on lots in a manufactured home subdivision.

(2) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity for eight or fewer persons, subject to the limitations set forth in Wis. Stats. § 62.23(7)(i).

(3) Foster family homes.

(4) Adult day care homes.

(5) Child day care homes.

(6) Essential services.

(Code 2004, § 17.0305(A); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2119, 11-16-2004)

Sec. 44-134. Accessory uses.

Accessory uses shall comply with the requirements of article V of this chapter.

(Code 2004, § 17.0305(B); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2119, 11-16-2004)

Sec. 44-135. Conditional uses.

The following conditional uses shall be permitted in the RS-3 Manufactured Home Residential District:

(1) Manufactured home parks, provided that:

a. The minimum manufactured home park size shall be five acres.

b. The minimum manufactured home park width shall be 300 feet.

c. The maximum number of manufactured home sites within a manufactured home park shall be eight units per gross acre.

d. A minimum of 20 percent of the manufactured home park development area, exclusive of streets, shall be devoted to open space uses.

e. The minimum lot area for a single module manufactured home shall be 4,000 square feet. The minimum lot width shall be 30 feet.

f. The minimum lot area for a double module manufactured home shall be 5,000 square feet. The minimum lot width shall be 50 feet.

g. No manufactured home unit shall be located closer than 35 feet to a manufactured home park exterior lot line.

h. The minimum setback between a manufactured home unit and a service road shall be 20 feet.

i. The minimum distance between manufactured home units shall be 15 feet.

j. All drives, service streets, parking areas, and walkways shall be surfaced with dust-free material. There shall be a minimum of two parking spaces per manufactured home unit.

k. No manufactured home sales office, or other business or manufactured home use, shall be located on the manufactured home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage, and a manager's office are permitted.

l. Each manufactured home park shall be completely enclosed, except for permitted entrances and exits, by either:

1. A temporary planting of fast-growing landscape material capable of reaching a height of ten feet or more; or

2. A permanent evergreen planting, the individual trees to be of such a number and so arranged that within years they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than ten feet.

m. All manufactured homes shall meet the construction standards of the United States Department of Housing and Urban Development (HUD).

n. No manufactured home lot shall be rented for a period of less than 30 days.

(2) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity of nine or more persons.

(3) Utility substations, municipal wells, pumping stations and towers, provided that the use is not less than 50 feet from any lot line.

(4) Solar energy collectors erected as an accessory structure.
(Code 2004, § 17.0305(C); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2119, 11-16-2004)

Sec. 44-136. Prohibited uses.

Nothing herein shall permit parking or standing of a manufactured home on any street, alley or highway, or other public place, or on any tract of land owned by any person within the city not properly zoned and not an approved manufactured home subdivision or park.
(Code 2004, § 17.0305(D); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2119, 11-16-2004)

Sec. 44-137. Lot area and width.

Lots shall be a minimum of 7,200 square feet in area and shall be not less than 60 feet in width.
(Code 2004, § 17.0305(E); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2119, 11-16-2004)

Sec. 44-138. Building height and area.

(a) No principal building or part of a principal building shall exceed 35 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height.

(b) The minimum floor area of a principal building shall be 720 square feet.

(c) Detached accessory structures shall comply with the area requirements set forth in section 44-903(1)d.
(Code 2004, § 17.0305(F); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2119, 11-16-2004)

Sec. 44-139. Setbacks and yards.

(a) Manufactured homes on subdivision lots shall have a minimum street yard setback of 25 feet from the street right-of-way. Only one such street yard shall be required for corner lots.

(b) There shall be a side yard on each side of all buildings not less than five feet in length.

(c) There shall be a rear yard of not less than 25 feet in length.
(Code 2004, § 17.0305(G); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2119, 11-16-2004)

Sec. 44-140. Manufactured home parks.

Manufactured home parks existing prior to the effective date of this chapter shall be subject to the following requirements:

(1) Shall provide no more than 125 mobile home spaces.

(2) Shall not reduce the overall parcel area without reducing the number of home spaces.

(3) Shall require homes to have a minimum living area of 600 square feet.

(4) Shall provide a minimum side-to-side separation between homes of 15 feet and back-to-back separation of not less than ten feet.

(5) Shall provide a distance not less than 25 feet to a public right-of-way and not less than ten feet to an interior property line.

(6) Shall limit the size of individual home accessory structures to ten by ten or not greater than one per space. If the accessory structure is to be located less than ten feet from any manufactured home or mobile home, fire separation requirements in accordance with Wis. Admin. Code ch. SPS table 321.08 shall be applied to the accessory structure.

(7) Shall not allow the construction of enclosed additions or attachments.

(8) Shall allow the construction of attached porches and decks provided the required minimum home separation distances are maintained and the structural requirements of the current city building codes are met.

(Code 2004, § 17.0305(H); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2119, 11-16-2004)

Secs. 44-141—44-163. Reserved.

DIVISION 5. RD-1 SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 44-164. Intent.

The RD-1 residential district is intended to provide for single-and two-family residential development at densities not exceeding 9.7 dwelling units per net acre.

(Code 2004, § 17.0306(intro.); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-165. Principal uses.

The following principal uses shall be permitted in the RD-1 Single-Family and Two-Family Residential District:

(1) Single-family dwellings.

(2) Two-family dwellings.

(3) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity for eight or fewer persons, subject to the limitations set forth in Wis. Stats. § 62.23(7)(i).

(4) Foster family homes.

(5) Adult day care homes.

(6) Child day care homes.

(7) Essential services.

(Code 2004, § 17.0306(A); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-166. Accessory uses.

Accessory uses shall comply with the requirements of article V of this chapter.

(Code 2004, § 17.0306(B); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-167. Conditional uses.

The following conditional uses shall be permitted in the RD-1 Single-Family and Two-Family Residential District:

(1) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity of nine or more persons.

(2) Utility substations, municipal wells, pumping stations, and towers provided that the use is not less than 50 feet from any lot line.

(3) Solar energy collectors erected as an accessory structure.

(Code 2004, § 17.0306(C); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-168. Lot area and width.

Lots shall be a minimum of 9,000 square feet in area and shall not be less than 75 feet in width.

(Code 2004, § 17.0306(D); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-169. Building height and area.

(a) No principal building or part of a principal building shall exceed 35 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height.

(b) The minimum floor area of a single-family building shall be 1,400 square feet.

(c) The total minimum floor area of a two-family building shall be 2,200 square feet. The minimum floor area of each unit within a two-family building shall be 1,100 square feet.

(d) Detached accessory structures shall comply with the area requirements set forth in section 44-903(1)d.
(Code 2004, § 17.0306(E); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-170. Setback and yards.

(a) There shall be a minimum setback of 25 feet from the street right-of-way. Only one such street yard shall be required for corner lots.

(b) There shall be a side yard on each side of all buildings of not less than ten feet in width.

(c) There shall be a rear yard of not less than 25 feet.
(Code 2004, § 17.0306(F); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-171. Plans and specifications to be submitted for review and approval.

To encourage a residential environment that is compatible with the residential character of the city, building permits for permitted uses in the RD-1 Single-Family Residential and Two-Family Residential District shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress, egress, parking, landscaping and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0306(G); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Secs. 44-172—44-195. Reserved.

DIVISION 6. RD-2 SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 44-196. Intent.

The RD-2 residential district is intended to provide for single-family and two-family residential development at densities not exceeding 12.1 dwelling units per net acre.
(Code 2004, § 17.0307(intro.); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-197. Principal uses.

The following principal uses shall be permitted in the RD-2 Single-Family and Two-Family Residential District:

(1) Single-family dwellings.

(2) Two-family dwellings.

(3) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity for eight or fewer persons, subject to the limitations set forth in Wis. Stats. § 62.23(7)(i).

(4) Foster family homes.

(5) Adult day care homes.

(6) Child day care homes.

(7) Essential services.

(Code 2004, § 17.0307(A); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-198. Accessory uses.

Accessory uses shall comply with the requirements of article V of this chapter.

(Code 2004, § 17.0307(B); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-199. Conditional uses.

The following conditional uses shall be permitted in the RD-1 Single-Family and Two-Family Residential District:

(1) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity of nine or more persons.

(2) Conversion of existing commercial buildings or mixed commercial/residential buildings to exclusive residential use, provided that:

a. A site plan shall be submitted to the plan commission for approval. The site plan shall include a parking plan.

b. The plan commission shall determine that adequate off-street parking will be available to serve all dwelling units in the converted building.

c. There shall be a minimum floor area of 800 square feet for each dwelling unit.

d. There shall be a minimum of 1,500 square feet of lot area for each dwelling unit.

e. The architectural design of the converted building shall be compatible with the surrounding area.

(3) Utility substations, municipal wells, pumping stations and towers, provided that the use is not less than 50 feet from any lot line.

(4) Solar energy collectors erected as an accessory structure.

(Code 2004, § 17.0307(C); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-200. Lot area and width.

Lots shall be a minimum of 7,200 square feet in area and shall not be less than 60 feet in width.

(Code 2004, § 17.0307(D); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-201. Building height and area.

(a) No principal building or part of a principal building shall exceed 35 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height.

(b) The minimum floor area of a single-family building shall be 1,100 square feet.

(c) The total minimum floor area of a two-family building shall be 1,600 square feet. The minimum floor area of each unit within a two-family building shall be 800 square feet.

(d) Detached accessory structures shall comply with the area requirements set forth in section 44-903(1)d.

(Code 2004, § 17.0307(E); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-202. Setback and yards.

(a) There shall be a minimum setback of 25 feet from the street right-of-way. Only one such street yard shall be required for corner lots.

(b) There shall be a side yard on each side of all buildings of not less than five feet in width.

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

(Code 2004, § 17.0307(F); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-203. Plans and specifications to be submitted for review and approval.

To encourage a residential environment that is compatible with the residential character of the city, building permits for permitted uses in the RD-2 Single-Family and Two-Family Residential District shall not be issued without review and approval of the design review

committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress, egress, parking, landscaping and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0307(G); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Secs. 44-204—44-229. Reserved.

DIVISION 7. RM-1 MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 44-230. Intent.

The RM-1 residential district is intended to provide for multifamily residential development at densities not to exceed 14.5 dwelling units per net acre for efficiency apartments; or 12.4 dwelling units per net acre for one-bedroom apartments, or 10.9 dwelling units per net acre for two-bedroom apartments; or 8.7 dwelling units per net acre for three-bedroom apartments; or 12.1 dwelling units per net acre for two-family residential structures; or a proportionate combination not to exceed the above ratios.
(Code 2004, § 17.0308(intro.); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-231. Principal uses.

The following principal uses shall be permitted in the RM-1 Multifamily Residential District:

(1) Two-family dwellings.

(2) Multiple-family dwellings, not to exceed eight dwelling units per structure.

(3) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity for 15 or fewer persons, subject to the limitations set forth in Wis. Stats. § 62.23(7)(i).

(4) Foster family homes.

(5) Adult day care homes.

(6) Child day care homes.

(7) Essential services.

(Code 2004, § 17.0308(A); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-232. Accessory uses.

Accessory uses shall comply with the requirements of article V of this chapter.
(Code 2004, § 17.0308(B); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-233. Conditional uses.

The following conditional uses shall be permitted in the RM-1 Multifamily Residential District:

(1) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity of 16 or more persons.

(2) Housing for the elderly projects not exceeding 22 units per acre. Housing for the elderly may exceed eight dwelling units per structure when, in the opinion of the plan commission, such increase is warranted.

(3) Rest homes, nursing homes, clinics, and children's nurseries provided that all principal structures are not closer than 50 feet to a lot line.

(4) Utility substations, municipal wells, pumping stations and towers, provided that the use is not less than 50 feet from any lot line.

(5) Solar energy collectors erected as an accessory structure.
(Code 2004, § 17.0308(C); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-234. Lot area and width.

(a) Lots shall be a minimum of 9,000 square feet in area, and no dwelling unit shall have a lot area of less than the following:

(1) Efficiency apartments: 3,000 square feet per dwelling unit.

(2) One-bedroom apartments: 3,500 square feet per dwelling unit.

(3) Two-bedroom apartments: 4,000 square feet per dwelling unit

(4) Three-bedroom or larger apartments: 5,000 square feet per dwelling unit.

(b) No lot shall be less than 75 feet in width.
(Code 2004, § 17.0308(D); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-235. Building height and area.

(a) No principal building or part of a principal building shall exceed 35 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height; unless a conditional use permit for an increase in height is granted by the city plan commission in accordance with section 44-233.

(b) The total minimum floor area of a two-family building shall be 1,600 square feet. The minimum floor area of each unit within a two-family building shall be 800 square feet.

(c) The minimum floor area per unit of a multifamily building shall be as follows:

(1) Efficiency dwelling unit: 400 square feet per dwelling unit.

(2) One-bedroom dwelling unit: 600 square feet per dwelling unit.

(3) Two-bedroom dwelling unit: 800 square feet per dwelling unit

(4) Three-bedroom apartment or larger: add 150 square feet of total floor area for each additional bedroom.

(Code 2004, § 17.0308(E); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-236. Setback and yards.

(a) There shall be a minimum setback of 25 feet from the street right-of-way. Only one such street yard shall be required for corner lots.

(b) There shall be a side yard on each side of all buildings of not less than ten feet in width.

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

(Code 2004, § 17.0308(F); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-237. Plans and specifications to be submitted for review and approval. .

To encourage a multifamily residential environment that is compatible with the residential character of the city, building permits for permitted uses in the RM-1 Multifamily Residential District shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress, egress, parking, landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.

(Code 2004, § 17.0308(G); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Secs. 44-238—44-267. Reserved.

DIVISION 8. RM-2 MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 44-268. Intent.

The RM-2 residential district is intended to provide for multifamily residential development at densities not exceeding 21.8 dwelling units per net acre for efficiency apartments, or 17.4 dwelling units per net acre for one-bedroom apartments; or 14.5 dwelling units per net acre for two-bedroom apartments; or 12.4 dwelling units per net acre for three-bedroom or larger apartments; or a proportionate combination not to exceed the above ratios.
(Code 2004, § 17.0309(intro.); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-269. Principal uses.

The following principal uses shall be permitted in the RM-2 Multifamily Residential District:

(1) Multifamily dwellings.

(2) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity for 15 or fewer persons, subject to the limitations set forth in Wis. Stats. § 62.23(7)(i).

(3) Foster family homes.

(4) Adult day care homes.

(5) Child day care homes.

(6) Essential services.

(Code 2004, § 17.0309(A); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-270. Accessory uses.

Accessory uses shall comply with the requirements of article V of this chapter.
(Code 2004, § 17.0309(B); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-271. Conditional uses.

The following conditional uses shall be permitted in the RM-2 Multifamily Residential District:

(1) Community living arrangements, and community-based residential facilities (CBRF), which have a capacity of 16 or more persons.

(2) Housing for the elderly provided that the density of such housing shall not exceed 22 units per acre and shall meet the minimum per unit building area specified below.

(3) Rest homes, nursing homes, clinics, and children's nurseries provided that all principal structures are not closer than 50 feet to a lot line.

(4) Utility substations, municipal wells, pumping stations and towers, provided that the use is not less than 50 feet from any lot line.

(5) Solar energy collectors erected as an accessory structure.

(Code 2004, § 17.0309(C); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-272. Lot area and width.

(a) Lots shall be a minimum of 9,000 square feet in area, and no dwelling unit shall have a lot area of less than the following:

(1) Efficiency apartments: 2,000 square feet per dwelling unit.

(2) One-bedroom apartments: 2,500 square feet per dwelling unit.

(3) Two-bedroom apartments: 3,000 square feet per dwelling unit.

(4) Three-bedroom or larger apartments: 3,500 square feet per dwelling unit.

(b) No lot shall be less than 75 feet in width.

(Code 2004, § 17.0309(D); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-273. Building height and area.

(a) No principal building or part of a principal building shall exceed 35 feet in height, unless a lesser height is required to comply with the limitations set forth on the airport zoning map for General Mitchell International Airport. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height.

(b) The minimum floor area per unit shall be as follows:

(1) Efficiency dwelling unit: 300 square feet per dwelling unit.

(2) One-bedroom dwelling unit: 450 square feet per dwelling unit.

(3) Two-bedroom dwelling unit: 600 square feet per dwelling unit.

(4) Three-bedroom or larger: add 100 square feet of total floor area for each additional bedroom.

(Code 2004, § 17.0309(E); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-274. Setback and yards.

(a) There shall be a minimum setback of 25 feet from the street right-of-way. Only one such street yard shall be required for corner lots.

(b) There shall be a side yard on each side of all buildings of not less than ten feet in width.

(c) There shall be a rear yard of not less than 25 feet.
(Code 2004, § 17.0309(F); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-275. Plans and specifications to be submitted for review and approval.

To encourage a multifamily residential environment that is compatible with the residential character of the city, building permits for permitted uses in the RM-2 Multifamily Residential District shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress, egress, parking, landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0309(G); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Secs. 44-276—44-298. Reserved.

DIVISION 9. RM-3 MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 44-299. Intent.

The RM-3 residential district is intended to provide for high-rise (nine stories or more) multifamily residential development at densities not exceeding 40 dwelling units per net acre.
(Code 2004, § 17.0310(intro.); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-300. Principal uses.

The following principal uses shall be permitted in the RM-3 Multifamily Residential District:

(1) Multistory multifamily dwellings having not less than nine stories and 200 dwelling units.

(2) Essential services.
(Code 2004, § 17.0310(A); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-301. Accessory uses.

Accessory buildings and uses necessary to the use and maintenance of multistory multifamily dwellings, subject to the requirements of article V of this chapter.
(Code 2004, § 17.0310(B); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-302. Conditional uses.

The following conditional uses shall be permitted in the RM-3 Multifamily Residential District:

(1) Housing for the elderly provided that the density of such housing shall not exceed 40 units per acre and shall meet the minimum per unit building area specified below.

(2) Rest homes and nursing homes provided that all principal structures are not closer than 50 feet to a lot line.

(3) Utility substations, municipal wells, pumping stations and towers, provided that the use is not less than 50 feet from any lot line.

(4) Solar energy collectors erected as an accessory structure.
(Code 2004, § 17.0310(C); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-303. Lot area and width.

(a) Lots shall be a minimum of five acres in area, and no dwelling unit shall have a lot area of less than 1,000 square feet per dwelling unit.

(b) No lot shall be less than 300 feet in width.
(Code 2004, § 17.0310(D); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-304. Building height and area.

(a) No principal building or part of a principal building shall exceed 149 feet in height. No building shall have less than nine stories or floors.

(b) The minimum floor area per unit shall be as follows:

(1) Efficiency dwelling unit: 300 square feet per dwelling unit.

(2) One-bedroom dwelling unit: 450 square feet per dwelling unit.

(3) Two-bedroom dwelling unit: 600 square feet per dwelling unit.

(4) Three-bedroom or larger: add 100 square feet of total floor area for each additional bedroom.

(c) No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height, unless a conditional use permit for an increase in height is granted by the city plan commission in accordance with section 44-302(4).
(Code 2004, § 17.0310(E); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-305. Setback and yards.

(a) There shall be a minimum setback of 25 feet from the street right-of-way. Only one such street yard shall be required for corner lots.

(b) There shall be a side yard on each side of all buildings of not less than ten feet in width.

(c) There shall be a rear yard of not less than 25 feet.
(Code 2004, § 17.0310(F); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-306. Plans and specifications to be submitted for review and approval.

(a) To encourage a multifamily residential environment that is compatible with the residential character of the city, building permits for permitted uses in the RM-3 Multifamily Residential District shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress, egress, parking, landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.

(b) No person shall be issued a permit for the construction of any building in the RM-3 district unless he or she first files with the city clerk a performance bond or evidence of other security conditioned upon the faithful performance of all work required to complete such building in accordance with the plans and specifications approved under the preceding subsection.
(Code 2004, § 17.0310(G); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Secs. 44-307—44-330. Reserved.

DIVISION 10. B-1 NEIGHBORHOOD BUSINESS DISTRICT

Sec. 44-331. Intent.

The B-1 Neighborhood Business District is intended to provide for individual or small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood, and the character, appearance, and operation of which are compatible with the character of the surrounding area. No such district established after the effective date of this chapter shall be less than two acres in area.
(Code 2004, § 17.0315(intro.); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-332. Principal uses.

The following principal uses shall be permitted in the B-1 Neighborhood Business District:

(1) Bakeries where not more than 50 percent of the gross floor area is devoted to the processing of bakery goods.

(2) Barber shops.

(3) Beauty shops.

(4) Book and stationery stores.

(5) Cocktail lounges and taverns.

(6) Coffee shops.

(7) Confectioneries, soda fountains, and ice cream stores.

(8) Delicatessens/food markets.

(9) Florists.

(10) Gift stores/boutiques.

(11) Hobby and craft shops.

(12) Restaurants, except drive-in restaurants.

(13) Banquet halls and catering services.

(Code 2004, § 17.0315(A); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011; Ord. No. 2428, 2-17-2016)

Sec. 44-333. Accessory uses.

The following uses, subject to the requirements of article V of this chapter:

(1) Garages used for storage of vehicles used in conjunction with the operation of the business.

(2) Off-street parking and loading areas.

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

(4) Roof-mounted solar collectors.

(5) Terrestrial and satellite dish antennas.

(Code 2004, § 17.0315(B); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-334. Conditional uses.

The following conditional uses shall be permitted in the B-1 Neighborhood Business District:

(1) Banks and other financial institutions, excluding convenient cash and similar businesses.

(2) Business offices.

(3) Convenience food stores.

(4) Drive-up/thru uses.

(5) Temporary uses as set forth in section 44-47.

(6) Planned mixed use.

(7) Increases in the height of accessory buildings, when, in the opinion of the city plan commission, it is appropriate for the use and will not be detrimental to adjacent properties or the general character of the neighborhood, and further provided that any increase in height complies with the limitations set forth on the airport zoning map for General Mitchell International Airport.

(Code 2004, § 17.0315(C); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-335. Lot area and width.

(a) Neighborhood shopping centers shall contain a minimum area of two acres and shall be not less than 200 feet in width.

(b) Individual business sites in the B-1 district shall provide sufficient area for the principal building and its accessory buildings, off-street parking and loading areas, and required yards.

(Code 2004, § 17.0315(D); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-336. Building height and area.

No principal building or parts of a principal building shall exceed 35 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height, unless a conditional use permit for an increase in height is granted by the city plan commission in accordance with section 44-334(6).

(Code 2004, § 17.0315(E); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-337. Setback and yards.

(a) There shall be a minimum building setback of 25 feet from the right-of-way of all streets.

(b) There shall be a side yard on each side of all buildings of not less than ten feet.

(c) There shall be a rear yard of not less than 25 feet.
(Code 2004, § 17.0315(F); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-338. Plans and specifications to be submitted for review and approval. .

To encourage a business environment that is compatible with the residential character of the city, building permits for permitted uses in the B-1 district shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0315(G); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Secs. 44-339—44-364. Reserved.

DIVISION 11. B-2 COMMUNITY BUSINESS DISTRICT

Sec. 44-365. Intent.

The B-2 Community Business District is intended to provide for the orderly and attractive grouping at appropriate locations of businesses offering a wider range of retail products and services than are provided in neighborhood business districts, and also offering comparison shopping items. The character, appearance, and operation of a shopping center should be compatible with surrounding residential areas.
(Code 2004, § 17.0316(intro.); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-366. Principal uses.

The following principal uses shall be permitted in the B-2 Community Business District:

(1) Antique and collectors stores.

(2) Appliance stores.

(3) Art galleries.

(4) Bakeries where not more than 50 percent of the gross floor area is devoted to the processing of bakery goods.

(5) Banks, savings and loan associations, and other financial institutions, excluding convenient cash and similar businesses.

(6) Barber shops.

(7) Beauty shops.

(8) Book or stationery stores.

(9) Business and professional offices.

(10) Catering services.

(11) Camera and photographic supplies.

(12) Clinics.

(13) Clothing and apparel stores.

(14) Cocktail lounges and taverns.

(15) Coin, stamp, and trading card stores.

(16) Computer and computer supply stores.

(17) Candy stores, soda fountains, and ice cream stores.

(18) Coffee shops

(19) Delicatessens.

(20) Department stores.

(21) Discount stores.

(22) Drug stores.

(23) Electronic equipment sales and repair.

(24) Fish markets.

(25) Florists.

(26) Furniture stores, new.

(27) Furriers and fur apparel.

(28) Gift stores.

(29) Grocery stores and supermarkets.

(30) Hardware stores.

(31) Hobby and craft shops.

(32) Janitorial supplies and services.

(33) Jewelry stores.

(34) Mail services.

(35) Meat markets.

(36) Music stores.

(37) Newspaper and magazine stores.

(38) Office supplies and business machine stores.

(39) Optical stores.

(40) Packaged beverage stores.

(41) Paint, glass and wallpaper stores.

(42) Pet and pet supply stores.

(43) Photographic and art studios.

(44) Physical fitness centers.

(45) Plumbing and heating supplies.

(46) Printing, including photocopying, limited to no more than 2,000 square feet of gross floor area.

(47) Produce (fruit and vegetable) stores.

(48) Restaurants.

(49) Self service laundry and dry-cleaning establishments.

(50) Shoe stores and leather goods stores.

(51) Single-family residential dwelling existing prior to the adoption of this Code.

(52) Sporting goods stores.

(53) Tailoring and dressmaking shops.

(54) Theaters.

(55) Upholstery shops.

(56) Veterinary clinic, no boarding.

(57) Video and game stores (sales and rental).

(Code 2004, § 17.0316(A); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-367. Accessory uses.

The following uses, subject to the requirements of article V of this chapter:

(1) Garages used for storage of vehicles used in conjunction with the operation of the business.

(2) Off-street parking and loading areas.

(3) Roof-mounted solar collectors.

(4) Terrestrial and satellite dish antennas.

(Code 2004, § 17.0316(B); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-368. Conditional uses.

The following conditional uses shall be permitted in the B-2 Community Business District:

(1) Additions and enlargements to existing nonconforming structures that would encroach into a required street, side, or rear yard, provided the addition or enlargement does not extend into the required yard any further than the existing structure, as provided by section 44-1228.

(2) Automobile service stations, provided that all gas pumps are set back a minimum of 25 feet from the street right-of-way, and 25 feet from side and rear lot lines. Service station canopies shall be located not closer than 15 feet to a street right-of-way or side or rear lot line.

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

(4) Commercial adult and child care centers.

(5) Commercial recreation facilities, such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, miniature golf facilities, pool and billiard halls, racetracks, laser tag, paint ball, and skating rinks.

(6) Dog obedience training facilities when conducted entirely within an enclosed structure.

(7) Funeral homes provided all principal uses and structures are not less than 25 feet from any lot line.

(8) Increases in the height of accessory buildings, when, in the opinion of the city plan commission, it is appropriate for the use and will not be detrimental to adjacent properties or the general character of the neighborhood, and further provided that any increase in height complies with the limitations set forth on the airport zoning map for General Mitchell International Airport.

(9) Laundries and dry cleaners, employing not more than five persons on any working shift.

(10) Outdoor display of retail merchandise.

(11) Personal physical enhancement (tattoo parlors, body piercing, massage parlors, etc.).

(12) Public passenger transportation terminals, such as bus and rail depots, and heliports, but not including airports, airstrips, and landing fields. Any such use shall be located not less than 100 feet from any residential district boundary.

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

(14) Secondhand/thrift stores.

(15) Solar energy collectors erected as an accessory structure.

(16) Temporary uses as set forth in section 44-47.

(17) Tobacco stores.

(18) Utility substations, municipal wells, pumping stations, and towers provided that the use is not less than 50 feet from any lot line.

(19) Planned mixed use.

(Code 2004, § 17.0316(C); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-369. Lot area and width.

(a) Community shopping centers shall contain a minimum of four acres and shall not be less than 400 feet in width.

(b) Individual business sites in the B-2 district shall provide sufficient area for the principal building and its accessory buildings, off-street parking and loading areas, and required yards.

(Code 2004, § 17.0316(D); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-370. Building height.

No principal building or parts of a principal building shall exceed 40 feet in height, unless a lesser height is required to comply with the limitations set forth on the airport zoning map for General Mitchell International Airport. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height, unless a conditional use permit for an increase in height is granted by the city plan commission in accordance with section 44-368(8).

(Code 2004, § 17.0316(E); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-371. Setback and yards.

(a) There shall be a minimum building setback of 40 feet from the right-of-way of all streets.

(b) There shall be a side yard on each side of all buildings of not less than 25 feet.

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

(Code 2004, § 17.0316(F); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-372. Plans and specifications to be submitted for review and approval. .

To encourage a business environment that is compatible with the residential character of the city, building permits for permitted uses in the B-2 district shall not be issued without review and approval of the design review committee and the city plan commission. The review and

approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0316(G); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Secs. 44-373—44-402. Reserved.

DIVISION 12. B-3 CENTRAL BUSINESS DISTRICT

Sec. 44-403. Intent.

The B-3 Central Business District is intended to provide appropriate regulations to ensure the compatibility of the diverse uses typical of the downtown area without inhibiting the development of commercial, cultural, entertainment, and other urban activities which contribute to its role as the heart of the city.
(Code 2004, § 17.0317(intro.); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2301, 9-16-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-404. Principal uses.

The following principal uses shall be permitted in the B-3 Central Business District:

(1) Antique and collectors stores.

(2) Art galleries.

(3) Bakeries where not more than 50 percent of the gross floor area is devoted to the processing of bakery goods.

(4) Banks, savings and loan associations, and other financial institutions, excluding convenient cash and similar businesses.

(5) Barber shops.

(6) Beauty shops.

(7) Book or stationery stores.

(8) Business and professional offices.

(9) Camera and photographic supplies.

(10) Candy stores, soda fountains, and ice cream stores.

(11) Clothing and apparel stores.

(12) Coffee shops.

(13) Delicatessens.

(14) Fish markets.

(15) Florists.

(16) Gift stores.

(17) Jewelry stores.

(18) Meat markets.

(19) Music stores.

(20) Parking lots for up to 24 vehicles with screening and landscaping.

(21) Photographic and art studios.

(22) Produce (fruit and vegetable) stores.

(23) Restaurants, except drive-thru restaurants.

(24) Single-family residential dwelling existing or approved prior to July 1, 2007, provided no increase in square footage, volume, or habitable space is created unless approved by the plan commission.

(25) Tailoring and dressmaking shops.

(26) Planned mixed use.

(Code 2004, § 17.0317(A); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2301, 9-16-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-405. Accessory uses.

The following uses, subject to the requirements of article V of this chapter:

(1) Garages used for storage of vehicles used in conjunction with the operation of the business.

(2) Off-street parking and loading areas.

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

(4) Roof-mounted exterior energy saving equipment.

(5) Terrestrial and satellite dish antennas.

(Code 2004, § 17.0317(B); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2301, 9-16-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-406. Conditional uses.

The following conditional uses shall be permitted in the B-3 Central Business District:

(1) Additions and enlargements to existing nonconforming structures that would encroach into a required rear yard, provided the addition or enlargement does not extend into the required yard any further than the existing structure, as provided by section 44-1228.

(2) Buildings with a floor area greater than 15,000 square feet.

(3) Cocktail lounges, taverns and night clubs.

(4) Civic buildings, such as libraries, post offices, and municipal centers.

(5) Commercial recreation facilities, such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, miniature golf facilities, pool and billiard halls, race-tracks, laser tag, paint ball, and skating rinks.

(6) Computer and computer supply stores.

(7) Decreases in the required rear yard.

(8) Drive-thru banks.

(9) Drive-thru restaurants.

(10) Energy saving equipment other than those that are roof-mounted, erected as an accessory structure.

(11) Furniture stores.

(12) Grocery stores (maximum of 20,000 square feet).

(13) Hobby and craft shops.

(14) Hotels.

(15) Increases in the height of accessory buildings, when, in the opinion of the city plan commission, it is appropriate for the use and will not be detrimental to adjacent properties or the general character of the neighborhood, and further provided that any increase in height complies with the limitations set forth on the airport zoning map for General Mitchell International Airport.

(16) Lifestyle enhancement center (day spa).

(17) Micro brewery.

(18) Mixed use consisting of any mix of permitted and accessory and/or conditional uses.

(19) Newspaper and magazine stores.

(20) Outdoor display of retail merchandise.

(21) Parking lots for 25 vehicles or more and parking structures.

(22) Physical fitness centers.

(23) Public passenger transportation terminals, such as bus and rail depots, and heliports, but not including airports, airstrips, and landing fields. Any such use shall be located not less than 100 feet from any residential district boundary.

(24) Specialty tobacco shops.

(25) Specialty wine and spirits.

(26) Sporting goods store.

(27) Temporary uses as set forth in section 44-47.

(28) Theaters.

(29) Two-family and multifamily residential.

(30) Utility substations, municipal wells, pumping stations, and towers provided that the use is not less than 50 feet from any lot line.

(31) Decreases in required rear yard.

(32) Commercial child care.

(Code 2004, § 17.0317(C); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2301, 9-16-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-407. Lot area and width.

Lots in the B-3 district shall provide sufficient area and width for the principal structure(s) and its accessory structures, off-street parking and loading areas, and required yards.

(Code 2004, § 17.0317(D); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2301, 9-16-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-408. Building height and area.

(a) No principal building or parts of a principal building shall exceed 45 feet in height, unless a lesser height is required to comply with the limitations set forth on the airport zoning map for General Mitchell International Airport. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height, unless a conditional use permit for an increase in height is granted by the city plan commission in accordance with section 44-406(15).

(b) No principal building shall have a floor area greater than 15,000 square feet, unless the plan commission approves a conditional use permit in accordance with section 44-406(2).

(Code 2004, § 17.0317(E); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2301, 9-16-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-409. Setback and yards.

(a) No minimum setback shall be required.

(b) Proposed buildings shall be built to a build-to line for a minimum of 80 percent of the lot width measured at the street. The build-to line shall consist of a line extended from the front wall of the nearest existing buildings to each side of the proposed building. If the buildings to each side are built at different setbacks, the build-to line shall be located by averaging the depth of the two existing setbacks.

(c) No minimum side yard is required, except as provided in section 44-12(4).

(d) There shall be a rear yard of not less than 25 feet, unless the plan commission approves a conditional use permit in accordance with section 44-406(31).
(Code 2004, § 17.0317(F); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2301, 9-16-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-410. Plans and specifications to be submitted for review and approval.

To encourage a business environment that is compatible with the residential character of the city, building permits for permitted uses in the B-3 district shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0317(G); Ord. No. 2258, 8-21-2007; Ord. No. 2267, 6-17-2008; Ord. No. 2301, 9-16-2008; Ord. No. 2356, 1-4-2011)

Secs. 44-411—44-433. Reserved.

DIVISION 13. B-4 OFFICE AND PROFESSIONAL BUSINESS DISTRICT

Sec. 44-434. Intent.

The B-4 Office and Professional Business District is intended to provide for individual or small groups of buildings limited to office, professional, and special service uses where the office use would be compatible with other neighborhood uses and not exhibit the intense activity of other business districts.
(Code 2004, § 17.0318(intro.); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-435. Principal uses.

The following principal uses shall be permitted in the B-4 Office and Professional Business District:

(1) Administrative and public service offices.

(2) Commercial adult and child care centers.

(3) Office/professional services such as real estate and insurance sales offices, interior designers, medical and dental clinics, parking lots and structures, and professional offices of an architect, lawyer, accountant, doctor, Christian Science practitioner, dentist, optometrist, clergy, or other similarly recognized profession.

(4) Studios for photography, painting, music, sculpture, dance, or other recognized fine art.

(Code 2004, § 17.0318(A); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-436. Accessory uses.

The following uses, subject to the requirements of article V of this chapter:

(1) Garages used for storage of vehicles used in conjunction with the operation of the business. The height of which shall be determined by the plan commission.

(2) Off-street parking and loading areas.

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

(4) Roof-mounted solar collectors.

(5) Terrestrial and satellite dish antennas.

(Code 2004, § 17.0318(B); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-437. Conditional uses.

The following conditional uses shall be permitted in the B-4 Office and Professional Business District:

(1) Audio or video recording/production studios.

(2) Funeral homes provided all principal uses and structures are not less than 25 feet from any lot line.

(3) Utility substations, and towers provided that the use is not less than 50 feet from any lot line.

(4) Solar energy collectors erected as an accessory structure.

(5) Planned mix use.

(Code 2004, § 17.0318(C); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-438. Lot area and width.

Lots shall have a minimum area of 9,000 square feet and shall be not less than 75 feet in width.
(Code 2004, § 17.0318(D); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-439. Building height.

No principal building or parts of a principal building shall exceed 60 feet in height, unless a lesser height is required to comply with the limitations set forth on the airport zoning map for General Mitchell International Airport.
(Code 2004, § 17.0318(E); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-440. Setback and yards.

(a) There shall be a minimum building setback of 50 feet from the right-of-way of all streets.

(b) There shall be a side yard on each side of all buildings of not less than 25 feet.

(c) There shall be a rear yard of not less than 25 feet.
(Code 2004, § 17.0318(F); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-441. Plans and specifications to be submitted for review and approval.

To encourage a business environment that is compatible with the residential character of the city, building permits for permitted uses in the B-4 district shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0318(G); Ord. No. 2267, 6-17-2008; Ord. No. 2356, 1-4-2011)

Secs. 44-442—44-465. Reserved.

DIVISION 14. B-5 HIGHWAY BUSINESS DISTRICT

Sec. 44-466. Intent.

The B-5 Highway Business District is intended to provide for the orderly and attractive grouping at appropriate locations along principal highway routes of those businesses and customer services which are logically related to and dependent upon highway traffic or which are specifically designed to serve the needs of such traffic.
(Code 2004, § 17.0319(intro.); Ord. No. 2267, 6-17-2008; Ord. No. 2283, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-467. Principal uses.

The following principal uses shall be permitted in the B-5 Highway Business District:

(1) Automotive, marine and aircraft sales and service.

(2) Banks, savings and loan, and other financial institutions, including drive-in facilities. Excluding convenient cash and similar businesses.

(3) Bowling alleys.

(4) Building supply stores.

(5) Business and professional offices.

(6) Camera and photographic supply stores.

(7) Catering services.

(8) Commercial adult and child care centers.

(9) Convenience food stores.

(10) Equipment rental facilities.

(11) Garden centers.

(12) Hotels and motels.

(13) Physical fitness centers only.

(14) Photography and art studios.

(15) Restaurants, including drive-in restaurants.

(16) Theaters and other amusement places.

(17) Video sales and rental.

(Code 2004, § 17.0319(A); Ord. No. 2267, 6-17-2008; Ord. No. 2283, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-468. Accessory uses.

The following uses, subject to the requirements of article V of this chapter:

(1) Accessory garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.

(2) Off-street parking and loading areas.

(3) Roof-mounted solar collectors.

(4) Terrestrial and satellite dish antennas.

(Code 2004, § 17.0319(B); Ord. No. 2267, 6-17-2008; Ord. No. 2283, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-469. Conditional uses.

The following conditional uses shall be permitted in the B-5 Highway Business District:

(1) Animal hospitals, veterinary services, and boarding of animals.

(2) Audio or video recording/production studios.

(3) Automobile service stations, provided that all gas pumps are set back a minimum of 25 feet from the street right-of-way, and 25 feet from side and rear lot lines. Service station canopies shall be located not closer than 15 feet to a street right-of-way or side or rear lot line.

(4) Commercial recreation facilities, such as arcades, dance halls, driving ranges, gymnasiums, lodges, miniature golf facilities, pool and billiard halls, racetracks, indoor shooting ranges, and skating rinks.

(5) Outdoor display of retail merchandise.

(6) Utility substations, municipal wells, pumping stations, and towers provided that the use is not less than 50 feet from any lot line.

(7) Increases in the height of accessory buildings, when, in the opinion of the city plan commission, it is appropriate for the use and will not be detrimental to adjacent properties or the general character of the neighborhood, and further provided that any increase in height complies with the limitations set forth on the airport zoning map for General Mitchell International Airport.

(8) Renewable energy collectors erected as an accessory structure.

(9) Convenient cash and similar businesses.

a. *Purpose.*

1. It is recognized that convenient cash and similar businesses (hereafter referred to as "convenient cash businesses") have the potential to be harmful to the public welfare, both in regards to community harmony and with respect to potential effects on the quality, aesthetics and functional aspects of the city. The purpose of regulating convenient cash services is to ensure compatibility with surrounding uses and properties and to avoid an unchecked proliferation of convenient cash businesses that may result in the displacement of other necessary commercial and financial businesses.

2. Such businesses tailor their services to make them attractive to persons experiencing unfavorable economic circumstances, often aggravating those circumstances. Additionally, it has been found that through their business practices, convenient cash businesses are susceptible to attracting criminals seeking to commit robberies. Finally, when clustered in an area or arterial street, such concentration creates an unwarranted negative impression re-

garding the economic vitality of a commercial district and the city at large. Based on the negative impact of the proliferation of these types of business entities and their susceptibility to crime the Cudahy common council finds that the health, safety and welfare of the residents of the city would best be protected by limiting the geographic proliferation of convenient cash businesses.

It is therefore the intent of this subsection to regulate the location and hours of operation of convenient cash businesses in the city.

b. *Location and operation of convenient cash businesses.*

1. Convenient cash businesses shall not be located within 2,500 feet of any other convenient cash business.
2. Convenient cash businesses shall not be located within 250 feet from a residential or institutional district as measured by the shortest line between the parcel to be occupied by the proposed convenient cash facility and the property line of the nearest residential or institutional property.
3. Hours of operation. Convenient cash businesses shall not operate between the hours of 9:00 p.m. and 9:00 a.m.
4. Business shall keep all entrances, exit doors, and windows clear of any signs or advertisements.
5. The building or portion thereof that is dedicated to the check cashing use shall have a minimum size of 1,500 square feet of building floor area.
6. All convenient cash businesses shall purchase and install based upon specifications provided by the police department, one outdoor surveillance camera and wireless subscription module, total cost not to exceed $5,000.00, to be positioned in close proximity to the business at a location determined by the police department. The owner of this equipment shall be responsible for its repair and upkeep. Failure to maintain and repair the above-named equipment will necessitate a review of the conditional use approval and possible revocation of same.
7. Applicant must provide a security plan that addresses all of the following:
   (i) Limits on amount of cash immediately available for withdrawal;
   (ii) Lighting plan for the business showing both exterior and interior lighting;
   (iii) Plans for maintaining visibility into the interior of the check cashing facility;
   (iv) Plans for security of the check cashing area of the facility;
   (v) A program for graffiti and litter abatement;

(vi) Hours of operation; and

(vii) Use of security guards and cameras plan.

8. Convenient cash and similar businesses shall work with the city and the Police department to allow specific access by the police department to interior security cameras in the event of an emergency.

(10) Planned mixed use.

(Code 2004, § 17.0319(C); Ord. No. 2267, 6-17-2008; Ord. No. 2283, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-470. Lot area and width.

Lots shall have a minimum area of 9,000 square feet and shall be not less than 75 feet in width.

(Code 2004, § 17.0319(D); Ord. No. 2267, 6-17-2008; Ord. No. 2283, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-471. Building height.

No principal building or parts of a principal building shall exceed 35 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height; unless a conditional use permit for an increase in height is granted by the city plan commission in accordance with section 44-469(7).

(Code 2004, § 17.0319(E); Ord. No. 2267, 6-17-2008; Ord. No. 2283, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-472. Setback and yards.

(a) There shall be a minimum setback of 25 feet from the right-of-way of all streets.

(b) There shall be a side yard on each side of all buildings of not less than ten feet in width.

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

(Code 2004, § 17.0319(F); Ord. No. 2267, 6-17-2008; Ord. No. 2283, 6-17-2008; Ord. No. 2356, 1-4-2011)

Sec. 44-473. Plans and specifications to be submitted for review and approval.

To encourage a business atmosphere that is compatible with the residential character of the city, building permits for permitted uses in the B-5 district shall not be issued without review and approval of the design review committee and the city plan commission. The review and

approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0319(G); Ord. No. 2267, 6-17-2008; Ord. No. 2283, 6-17-2008; Ord. No. 2356, 1-4-2011)

Secs. 44-474—44-499. Reserved.

DIVISION 15. M-1 LIMITED MANUFACTURING DISTRICT

Sec. 44-500. Intent.

The M-1 Limited Manufacturing District is intended to provide for manufacturing, industrial, and related uses of a limited nature and size, which on the basis of actual physical and operational characteristics would not be detrimental to the surrounding area or to the city as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors.
(Code 2004, § 17.0325(intro.); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2340, 3-2-2010)

Sec. 44-501. Principal uses.

The following principal uses shall be permitted in the M-1 Limited Manufacturing District:

(1) Assembly, processing, manufacturing and/or storage of the following:

a. Automotive upholstery and automotive accessories.

b. Apparel and findings, and related products.

c. Automatic temperature controls.

d. Book, newspaper, and magazine publishing, printing, and binding and binding devices.

e. Brooms and brushes.

f. Candy and confectionery products.

g. Cereal and pasta preparations.

h. Cleaning, dressing and dyeing.

i. Electrical appliances

j. Electronic devices.

k. Electrotyping and stereotyping.

l. Engineering, laboratory, scientific and research instruments and related equipment.

m. Fabric and felt, knit and lace goods.

n. Flavor extracts and flavor syrups.

o. Floor coverings limited to rugs and carpeting.

p. Footwear.

q. Fresh or frozen fruits, fruit juices, vegetables and specialties.

r. Fur products packaging and assembly, but not including tanning.

s. Glass and glass container manufacturing.

t. Greeting cards.

u. Handbags, luggage and other personal leather goods.

v. Hats, caps and millinery.

w. Household furniture and furnishings.

x. Ice.

y. Ice cream and frozen desserts.

z. Jewelry, buttons and miscellaneous notions.

aa. Leather fabrication, not including tanning.

bb. Mechanical measuring and controlling instruments.

cc. Medical equipment and supplies, including dental equipment, ophthalmic goods, optical instruments and lenses, orthopedic, prosthetic, surgical appliances and supplies, pharmaceuticals and surgical instruments.

dd. Morticians' goods.

ee. Musical instruments and parts.

ff. Office supplies, artist materials and photographic equipment and supplies.

gg. Paper coating and glazing, and manufacture of products from paper, but not the manufacture of paper or pulp.

hh. Partitions, shelving, lockers, and office and store furniture and fixtures.

ii. Photoengraving instruments and apparatus.

jj. Pressed and molded pulp goods.

kk. Sanitary paper products.

ll. Sign and other advertising display manufacturing.

mm. Textile dyeing and finishing.

nn. Tire cord and fabric.

oo. Toys, amusement, sporting and athletic goods.

pp. Umbrellas.

qq. Wallpaper and window coverings.

rr. Watches, clocks, clockwork-operated devices and parts.

ss. Wool scouring and combing.

tt. Yarns and threads.

(2) Commercial bakery.

(3) Commercial greenhouses.

(4) Food locker plants.

(5) Laboratories.

(6) Machine shops.

(7) Pleating, decorative and novelty stitching and tucking for the trade.

(8) Rice milling.

(9) Typesetting.

(10) Warehousing.

(11) Welding shops.

(12) Wholesaling.

(Code 2004, § 17.0325(A); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2340, 3-2-2010)

Sec. 44-502. Accessory uses.

The following uses, subject to the requirements of article V of this chapter:

(1) Garages used for storage of vehicles used in conjunction with the operation of the business.

(2) Off-street parking and loading areas.

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

(4) Roof-mounted solar collectors.

(5) Terrestrial and satellite dish antennas.

(6) A single-family residential dwelling that shall have been in existence and used for that purpose prior to the adoption of the ordinance from which this chapter is derived by only the business and property owner who shall be one and the same.

(Code 2004, § 17.0325(B); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2340, 3-2-2010)

Sec. 44-503. Conditional uses.

The following conditional uses shall be permitted in the M-1 Limited Manufacturing District:

(1) Animal hospitals, veterinary services and boarding of animals.

(2) Automobile service stations, provided that all gas pumps are set back a minimum of 25 feet from the street right-of-way, and 25 feet from side and rear lot lines. Service station canopies shall be located not closer than 15 feet to a street right-of-way or side or rear lot line.

(3) Commercial service facilities, such as child care centers, restaurants, financial institutions, and clinics, provided that all such services are oriented toward industrial district users and employees and that other users are only incidental customers.

(4) Dimension hardwood flooring, veneer, and plywood manufacturing and processing.

(5) Freight yards, freight terminals, and transshipment depots.

(6) Government structures, such as fire and police stations.

(7) Lumber yards, millwork, sawmills, and planing mills.

(8) Outdoor storage.

(9) Parks and playgrounds.

(10) Processing and storage of feed for animals and fowl, and processing of animal health products.

(11) Storage of fertilizer and seeds.

(12) Public passenger transportation terminals, such as bus and rail depots.

(13) Self-service storage facilities (mini-warehouses).

(14) Temporary uses as set forth in section 44-47.

(15) Transmitting towers, receiving towers, and relay and microwave towers without broadcast facilities or studios.

(16) Utility substations, municipal wells, pumping stations, and towers provided that the use is not less than 50 feet from any lot line.

(17) Increases in the height of accessory buildings, when, in the opinion of the city plan commission, it is appropriate for the use and will not be detrimental to adjacent properties or the general character of the neighborhood, and further provided that any increase in height complies with the limitations set forth on the airport zoning map for General Mitchell International Airport.

(18) Solar energy collectors erected as an accessory structure.

(19) Construction services including general building contractor, carpenter services, wood flooring, concrete services, masonry, stone work, tile setting, plastering services, roofing services, siding and gutter services, sheet metal services, and water well drilling services.

(Code 2004, § 17.0325(C); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2340, 3-2-2010)

Sec. 44-504. Lot area and width.

Lots shall have a minimum area of 9,000 square feet and shall be not less than 75 feet in width.

(Code 2004, § 17.0325(D); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2340, 3-2-2010)

Sec. 44-505. Building height.

No principal building or parts of a principal building shall exceed 60 feet in height, unless a lesser height is required to comply with the limitations set forth on the airport zoning map for General Mitchell International Airport. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height; unless a conditional use permit for an increase in height is granted by the city plan commission in accordance with section 44-503(17).

(Code 2004, § 17.0325(E); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2340, 3-2-2010)

Sec. 44-506. Setback and yards.

(a) There shall be a minimum building setback of 25 feet from the right-of-way of all streets.

(b) There shall be a side yard on each side of all buildings of not less than 15 feet.

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

(Code 2004, § 17.0325(F); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2340, 3-2-2010)

Sec. 44-507. Plans and specifications to be submitted for review and approval.

To encourage a manufacturing and industrial environment that is compatible with the residential character of the city, building permits for permitted uses in the M-1 district shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.

(Code 2004, § 17.0325(G); Ord. No. 2053, 2-4-2003; Ord. No. 2074, 8-19-2003; Ord. No. 2340, 3-2-2010)

Secs. 44-508—44-537. Reserved.

DIVISION 16. M-2 GENERAL MANUFACTURING DISTRICT

Sec. 44-538. Intent.

The M-2 General Manufacturing District is intended to provide for manufacturing and industrial development of a more general and less restrictive nature than the M-1 Limited Manufacturing District in those areas where the relationship to surrounding land use would create fewer problems of compatibility. The M-2 district should not normally abut directly upon residential districts.
(Code 2004, § 17.0326(intro.); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-539. Principal uses.

The following principal uses shall be permitted in the M-2 General Manufacturing District:

(1) All principal uses permitted in the M-1 Limited Manufacturing District.

(2) Auto body shops, engine repair.

(3) Automobile, railcar, marine and aircraft manufacturing.

(4) Coating, engraving and allied services.

(5) Cutlery, hand tools and general hardware manufacturing.

(6) Electrical lighting and wiring equipment manufacturing.

(7) Electrical industrial apparatus.

(8) Electrical transmission and distribution equipment manufacturing.

(9) Electrometallurgical products manufacturing.

(10) Engine and turbine manufacturing.

(11) Farm machinery and equipment manufacturing.

(12) Fine earthenware, table and kitchen articles manufacturing.

(13) Heating apparatus and plumbing fixtures manufacturing.

(14) Household appliance manufacturing.

(15) Inflammable gases and liquid storage, not to exceed 50,000 gallons.

(16) Manufacturing and repair of construction, mining, and materials handling machinery and equipment.

(17) Metal container manufacturing.

(18) Metal products manufacturing, fabricating and distribution.

(19) Motorcycle and bicycle manufacturing.

(20) Screw machine products, bolts, nuts, screws, rivets and washer manufacturing.

(21) Signaling and fire control equipment manufacturing.

(22) Small arms ammunition manufacturing, excluding fireworks.

(23) Wire products manufacturing.

(Code 2004, § 17.0326(A); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-540. Accessory uses.

The following uses, subject to the requirements of article V of this chapter:

(1) Garages used for storage of vehicles used in conjunction with the operation of the business.

(2) Off-street parking and loading areas.

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

(4) Roof-mounted solar collectors.

(5) Terrestrial and satellite dish antennas.

(Code 2004, § 17.0326(B); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-541. Conditional uses.

The following conditional uses shall be permitted in the M-2 General Manufacturing District:

(1) Animal hospitals, veterinary services, and boarding of animals.

(2) Automobile service stations provided that all gas pumps meet the setback requirements of the district and are located not closer than 40 feet to any side lot line.

(3) Canneries.

(4) Central composting site and related operations, such as wood shaving or brush collection sites.

(5) Commercial service facilities such as child care centers, restaurants, financial institutions, and clinics, provided that all such services are oriented toward industrial district users and employees and that other users are only incidental customers.

(6) Dimension hardwood flooring, veneer, and plywood manufacturing and processing.

(7) Drop forges and foundry smelting plants.

(8) Freight yards, freight terminals and transshipment depots.

(9) Government structures, such as fire and police stations.

(10) Lumber yards, millwork, sawmills and planning mills.

(11) Meat processing and packaging plants.

(12) Outside storage, provided that vehicles shall not be stored more than 30 days.

(13) Parks and playgrounds.

(14) Processing of seed or products from grain for animal feed, processing of animal health products, and storage of animal feeds, fertilizer, seeds and animal health products.

(15) Public passenger transportation terminals, such as bus and rail depots.

(16) Recycling center and/or transfer stations.

(17) Sanitary landfills.

(18) Self-service storage facilities (mini-warehouses).

(19) Tanneries.

(20) Temporary uses as set forth in section 44-47.

(21) Transmitting towers, receiving towers, and relay and microwave towers without broadcast facilities or studios.

(22) Utility substations, municipal wells, pumping stations, and towers provided that the use is not less than 50 feet from any lot line.

(23) Increases in the height of accessory buildings, when, in the opinion of the city plan commission, it is appropriate for the use and will not be detrimental to adjacent properties or the general character of the neighborhood, and further provided that any increase in height complies with the limitations set forth on the airport zoning map for General Mitchell International Airport.

(24) Solar energy collectors erected as an accessory structure.

(Code 2004, § 17.0326(C); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-542. Lot area and width.

Lots shall have a minimum area of 9,000 square feet and shall be not less than 75 feet in width.

(Code 2004, § 17.0326(D); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-543. Building height and area.

No principal building or parts of a principal building shall exceed 60 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height, unless a conditional use permit for an increase in height is granted by the city plan commission in accordance with section 44-541.

(Code 2004, § 17.0326(E); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-544. Setback and yards.

(a) There shall be a minimum building setback of 50 feet from the right-of-way of all streets.

(b) There shall be a side yard on each side of all buildings of not less than 25 feet.

(c) There shall be a rear yard of not less than 25 feet.
(Code 2004, § 17.0326(F); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-545. Plans and specifications to be submitted for review and approval.

To encourage a manufacturing and industrial environment that is compatible with the residential character of the city, building permits for permitted uses in the M-2 district shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress and egress, parking, loading and unloading, landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0326(G); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Secs. 44-546—44-568. Reserved.

DIVISION 17. TUC-1 TRANSPORTATION AND UTILITY CORRIDOR DISTRICT

Sec. 44-569. Intent.

The TUC-1 Transportation and Utility Corridor District is intended to eliminate the ambiguity of maintaining, in unrelated use districts, corridors devoted to transportation and utility uses. It is further the intent of the city that the conversion of railroad corridors to trail corridors be considered if existing railroads are abandoned.
(Code 2004, § 17.0330(intro.))

Sec. 44-570. Principal uses.

The following principal uses shall be permitted in the TUC-1 Transportation and Utility Corridor District:

Existing transportation and utility facilities.
(Code 2004, § 17.0330(A))

Sec. 44-571. Accessory uses.

Accessory uses shall comply with the requirements of article V of this chapter.
(Code 2004, § 17.0330(B))

Sec. 44-572. Conditional uses.

The following conditional uses shall be permitted in the TUC-1 Transportation and Utility Corridor District:

(1) Railroad and intermodal passenger terminals.

(2) Utility transmission and distribution lines, provided such facilities are installed underground.

(3) Bicycle and pedestrian paths.

(Code 2004, § 17.0330(C))

Sec. 44-573. Lot area, width, height, and yard requirements.

Lot area, width, height, and yard requirements shall be determined by the common council following a recommendation from the plan commission.

(Code 2004, § 17.0330(D))

Secs. 44-574—44-594. Reserved.

DIVISION 18. I-1 INSTITUTIONAL DISTRICT

Sec. 44-595. Intent.

The I-1 Institutional District is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use for public purpose is anticipated to be permanent.

(Code 2004, § 17.0331(intro.); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-596. Principal uses.

The following principal uses shall be permitted in the I-1 Institutional District:

(1) Commercial adult and child care centers.

(2) Churches, synagogues and other places of worship.

(3) Funeral homes.

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

(5) Libraries, community centers, museums and public art galleries.

(6) Post office and postal substations.

(7) Public administrative offices, and public service buildings, including fire and police stations.

(8) Public or private schools, colleges and universities.

(9) Public utility offices.

(Code 2004, § 17.0331(A); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-597. Accessory uses.

The following uses, subject to the requirements of article V of this chapter:

(1) Garages for storage of vehicles used in conjunction with the operation of a permitted use.

(2) Residential quarters for caretakers or clergy.

(3) Roof-mounted solar collectors.

(4) Terrestrial and satellite dish antennas.

(5) Service buildings and facilities normally accessory to the permitted use.

(Code 2004, § 17.0331(B); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-598. Conditional uses.

The following conditional uses shall be permitted in the I-1 Institutional District:

(1) Cemeteries and crematories.

(2) Central composting site and related operations, such as wood shaving or brush collection sites.

(3) Health clubs.

(4) Housing for the elderly provided that the density shall not exceed 22 units per acre, and provided that there shall be a minimum living area of 450 square feet for a one-bedroom dwelling unit and a minimum living area of 600 square feet for a two-bedroom or larger dwelling unit.

(5) Parks and playgrounds.

(6) Public passenger transportation terminals, such as bus and rail depots, and heliports.

(7) Recycling center and/or transfer stations.

(8) Transmitting towers, receiving towers, and relay and microwave towers, and broadcast studios.

(9) Utility substations, municipal wells, pumping stations, and towers provided that the use is not less than 50 feet from any lot line.

(10) Increases in the height of accessory buildings, when, in the opinion of the city plan commission, it is appropriate for the use and will not be detrimental to adjacent properties or the general character of the neighborhood, and further provided that any increase in height complies with the limitations set forth on the airport zoning map for General Mitchell International Airport.

(11) Solar energy collectors erected as an accessory structure.
(Code 2004, § 17.0331(C); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-599. Lot area and width.

Lots shall be a minimum of 9,000 square feet in area and shall not be less than 75 feet in width.
(Code 2004, § 17.0331(D); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-600. Building height and area.

(a) No principal building or parts of a principal building shall exceed 35 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height; unless a conditional use permit for an increase in height is granted by the city plan commission in accordance with section 44-598(10).

(b) Residential uses permitted in the I-1 district shall comply with the building area requirements of the RS-1 Single-Family Residential District.
(Code 2004, § 17.0331(E); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-601. Setback and yards.

(a) There shall be a minimum setback of 25 feet from the street right-of-way.

(b) There shall be a side yard on each side of all buildings not less than ten feet in width.

(c) There shall be a rear yard of not less than 25 feet.
(Code 2004, § 17.0331(F); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-602. Plans and specifications to be submitted for review and approval.

To encourage an institutional use environment that is compatible with the residential character of the city, building permits for permitted uses in the I-1 district shall not be issued without review and approval of the design review committee and the city plan commission. The review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscaping, and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0331(G); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Secs. 44-603—44-622. Reserved.

DIVISION 19. P-1 PARK DISTRICT

Sec. 44-623. Intent.

The P-1 Park District is intended to provide for areas where the open space and recreational needs, both public and private, of the citizens of the city can be met without undue disturbance of natural resources and adjacent uses.
(Code 2004, § 17.0332(intro.); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-624. Principal uses.

The following principal uses shall be permitted in the P-1 Park District:

(1) Botanical gardens and arboretums.

(2) Exhibition halls.

(3) Fairgrounds.

(4) Golf courses without country club facilities.

(5) Hiking, biking and nature trails.

(6) Historic monuments or sites.

(7) Neighborhood tot lots.

(8) Outdoor skating rinks.

(9) Parks and playgrounds.

(10) Picnicking areas.

(11) Play fields or athletic fields.

(12) Public art galleries and exhibits.

(13) Sledding, skiing or tobogganing.

(14) Swimming beaches.

(15) Swimming pools.

(16) Tennis courts.
(Code 2004, § 17.0332(A); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-625. Accessory uses.

The following uses, subject to the requirements of article V of this chapter:

(1) Buildings accessory to the permitted use.

(2) Roof-mounted solar collectors.

(3) Terrestrial and satellite dish antennas.

(Code 2004, § 17.0332(B); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-626. Conditional uses.

The following conditional uses shall be permitted in the P-1 Park District:

(1) Archery ranges, bathhouses, boat mooring and rental, campgrounds, conservatories, driving ranges, firearm ranges, gymnasiums, ice boating facilities, marinas, music halls, polo fields, riding academies, stadiums, and zoological and botanical gardens, provided that the use has a minimum parcel area of three acres.

(2) Churches, synagogues, and other places of worship.

(3) Golf courses with country club facilities.

(4) Public, private, and parochial schools.

(5) Utility substations, municipal wells, pumping stations, and towers provided that the use is not less than 50 feet from any lot line.

(6) Increases in the height of accessory buildings, when, in the opinion of the city plan commission, it is appropriate for the use and will not be detrimental to adjacent properties or the general character of the neighborhood, and further provided that any increase in height complies with the limitations set forth on the airport zoning map for General Mitchell International Airport.

(7) Solar energy collectors erected as an accessory structure.

(Code 2004, § 17.0332(C); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-627. Building height.

No principal building or parts of a principal building shall exceed 35 feet in height. No garage shall exceed 15 feet in height, and no shed or other accessory building shall exceed ten feet in height; unless a conditional use permit for an increase in height is granted by the city plan commission in accordance with section 44-626(6).

(Code 2004, § 17.0332(D); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-628. Setback and yards.

No building or structure shall be erected, altered, or moved closer than 40 feet to a lot line.

(Code 2004, § 17.0332(E); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Sec. 44-629. Plans and specifications to be submitted for review and approval.

To encourage a recreational use environment that is compatible with the aesthetic character of the city, building permits for permitted uses in the P-1 district shall not be issued without review and approval of the design review committee and the city plan commission. The review

and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, landscaping and open space utilization in accordance with sections 44-49 and 44-1262.
(Code 2004, § 17.0332(F); Ord. No. 2074, 8-19-2003; Ord. No. 2356, 1-4-2011)

Secs. 44-630—44-646. Reserved.

DIVISION 20. C-1 LOWLAND CONSERVANCY DISTRICT

Sec. 44-647. Intent.

The C-1 Lowland Conservancy District is intended to preserve, protect, and enhance the ponds, streams, shorelands, and wetland areas of the city. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface, prevent flood damage; control stormwater runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation resources of the city.
(Code 2004, § 17.0333(intro.))

Sec. 44-648. Principal uses.

The following principal uses shall be permitted in the C-1 Lowland Conservancy District:

(1) Hiking, fishing, trapping, swimming and boating, unless prohibited by other laws and codes.

(2) 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, and that does not involve filling, flooding, draining, dredging, ditching, tiling, or excavating.

(3) Silviculture, including the planting, thinning, and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on silvicultural activities if not corrected.

(4) Construction and maintenance of fences.

(5) Existing agricultural uses provided that they do not involve extension of cultivated areas, extension of or creation of new drainage systems, and further provided that they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.

(6) Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.

(7) The construction and maintenance of piers, docks, and walkways, including those built on pilings.

(8) The maintenance, repair, replacement, and reconstruction of existing streets and bridges.

(Code 2004, § 17.0333(A))

Sec. 44-649. Conditional uses.

(a) The construction of streets which are necessary for the continuity of the arterial or the city street system, necessary for the provision of essential utility and public safety services, or necessary to provide access to permitted open space uses in the C-1 district, provided that:

(1) The street cannot as a practical matter be located outside the conservancy district;

(2) The street is designed and constructed to minimize adverse impact upon the natural functions of the wetland as listed in section 44-1357(b);

(3) The street is designed and constructed with the minimum cross-section practical to serve the intended use;

(4) The street construction activities are carried out in the immediate area of the roadbed only; and

(5) Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary for the construction or maintenance of the street.

(b) The construction and maintenance of nonresidential buildings used solely in conjunction with raising of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose which is compatible with natural resource preservation, provided that:

(1) The building cannot as a practical matter be located outside the conservancy district;

(2) The building is not designed for human habitation and does not exceed 500 square feet in area; and

(3) Only limited filling or excavating necessary to provide structural support is conducted.

(c) The establishment and development of public and private parks and recreation areas, recreation trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refugees, game preserves, and private habitat areas, provided that:

(1) Parks shall be limited to passive activities. No ball diamond, tennis court, play filed, playground or other active recreational area shall be constructed in a wetland.

(2) Any private recreation or wildlife habitat area must be exclusively for that purpose.

(3) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches, or the construction of bicycle paths, recreational trails, park shelters or similar structures is allowed.

(4) Construction and maintenance of streets necessary for permitted uses shall be in accordance with ubsection (a) of this section.

(5) Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance the value of a wetland or other natural resource.

(d) The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to members, provided that:

(1) The transmission and distribution lines and related facilities cannot as a practical matter be located outside the conservancy district; and

(2) Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the utility, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the conservancy area.

(e) The construction and maintenance of railroad lines, provided that:

(1) The railroad lines cannot as a practical matter be located outside the conservancy district; and

(2) Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the railroad, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the conservancy area.

(f) The maintenance of drainage channels and stream bank protection measures in those portions of the C-1 District that do not meet the definition of a shoreland-wetland as set forth in Wis. Admin. Code ch. NR 117.
(Code 2004, § 17.0333(B))

Sec. 44-650. Prohibited uses.

(a) Any use not listed as a permitted use or a conditional use is prohibited unless the C-1 district lands concerned are first rezoned into another district.

(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 water are prohibited.
(Code 2004, § 17.0333(C))

Secs. 44-651—44-673. Reserved.

DIVISION 21. RESERVED

Secs. 44-674—44-709. Reserved.

DIVISION 22. APO AIRPORT OVERLAY DISTRICT

Sec. 44-710. Intent.

The APO Airport Overlay District is intended to provide for the possibility of coordinating the planning, development, and regulation of land uses in the vicinity of airports so as to insure that the uses are mutually compatible with the operation of the airport and that any public investment in the airport is protected and further that public safety, welfare, health and convenience is served.
(Code 2004, § 17.0343(intro.))

Sec. 44-711. Principal uses.

The following principal uses shall be permitted in the APO Airport Overlay District:

(1) Navigational and meteorological structures.

(2) The following uses provided they are permitted in the underlying basic use district and that there is no interference with existing or proposed navigational aids:

a. Agriculture, forestry, truck farming and other vegetable and plant crop cultivation, and roadside stands for the sale only of products grown on the premises.

b. Arboretum.

c. Auto storage areas.

d. Botanical gardens.

e. Car rental agencies.

f. Game preserves.

g. Golf courses.

h. Greenhouses.

i. Marinas.

j. Nurseries.

k. Parking lots.

l. Picnic areas.

m. Public works and public utility facilities such as water pumping stations, plants and reservoirs, electric transmission lines and substations.

n. Reservoirs.

(Code 2004, § 17.0343(A))

Sec. 44-712. Accessory uses.

Any accessory use permitted in the underlying basic use district provided that there is no interference with existing or proposed navigational aids.
(Code 2004, § 17.0343(B))

Sec. 44-713. Conditional uses.

The following uses provided they are permitted principal or conditional uses in the underlying basic use district and that there is no interference with existing or proposed navigational aids:

(1) Automobile service stations.

(2) Aviation schools.

(3) Banking services.

(4) Bottling plants.

(5) Building materials, storage yards or buildings, including sales of equipment commonly used by contractors.

(6) Cemeteries, crematories and mausoleums.

(7) Convention centers.

(8) Hotels and motels.

(9) Lumber yards, storage and sales.

(10) Night clubs.

(11) Office buildings.

(12) Recreational activities.

(13) Restaurants.

(14) Service and light industries, and related offices and showrooms, that manufacture, assemble, process, and store and distribute goods and materials; and are in general dependent upon raw materials refined elsewhere, including chemicals and allied products, food and beverage products, metal and metal products, textiles, bedding and fibers, wood and paper products, glass products and plastic products.

(15) Shopping centers.

(16) Stone monument works.

(17) Terminals, including passenger, freight, taxi and bus terminals.

(18) Warehousing.

(19) Wholesaling.

(Code 2004, § 17.0343(C))

Sec. 44-714. Special requirements.

The following special requirements shall apply for all principal, accessory and conditional uses allowed in the airport overlay district:

(1) *Lighting*.

a. Except as may be permitted as an airport navigational aid, a pulsating, flashing, rotating, oscillating, or other type of lighting intended as an attention-getting device shall be expressly prohibited.

b. Flood lights, spot lights, or other lighting device shall be so arranged or shielded as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground.

c. Outside lights and lighting devices shall comply with Federal Aviation Administration recommended standards and guidance for the lighting and marking of objects and obstructions, and for the provision of air navigation aids and apparatus. Outside lights and lighting devices that may create a distraction, a misleading indication, or a safety hazard to air navigation shall be expressly prohibited.

(2) *Radio and electronic*.

a. Any radio or electronic device shall be permitted only in conjunction with a valid license therefor or other authorization as may be issued by the Federal Communications Commission.

b. Any radio or electronic device, the operation of which would violate any rules or regulations of the Federal Communications Commission is expressly prohibited.

(3) *Smoke*. Any operation or use which emits smoke, dust, or any visible fumes or vapors into the atmosphere shall be expressly prohibited.

(Code 2004, § 17.0343(D))

Sec. 44-715. Lot area, width, and yard requirements.

The lot area, width, and yard requirements applicable in the underlying basic use district shall apply in the airport overlay district.
(Code 2004, § 17.0343(E))

Sec. 44-716. Height requirements.

Except for permitted fences and farm crops, no structure shall be constructed, altered, located or permitted to remain after construction, alteration or location and not trees shall be allowed to grow to a height in excess of the height limit indicated on the adopted airport zoning map for General Mitchell International Airport.
(Code 2004, § 17.0343(F))

Sec. 44-717. Noise.

No principal, accessory or conditional use shall be permitted on a parcel unless the intended use is compatible with the sound levels expected to be generated on the parcel as shown on the noise contour maps and compatibility charts and tables prepared in conjunction with the adopted airport affected area land use plan.
(Code 2004, § 17.0343(G))

Sec. 44-718. Amendments to the airport overlay district.

No amendment to the airport overlay district shall be effective until such time as the airport owner has been notified of the proposed amendment and been given an opportunity to notify the city plan commission of any adverse effect created by the amendment.
(Code 2004, § 17.0343(H))

Secs. 44-719—44-749. Reserved.

DIVISION 23. PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

Sec. 44-750. Intent.

(a) The PUD Planned Unit Development Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, diversified building types, and/or a mix of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD overlay district under this chapter will allow for flexibility in the design of overall development, with benefits from such design flexibility intended to be derived by both the

developer and the city, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic use zoning district.

(b) The PUD Planned Unit Development Overlay District may also be used to accommodate the development or redevelopment of parcels consistent with the design principles of traditional neighborhoods. Traditional neighborhoods are compact; provide a mix of uses, including residential, business, civic, and open space uses in proximity to each other; provide a mix of housing styles, types, and sizes to accommodate households of various ages, sizes, and incomes; and promote the use of walking, bicycling, and transit.
(Code 2004, § 17.0344(intro.); Ord. No. 2119, 11-16-2004; Ord. No. 2267, 6-17-2008)

Sec. 44-751. Application of district.

(a) The provisions of the PUD district may be applied in any district within the corporate limits of the city, except the RS-3 Manufactured Home Residential District, provided that such application is approved by common council and the proposal is in conformance with all the regulations of the PUD district and other applicable requirements.

(b) Existing individual uses and structures that may be adjacent to, within, or substantially surrounded by a PUD development shall continue to be subject to the regulations of the underlying basic use district. If the existing uses or structures are incorporated into the unified design of the PUD, the regulations of the PUD district shall apply to the extent practicable as determined by the plan commission.

(c) The unified development of a site, in single or corporate ownership, may be permitted in a planned unit development without the customary division into individual lots and without complying with the regulations applicable to uses on individual lots.

(d) Individual lots may be conveyed to separate ownerships within a planned unit development, for financing or other purposes, provided that conformity with the unified plan is not adversely affected and that maintenance of common areas is assured. Such division of land shall be accomplished pursuant to the land division regulations of the city and, when such division is contemplated, a preliminary plat of the lands to be divided shall accompany the petition for PUD approval.
(Code 2004, § 17.0344(A); Ord. No. 2119, 11-16-2004; Ord. No. 2267, 6-17-2008)

Sec. 44-752. Permitted uses.

All permitted uses shall be conditional upon the determination as to their appropriateness within the context of the city's comprehensive development plan, their conformance with the provisions of the PUD district, and subject to such conditions as may be established as part of final plan approval.

(1) Any use permitted in an underlying basic district may be permitted in a planned unit development. Individual structures shall comply with the minimum building area and

maximum height requirements of the underlying basic use district as applicable to the uses within the structures. The maximum height shall also comply with the limitations set forth on the airport zoning map for General Mitchell International Airport.

(2) Where the underlying zoning is entirely residential, the following uses may be permitted:

a. Any residential use permitted in the RS-1, RS-2, RD-1, RD-2, RM-1, and RM-2 districts.

b. Any accessory use permitted in the underlying basic use district.

c. Such accessory uses as a community swimming pool, recreational area, pavilion, or similar use designed as an accessory amenity or service to the planned unit development.

d. The permitted and conditional uses in the B-1 Neighborhood Business District as listed in division 10 of this article may be permitted where, in the opinion of the plan commission, the size, placement, and character of the uses as proposed would be compatible with the residential character of the development. Under no circumstances may the area occupied by the business uses, including parking, total more than 15 percent of the total area of the residential planned unit development. Such proposed business uses shall comply with the requirements of sections 44-335—44-338, except that the minimum lot area for such use may be reduced to one acre and the minimum lot width may be reduced to 125 feet.

(3) A mix of dwelling unit types shall be required in a residential PUD in accordance with the following table:

Number of Dwellings in Development	*Minimum Number of Dwelling Unit Types*	*Maximum Percent of Any Dwelling Unit Type*	*Minimum Percent of Any Dwelling Unit Type*
1—30	1	100%	20%
31—60	2	60%	15%
61—120	3	40%	10%
121 or more	4	40%	5%

(4) Where the underlying zoning for a planned unit development is entirely business, any business use permitted in the B-1, B-2, B-3, B-4, and B-5 Districts may be permitted. In addition, any residential use may be permitted where, in the opinion of the plan commission, the business potential of such land would not be wasted. Under no circumstances shall the area occupied by such residential use, including parking, total more than 50 percent of the total area of the business planned unit development; nor shall the density of such residential area exceed that determined by the plan commission as appropriate calculated for the area designated for residential use, not the overall area within the PUD. Single-family residential uses shall comply with the requirements

of sections 44-106—44-108. Two-family residential uses shall comply with the requirements of sections 44-200—44-202. Multifamily residential uses shall comply with sections 44-272—44-274.

(5) Where the underlying zoning for a planned unit development is entirely industrial, any use permitted in the B-1, B-2, B-3, B-4, B-5, M-1, and M-2 districts may be permitted, except residential use.

(6) Where the underlying zoning for a planned unit development consists of a mixture of residential, business, or industrial districts, any residential, business, or industrial use may be permitted according to the ratio established by the underlying zoning. Such ratio may be modified by the city where, in the opinion of the plan commission, such modification would not adversely affect the city's comprehensive plan or the planned provision of municipal services.

(Code 2004, § 17.0344(B); Ord. No. 2119, 11-16-2004; Ord. No. 2267, 6-17-2008)

Sec. 44-753. Minimum area requirements.

Unless the plan commission makes a finding that it is in the best interest of the city to apply the Planned Unit Development (PUD) Overlay District to a smaller area, including an individual parcel, an area designated as a PUD shall be under single or corporate ownership or control and shall contain a minimum area of:

(1)	Residential PUD	3 acres
(2)	Business PUD	3 acres
(3)	Industrial PUD	10 acres
(4)	Mixed Compatible Use	10 acres
(5)	Lakeside Commons PUD	1 acre

(Code 2004, § 17.0344(C); Ord. No. 2119, 11-16-2004; Ord. No. 2267, 6-17-2008)

Sec. 44-754. Off-street parking requirements.

(a) The parking requirements of section 44-845 shall apply to all planned unit developments.

(b) The required number of parking spaces shall be provided either applied individually or by providing the combined total number of parking spaces required for the entire development in one or more parking lots within the development.

(c) The number of required parking spaces may be reduced, by conditional use permit, in accordance with section 44-846.

(Code 2004, § 17.0344(D); Ord. No. 2119, 11-16-2004; Ord. No. 2267, 6-17-2008)

Sec. 44-755. Procedural requirements.

(a) *Pre-petition conference*. Prior to the official submission of the petition for the approval of a planned unit development overlay district, the owner or his agent making such petition shall meet with the city plan commission or its staff to discuss the scope and proposed nature of the contemplated development.

(b) *Petition*. Following the pre-petition conference, the owner or his agent may file a petition with the city clerk for approval of a planned unit development overlay district. Such petition shall be accompanied by a review fee, as required by the common council pursuant to section 44-1257, and the following information:

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

a. Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services, and any other similar data pertinent to a comprehensive evaluation of the proposed development.

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

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

d. Any proposed departures from the standards of development as set forth in this chapter, other city codes or ordinances, or other applicable regulations or guidelines.

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

(2) A general development plan including:

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

b. Existing zoning on the subject property and adjacent properties.

c. The location of public and private streets, driveways, and parking facilities.

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

e. The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks, and drainage ways.

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

g. General landscape treatment.

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

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

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

k. Characteristics of soils related to contemplated specific uses.

l. Existing topography on the site with contours at no greater than two-foot intervals.

m. Anticipated uses of adjoining lands with regard to streets, surface water drainage, and compatibility with existing adjacent land uses.

(3) *Referral to plan commission*. The petition for a planned unit development overlay district shall be referred by the city clerk to the city plan commission for its review and recommendation, which may include additional conditions or restrictions deemed necessary or appropriate. For referral at the next regularly scheduled plan commission meeting following receipt of the petition, it must be received by the city clerk at least 14 days prior to such meeting.

(4) *Public hearing*. The city plan commission and the common council shall hold a joint public hearing pursuant to the requirements of this chapter. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested planned unit development overlay district. As soon as is practical following the hearing, the plan commission shall report its findings and recommendations to the common council.

(Code 2004, § 17.0344(E); Ord. No. 2119, 11-16-2004; Ord. No. 2267, 6-17-2008)

Sec. 44-756. Basis for approval of the petition.

The city plan commission, in making its recommendation, and the common council, in making its determination, shall consider:

(1) That the petitioners for the proposed planned unit development overlay district have indicated that they intend to begin the physical development of the PUD within nine months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule satisfactory to the city.

(2) That the proposed planned unit development overlay district is consistent in all respects to the purposes of this section and to the spirit and intent of this chapter, that the development is in conformity with the goals, objectives, policies, and recommendations

of the adopted city comprehensive plan; that, if applicable, the requirements of the Lakeside Commons Overlay District are met; and that the development would not be contrary to the general welfare and economic prosperity of the city.

(3) The city plan commission, in making its recommendation, and the common council, in making its determination, shall further find that:

a. The proposed site shall be provided with adequate drainage facilities for surface and stormwaters.

b. The proposed site shall be accessible from public streets that are adequate to carry the traffic expected to be generated by the proposed development.

c. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.

d. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable codes or regulations of the city.

e. Centralized water and sewer facilities shall be provided.

f. The entire area of land to be included in a planned unit development overlay district shall be held under single ownership, or if there is more than one owner, the petition for such planned unit development overlay district shall be considered as one lot or parcel, and the legal description must define the PUD as a single lot or parcel and be so recorded with the register of deeds for the county.

(4) That the size, quality, and architectural design of all buildings in the project will be compatible with the general character of the city and specifically to the surrounding neighborhood, and that the architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious development compatible with and not adversely affecting the property values of the surrounding neighborhood.

(5) That a minimum building setback of 25 feet shall be maintained along any boundary street of the planned unit development. Such setback may be reduced, as a conditional use, when, in the opinion of the plan commission, such reduction in setback enhances the quality of the development and does not adversely affect adjacent properties or properties on the opposite side of the street.

(6) That no building shall be permitted closer to a side or rear lot line than permitted by the side or rear yard requirements of the underlying basic district. Such side and rear yard requirements may be reduced, as a conditional use, when, in the opinion of the plan commission, such reduction enhances the quality of the development and does not adversely affect adjacent properties.

(7) That in the case of a proposed residential planned unit development overlay district:

a. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the city.

b. The total net residential density within the planned unit development overlay district will be consistent with and not exceed the density of development permitted in the underlying basic use district. When the underlying basic use district includes more than one residential district, the density for the land occupied by each district shall be calculated and the final maximum density for the planned unit development shall be the sum total of the number of units calculated for each district. Such final maximum density may be increased by not more than ten percent as an incentive when, in the opinion of the plan commission, the development proposal is of such character and quality that an increase is justified.

c. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.

d. Adequate, continuing fire and police protection is available.

e. The population composition of the development will not have an adverse effect upon the city's capacity to provide needed school or other municipal service facilities.

f. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.

g. In the case of private reservation, the open area to be reserved shall be protected against building development by conveying to the city, as part of the conditions for project approval, an open space easement restricting such areas against any future building or use except as is consistent with that of providing natural or landscaped open space contributing to the environmental enhancement of the development. Buildings or uses for noncommercial recreational or cultural purposes compatible with the open space may be permitted upon approval by the common council.

h. The city shall have the right to carry out any maintenance in privately reserved open space which it feels necessary, if it is not otherwise taken care of to the satisfaction of the city. The costs of such maintenance may be recouped by the city in the form of an assessment against each property in the planned unit development. The manner of assuring maintenance and assessing such cost to the individual properties shall be determined prior to final plan approval and shall be included in the title to each property.

i. Ownership and tax liability of private open space reservation areas shall be established in a manner acceptable to the city and made a part of the conditions of plan approval.

(8) That in the case of a proposed business planned unit development overlay district:

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

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

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

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

(9) That in the case of a proposed industrial planned unit development overlay district:

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

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

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

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

(10) That in the case of a mixed use planned unit development overlay district:

a. The proposed mixture of uses produces a unified composite which is compatible within the underlying districts and which as a total development entity is compatible with the surrounding neighborhood.

b. The various types of uses conform to the general requirements of this chapter, applicable to projects of such use and character.

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

(11) That in the case of a planned unit development in the Lakeside Commons Overlay District:

a. A mix of at least three uses shall be required, including retail, office, other business, civic, and high density attached residential uses.

b. The development shall be pedestrian and transit oriented.

c. The development shall include conditions, covenants and restrictions that establish architectural, site design and landscaping standards that fully comply with the design requirements of the Lakeside Commons Overlay District.

d. The development shall serve to implement the goals, objectives, policies, and recommendations of the city's comprehensive plan.

(Code 2004, § 17.0344(F); Ord. No. 2119, 11-16-2004; Ord. No. 2267, 6-17-2008)

Sec. 44-757. Determination.

The common council, after due consideration, may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions and restrictions. The approval of a planned unit development overlay district shall be based upon and include as conditions thereto the building, site, and operational plans for the development as approved by the common council.

(Code 2004, § 17.0344(G); Ord. No. 2119, 11-16-2004; Ord. No. 2267, 6-17-2008)

Sec. 44-758. Changes and additions.

(a) Any subsequent change or addition to the plans or uses shall first be submitted for approval to the city plan commission. If, in the opinion of the city plan commission, such change or addition constitutes a substantial alteration of the original plan, a public hearing before the city plan commission shall be required and notice thereof shall be given, and the proposed alterations shall be submitted to the common council for approval.

(b) Without limitation as to the common council's right to determine what constitutes a substantial change, a change from that shown in the approved plan in any of the following respects may be construed to be substantial:

(1) An increase or decrease in the number of dwelling units.

(2) A significant change in the size, value, or type of structure.

(3) The addition of any principal uses not previously shown.

(4) A change in the site plan that would significantly alter the relationship of uses or open spaces to adjoining properties.

(c) When, in the opinion of the common council, an approved planned unit development does not comply with the conditions and regulations herein set forth and as made specifically applicable to such development, the appropriate responsible party shall be given 15 days' notice to appear before the plan commission to answer such charge of noncompliance. If the plan commission finds the charge substantiated and does not receive adequate assurance that the situation will be corrected within a reasonable time, as determined by the plan commission, it shall then recommend to the common council appropriate action to secure compliance or to revoke the approval of the development plan. Upon such revocation, no further building permits or occupancy permits shall be issued within the development until approval has been reinstated in whole or in part. In the case of failure to resolve the problem or to complete the development for any reason, the common council may require revision of the development plan to whatever degree is deemed necessary to bring the plan into compliance, with due consideration of the intent of the original plan and any impacts on the surrounding neighborhood.
(Code 2004, § 17.0344(H); Ord. No. 2119, 11-16-2004; Ord. No. 2267, 6-17-2008)

Secs. 44-759—44-784. Reserved.

DIVISION 24. LKC LAKESIDE COMMONS OVERLAY DISTRICT

Sec. 44-785. Intent.

(a) This district is intended to implement the urban design recommendations of the city's comprehensive plan by preserving and enhancing the historic quality of the Lakeside Commons Overlay District, and by attaining a consistent, visually pleasing image for the district. This overlay district is designed to forward both aesthetic and economic objectives of the city by controlling the site design and appearance of development within the district in a manner which is consistent with sound land use, urban design, and economic revitalization principles. The application of these standards will ensure the long-term progress and broad participation toward these principles.

(b) In addition to the objectives of the city's comprehensive plan, the city design guidelines manual shall also be used as a guide for the implementation of the provisions in this district.
(Code 2004, § 17.0345(intro.); Ord. No. 2356, 1-4-2011)

Sec. 44-786. Principal uses.

Principal uses shall be those permitted in the underlying zoning district, with the exception of those uses listed in section 44-787, which may be permitted as conditional uses, and section 44-788, which shall be prohibited in the Lakeside Commons Overlay District.
(Code 2004, § 17.0345(A); Ord. No. 2356, 1-4-2011)

Sec. 44-787. Conditional uses.

Permitted conditional uses shall be those conditional uses permitted in the underlying zoning district, with the following additional conditional uses:

(1) Public and private parking lots and parking structures.

(2) Bus terminals.

(3) Drive-through uses.

(4) Any proposed building of 15,000 square feet or more.

(5) Rental or owner-occupied efficiency, one- and two-bedroom dwelling units located on ground level provided that there shall be a minimum floor area of 300 square feet for an efficiency apartment, 450 square feet for a one-bedroom apartment, and 600 square feet for a two-bedroom apartment.

(Code 2004, § 17.0345(B); Ord. No. 2356, 1-4-2011)

Sec. 44-788. Prohibited uses.

The following uses shall be prohibited in the LKC Lakeside Commons Overlay District:

(1) Automobile service and repair stations.

(2) Auto dealerships for new or used vehicles.

(3) Car washes.

(4) Delivery depots.

(5) Dog training facilities.

(6) Outdoor storage in business districts.

(7) Miniwarehouses.

(8) Vehicle rental establishments, including, but not limited to, moving trailers, trucks, and cars.

(9) Truck terminals.

(10) Roominghouses.

(Code 2004, § 17.0345(C); Ord. No. 2356, 1-4-2011)

Sec. 44-789. Definitions specific to the Lakeside Commons Overlay District.

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

Architrave means the molding around a door or window.

Cornice means the topmost projecting portion of the entablature, or top portion of a building. This term also refers to any "crowning" projection of a building.

Header means a brick laid so that only the end appears on the face of a wall, as opposed to a stretcher, which is a brick laid so that only the side appears.

Kick plate means a horizontal area on the facade of a building located between the sidewalk/entrance pavement and the lowest storefront windows.

Sign band means a horizontal area on the facade of a building between the transom and the cornice, which is typically opaque and provides a location for signage indicating the name of the establishment.

Sill means a horizontal, lower member or bottom of a door or window casing.

Transom means a horizontal bar of stone, wood or glass across the opening of a door or window.
(Code 2004, § 17.0345(D); Ord. No. 2356, 1-4-2011)

Sec. 44-790. Powers and duties of the building inspector, design review board, and plan commission.

All applications within are subject to one of the following two processes, as determined by the building inspector:

(1) *Design review*. Those applications involving only a change in the appearance of a property, such as painting, roofing, siding, substitution of architectural components, fencing, paving, or signage are subject to review by the building inspector and the design review board. The building inspector shall serve as the liaison between the applicant and the design review board, in facilitating the thorough and expedient review of an application, and shall ensure that the technical and procedural requirements of this chapter are met. The design review board shall serve as the final review and determining body in these matters, and shall focus its review on whether the application complies with sound aesthetic, urban design, historic, and architectural practices pursuant to the procedures outlined in section 44-792. This effort shall be guided, in part, by the city's comprehensive plan and the city design guidelines manual.

(2) *Project review*. Those applications involving modification to the physical configuration of a property, such as grading, erection of a new building, demolition of an existing building, or the addition or removal of bulk to an existing building, are subject to review by the building inspector, the design review board, and the city plan commission. The building inspector shall serve as the liaison between the applicant, the design review board, and the plan commission in facilitating the thorough and expedient review of an application, and shall ensure that the technical and procedural requirements of this chapter are met. The plan commission shall serve as the initial and final

discretionary review body on site design, and shall focus its review on the application's compliance with sound land use, site design, and economic revitalization practices. The design review board shall serve as the initial and final review and determining body on aesthetics, and shall focus its review on the application's compliance with sound aesthetic, urban design, historic, and architectural practices pursuant to the procedures outlined in section 44-793. The efforts of both the plan commission and the design review board shall be guided, in part, by the city's comprehensive plan and the design guidelines manual.

(Code 2004, § 17.0345(E); Ord. No. 2356, 1-4-2011)

Sec. 44-791. Procedures for design review.

(a) *Design review*. Proposals shall follow the procedures for site plan review as set forth in section 44-1262, except that, wherever the term "plan commission" appears, the term "design review board" shall be substituted. The regulations of section 44-790(1) shall also apply.

(b) *Application requirements*. In addition to the application requirements for site plan review, all applications for city design review shall be made to the building inspector and shall be accompanied by the building permit application and all of the following:

(1) A clear depiction of the existing appearance of the property. Color photographs are recommended for this purpose. Scaled and dimensioned drawings of existing components such as windows, doors, railings, fencing, or other site components, and/or detailed building elevations which are proposed for alteration or replacement may be required by the building inspector.

(2) A clear depiction of the proposed appearance of the property. Paint charts, promotional brochures, and/or color photographs of replacement architectural components are recommended for this purpose. Scaled and dimensioned drawing of proposed components such as windows, doors, railings, fencing, or other site components, and/or detailed building elevations which are proposed for alteration or replacement may be required by the building inspector.

(3) A written description of the proposed modification, including a complete listing of proposed components, materials, and colors.

(4) Written justification for the proposed alteration, consisting of the reasons why the applicant believes the requested alteration is in harmony with the recommendations of the comprehensive plan and the city design guidelines manual, and the requirements of this chapter.

(Code 2004, § 17.0345(F); Ord. No. 2356, 1-4-2011)

Sec. 44-792. Procedures for project review.

(a) *Project review proposals*. Proposals requiring project review shall follow the procedures as set forth in subsection 44-790(2).

(b) *Application requirements*. All applications for project review shall be made to the building inspector and shall be accompanied by the building permit application and all of the following:

(1) A clear depiction of the existing appearance of the property. Color photographs are recommended for this purpose. Scaled and dimensioned drawings of existing components such as windows, doors, railings, fencing, or other site components, and/or detailed building elevations which are proposed for alteration or replacement may be required by the building inspector.

(2) A clear depiction of the proposed appearance of the property. Paint charts, promotional brochures, and/or color photographs of replacement architectural components are recommended for this purpose. Scaled and dimensioned drawings of proposed components such as windows, doors, railings, fencing, or other site components, and/or detailed building elevations which are proposed for alteration or replacement may be required by the building inspector.

(3) For all projects involving a new building, or an addition exceeding 100 square feet of gross floor area, a detailed site plan which provides the following information:

a. A title block which indicates the name and address of the current property owner, developer, and project consultants;

b. The date of the original plan and the latest date of revision to the plan;

c. A north arrow and a graphic scale. Such scale shall not be smaller than one inch equals 100 feet;

d. All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;

e. All existing and proposed easement lines and dimensions with a key provided and explained on the plan as to ownership and purpose;

f. All existing and proposed buildings, structures, and paved areas, including walks, drives, decks, patios, fences, utility poles, drainage facilities and walls;

g. All required building setback lines;

h. A legal description of the subject property;

i. The location, type, and size of all signs;

j. The location, type, and orientation of all exterior lighting;

k. The location of all access points, parking and loading areas, including a summary of the number of parking stalls and labels indicating the dimensions of such areas;

l. The location and type of any permanently protected green space areas;

m. The location of existing and proposed drainage facilities;

n. In the legend, the following data for the subject property:

1. Lot area;
2. Floor area;
3. Impervious surface area;
4. Impervious surface ratio;
5. Building height;

o. A detailed landscaping plan, at the same scale as the main plan, showing the location, species and size of all proposed plant materials;

p. A written description of the proposed project, including a complete listing of proposed components, materials and colors; and

q. Written justification for the proposed project, consisting of the reasons why the applicant believes the requested alteration is in harmony with the recommendations of the comprehensive plan and the design guidelines manual.

(Code 2004, § 17.0345(G); Ord. No. 2356, 1-4-2011)

Sec. 44-793. Additional recommendations permitted under the design review process.

(a) The building inspector is hereby authorized to make recommendations for, or require modifications to proposed applications for design review or project review.

(b) The design review board is hereby authorized to make recommendations for, or require modifications to, a proposed application for aesthetic aspects for design review and project review.

(c) The plan commission is hereby authorized to make recommendations for, or require modifications to, a proposed application for site design aspects for project review.

(Code 2004, § 17.0345(H); Ord. No. 2356, 1-4-2011)

Sec. 44-794. Appeals.

Appeals from the decision of the building inspector, the design review board and plan commission may be made to the board of zoning appeals.

(Code 2004, § 17.0345(I); Ord. No. 2356, 1-4-2011)

Secs. 44-795—44-811. Reserved.

DIVISION 25. SOB SEXUALLY ORIENTED BUSINESS OVERLAY DISTRICT (RESERVED)

Secs. 44-812—44-842. Reserved.

ARTICLE III. TRAFFIC, LOADING, PARKING AND ACCESS

Sec. 44-843. Traffic visibility.

(a) No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of 2.5 feet and ten feet above the plane through the mean curb grades within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of 15 feet from their intersection. These restrictions may be modified in the B-3 Central Business District on a case-by-case basis, when, in the opinion of the plan commission, such modifications would further the objectives of the district.

(b) In the case of arterial streets intersecting with other intersecting streets or railways, the corner cutoff distances establishing the vision triangle clearance space shall be increased to 50 feet.

(Code 2004, § 17.0401)

Sec. 44-844. Loading requirements.

On every lot on which a business, trade or industrial use is hereafter established, space with access to a public street or alley shall be provided as specified below for the loading and unloading of vehicles off the public right-of-way:

(1) *Number of loading and unloading spaces required.*

Gross Floor Area of Building in Square Feet	*Number of Spaces*
5,000—24,999	1
25,000—49,999	2
50,000—99,999	3
100,000—174,999	4
175,000—249,999	5

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

(2) *Access to public streets.* Each loading and unloading space shall have access to a public dedicated street or alley.

(3) *Minimum area.* The minimum area for each loading and unloading space, excluding the area needed to maneuver, shall be 250 square feet.

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

(Code 2004, § 17.0402)

Sec. 44-845. Parking requirements.

In all districts and in connection with every use, there shall be provided at the time any use is erected, enlarged, extended, or increased, off-street parking accommodation for all vehicles in accordance with the following:

(1) *Adequate access to public street.* Adequate access to a public street shall be provided for each parking space, and driveways shall be at least ten feet wide for one- and two-family dwellings, and a minimum of 24 feet at the property line for all other uses.

(2) *Minimum dimensions.* Minimum dimensions of each parking space shall be nine feet by 18 feet, except for spaces provided for use by physically disabled persons.

(3) *Parking spaces for use by physically disabled persons.* All off-street parking areas open to the public providing more than 25 parking spaces, except for parking areas restricted to use by employees only, shall provide parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the requirements of Wis. Stats. §§ 346.50, 346.503, and 346.505.

(4) *Location of parking spaces.* Location of parking spaces is to be on the same lot as the principal use or not more than 400 feet from the principal use. No parking space or driveway, except in residential districts, shall be closer than 25 feet to a residential lot line or a street right-of-way opposite a residential district.

(5) *Surfacing.* All off-street areas used for vehicular parking, movement or storage shall be surfaced with asphalt, Portland cement, or paver brick designed for such use in accordance with city standards and specifications so as to provide a durable and dust free surface, and shall be so graded and drained as to dispose of all surface water. Any parking area for more than five vehicles shall have the aisles and spaces clearly marked and delineated. An area used for vehicular parking, movement or storage not in compliance with the surfacing requirement prior to original adoption of this provision shall be required to conform upon a material modification, alteration, addition or enlargement of the use or improvements upon the subject lot.

(6) *Landscape islands.* All off-street parking areas which serve 30 vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this chapter shall be provided with landscape islands or peninsulas within the parking lot totaling not less than five percent of the surfaced area. The minimum size of each landscape island shall be 170 square feet. Landscape islands and peninsulas shall consist of shrubs, trees, flowers, and similar plantings. Location of landscape areas, type and size of plant

materials, protection affording the plantings, including curbing and provision for maintenance shall be subject to approval by the city plan commission landscape islands shall be disbursed throughout the off-street parking area. Islands and peninsulas should be located at the ends of parking rows and aisles, around light poles, signs, existing trees, hydrants and along entryways. Landscape islands and peninsulas should also be used to break up long aisles of parking. Any island or peninsula that is less than 170 square feet in area shall not be counted toward the five percent required landscaping. All plans for such proposed parking areas shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscaped area.

(7) *Parking lot screening.*

a. All parking areas, except in the agricultural/holding district, and the single-family and two-family residential districts, adjoining a residential use on an abutting property or public right-of-way shall be screened from such use by an earth berm, a solid wall, fence, evergreen planting of equivalent visual density or other effective means. Such fence or berm and landscaping together shall be a minimum of 18 inches in height and an average of three feet in height at the time of planting between a parking lot and a street right-of-way. Fences and berms between the parking lot and any other abutting residential property line shall be a minimum of six feet in height. The plan commission may require greater screening requirements for parking of large trucks, semi-trailers, large equipment, and for screening overhead doors, and truck loading areas and docks.

b. All fencing shall be placed on the property or properties being screened and shall not project into a public right-of-way, shall not obstruct the vision clearance triangle, and shall not extend over side or rear property lines. Planted fences shall be located away from the property line in locations where natural growth will not extend beyond the property lines, or the plantings shall be maintained at these lines.

(8) *Curbs or barriers.* Curbs or barriers shall be installed at least four feet from a property line so as to prevent parked vehicles from extending over any lot line.

(9) *Minimum number of parking spaces required.* In the case of structures or uses not specified herein, the number of spaces specified as the general standard for the use class or the number of spaces specified for similar use shall apply. In developments involving the establishment or addition of two or more uses on one lot or parcel, the cumulative number of spaces required for each use shall determine the total number of spaces required.

a. *Residential uses.*

1. *Single-family and two-family dwellings:* two spaces per dwelling unit.

2. *Multistory family dwellings:* one space per dwelling unit, plus 0.1 space per dwelling unit for guest parking. Where lot constraints cannot accommodate the required number of surface parking spaces, stalls in parking areas integral to the building design shall be provided to meet this requirement. The city plan commission may consider the availability of street parking or public parking lots in satisfying the guest parking requirement.

3. *Mobile homes and manufactured homes:* two spaces per dwelling unit.

4. *Housing for the elderly:* one space per dwelling unit, plus 0.1 space per dwelling unit for guest parking.

b. *Retail sales and customer service uses, and places of entertainment*.

1. *Animal hospitals:* one space per 150 square feet plus one space per employee for the work shift with the largest number of employees.

2. *Auto body repair, motor vehicle repair, maintenance, and service stations:* three spaces per indoor service bay plus one space per employee for the shift with the largest number of employees.

3. *Barber and beauty shops:* one space per 150 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees.

4. *Bed and breakfast establishments:* one space per bedroom.

5. *Convenience grocery stores:* one space per 50 square feet of floor area.

6. *Drive-through facilities:* four stacking spaces per drive-through service lane for a financial institution; four spaces per drive-through service lane for a drive-through restaurant; seven spaces per drive-through service lane for a full-service car wash; and two spaces per service bay for a self-service car wash. Drive-through facility parking requirements for uses not listed shall be determined by demonstrated need.

7. *Financial institutions:* one space per 150 square feet of customer floor area, plus one space per employee for the work shift with the largest number of employees.

8. *Fitness center:* one space per 100 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees.

9. *Funeral homes:* one space per four patron seats of maximum capacity, or 35 spaces per chapel unit, whichever is greater.

10. *Grocery stores or supermarkets:* one space per 150 square feet of gross floor area of customer sales and service, plus one space per employee for the work shift with the largest number of employees.

11. *Hotels and motels:* one space per room or suite, plus one space per every two employees for the work shift with the largest number of employees, plus one space per three persons of maximum capacity of each public meeting and/or banquet room.
12. *Lodges and clubs:* one space per two persons based on the maximum capacity of the facility.
13. *Motor vehicle sales establishments:* two customer-parking spaces per salesperson, plus one employee parking space per employee (including salespersons) for the work shift with the largest number of employees.
14. *Plant nurseries and garden and lawn supply sales establishments:* one space per 150 square feet of gross floor area of inside sales or display, plus one space per 500 square feet of gross outside sales or display area, plus one space per employee for the work shift with the largest number of employees.
15. *Repair services, other than auto repair:* one space per 300 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees.
16. *Restaurant, standard:* one space per 100 square feet of gross floor area, or one per two seats at maximum capacity, whichever is greater, plus one space per employee per for the work shift with the largest number of employees.
17. *Restaurant, drive in:* one space per 50 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees. No fewer than 50 parking spaces shall be provided at a drive-in restaurant.
18. *Restaurant, pick up:* restaurants with little or no seating capacity, such as takeout sandwich shop or pizza parlor, shall provide one space per 50 square feet of service area, plus one space per employee with the largest number of employees. No fewer than eight parking spaces shall be provided at a pick-up restaurant.
19. *Taverns, dance halls, night clubs, and lounges:* one space per 50 square feet of gross floor area, plus one space per employee with the work shift with the largest number of employees.
20. *Theaters, auditoriums, and other places of public assembly:* one space per two patrons based on the maximum capacity of the facility.
21. *Shopping centers (gross leasable area of at least 50,000 square feet):* 5.5 spaces per 1,000 square feet of gross leasable area.

c. *Office uses*.

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

2. *Government, professional and business offices:* one space per 250 square feet of gross floor area, plus one space per employee for the work shift with the largest number of employees.

d. *Commercial/recreational uses*.

1. *General standard:* one space per four patrons based on the maximum capacity of the facility, plus one space per employee for the work shift with the largest number or employees.

2. *Bowling alleys:* five spaces for each lane, plus one space per employee for the work shift with the largest number of employees.

3. *Golf courses:* 90 spaces per nine holes, plus one space per employee for the work shift with the largest number of employees.

4. *Golf driving ranges:* one space per tee, plus one space per employee for the work shift with the largest number of employees.

5. *Miniature golf course:* 1.5 spaces per hole, plus one space per employee for the work shift with the largest number of employees.

6. *Indoor tennis, racquetball and handball courts:* three spaces per court, plus one space per employee for the work shift with the largest number of employees.

7. *Skating rinks, ice or roller:* one space per 200 square feet of gross floor area.

8. *Volleyball courts:* 15 spaces per court plus one space per employee for the work shift with the largest number of employees.

e. *Industrial and related uses*.

1. *Manufacturing, processing, and fabrication operations:* one space per employee for the work shift with the largest number of employees.

2. *Wholesale business:* one space per employee for the work shift with the largest number of employees, plus one space per 2,500 square feet of gross floor area.

3. *Warehousing:* one space per employee for the work shift with the largest number of employees, plus one space per 5,000 square feet of gross floor area.

4. *Miniwarehousing:* one space per ten storage cubicles, plus one space per employee for the work shift with the largest number of employees.

f. *Institutional and related uses*.

1. *Churches:* one space per three seats based on the maximum capacity of the facility.

2. *Libraries:* one space per 250 square feet of gross floor area or one space per four seats based on maximum capacity, whichever is greater, plus one space per employee for the work shift with the greatest number of employees.
3. *Museums:* one space per 250 square feet of gross floor area, plus one space per employee for the work shift with the greatest number of employees.
4. *Fraternity and sorority houses, dormitories and rectories:* one space per bed.
5. *Convents and monasteries:* one space per three residents, plus one space per employee for the work shift with the largest number of employees, plus one space per five chapel seats if the public may attend.
6. *Nursing homes:* one space per three patient beds, plus one space per employee for the work shift with the largest number of employees.
7. *Hospitals:* two spaces per three patient beds, plus one space per staff doctor, plus one space per employee, excluding doctors, for the work shift with the largest number of employees.
8. *Schools:*
   (i) *Elementary schools, middle schools, and high schools:* one space for each teacher and staff member, plus one space for each five students 16 years of age or older.
   (ii) *Colleges, universities and trade schools:* one space for each teacher and staff member, plus one space for each two students during the highest attendance period.
   (iii) *Children's nursery schools and commercial child care centers:* one space per employee for the work shift with the greatest number of employees, plus one space per six students at the highest class attendance period.

(Code 2004, § 17.0403)

Sec. 44-846. Adjustments to required parking.

(a) *Purpose.* The purpose of this section is to allow adjustments to the minimum number of parking spaces required to avoid constructing unneeded and excessive off-street parking facilities. Reducing the amount of excess off-street parking facilities is intended to provide for more cost-efficient site development, to eliminate constructing more impervious surface than necessary, to minimize stormwater runoff, to avoid construction of unnecessarily large stormwater management facilities, and to provide more landscape areas and open space on business and industrial sites. To achieve these purposes, the plan commission may reduce the minimum number of required off-street parking spaces in specific cases as described in this section.

(b) *Adjustments.* In all business and industrial districts, and in the Lakeside Commons Overlay District, the minimum number of required parking spaces may be adjusted by the plan commission on a case-by-case basis. The petitioner for such an adjustment shall show to the

satisfaction of the plan commission that adequate parking will be provided for customers, clients, visitors, and employees. The following provisions and factors shall be used as a basis to adjust parking requirements:

(1) *Evidence that actual parking demands will be less than code requirements*. The petitioner shall submit written documentation to the satisfaction of the plan commission that the operation will require less parking than this Code requires.

(2) *Availability of shared or off-site parking*. The petitioner shall submit written documentation to the satisfaction of the plan commission that shared or off-site shared parking spaces are available to satisfy the parking demand.

a. Shared parking agreements shall provide evidence that either parking lots are large enough to accommodate multiple users are that parking spaces will be shared at certain times of the day (i.e., one activity uses the spaces during daytime hours and another activity uses the spaces during evening hours).

b. Off-site parking lots may account for not less than 50 percent of an activities required parking and shall be located not more than 300 feet from the principal use that it is intended to preserve.

(3) *Request for reduction of parking spaces.* When a reduction of parking spaces attributable to shared parking or off-site parking is requested, the petitioner shall submit written verification that such parking is available and shall include copies of any contracts, joint lease agreements, purchase agreements, and other such documentation to show that such shared parking can be accomplished. The city attorney shall provide an opinion designating the method by which the required shared parking shall be provided. Off-site shared parking spaces shall be clearly posted for the joint use of employees, and/or tenants, or customers of each respective use sharing those spaces.

(4) *Use of alternative transportation*. Upon demonstration to the plan commission that effective alternative transportation to the automobile will occur, the plan commission may reduce parking requirements. Alternative transportation may include, but is not limited to, bus transit, van pool operations, car pool/ride sharing, commuter rail, light rail, and bicycles. Parking management plans/operations may also be used as a basis to reduce required parking. Parking management plans may include, but are not limited to, flexible working hours or shifts, preferential parking for car pools/van pools, transit/van pool fare subsidy, imposition of a charge for parking, and establishment of a transportation coordinator position to implement car pool, van pool, and transit programs. Proposals for adjustments of parking requirements under this section shall show how the alternative transportation modes will be implemented, the permanency of such modes, extent of the program, the number of vehicles the mode will replace, and other pertinent information.

(c) *Space to be set aside for reduced parking.* The site plan for the business or industrial use shall be designed to provide sufficient open space on the subject site to accommodate the additional parking spaces otherwise required by this chapter. Such open space will be in addition to required yards, setbacks, driveways, private streets, loading and service areas. Sufficient open space shall be provided which, if converted to parking spaces, would provide off-street parking to meet the full requirements of this chapter at the time of application.

(d) *Changes in occupancy or use.* When the use of a building, structure, or land is changed to another use or occupant that requires more parking spaces than required for the use existing immediately prior to such change, parking areas shall be modified or reconstructed for the new use or occupant in a manner or design so as to conform to the requirements of this chapter.

(e) *Changes in intensity of use.* When the intensity of use of a building, structure or land is increased by an addition of employees, gross floor area, seating capacity, or other unit of measurement, parking areas shall be modified or reconstructed for such additions in a manner or design so as to conform to the requirements of this chapter.

(f) *Elimination of nonconforming aspects.* The complete or substantial reconstruction of required public use parking areas under this chapter shall eliminate to the extent practical and economically feasible, all nonconforming aspects of the previous design or layout and shall incorporate ADA accessibility amenities as required by state and federal law.
(Code 2004, § 17.0404)

Sec. 44-847. Driveways.

All driveways installed, altered, changed, replaced, or extended after the effective date of this chapter shall conform to the requirements of this chapter and the following:

(1) Openings for vehicular ingress and egress shall not exceed 24 feet at the street right-of-way and 30 feet at the curb line. This maximum may be modified for driveways serving industrial uses, when a need for such modification exists, as determined by the plan commission.

(2) Residential driveways in the RS-1, RS-2, RS-3, RD-1, and RD-2 districts shall be limited to one curb cut per street frontage.

(3) Vehicular entrances and exits to drive-in theaters, banks, restaurants, motels, funeral homes, vehicular sales, service stations, or washing and repair stations or garages shall be located not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.

(4) Prior to occupying any building, a concrete driveway approach shall be installed to permit access from the city street right-of-way. An extension may be granted by the public works director due to seasonal conditions that would prevent proper installation.

(Code 2004, § 17.0405; Ord. No. 2219, 9-16-2006)

Sec. 44-848. Highway access.

No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission from the highway agency that has access control jurisdiction. In addition, direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

(1) Driveways on arterial streets shall be located a minimum of 100 feet from a street intersection unless the lot width is less than 100 feet in which case the plan commission shall determine the driveway location. The setback shall be measured from the intersection of the rights-of-way on the two streets.

(2) Driveways on collector or land access streets shall be located a minimum of 50 feet from a street intersection. The setback shall be measured from the intersection of the rights-of-way on the two streets. For driveways serving industrial uses, these regulations may be modified when the need exists, as determined by the plan commission.

(3) Residential driveways on corner lots shall be located on the street with the lowest functional classification. For example, when a lot is located on an intersection between an arterial and a land access street, the driveway shall be located on the land access street.

(4) Access barriers, fencing, ditching, landscaping, or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress and egress to the above specified streets or highways.

(5) Temporary access to the above rights-of-way may be granted by the common council after review and recommendation by the plan commission and the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required.

(Code 2004, § 17.0406)

Sec. 44-849. Truck parking limited in residential districts.

Parking of vehicles in residential districts shall be limited to those vehicles actually used by the resident for personal use, or temporary parking for guests. Vehicles not in keeping with residential character shall not be permitted.

(1) In all residential districts, regular, permanent, or repetitive commercial vehicle parking use is prohibited. Vehicles not in keeping with residential character of the districts

include, but are not limited to semi-tractors, cube vans, panel trucks, buses, work vehicles with ladder/tool/supply racks, trucks or other vehicles hitched with non-recreational trailers, and any vehicles with advertising or commercial signage.

(2) Exceptions apply to short term parking of delivery vehicles making deliveries, contractor vehicles performing work at a specific residential job site, taxis or medi-vans picking up or delivering customers, and emergency or city service vehicles, only.

(3) A vehicle actually used by a resident for an employment related purpose may be kept on premises if completed enclosed in an approved accessory structure or parked on an improved parking surface in the rear yard not less than three feet from side and rear lot lines. Such parking area shall not exceed the lot coverage restrictions of this chapter.

(Code 2004, § 17.0407)

Sec. 44-850. Outside storage of junked vehicles or equipment prohibited.

In all districts, no abandoned, dismantled, unlicensed, inoperative, wrecked, or junked vehicle or equipment, or parts thereof, or a vehicle or equipment under repair or awaiting parts, shall be parked or stored for a period to exceed 30 days unless the vehicle is within a fully enclosed structure. For the purpose of this section, the term "vehicle" includes, but is not limited to, automobile, motor cycle, trail bike, all terrain vehicle, boat, sport aircraft, trailer, travel trailer, motor home, recreational vehicle, snowmobile, or parts thereof. For the purpose of this section, the term "equipment" includes, but is not limited to, agricultural implements, construction equipment, snowplow blades, generators, compressors, lawn and garden equipment, recreational equipment, or parts thereof. Any outside parking or storage of vehicles or equipment not prohibited by this chapter shall be kept on an improved surface comprised of paver brick, asphalt or Portland cement.

(Code 2004, § 17.0408)

Sec. 44-851. Parking and storage of recreational vehicles and equipment.

(a) Recreational vehicle or equipment, for the purposes of this chapter, shall include boats, boats with trailers, motor homes, motor coaches, pickup campers, camping trailers, travel trailers, fifth-wheel trailers, large utility trailers, race cars and their trailers, snowmobiles and their trailers, sport aircraft and their trailers, canoes or kayaks and their trailers, tent campers, folding campers, utility trailers, carnival equipment and their trailers, and cases or boxes used to transport recreational vehicles or their equipment, and similar equipment and vehicles.

(b) Outside parking of recreational vehicles and equipment are subject to the following provisions:

(1) No more than two recreational vehicles may be stored outside a fully enclosed structure in the rear yard if kept and entirely on an improved surface comprised of paver brick, asphalt or Portland cement and maintained to city property maintenance standards

(2) No recreational vehicle may be stored in a front or side yard.

(3) A recreational vehicle shall be located not closer than three feet to a side or rear lot line.

(4) The recreational vehicle shall be maintained and be in good condition and safe for effective performance for the function in which it was intended. The exterior of the vehicle shall be intact.

(5) Recreational vehicles shall be roadworthy or readily transportable. Vehicles that require a license shall be properly licensed.

(6) No recreational vehicles or equipment shall be stored in any open space outside a building unless such equipment is wholly owned by the property owner who shall be in residence at the property in question. If the property is rented, such storage shall be permitted to the tenant only provided that such equipment is owned by the tenant.

(7) All equipment shall be parked or stored as inconspicuously as possible on the property. The area around the equipment or vehicle must be kept weed free and free of accumulation of other storage material.

(8) All parking of recreational vehicles or equipment shall be located on an improved surface comprised of paver brick, asphalt or Portland cement.

(Code 2004, § 17.0409)

Secs. 44-852—44-880. Reserved.

ARTICLE IV. MODIFICATIONS

Sec. 44-881. Authority of building inspector to grant.

The city building inspector, in reviewing building permits, may grant modifications according to the terms of this chapter as provided in this article.

(Code 2004, § 17.0501)

Sec. 44-882. Height.

The district height limitations stipulated elsewhere in this chapter may be exceeded, but such modification shall be in accord with the provisions listed below and compatible with the general character of the district. Any modifications shall comply with the limitations set forth on the airport zoning map for General Mitchell International Airport.

(1) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues, and chimneys, are exempt from the height limitations of this chapter.

(2) Special structures, such as elevator penthouses, grain elevators, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this chapter.

(3) Essential services, utilities, water towers, and electric power and communication transmission lines are exempt from the height limitations of this chapter.

(4) Communication structures, such as radio and television transmission and relay towers, radio and television receiving antennas, satellite dish antennas when mounted on the roof of a principal structure, and observation towers, shall not exceed in height three times their distance from the nearest lot line, up to a maximum of 50 feet in residential districts, with the exception of government owned communications structures.

(5) Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, and governmental offices and stations, may be erected to a height of 80 feet.

(Code 2004, § 17.0502)

Sec. 44-883. Yards.

(a) Yard requirements stipulated elsewhere in this chapter may be modified as follows:

(1) Uncovered stairs, landings, and fire escapes may project into any yard but shall not extend more than six feet from the building to which they are attached nor be closer than three feet to any lot line.

(2) Architectural projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard, but such projection shall not exceed two feet.

(b) Off-street parking is permitted in all yards of all districts provided that business and industrial parking shall not be located closer than 25 feet to a residential district.

(c) Landscaping and vegetation are exempt from the yard requirements of this chapter, provided that such landscaping and vegetation shall not interfere with the vision clearance triangle as set forth in section 44-843.

(d) Required front yard plantings. In all residential districts, the area between the front of a home or other building and the front parkway shall consist of no less than 50 percent grass, with the exception of shrubs and other plant materials. Yards not in conformance with this requirement as of September 5, 2000, shall be exempt from these requirements until otherwise materially altered, at which time compliance shall be required.

(e) All yard areas in all districts not improved or surfaced by an approved building or material, or otherwise subject to an approved landscaping plan, shall be put into lawn and managed according to city property maintenance standards. Existing topography and natural vegetation of unimproved floodplain, conservancy and public open and recreational spaces shall be preserved where possible in the absence of an approved landscape plan. Rank, nuisance or invasive vegetation shall be maintained or removed in accordance with city property maintenance standards.

(Code 2004, § 17.0503)

Sec. 44-884. Compliance with the Americans with Disabilities Act.

Modifications to requirements of this chapter may be granted by the city plan commission for the purpose of complying with the requirements of Title II Public Services and Title III Public Accommodations and Commercial Facilities of the federal Americans with Disabilities Act, 42 USC 12101 et seq. Such compliance may require the waiving or modifications to setback and yard requirements, parking requirements, sign requirements and site design and landscaping requirements. Modifications granted by the plan commission shall be limited to the minimum extent necessary to make structures and uses accessible and barrier free.
(Code 2004, § 17.0505)

Secs. 44-885—44-901. Reserved.

ARTICLE V. ACCESSORY USES

Sec. 44-902. Applicability and general requirement.

Accessory uses are permitted in any district as may be specified in the appropriate district regulations or herein. An accessory use building permit shall be required where specifically noted in this article. Accessory uses are permitted only after their principal structure is present or under construction. The use and/or location requirements stipulated elsewhere in this chapter may be modified for accessory uses as outlined in this article.
(Code 2004, § 17.0504(intro.); Ord. No. 2053, 2-4-2003; Ord. No. 2219, 9-16-2006; Ord. No. 2267, 6-17-2008; Ord. No. 2347, 9-7-2010)

Sec. 44-903. Accessory uses and detached accessory structures.

Accessory uses and detached accessory structures shall be permitted in the rear yard only, unless otherwise specified. Accessory structures shall not occupy more than 50 percent of the rear yard in business and manufacturing districts, and no more than 20 percent in all other districts, except that subsection (1)(d) below shall regulate accessory structure size in the RS-1, RS-2, RS-3, RD-1 and RD-2 Districts. When permitted in the side or front yard, accessory structures shall not occupy more than ten percent of the yard area.

(1) Accessory buildings, such as detached garages, carports, utility sheds or gazebos may be permitted upon the issuance of a building permit. No more than one accessory building of each type per parcel shall be allowed. In an RS-1, RS-2, RS-3, RD-1, or RD-2, no more than two accessory buildings shall be erected on a parcel. If an attached garage is proposed or currently exists, a detached garage is not permitted unless used in conjunction with a two-family [dwelling].

    a. Accessory buildings shall be located at least ten feet from the principal structure; shall be located not closer than three feet to a lot line, and with the exception of

gazebos, pergolas and incidental accessory structures not designed or used for purposes involving live loads, shall be placed on a poured-in-place Portland cement pad of concrete. All permanent accessory structures shall be affixed to the ground in a manner approved by the director. Any accessory structure with an exterior finish comprised, in whole or part, of recycled or salvaged materials is prohibited.

b. The maximum garage wall height shall not exceed nine feet with a maximum vehicle door height of eight feet. The maximum shed wall height shall not exceed six feet. The maximum overall garage and gazebo height shall not exceed 15 feet and no shed shall exceed ten feet in height.

c. In an RS-1, RS-2, RS-3, RD-1 or RD-2 Residential District, maximum building sizes shall be as follows:

1. A shed shall not exceed 150 square feet.
2. A gazebo shall not exceed 200 square feet.
3. On lots 30 feet wide or less the garage shall not exceed 528 square feet. An additional 80 square feet may be added to the garage if only one accessory structure is constructed.
4. On lots wider than 30 feet and less than 45 feet, the garage shall not exceed 624 square feet. An additional 80 square feet may be added to the garage if only one accessory structure is constructed.
5. On lots 45 feet and wider the garage shall not exceed 720 square feet. An additional 80 square feet may be added to the garage if only one accessory structure is constructed.
6. On lots 60 feet wide or more and used in conjunction with a two-family dwelling, the garage shall not exceed 912 square feet in area or 38 feet in length.
7. Two-family dwellings shall be permitted to have two attached garages, or one attached garage and one detached garage, 720 square feet maximum.

(2) Patios, constructed at or below yard grade, may be erected, without a building permit, adjacent to the principal structure, and shall be located not closer than three feet to a lot line.

(3) Freestanding decks or decks surrounding private swimming pools which are located at least ten feet from the principal structure shall be located no closer than three feet to a lot line. Decks located less than ten feet from, or attached to, the principal structure shall meet all the yard and setback requirements that apply to the principal structure.

(4) Central air conditioning compressors, children's swing sets, compost piles, and gardens are permitted without a building permit, provided that such uses shall be located at

least three feet from a lot line. Central air conditioning compressor placement in the street or side yard may be permitted in the absence of feasible alternatives provided that the air conditioning compressor is screened from view in a manner approved by the director.

(5) One accessory compost bin, not to exceed six feet in height.

(6) Private swimming pools, upon the issuance of a building permit, provided that:

a. All private swimming pools shall be surrounded by a fence not less than four feet nor more than six feet in height designed to prevent unguarded entry to the pool. Sidewalls of above-ground pools which are at least four feet high may be used in lieu of a fence.

b. Access to private swimming pools shall be controlled to prevent unguarded entry into a pool. Access to in-ground pools shall be controlled by a self-closing and self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner is not present at the pool. For an above-ground pool, a tip-up ladder may be provided in lieu of the gate.

c. Swimming pools shall not be constructed directly under or over electric transmission lines or within 15 feet of such lines. If the electric lines are underground, this separation distance may be reduced to five feet. All electrical connections to a swimming pool shall be properly grounded so that no electrical current can be discharged into any part of the swimming pool or surrounding fence. All electrical installations shall comply with the National Electrical Code or these regulations, whichever are more restrictive.

d. No water drained from swimming pools shall be discharged onto adjacent properties without written consent of the owner, or into the municipal sanitary sewerage system, or directly into a navigable body of water.

e. Equipment shall be provided for the disinfecting of all pool water. No gaseous chlorinating shall be permitted.

f. Heating units, pumps, and filter equipment shall be adequately housed and muffled in such a manner as not to create a nuisance. Such equipment shall be located not closer than ten feet to a lot line.

g. There shall be an unobstructed areaway around all pools of at least three feet in width.

h. Private swimming pools shall be a minimum of five feet from a property line, and more than five feet from any structure with the exception of air conditioners, play sets, patios, compost bins, and decks.

i. Private swimming pools, together with other accessory structures regulated by article V of this chapter, shall not occupy more than 50 percent of the rear yard area.

(Code 2004, § 17.0504(A); Ord. No. 2053, 2-4-2003; Ord. No. 2219, 9-16-2006; Ord. No. 2267, 6-17-2008; Ord. No. 2347, 9-7-2010)

Sec. 44-904. Accessory uses permitted in the side or rear yard.

Private tennis courts and private volley ball courts accessory to a residential use may be placed in the side yard or rear yard in any residential district provided that the use is located not closer than three feet to any rear or side lot line and, provided that no lighting installed around a private recreation facility shall throw rays onto adjacent property. The plan commission may permit the construction of a fence around the court when it is determined that such a fence is needed for safety purposes or to prevent the court from being a nuisance to neighbors.

(Code 2004, § 17.0504(B); Ord. No. 2053, 2-4-2003; Ord. No. 2219, 9-16-2006; Ord. No. 2267, 6-17-2008; Ord. No. 2347, 9-7-2010)

Sec. 44-905. Accessory uses permitted in any yard.

The following accessory uses and structures may be placed in any yard without a building permit, provided that such use is constructed with appropriate, finished materials compatible with surrounding building materials and architecture, does not interfere with the vision clearance triangle as set forth in section 44-843, shall not be located closer than three feet to a side or rear lot line and, except for flag poles, shall not exceed 15 feet in height; basketball hoops, bird baths, fountains, lawn furniture, religious statues, flower and garden trellises, and wishing wells. Flag poles shall not exceed the height limitation for the district in which they are located.

(Code 2004, § 17.0504(C); Ord. No. 2053, 2-4-2003; Ord. No. 2219, 9-16-2006; Ord. No. 2267, 6-17-2008; Ord. No. 2347, 9-7-2010)

Sec. 44-906. Rummage sales.

Rummage sales may be conducted in any district provided that the rummage sale does not exceed four consecutive days in length and is not conducted more often than three times per year. Rummage sales do not require the issuance of a building permit. Rummage sale signs shall be limited as provided in section 44-996(5).

(Code 2004, § 17.0504(D); Ord. No. 2053, 2-4-2003; Ord. No. 2219, 9-16-2006; Ord. No. 2267, 6-17-2008; Ord. No. 2347, 9-7-2010)

Sec. 44-907. Fences.

Fences are a permitted accessory use in any district provided that they shall comply with the following requirements:

(1) No fence, except a decorative corner fence, snow fence or fence constructed by utilities, shall be constructed in the city without first obtaining a building permit from the director.

(2) No fence requiring a permit shall be constructed beyond the front of any building or in the street yard, except a decorative corner fence or where aesthetic considerations may require a fence or wall to screen a parking lot or other unattractive area, or to generally improve the aesthetics of a development. Such fence or wall may be erected by approval of the city plan commission, which approval may include design or other architectural requirements.

(3) No fence shall be closer than two feet from any alley.

(4) No advertising or signs shall be permitted on any fence in any zoning district.

(5) Fencing shall be constructed with the finished or decorative side facing the adjacent or abutting property owner or public street. Fence posts shall be on the side of the fence facing the permit applicant's property.

(6) All fences shall be constructed and fixed to the ground in a manner prescribed and approved by the director. All fences shall be maintained in good repair and in structurally sound condition. All fences shall be constructed and maintained in good aesthetic condition and in such a manner and of such materials and colors so as not to adversely affect the value of adjoining property or property in the immediate neighborhood. No fence may be constructed or maintained which is detrimental to human life or safety or causes a traffic hazard. All fences shall be constructed and maintained straight, plumb, and of an even height along its length, except for such deviations as are required by grade or design. Wire mesh fencing is prohibited. New chain link fencing may be permitted in residential districts where used as a kennel, exercise run, or perimeter enclosure for permitted animals, provided that the materials are galvanized, corrosion resistant or powder-coated. Chain link fences shall not contain plastic privacy slats.

(7) Fences comprised in whole or part of reclaimed or recycled materials are prohibited.

(8) Electric fences are prohibited.

(9) Barbed wire or razor wire shall not be permitted anywhere in the city, except in the M-2 General Manufacturing District where security fences may include up to four strands of barbed wire or razor wire on top of the fence, provided that the wire is stretched and not rolled and is at least eight feet above grade with the vertical supports for the wire either extending vertically or slanting inward away from the property line.

(10) The maximum height for fences in all districts, except industrial districts, shall be six feet, measured from the ground level at the base of the fence to the top of the fence, excluding posts. The maximum height in industrial districts shall be eight feet, measured from the ground level at the base of the fence to the top of the fence, excluding posts and any additional barbed or razor wire on top of the fence; total height including wire shall not exceed ten feet.

(Code 2004, § 17.0504(E); Ord. No. 2053, 2-4-2003; Ord. No. 2219, 9-16-2006; Ord. No. 2267, 6-17-2008; Ord. No. 2347, 9-7-2010)

Sec. 44-908. Antennas.

Terrestrial and satellite dish antennas are permitted as accessory uses in any district subject to the following regulations. To protect the health and safety of all citizens, as well as the aesthetic values embodied in this chapter, the following regulations shall apply to all terrestrial and satellite dish antennas with the exception of satellite dish antennas that are one meter or less in diameter. Satellite dish antennas that are two meters or less in diameter, which are located or proposed to be located in the B-1, B-2, B-3, B-4, B-5, M-1, or M-2 districts, are also exempt from these requirements.

(1) *Location*.

a. Terrestrial antennas and satellite dish antennas may be located in the rear yard only or on the roof of the principal structure in all residential, business, office, manufacturing, institutional, or park districts, except that antennas mounted on the roof shall not be permitted in the B-3 Central Business District unless they are fully screened.

b. In recognition of the negative aesthetic impact satellite dish antennas may have on the architecture of a building and the overall character of a neighborhood, satellite dish antennas shall be located and designed to reduce their visual impact on surrounding properties. Landscaping, fences, and architectural elements of buildings may be used for this purpose. In a residential district, no satellite dish antenna shall be mounted on the front of a building, unless it is fully screened in manner compatible with the architecture of the building.

(2) *Advertising or identification*. No form of advertising or identification may be displayed on the dish or framework of any antenna other than the customary manufacturer's identification plates.

(3) *Number permitted*. Not more than one terrestrial and one satellite dish antenna per dwelling unit shall be permitted on a lot or parcel in a residential zoning district.

(4) *Height*.

a. All freestanding terrestrial antennas and roof antennas shall meet the height requirements for the district in which they are located, except as provided in section 44-882.

b. Ground-mounted satellite dish antennas shall not exceed six feet in height.

c. No antenna shall exceed the height limitation set forth on the airport zoning map for General Mitchell International Airport.

(5) *Setbacks*.

a. All terrestrial antennas shall be located not less than one foot from a lot line for each three feet of height above the surrounding grade, up to a maximum of 50 feet in residential districts, with the exception of government owned structures (see appendix B).

b. All satellite dish antennas shall be located not less than three feet from a side or rear lot line (see appendix B).

(6) *Construction*.

a. All antennas shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of noncombustible and corrosive resistant materials.

b. An antenna support structure shall be erected in accordance with manufacturer's specifications.

c. The installation of a satellite dish antenna shall require a building permit. The property owner shall submit, to the building inspector, plans which indicate the appearance, proposed location, and installation method of the dish antenna.

d. All satellite dish antennas must conform to the city building code and electrical code regulations and requirements. Where the terrestrial or satellite dish antenna is roof-mounted, and weighs more than 100 pounds, a registered professional engineer shall certify that the building is adequate to support the load.

(7) *Harmful interference*. In the event that harmful interference is caused subsequent to the installation of an antenna, the owner of the antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

(8) *Portable or trailer-mounted antennas.* Portable or trailer-mounted antennas are not permitted, with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed two days at any one location.

(Code 2004, § 17.0504(F); Ord. No. 2053, 2-4-2003; Ord. No. 2219, 9-16-2006; Ord. No. 2267, 6-17-2008; Ord. No. 2347, 9-7-2010)

Sec. 44-909. Roof-mounted solar collectors.

Roof-mounted solar collectors are permitted accessory uses in any district, subject to the issuance of a building permit. A registered professional engineer shall certify that the building is adequate to support the load, if the collector weighs more than 100 pounds.

(Code 2004, § 17.0504(G); Ord. No. 2053, 2-4-2003; Ord. No. 2219, 9-16-2006; Ord. No. 2267, 6-17-2008; Ord. No. 2347, 9-7-2010)

Sec. 44-910. Home occupations and professional home offices.

Home occupations may consist of professional home offices, actual permitted business or entrepreneurial activities or regular hobby activities that produce a product, service or serve a purpose not used on premises or as part of a permitted residential principal, accessory or

conditional use. Home occupations, hobbies, crafts and professional home offices may be permitted accessory uses in any residential district, not requiring a zoning permit, provided that:

(1) The use of the residential dwelling for the home occupation, hobby, craft or professional home office shall be clearly incidental and subordinate to its residential use and shall not occupy more than 25 percent of the floor area of one floor.

(2) No home occupation, hobby, craft or professional home office shall be located in or conducted in an accessory structure or yard area

(3) No person other than members of the family residing on the premises shall be employed or engaged in such home occupation, hobby, craft or professional home office.

(4) Home occupations, hobbies and crafts shall use only household equipment and no stock in trade shall be kept or sold except that made on the premises.

(5) No traffic, parking, noise, odor, smoke, lighting or glare generated by the home occupation, hobby, craft or professional home office shall be greater in volume or intensity than would normally be expected in a residential neighborhood.

(6) No outdoor storage of equipment or product shall be permitted.

(7) The home occupation, hobby, craft or professional office use shall not require external alteration or involve construction features not customary in a dwelling.

(8) Home occupations which comply with the conditions set forth above may include, but are not limited to, babysitting, canning, crafts, brewing, desktop publishing and other computer services, dressmaking, laundering, piano teaching, telephone marketing, and word processing, and other similar uses.

(9) Home occupations, hobbies and crafts such as auto body, engine or mechanical repair, automotive alterations, detailing or painting, barbering, beauty shops, construction trades, dance studios, insurance agencies, photographic studios, animal related services or real estate brokerages, and other similar uses, with the exception of office bookkeeping associated with such operations are prohibited.

(Code 2004, § 17.0504(H); Ord. No. 2053, 2-4-2003; Ord. No. 2219, 9-16-2006; Ord. No. 2267, 6-17-2008; Ord. No. 2347, 9-7-2010)

Sec. 44-911. Temporary, portable storage containers.

With the exception of containers placed on construction sites to be used in conjunction with that particular project, all temporary, portable storage containers intended to be located on private property for more than three days shall require a permit issued by the Inspection department. Upon the department's approval of the location, use and size of the container, a permit may be issued for a period of time to not exceed 15 days. Requests for time periods

exceeding 15 days shall require plan commission review and approval. As a condition of approval the city will require a cash deposit in the amount of $200.00. The deposit will be required to ensure the timely removal of the container in strict accordance with the permit. If, upon inspection, the container remains on site beyond the permitted approval date, the deposit shall be forfeited. Additional penalties may also apply.
(Code 2004, § 17.0504(I); Ord. No. 2053, 2-4-2003; Ord. No. 2219, 9-16-2006; Ord. No. 2267, 6-17-2008; Ord. No. 2347, 9-7-2010)

Secs. 44-912—44-940. Reserved.

ARTICLE VI. YARDS AND LOTS

Sec. 44-941. Average street yards.

The director shall make all yard averaging determinations.

(1) For new buildings, the required street yard, or setback, may be decreased in any residential district to the average of the existing street yards of the abutting structures on each side, but shall in no case be less than 15 feet.

(2) For additions to existing buildings, encroachments upon the street yard abutting existing structures shall not increase beyond the average of the existing street yards of adjacent lots or parcels coterminous to the public way creating the street yard

(Code 2004, § 17.0506)

Sec. 44-942. Corner lots.

Corner lots shall have two street yards considered to be the yards running from the exterior wall of the principal structure to the public right-of-way and by way of extending such lines from these walls directly to the lot perimeter, whereby all yard area between the street and such lines shall be considered street yard. A front yard shall be designated by and correspond to the location of the main entrance to the principal structure. The rear yard shall be the yard that is the most opposite the front yard. All other yards shall be considered side yards.
(Code 2004, § 17.0507)

Sec. 44-943. Double frontage lots.

Double frontage lots are generally prohibited in residential districts, except in the case of reverse frontage lots. On a reverse frontage lot, the front yard shall be measured from the street from which access is taken and a rear yard setback shall be provided on the second street. All other yards shall be side yards.
(Code 2004, § 17.0508)

Sec. 44-944. Lot width.

No lot shall be less than the width specified in the base zoning, except lots of lesser width and of record on the effective date of this chapter may be increased in their lot width to create a larger lot even though such resulting lot is less than the width required by the base zoning. No division of land or increase of lot width shall create additional lots of a width less than the width required by the base zoning, nor shall any lot with a width less than the width required by the base zoning be reduced in width.

(1) Upon the recommendation of the plan commission, lot boundaries of lots with a width of less than that required by the base zoning may be altered to create a lot with a width less than that required by the base zoning for the purpose of correcting lot lines over which structures have been built, but no reduction of the original lot area shall be permitted.

(2) Upon the recommendation of the plan commission, lot boundaries of lots with a width of less than that required by the base zoning may be altered to create a lot with a width less than that required by the base zoning for the purpose of eliminating a vacant substandard buildable lot and thereby preserve existing air and light by removing future construction that would further congest the area, but no reduction of the original lot area shall be permitted.

(Code 2004, § 17.0510; Ord. No. 2258, 8-21-2007)

Secs. 44-945—44-961. Reserved.

ARTICLE VII. TELECOMMUNICATIONS TOWERS

Sec. 44-962. Cellular towers.

Cellular and digital communication antennas and towers are permitted as a conditional use in all districts except C-1, pursuant to this article.

(Code 2004, § 17.0509(intro.); Ord. No. 2062, 6-3-2003)

Sec. 44-963. Overall plan.

The developer shall prepare a plan showing the number and potential location of all antenna sites needed in the city to complete the communications network.

(Code 2004, § 17.0509(A); Ord. No. 2062, 6-3-2003)

Sec. 44-964. Use of existing structures.

All antennas shall be constructed on existing structures, such as, but not limited to, water towers, public buildings, existing utility towers, farm silos, barns, or other communication towers.

(Code 2004, § 17.0509(B); Ord. No. 2062, 6-3-2003)

Sec. 44-965. Co-location.

If it is determined by the city plan commission that such antennas cannot be co-located on existing structures, freestanding tower structures may be permitted, but such structures shall be designed to support the proposed antennas and three additional sets of communication antennas. The developer shall agree, in writing, to make the structure available for co-location of similar communication equipment operated by other companies at a reasonable return.
(Code 2004, § 17.0509(C); Ord. No. 2062, 6-3-2003)

Sec. 44-966. Setbacks.

(a) Towers shall be located on the lot so that the distance from the base of the tower to any adjoining property line or supporting structure of another tower is a minimum of 60 percent of the tower's height.

(b) Any storage building associated with a cellular tower shall meet the setback requirements for principal buildings in the district in which it is located. A storage building shall not be classified as an accessory use or accessory building.
(Code 2004, § 17.0509(D); Ord. No. 2062, 6-3-2003)

Sec. 44-967. Structural standards.

New or modified towers shall be certified by a registered professional engineer to be in accordance with structural standards for antennas by the Electronic Industries Association or successor standards organization.
(Code 2004, § 17.0509(E); Ord. No. 2062, 6-3-2003)

Sec. 44-968. Parking.

When a cellular tower facility is regularly staffed, a parking space for each such on-site staff person shall be provided.
(Code 2004, § 17.0509(F); Ord. No. 2062, 6-3-2003)

Sec. 44-969. Abandonment.

Abandoned or unused towers or portions of towers shall be removed within six months of the cessation of operations at the site. In the event that a tower is not removed within six months of cessation of operations at a site, the tower may be removed by the city and the costs of removal assessed against the property. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.
(Code 2004, § 17.0509(G); Ord. No. 2062, 6-3-2003)

Sec. 44-970. Tower appearance and illumination.

(a) For towers not regulated by the state division of aeronautics or the Federal Aviation Administration, a surface paint or finish shall be used that reduces the visibility of the tower.

(b) Towers shall not be illuminated and shall not display strobe lights except as required by the state division of aeronautics or the Federal Aviation Administration. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower. However, such lights shall be directional and shall not produce glare into residential areas.
(Code 2004, § 17.0509(H); Ord. No. 2062, 6-3-2003)

Sec. 44-971. Signs and advertising.

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
(Code 2004, § 17.0509(I); Ord. No. 2062, 6-3-2003)

Sec. 44-972. Interference with public safety telecommunications.

No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the city at least ten calendar days in advance of such changes and allow the city to monitor interference levels during the testing process.
(Code 2004, § 17.0509(J); Ord. No. 2062, 6-3-2003)

Sec. 44-973. Landscaping and building materials.

Landscaping shall be installed or existing vegetation shall be maintained for the purpose of screening the base of towers and their associated buildings. Building materials shall blend with the surrounding environment. The following regulations shall apply:

(1) In residential zoning districts, support buildings in association with cellular towers shall be constructed of natural materials such as wood, brick, or stone and shall be designed to be architecturally compatible with the exterior of the residential buildings in the neighborhood. Pitched, not flat, roofs shall be used. In no case shall metal exteriors on buildings be permitted.

(2) For all towers, a buffer area at least 25 feet in width shall be provided along all property lines, including street lines.

a. In all nonresidential districts, for each 100 linear feet of property line, the following plant material shall be provided:

1. One canopy tree;

2. Two medium height trees;
3. Two evergreen trees; and
4. Five evergreen or deciduous shrubs.

b. In all residential districts, for each 100 linear feet of property line, the following plant material shall be provided:
1. One canopy tree;
2. Two medium height trees;
3. Five evergreen trees; and
4. Ten evergreen or deciduous shrubs.

c. Trees and shrubs in the vicinity of guy wires shall be of a type that would not exceed 20 feet at mature height or, should they be uprooted, would not affect the stability of the guys, and shall not obscure visibility of the guy anchor from the transmission building or security facilities and staff.

d. All plants shall meet the minimum standards of the most recent issue of the American Standard for Nursery Stock, by the American Association of Nurserymen, Inc.

(3) The plan commission may allow the use of an alternate plan or require a more restrictive plan providing for landscape and screening, including plantings, fences, walls, and other features. The alternate plan shall accomplish the same degree of screening for tower(s) and associated buildings achieved above, except where lesser requirements are desirable for security purposes and for continued operation of existing agricultural and forest uses, including produce farms, nurseries, and tree farms.

(4) Native vegetation on the site shall be preserved to the greatest practical extent. The site plan shall show any existing native vegetation to be removed and shall indicate the type and location of native vegetation to be replanted.

(Code 2004, § 17.0509(K); Ord. No. 2062, 6-3-2003)

Sec. 44-974. Additional submittal requirements.

In addition to the information required elsewhere in this chapter, development applications for towers shall include the following supplemental information:

(1) A report from a qualified and licensed professional engineer which:

a. Describes the tower height and design including a cross section and elevation;

b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;

c. Describes the tower's capacity, including the number and type of antennas that it can accommodate;

d. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;

e. Includes an engineer's stamp and registration number; and

f. Includes all other information necessary to evaluate the request.

(2) Documentation that the proposed tower meets the Federal Communications Commission radiation emission standards.

(3) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

(4) Before the issuance of a building permit, the following supplemental information shall be submitted:

a. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration.

b. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.

(Code 2004, § 17.0509(L); Ord. No. 2062, 6-3-2003)

Secs. 44-975—44-991. Reserved.

ARTICLE VIII. SIGNS

Sec. 44-992. Purpose and intent.

The intent of this section is to provide for and regulate the location and safe construction of signs in a manner to ensure that signs are compatible with surrounding land uses, are well maintained, express the identity of individual proprietors and the city as a whole, preserve and protect property value, provide against undue concentrations of signs which distract and endanger traffic safety and traffic flow, and avoid uncontrolled proliferation of signs. All signs, banners and displays requiring a permit shall conform to the city's adopted design guidelines and be subject to review and approval by the city's design review board, unless otherwise indicated, or where signage is proposed as a master signage plan or modification thereto, in which case the requirements of section 44-999 shall apply. All signs, banners and displays not requiring a permit must nevertheless conform to the requirements of this chapter and the city's adopted design guidelines. The director shall determine the appropriate size, design and placement of signs, banners and displays, whether permanent or temporary, when a permit is not required.

(Code 2004, § 17.0601)

Sec. 44-993. Existing nonconforming signs.

Signs lawfully existing at the time of the adoption or amendment of this chapter may be continued even though the use, size, or location may not conform to the provisions of this chapter. Such signs shall be legal nonconforming signs and shall comply with the following regulations:

(1) Legal nonconforming signs may be repaired and refaced provided they are not relocated, expanded, enlarged, repositioned, or raised in height.

(2) In the event that any such sign or its supporting structure is hereafter damaged or altered to an extent exceeding 50 percent of the replacement cost of the sign, or is removed by any means, including an act of God, such sign when restored, reconstructed, altered, repaired, or replaced must conform to the requirements of this chapter.

(3) Any time an application is made to change any or all signs on a site, in dimension or appearance, other than confined to refacing the actual sign area, as a condition of approval, all nonconforming signage on that site shall be eliminated and/or made to comply with the regulations in this section, with the following exceptions:

a. Changeable copy signs such as bulletin boards and electronic message boards.

b. Legal nonconforming billboards. Legal, nonconforming billboards that are abandoned shall be condemned and removed by the city. Legal, nonconforming billboards found to be deteriorated to a point where more than 50 percent of the sign's value is required to repair or restore it, shall be ordered removed. No legal, nonconforming billboard shall be enlarged or structurally altered. The director shall make such determinations. New billboard signs are prohibited.

(Code 2004, § 17.0603; Ord. No. 2258, 8-21-2007)

Sec. 44-994. Permits.

(a) *Sign permit required.* No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without first obtaining a permit reflecting conformity with the provisions of this chapter, except for those signs allowed without a permit under this chapter. All sign permits, unless otherwise specified, shall be issued by the building inspector.

(b) *Electrical permit required for illuminated signs.* If signs are illuminated electrically, a separate electrical permit shall be obtained as required by the city electrical code.

(c) *Removal of unauthorized signs or signs erected without proper permit.* Signs erected without proper approvals and permits shall be removed within 15-day notification from the building inspector, unless the owner of the sign applies for and obtains a building permit within

the 15-day period. If the sign is ordered to be removed and is not removed within the allowed 15 days, the building inspector may have the sign removed at the expense of the owner in the manner prescribed in section 44-1005(c).
(Code 2004, § 17.0602; Ord. No. 2258, 8-21-2007)

Sec. 44-995. Standards and specifications.

(a) *Safety.* Signs shall not:

(1) Resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices so as to cause confusion with its official counterpart.

(2) Obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices.

(3) Be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape, and no sign shall be attached to a standpipe or fire escape.

(4) Be placed so as to obstruct or interfere with traffic visibility, nor be lighted in such a way as to cause glare or impair driver visibility upon public ways.

(b) *Illumination.* All signs may be illuminated internally or externally, unless otherwise specified herein, but shall be nonflashing.

(c) *Nonresidential signs.* All nonresidential signs shall be limited to identifying the individual business, building, or building complex only by name, or by name and principal service offered where the name does not in itself identify the principal service offered. It is not intended, however, to restrict the names of manufacturer's of products used by the occupants of the building or premises in carrying on their business, profession, or trade. This limitation shall not include large street numbers used as signs on buildings.

(d) *Signs required by law.* Nothing contained herein shall prevent the erection, construction, placement, maintenance, or location of official traffic, fire, and police signs, signals, devices, and markings of the state and the city or other public authorities, or the posting of notices required by law.

(e) *Removal of abandoned signs.* Abandoned signs shall be removed by the owner, or the owner of the premises on which the sign is erected. Enforcement of this regulation shall follow the procedures set forth in section 44-1005(c).

(f) *Measuring signs.* In calculating the area of a sign to determine whether it meets the requirement of this chapter, the building inspector shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the area calculation. The area of irregular shaped signs or signs containing two or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.

(g) *Prohibited lighting, movement, and signs.*

(1) Bare light bulbs shall not be permitted. No flashing, blinking, or rotating lights shall be permitted for either permanent or temporary signs.

(2) No sign shall be permitted which moves by any means, except flags and banners.

(3) The following signs shall be prohibited:

a. Distracting signs, including animated, mechanical, audible, and revolving signs; however, copy on time and temperature devices may be cyclical. Electronic message boards are not included in this limitation.

b. Pennants and streamers, not including banners, flags and other display effects.

c. Vehicles or trailers used as signs.

d. Off-premises signs, including billboards. Signs allowed under section 44-996(6) are exempt from this provision.

e. Roof signs.

(h) *Intensity.* No illuminated sign, whether by external or internal lighting, shall exceed 0.5 footcandle at any lot line, except in districts where a zero street yard setback is permitted and illuminated sign intensity, documented by an approved photometric survey, is shown to be less than the ambient light levels at the abutting public way.
(Code 2004, §§ 17.0604, 17.0605)

Sec. 44-996. Signs permitted in all districts without a permit.

The following signs are permitted in all zoning districts without a permit, subject to the stated restrictions:

(1) *Real estate signs.* Single or double-faced real estate signs that advertise the sale, rental, or lease of the premises upon which the signs are temporarily located are permitted, provided that such signs in residential districts shall not exceed six square feet in area or 24 square feet and six feet of height in nonresidential districts. All real estate signs shall be set back a minimum of five feet from front or side lot lines, shall not be illuminated, and must be removed within seven days of sale. Signs for rental or lease shall be limited to a maximum of 60 days. Only one temporary freestanding, wall, or window sign may be placed on each street on which the development abuts. The sign must be placed on the property being sold, leased, or rented.

(2) *Name and warning signs.* Name and warning signs not to exceed two square feet located on the premises are permitted.

(3) *Home occupation and home office signs.* Home occupation and professional home office signs not to exceed two square feet in area, to be mounted flush against the dwelling and not illuminated are permitted.

(4) *Election campaign signs.* Election campaign signs are permitted provided that permission is obtained from the property owner, renter or lessee; and provided that such sign shall not be erected prior to the first day of the election campaign period as defined in Wis. Stats. § 12.04 and shall be removed within seven days following the election. Election campaign signs shall not be illuminated. Wall signs shall not extend above the second floor of any nonresidential building. In residential districts, signs shall not exceed 11 square feet in area unless the sign is affixed to a permanent structure; does not extend beyond the perimeter of the structure; and does not obstruct a window, door, fire escape, ventilation shaft, or other area which is required by the city building code to remain unobstructed. In nonresidential districts, signs shall not exceed 24 square feet in area and six feet in height. No election campaign sign shall be so located as to cause a traffic or pedestrian hazard, as determined by the chief of police or his designee.

(5) *Rummage and garage sale signs.* Rummage sale and garage sale signs are permitted provided that no such signs shall be erected or placed within a public right-of-way and that such signs are removed within 24 hours following the sale. Such signs shall not exceed 12 square feet in area and six feet in height, and shall not be illuminated. Rummage sale signs may be placed off-site on other residential lots within the city with the property owner's permission.

(6) *Bulletin boards, directional or informational signs and banners for public, civic, charitable and religious institutions.* Bulletin boards for public, charitable, or religious institutions are permitted not to exceed 24 square feet in area. Permanent or temporary directional signs, informational signs or banners for the uses defined above may be permitted on structures in the public right-of-way or elsewhere on city-owned property at the discretion of the city and shall meet all requirements attached to such grants of permission as determined by the director and shall in all applicable ways conform to the requirements of this chapter.

(7) *Temporary church and school signs*. Temporary church and school signs are permitted.

(8) *Memorial signs and tablets and building name and erection date signs.* Memorial signs, tablets, names of buildings, and date of erection are permitted when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

(9) *Official information signs.* Official information signs, such as traffic control, parking restrictions, information, and notices, are permitted.

(10) *Address signs.* Address markers and signs are permitted.

(11) *History preservation signs.* Historic preservation signs are permitted.

(12) *Driveway and parking lot signs.* Driveway ingress/egress and directional signs to identify parking lot entrances and exits, or direct customers to drive-in windows are permitted. Such signs may be placed adjacent to driveways provided that no ingress/egress sign shall be placed in the street right-of-way; and no ingress/egress sign face shall exceed four square feet in area.

(13) *Flags*. Display of the national flag of any country, the official flag of any state, or a flag displaying the logo of a business, industry, or recognized organization is permitted in any district without a permit provided that such flag is set back at least ten feet from the street right-of-way in any residential district and is set back ten feet from all other lot lines and provided that display of larger flags or flags with information other than a national or state flag may be permitted only after the issuance of a permit by the building inspector.

(14) *Temporary window signs.* Temporary window signs are permitted provided that such signs shall not cover more than 20 percent of the total glazed front window area per business premises, be calculated as part of the total permitted sign square footage, be placed on glass doors or window areas that will impede pedestrian safety or prohibit view by police, be illuminated, or be displayed for longer than 14 days. A permit is not required for temporary window signs.

(15) *Business window and door signs.* Open signs placed in the window or door of a business and illuminated or neon signs are permitted. Such signs shall not exceed four square feet. Such signs shall not be calculated as part of the total number of signs permitted or as part of the total square footage of signs permitted.

(Code 2004, § 17.0606; Ord. No. 2062, 6-3-2003; Ord. No. 2267, 6-17-2008)

Sec. 44-997. Signs permitted in all districts with a permit.

The following signs are permitted in all zoning districts with a permit, subject to the stated restrictions:

(1) *Permanent real estate development signs.* Permanent real estate development signs placed at the entrance to a residential complex, subdivision, or development are permitted provided that they shall contain only the name and/or address of the complex, subdivision, or development, shall have a maximum height of four feet, and shall be not less than five feet from a side or rear lot line. The plan commission may permit a permanent development sign within a street right-of-way or driveway median after determining that the sign will not have an adverse impact on public safety and provision for its maintenance is established. Signs within the vision clearance triangle set forth in section 44-843 shall not exceed 30 inches in height. The plan commission shall determine the appropriate size of the sign based on the design of the sign and its compatibility with adjacent land uses, but in no case shall the sign exceed 32 square feet in area.

(2) *Temporary development signs.* Temporary development signs are permitted in accordance with the restrictions provided in section 44-1002.

(3) *Signs advertising seasonal products.* Signs advertising the sale of seasonal products, including Christmas trees and pumpkins, are permitted provided that there shall be

only one sign per business site, the sign shall be set back a minimum of five feet from all lot lines, the sign area shall not exceed 16 square feet, the sign shall not exceed five feet in height, and the sign shall not be posted for more than 60 days in any calendar year.

(Code 2004, § 17.0607)

Sec. 44-998. Signs permitted in business and manufacturing districts with a permit.

(a) *Total square footage permitted.* Total sign square footage permitted for each business or manufacturing site shall be appropriately scaled to the available street yard and wall elevation supporting the signage. No wall sign shall exceed 15 percent of the exterior wall square footage where the sign is to be affixed or located, with a maximum per sign not to exceed 100 square feet. In mixed use buildings, the wall elevation shall be determined by the extent of the frontage of each commercial occupancy, and shall not incorporate wall area above the first floor if the building is multistory. The total area permitted for all signage per lot shall not exceed 200 square feet, unless otherwise approved under a master signage plan per section 44-999. Multiple occupancies or tenants in commercial and mixed use buildings shall be subject to a master signage plan approved by the city plan commission, and if located in the Lakeside Commons redevelopment district, the master signage plan shall be reviewed and approved jointly by the city plan commission and the design review board.

(b) *Total number permitted.* Total number of signs permitted for each business or manufacturing site shall not exceed two, except as follows:

(1) A business or manufacturing site with over 300 feet of lot frontage may incorporate a mix of signage up to three individual signs, however, no more than two ground signs shall be permitted.

(2) Price signs for gasoline service stations are exempt from the total sign square footage limitation, but shall not exceed 24 square feet in area and shall be limited to no more than two double-faced signs per business site.

(3) Signs proposed for multitenant buildings or centers shall be regulated by the provisions of section 44-999.

(c) *Permitted signs by type.* The following signs are permitted in all business and manufacturing districts provided all regulations are met:

(1) *Ground signs.*

a. *Pole signs and pylon signs.* Pole signs and pylon signs shall not be located nor extended closer than five feet from any lot line. Pole signs and pylon signs shall not exceed 20 feet in height. Pole signs and pylon signs may be double-sided. The maximum square footage of any pole or pylon sign shall not exceed 80 feet per side. The sign face must not be lower than 10 feet above the adjacent grade. Pole signs and pylon signs with exposed footings and or mountings to footing shall

include an appropriate landscaping or vegetative screening for aesthetic purposes. Pole signs and pylon signs are prohibited in the Lakeside Commons Overlay District.

b. *Monument signs*. Monument signs may be double-sided. The maximum size of a monument sign shall not exceed 40 square feet per side, 80 square feet in total. Monument signs in the Lakeside Commons Overlay District may be permitted at the street right-of-way in street yards. In all other districts, monument signs may not be located or extended closer than five feet from any lot line. Only one monument sign is permitted per business site, except on corner lots where one may be permitted on each street frontage. Monument signs shall include an appropriate decorative base, planter or landscaping feature.

(2) *Wall signs.*

a. No wall sign shall exceed 15 percent of the wall square footage. In mixed use buildings, the wall area shall be determined by the extent of the commercial occupancy frontage, and shall not incorporate wall area above the first floor if the building is multistory. Wall signage shall not extend beyond the wall structure or above the roof line, nor shall it obfuscate, cover, diminish or cause to be removed any architectural features of the building. The maximum square footage of wall signage may not exceed 100 square feet in total, per lot, and the maximum square footage of all combined signage per occupancy may not exceed 200 square feet, unless approved under master signage plan per section 44-999. Wall signage must be placed a minimum of ten feet above adjacent grade.

b. Marquis signs listing multiple occupancies in a professional or commercial building, when attached to a building wall, shall be architecturally compatible with the principal structure in material and design, use uniform colors, font and materials for the name plates, shall not exceed 24 square feet in area, shall be located at least four feet above adjacent grade, shall not protrude from the building wall more than six inches and may be externally illuminated.

(3) *Projecting signs or blade signs.* Projecting signs or blade signs fastened to, suspended from, or supported by a building are typically double sided and shall be limited to one sign per business site, and shall not; exceed 24 square feet per face in area for any one premises, extend more than four feet into any required yard, extend more than four feet from the building to which it is attached, be less than six feet from all side lot lines, exceed the lower of a height of ten feet above the mean centerline street grade or extend beyond the height of the roofline, be less than eight feet above the sidewalk nor 15 feet above a driveway or an alley.

(4) *Awning and canopy signs.* Awning and canopy signs affixed to the surface of an awning or canopy are permitted provided that the sign does not extend vertically or horizontally beyond the limits of such awning or canopy. In addition:

a. An awning or canopy may extend into the public right-of-way, but shall not extend beyond a point one foot back from the vertical plane formed by the street curb line. An awning or canopy in a shopping center shall not extend beyond a point one foot back from the vertical plane formed by the curb line in the shopping center.

b. No awning or canopy may not extend more than eight feet from the building.

c. No awning or canopy sign shall extend into a required side or rear yard.

d. The maximum height of an awning or canopy shall be limited to the height of the rooftop or parapet wall of the building, or otherwise not exceed 15 feet in height, whichever is the least dimension.

e. A name sign not exceeding two square feet in area located immediately in front of the entrance to an establishment may be suspended from an awning or canopy provided that the name sign is at least 8.5 feet above the sidewalk.

f. An awning or canopy sign may be internally illuminated.

g. Awning or canopy signs shall be limited to one per business site.

(5) *Time and temperature devices.* Time and temperature devices may be erected as a wall sign, projecting sign, monument sign, or freestanding sign, and shall meet the requirements of those sign types.

(6) *Window signs*. Window signs shall not cover more than 20 percent of the total glazed front window area per business premises. Such signs are permitted in addition to the maximum number of signs allowed per business premises, but the area of the window sign shall be calculated as part of the total permitted sign square footage. Window signs shall not be placed on glass doors or window areas that will impede pedestrian safety or prohibit view by police, must be placed behind clear glazed window openings and not in unglazed openings, and may be illuminated. A permit is required.

(7) *Portable signs*. Portable signs are temporary in nature and shall include sandwich board signs, easel signs, and similar movable signs. Portable signs may be used in any business district with a permit subject to the following:

a. A portable sign may be double-sided but shall not exceed eight square feet per face.

b. A portable sign shall be limited to one per premises or occupancy, where more than one permitted occupancy is present on premises.

c. A portable sign may be located partially or entirely on the sidewalk in the public right-of-way only if it does not impinge upon pedestrian traffic or create a hazard or nuisance in any other regard.

d. A portable sign may be displayed only during the hours of actual operation when the business is publicly accessible. Portable signs must be stored indoors when not in use.

e. The use of portable signs may be restricted during winter conditions when snow and ice removal and storage become a paramount concern.

f. Portable signs are not subject to the numerical limitations with regard to the cumulative number of permitted signs in any business district per occupancy or premises.

(8) *Banner, inflatables, displays and pennants.* Seasonal and temporary use of banners, inflatables, displays and pennants used in the promotion of any commercial, civic or institutional use may be approved for use on such premises for up to 30 continuous days by the director without a permit. A minimum interval of 30 days between such temporary or seasonal uses shall be required. Such uses may be denied during winter conditions. The banners, inflatables, displays and pennants approved for temporary or seasonal use must be maintained for the 30-day duration or any part thereof. Any breakage or deterioration must be promptly repaired or replaced or the temporary or seasonal use may be entirely rescinded.

(9) *Changeable copy signs and electronic reader boards*. Changeable copy signs, including electronic reader boards, are permitted in any business district. The maximum size shall be 24 square feet per face. If used as a ground sign, the sign may be double faced. Such signs may be illuminated provided that animation, flashing, or distracting features are prohibited. Intensity of illuminated signs shall not exceed 0.5 footcandle at any lot line, except in the Lakeside Commons Overlay District, where signage is permitted at the public right-of-way in street yards. Nevertheless, such illuminated signage shall not be of such intensity as to create a nuisance or hazard for pedestrians, vehicular traffic or neighboring businesses. Changeable copy signs shall be part of a permanent sign and are limited to one per business premises.

(Code 2004, § 17.0608; Ord. No. 2053, 2-4-2003; Ord. No. 2062, 6-3-2003)

Sec. 44-999. Signs for multitenant buildings and centers.

(a) *Definitions.* For the purpose of calculating total sign area under this section, the method for determining the maximum square footage allowed per individual occupancy shall be the same as defined in section 44-998(a). Signage for individual occupancies shall be uniform across the building exterior and throughout the center and limited to wall signage, including wall-mounted marquis signage, window signage, portable signage and canopy signage. An

individual occupancy in a mixed use building or multitenant center may select no more than one of each of the following sign types for a maximum total of three signs per occupancy: wall signs, window signs and canopy signs. A mixed use building or center includes buildings and centers with a combination of retail and office businesses or a combination of retail, office, or manufacturing businesses.

(b) *Multitenant buildings.* In a multitenant retail, office, or mixed use building or center in which each business premises is primarily accessed by an interior door after the building is entered by an exterior door shared with other tenants, only the building shall be identified and only by name and address. A ground sign and a wall sign shall be permitted.

(c) *Master sign program.*

(1) In a multitenant retail, office, or mixed-use building or center, a master sign program shall be used if more than one sign will be erected in conjunction with such building or center.

(2) Each individual sign proposed in accordance with an approved master sign program must be applied for and permitted separately; approval of a master sign program shall not be deemed permission to construct any particular sign under that program.

(3) An application for a master sign program shall be made to the director, who shall forward it to the plan commission for review and approval. An application for a master sign program shall include the following professionally pepared components:

a. A scale drawing or cut sheets of each proposed sign indicating the dimensions, the materials to be used, and the type of illumination, if any.

b. An elevation of each sign indicating the overall dimensions, the square footage, and height of top and bottom of sign above grade.

c. A scale drawing or cut sheets indicating the location and position of each sign in relation to the building it is to be attached to, other buildings and signs within the center, and lot lines.

d. Written policies governing the color, size, style, location, and other features of the proposed signs.

e. The categories of signs proposed.

(4) Signs permitted by the plan commission may include some or all of the following:

a. Master identification signs in accordance with subsection (d) of this section.

b. Entrance markers.

c. Traffic directional signs.

d. Tenant identification signs.

e. Wall signs.

f. Other signs as may be requested by the applicant.

(5) No freestanding sign other than the master identification sign(s) pursuant to this section shall be permitted for any multitenant building or center.

(6) The maximum sign area of all signs within a multitenant center or building, excluding the master identification sign, entrance markers, and traffic directional signs, shall not exceed 1.5 square feet times the lineal front foot of the building or center. The area of individual signs shall not exceed the maximum size specified in section 44-998(c), for the type of sign proposed.

(7) The plan commission, at its discretion, will consider the type and location of the building site, the proposed tenant mix, the size of the development, and such other factors as it deems appropriate in the evaluation of a master sign program. In determining the size of signs to be permitted, the plan commission may consider factors such as the building setback from the abutting street and the speed of traffic on that street, which may warrant larger signs; the amount of area to be occupied by each tenant; and the size and shape of the building facade.

(8) Applications for approval of a master sign program for new buildings or centers shall be submitted with an application for a conditional use permit or site plan review, if required; or with the application for a building permit if such permit or review is not required. Owners of existing multitenant buildings or centers shall submit an application for approval of a master sign program at the time any change in tenancy or ownership involving a change in signage occurs within the multitenant building or center. The owner of an existing multitenant building or center shall have a five-year period from the time the master sign program is approved jointly by the plan commission and design review board to bring all signs in the building or center into compliance with the approved master sign program.

(d) *Master identification signs.* Master identification signs, as approved under a master sign program for a multitenant retail, office, or mixed-use building or center, shall meet the following requirements:

(1) Such signs shall not contain the names of tenants of the building or center unless the identification of the building or center includes the name of the principal tenant. However, any tenant, but not more than two, each occupying one-third or more of the building area of any building or center may be identified on such master identification sign.

(2) The permitted area of master identification signs shall be one freestanding sign per arterial street of no more than 150 square feet each, one monument sign per arterial street in accordance with the requirements of section 44-998(c), or one wall sign not to exceed 200 square feet.

(3) The plan commission shall not approve any new master identification signs greater than 15 feet in height, modifications to existing master identification signs exceeding 15 feet in height may be approved at the discretion of the plan commission.

(e) *Apartments in multitenant buildings in nonresidential districts.* Where apartments exist or are proposed as a part of multitenant buildings or centers, the residential portion of the building or center shall be identified only by the name of the building or center and/or the address.
(Code 2004, § 17.0609; Ord. No. 2053, 2-4-2003)

Sec. 44-1000. Signs permitted in institutional and park districts with a permit.

The design and location of institutional and park signs shall conform to the requirements of this chapter and approval shall be based on the compatibility of the signs with adjacent land uses and conformance to the design guidelines adopted by the city.
(Code 2004, § 17.0611)

Sec. 44-1001. Historic signs.

(a) Signs of historic significance, which make a contribution to the cultural, historic, or aesthetic quality of the city because of their unique construction materials or unique design, unusual age, prominent location within the city, or unique craftsmanship from another period of time may be exempted from any or all of the size, height, animation, lighting, or setback requirements of this section, when the director finds the following conditions exist:

(1) The sign is of exemplary technology, craftsmanship or design of the period in which it was constructed, uses historic sign materials (wood, metal, glass or paint applied directly to a building) and means of illumination (neon or incandescent fixtures), and is not significantly altered from its historic period. If the sign has been altered, it must be restored to its historic function and appearance.

(2) The sign is integrated into the architecture of a period building.

(3) A sign not meeting the criteria listed above may be considered if it demonstrates extraordinary aesthetic quality, creativity, or innovation in design.

(b) Historic signs are exempt from the requirements of section 44-993.

(c) The director shall maintain a schedule of all signs achieving historical status and the city design review board shall approve additions or deletions to the schedule and any modifications to signs included therein.
(Code 2004, § 17.0612)

Sec. 44-1002. Temporary development and contractor signs.

(a) Temporary development signs for the purpose of designating a new building or development, or for promotion of a subdivision, may be permitted for the duration of construction in any district with a permit. Such signage may be double-sided, shall not exceed 32 square feet per sign face, shall be limited to one ground sign per abutting street yard, may not exceed ten feet in height and shall conform to all applicable portions of this chapter.

(b) Contractor signs used for the temporary purpose of identifying contractors or financial institutions participating in a development project may be permitted for the duration of construction in any district. No such sign shall be illuminated. No permit is required for such a sign. Contractor signs shall not exceed a maximum size of six square feet. Contractor signs may be incorporated with or attached to the development signs referenced in subsection (a) of this section, subject to the restrictions of this section. In the event such consolidation occurs, a sign permit must be obtained. Contractor signs shall be removed within ten days following issuance of the occupancy permit for the building.
(Code 2004, § 17.0613)

Sec. 44-1003. Sign construction and maintenance.

(a) *Wind pressure and dead load requirements.* All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than 40 pounds per square foot of area; and shall be constructed to receive dead loads as required in the city building code or other code or ordinance. The design of any sign more than ten feet in height or more than 32 square feet in area shall be prepared and stamped by a professional engineer.

(b) *Protection of the public.* The temporary occupancy of a sidewalk, street, or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.

(c) *Maintenance standards.*

(1) *Maintenance*. The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass. Restoration or painting which changes the name, size, or location of a sign will require a new permit.

(2) *Painting requirement*. The owner of any sign shall be required to have all parts and supports of a sign properly painted as directed by the building inspector, unless they are galvanized or otherwise treated to prevent rust and deterioration.

(3) *Sign owner's responsibility*. The sign owner shall be responsible for the maintenance of the sign. If the sign ownership should transfer, the new owner shall be responsible for the maintenance of the sign.

(d) *Construction of supporting members or braces.* Supporting members or braces of all signs shall be constructed of galvanized iron, properly treated wood, steel, copper, brass, or other noncorrosive incombustible material. Every means or device used for attaching any sign to a building shall be approved by the building inspector.

(e) *Attachment of signs to fire escapes, etc.* No signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the fire department of the city, as necessity therefor may require.

(f) *Overhead electrical wiring.* Overhead electrical wiring is prohibited and all electric signs shall be listed by a recognized testing laboratory.
(Code 2004, § 17.0614)

Sec. 44-1004. Sign permit procedure.

Application for a sign permit shall be made on forms provided by the director and shall contain or have attached thereto the following information. Failure to provide this information shall result in a rejected application:

(1) Name, address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.

(2) Name of person, firm, corporation, or association erecting the sign.

(3) Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.

(4) A scale drawing or cut sheet of the proposed signage indicating the design, colors, copy font, dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.

(5) An elevation of such sign indicating the overall dimensions, the square footage, and height of top and bottom of sign above grade.

(6) A scale drawing indicating the location and position of such sign in relation to nearby buildings, structures, and lot lines.

(7) Copies of any other permit required and issued for the sign, including the written approval by the electrical inspector, in the case of illuminated signs, who shall examine the plans and specifications, reinspecting all wiring and connections to determine if the same complies with the city electrical code.

(8) Additional information as may be required by the building inspector or city plan commission.

(9) Sign permit applications shall be filed with the building inspector, who shall review the application for its completeness and accuracy and approve or deny, in writing, the application within 45 days of receipt from the applicant unless the time is extended by written agreement with the applicant.

(10) Unless otherwise provided in this chapter, the building inspector has the authority to approve sign permits. Where review and approval of signs by the plan commission is specifically called for in this section, the plan commission shall review the sign application and submit its recommendations to the building inspector within the 45 day period set forth in subsection (9) of this section. Signs within the Lakeside Commons Overlay District shall be reviewed by the design review board in accordance with this article.

(11) In accordance with the city fee schedule, the applicant shall tender a fee at the time of permit issuance. Permit fees are not refundable. The owner of a legal nonconforming sign, which has been removed or brought into conformance with the terms of this chapter, shall not be required to pay a fee in order to obtain a permit for the replacement or conforming sign.

(Code 2004, §§ 17.0615, 17.0616)

Sec. 44-1005. Enforcement and revocation of permit.

(a) The director shall have the authority to order the removal of a sign or revoke any sign permit upon determination that:

(1) The sign authorized by the permit has been constructed or is being maintained in violation of the permit or the provisions of this chapter.

(2) The work authorized under the permit has not been completed within six months of the date of issuance.

(3) The sign is unsafe or insecure, or is a menace to the public, or by reason of its location creates a traffic hazard or is dangerous to persons and property as determined by the building inspector.

(4) The sign does not meet the maintenance requirements of this chapter.

(5) The sign is abandoned.

(b) Notice of the decision of the director to revoke a sign permit and the reasons therefor shall be served upon the holders of the permit as follows:

(1) By delivering personally copies of the notice to the holders of the permit or to one of their officers.

(2) By leaving a copy of the notice with any person in charge of the premises.

(3) In the event no such person can be found on the premises, by affixing a copy of the notice in a conspicuous position at an entrance to the premises and by certified mailing of copies of the notice to the post office addresses of the holders of the permit specified in the application for the permit.

(c) Notice of revocation of permit shall include notice that the sign must be made to comply with this chapter within 15 calendar days or shall be removed. If the holders of the permit, their officers, or person in charge of the premises fails to remove or alter the sign or structure to comply with the standards set forth herein within 15 days, the sign may be removed by the building inspector at the expense of the owner of the property on which the sign is located. The owner shall be provided with a bill to cover the cost of the removal. If such cost or expense is not paid within 15 days from the date of billing, the costs or expenses incurred for such removal shall be assessed against the real estate upon which such sign is located and collected as other taxes are collected on the real estate. The director may cause any sign or sign supporting structure which is an immediate peril to persons and property to be removed summarily and without notice.

(d) Citation. Following the initial 15-day notice from the building inspector, or immediately, if subsequent violations occur, a citation may be issued. Payment of the scheduled forfeiture does not, however, release the complainant from the responsibility of correcting a code violation.

(e) Appeals to the decision of the director to revoke a permit may be taken to the board of zoning appeals in accordance with the procedures outlined in article XII, division 2, of this chapter.
(Code 2004, § 17.0617)

Secs. 44-1006—44-1025. Reserved.

ARTICLE IX. PERFORMANCE STANDARDS

Sec. 44-1026. Compliance.

This chapter permits specific uses in specific districts and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, land, air, and waters shall hereafter, in addition to their use and site regulations, comply with the following performance standards.
(Code 2004, § 17.0701)

Sec. 44-1027. Air pollution.

No person or activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding state or federal air pollution standards.
(Code 2004, § 17.0702)

Sec. 44-1028. Fire and explosive hazards.

All activities involving the manufacturing, utilization, processing, or storage of flammable or explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, or stored only within completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above-ground storage capacity of materials that produce flammable or explosive vapors shall not exceed 50,000 gallons.
(Code 2004, § 17.0703)

Sec. 44-1029. Glare and heat.

No activity shall emit glare or heat that is visible or measurable outside its premises except activities which may emit direct or sky reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.
(Code 2004, § 17.0704)

Sec. 44-1030. Water quality protection.

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or

unsightliness or be harmful to human, animal, plant, or aquatic life. In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards set forth in Wis. Admin. Code ch. NR 102.
(Code 2004, § 17.0705)

Sec. 44-1031. Noise.

(a) No activity in any manufacturing district shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound level meter and associated octave level filter:

Octave Band Frequency (cycles per second)	*Sound Level (decibels)*
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59
600 to 1,200	53
1,200 to 2,400	47
2,400 to 4,800	41
above 4,800	39

(b) No activity in any other district shall produce a sound level outside its premises that exceeds the following:

Octave Band Frequency (cycles per second)	*Sound Level (decibels)*
0 to 75	79
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
above 4,800	32

(c) All noise shall be so muffled or otherwise controlled so as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

(d) All sirens, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this section.
(Code 2004, § 17.0706)

Sec. 44-1032. Odors.

Except for food preparation and cooking odors emanating from residential properties, and odors associated with property development and maintenance (such as construction, lawn care,

and the painting and roofing of structures), no odor shall be created for periods exceeding a total of 15 minutes per day which are detectable by a healthy observer, such as the city building inspector, who is unaffected by background odors such as tobacco and food, at the property line of the regulated use where any such use abuts any residential, business, office, institutional, or park district.
(Code 2004, § 17.0707)

Sec. 44-1033. Radioactivity and electrical disturbances.

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.
(Code 2004, § 17.0708)

Sec. 44-1034. Vibration.

No activity in any district shall emit vibrations which are discernible without instruments outside its premises. No activity shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

Frequency (cycles per second)	*Displacement (inches)*	
	Outside the Premises	*Outside the District*
0 to 10	0.0020	0.0004
10 to 20	0.0010	0.0002
20 to 30	0.0006	0.0001
30 to 40	0.0004	0.0001
40 to 50	0.0003	0.0001
50 and over	0.0002	0.0001

(Code 2004, § 17.0709)

Sec. 44-1035. Lighting.

No exterior lighting used for parking lots, recreational facilities, product display, or security shall be permitted to spill over on operators of motor vehicles, pedestrians, and uses of land in the vicinity of the light source. These requirements shall not apply to lighting placed in a public right-of-way for public safety.

(1) *Type.* Shielded luminaires, or luminaires with cutoff optics, and careful fixture placement shall be required so as to facilitate compliance with this section.

(2) *Orientation.* Exterior lighting fixtures shall be oriented so that the lighting element (or a transparent shield) does not throw rays onto neighboring properties. Light rays shall not be directed into street rights-of-way or upward into the atmosphere.

(3) *Minimum lighting standards.* All areas designated on approved site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 footcandles, exclusive of approved anti-vandal lighting. This standard shall not apply to properties in agricultural and single-family residential districts.

(4) *Intensity of illumination.* The intensity of illumination, measured at the property line, shall not exceed 0.5 footcandles.

(5) *Location.* Light fixtures shall not be permitted within required buffer yards.

(6) *Flashing, flickering, and other distracting lighting.* Flashing, flickering, and other distracting lighting which may distract motorists is prohibited.

(7) *Nuisances.* Lighting which creates or becomes a public nuisance is not permitted.

(8) *Accent lighting.* Accent lighting and low voltage lighting (12 volts or less) is exempt from these requirements.

(9) *Nonconforming lighting.* All lighting fixtures approved prior to the adoption of this chapter shall be treated as and regulated as legal nonconforming uses. (See section 44-1226.)

(Code 2004, § 17.0710)

Sec. 44-1036. Floodproofing.

Where floodproofing by means of elevating on fill is deemed inappropriate or impractical, and where floodproofing by means other than filling is permitted, floodproofing measures shall be in accordance with the following:

(1) Floodproofing measures shall be designed to:

a. Withstand the flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the 100-year recurrence interval flood;

b. Assure protection to an elevation at least two feet above the elevation of the 100-year recurrence interval flood;

c. Provide anchorage of structures to foundations to resist flotation and lateral movement; and

d. Ensure that the structural walls and floors are watertight and completely dry without human intervention during flooding to a point at least two feet above the elevation of the 100-year recurrence interval flood.

(2) No permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect certifying that the floodproof-

ing measures are adequately designed to protect the structure or development to a point at least two feet above the elevation of the 100-year recurrence interval flood for the particular area.

(3) Floodproofing measures may include, but are not limited to:

a. Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;

b. Addition of mass or weight to structures to prevent flotation;

c. Placement of essential utilities above the flood protection elevation;

d. Surface/subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures;

e. Construction of water supply wells, and waste treatment and collection systems to prevent the infiltration of floodwaters into such systems; and/or

f. Cutoff valves on sewer lines and the elimination of gravity flow basement drains.

(Code 2004, § 17.0711; Ord. No. 2219, 9-16-2006)

Secs. 44-1037—44-1055. Reserved.

ARTICLE X. FLOODPLAIN DISTRICTS

DIVISION 1. GENERALLY

Sec. 44-1056. Findings, purpose and intent.

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base. This article is intended to regulate floodplain development to:

(1) Protect life, health and property;

(2) Minimize expenditures of public funds for flood control projects;

(3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;

(4) Minimize business interruptions and other economic disruptions;

(5) Minimize damage to public facilities in the floodplain;

(6) Minimize the occurrence of future flood blight areas in the floodplain;

(7) Discourage the victimization of unwary land and homebuyers;

(8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

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

(Code 2004, §§ 17.0801, 17.0802, 17.0803, 17.0804; Ord. No. 2303, 9-16-2008)

Sec. 44-1057. Enforcement and penalties.

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the city a penalty of not less than $5.00 and not more than $2,000.00, 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 city, the state, or any citizen thereof pursuant to Wis. Stats. § 823.01.

(Code 2004, § 17.0809; Ord. No. 2303, 9-16-2008)

Sec. 44-1058. Definitions.

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

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

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

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement means any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

Building. See *Structure.*

Bulkhead line means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to Wis. Stats. § 30.11 and which allows 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.

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

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

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.

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

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.

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

Department means the state department of natural resources.

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

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.

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

Existing manufactured home park or subdivision means a parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this chapter. 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.

Expansion to existing mobile/manufactured home park means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring if concrete pads.

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

Flood insurance rate map (FIRM) means a map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the city. This map can only be amended by the Federal Emergency Management Agency.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dryland 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;

(3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or

(4) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

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

Floodfringe means that portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

Flood hazard boundary map means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

Flood insurance 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.

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

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

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

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.

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.

Flood protection elevation means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. Also see *Freeboard.*

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

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

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

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

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

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

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.

Increase in regional flood height means a calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which are directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

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

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

Mobile 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.

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

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

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

Nonconforming structure means an existing lawful structure or building which 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 flood fringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.

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

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

Official floodplain zoning map means that map, adopted and made part of this chapter, which has been approved by the department and FEMA.

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

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

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.

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

Reasonably safe from flooding means base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Regional flood means a flood determined to be representative of large floods known to have occurred in the state. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or 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.

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.

Subdivision has the meaning given in Wis. Stats. § 236.02(12).

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

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 ordinance.

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

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

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

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.

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.
(Code 2004, § 17.0810; Ord. No. 2303, 9-16-2008)

Sec. 44-1059. Areas to be regulated.

This chapter regulates all areas that would be covered by the regional flood or base flood.
(Code 2004, § 17.0801.5(1); Ord. No. 2303, 9-16-2008)

Sec. 44-1060. Official maps and revisions.

The boundaries of all floodplain districts are designated as floodplains or A Zones on the maps listed below and the revisions in the city floodplain appendix. Any change to the base flood elevations (BFE) in the flood insurance study (FIS) or on the flood insurance rate map (FIRM) must be reviewed and approved by the state department of natural resources and FEMA before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps shall be effective until approved by the state department of natural resources. These maps and revisions are on file in the office of this chapter Administrator of the city. If more than one map or revision is referenced, the most restrictive information shall apply.

(1) Official maps, based on the county flood insurance study (FIS), dated September 2008, volume numbers 55079CV001A, 55079CV002A, 55079CV003A, 55079CV004A, 55079CV005A.

(2) County flood insurance rate map (FIRM), panel numbers 55079C0159E, 55079C0167E, 55079C0178E, and 55079C0179E, 55079C0186E, dated September 26, 2008, with corresponding profiles that are based on the FIS.

(Code 2004, § 17.0801.5(2); Ord. No. 2303, 9-16-2008)

Sec. 44-1061. 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.

(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) is those areas that have been or may be covered by floodwater during the regional flood.

(Code 2004, § 17.0801.5(3); Ord. No. 2303, 9-16-2008)

Sec. 44-1062. Locating floodplain boundaries.

(a) Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subsections (1) or (2) of this section. If a significant difference exists, the map shall be amended according to division 7 of this article. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual predevelopment 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 the criteria in subsections (2) and (3) of this subsection (a).

(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.

(b) Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to division 7 of this article.

(Code 2004, § 17.0801.5(4); Ord. No. 2303, 9-16-2008)

Sec. 44-1063. 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 division 7 of this article.

(Code 2004, § 17.0801.5(5); Ord. No. 2303, 9-16-2008)

Sec. 44-1064. 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.
(Code 2004, § 17.0801.5(6); Ord. No. 2303, 9-16-2008)

Sec. 44-1065. 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 Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation is exempt when Wis. Stats. § 30.2022 applies.
(Code 2004, § 17.0801.5(7); Ord. No. 2303, 9-16-2008)

Sec. 44-1066. Abrogation and greater restrictions.

This chapter supersedes all the provisions of any city zoning ordinance that relates 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. 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.
(Code 2004, § 17.0801.5(8); Ord. No. 2303, 9-16-2008)

Sec. 44-1067. Interpretation.

In their interpretation and application, the provisions of this chapter are the minimum requirements liberally construed in favor of the city council and are not a limitation on or repeal of any other powers granted by the state statutes. If a provision of this chapter, required by Wis. Admin. Code ch. NR 116, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.
(Code 2004, § 17.0801.5(9); Ord. No. 2303, 9-16-2008)

Sec. 44-1068. 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 manmade or natural causes. This chapter does not imply or guarantee that nonfloodplain 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 city or any officer or employee thereof for any flood damage that may result from reliance on this chapter.
(Code 2004, § 17.0801.5(10); Ord. No. 2303, 9-16-2008)

Sec. 44-1069. Annexed areas.

The county floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the city for all annexed areas until the city adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code ch. NR 116 and the National Flood Insurance Program (NFIP). These annexed lands are described on the city's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.
(Code 2004, § 17.0801.5(12); Ord. No. 2303, 9-16-2008)

Sec. 44-1070. General development standards.

The city 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 or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components 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.
(Code 2004, § 17.0801.5(13); Ord. No. 2303, 9-16-2008)

Sec. 44-1071. General standards applicable to all floodplain districts.

(a) *Hydraulic and hydrologic analyses.*

(1) Except as allowed in subsection (3) of this section, no floodplain development shall:

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

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

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of subsection (3) 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 division 7 of this article.

This subsection refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the state department of natural resources.

(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 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, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

(c) *Wis. Stats. chs. 30 and 31 development.* Development which requires a permit from the department, under Wis. Stats. chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFEs established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to division 7 of this article.

(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 and family services.

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

(3) The character of the river system and the elevation of the campground is 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 subsection (4) of

this section, to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.

(6) Only camping units are allowed.

(7) The camping units may 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 city 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 division 2 or division 3 of this article 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.

(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.

(Code 2004, § 17.0802; Ord. No. 2303, 9-16-2008)

Secs. 44-1072—44-1095. Reserved.

DIVISION 2. FLOODWAY AREAS ON FLOODPLAIN ZONING MAPS

Sec. 44-1096. Applicability.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 44-1145.

(Code 2004, § 17.0803.1; Ord. No. 2303, 9-16-2008)

Sec. 44-1097. 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 sections 44-1098 and 44-1099; and all permits or certificates have been issued according to section 44-1183:

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

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

(3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of section 44-1098(d).

(4) Uses or structures accessory to open space uses, or classified as historic structures that comply with sections 44-1098(d) and 44-1099.

(5) Extraction of sand, gravel or other materials that comply with section 44-1098(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 Wis. Stats. chs. 30 and 31.

(7) Public utilities, streets and bridges that comply with section 44-1098(c).

(Code 2004, § 17.0803.2; Ord. No. 2303, 9-16-2008)

Sec. 44-1098. Standards for developments in floodway areas.

(a) *Generally*.

(1) Any development in floodway areas shall comply with section 44-1071 and have a low flood damage potential.

(2) Applicants shall provide the following data to determine the effects of the proposal according to section 44-1071:

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 increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for subsection (2) of this section.

(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 and does not have a high flood damage potential.

(2) It must be anchored to resist flotation, collapse, and lateral movement;

(3) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

(4) It must not obstruct flow of floodwaters 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 section 44-1071.

(d) *Fills or deposition of materials*. Fills or deposition of materials may be allowed by permit, if:

(1) The requirements of section 44-1071 are met;

(2) No material is deposited in the navigable channel unless a permit is issued by the department pursuant to Wis. Stats. ch. 30 and a permit pursuant to section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344 has been issued, if applicable, and 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.

(Code 2004, § 17.0803.3; Ord. No. 2303, 9-16-2008)

Sec. 44-1099. Prohibited uses.

All uses not listed as permitted uses in section 44-1097 are prohibited, including the following uses:

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

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

(3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Admin. Code ch. SPS 383;

(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 Wis. Admin. Code chs. NR 811 and NR 812;

(6) Any solid or hazardous waste disposal sites;

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

(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.

(Code 2004, § 17.0803.4; Ord. No. 2303, 9-16-2008)

Secs. 44-1100—44-1121. Reserved.

DIVISION 3. FLOODFRINGE OVERLAY DISTRICT (FFO)

Sec. 44-1122. Applicability.

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to section 44-1145.

(Code 2004, § 17.0804.1; Ord. No. 2303, 9-16-2008)

Sec. 44-1123. Permitted uses.

Any structure, land use, or development allowed in the based zoning is allowed in the floodfringe district if the standards in section 44-1124 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in section 44-1183 have been issued.

(Code 2004, § 17.0804.2; Ord. No. 2303, 9-16-2008)

Sec. 44-1124. Standards for development in floodfringe areas.

Section 44-1071 shall apply, in addition to the following requirements according to the use requested:

(1) *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;

a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. 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 elevations of existing streets or sewer lines makes compliance with the fill standards impractical;

b. 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;

c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (d) of this section;

d. In developments where existing street or sewer line elevations make compliance with subsection (c) of this section impractical, the city may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:

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

2. The city has a natural disaster plan approved by state emergency management and the department.

(2) *Accessory structures or uses*.

a. Except as provided in subsection (2)(b) of this section, 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.

b. An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than $10,000.00 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of sections 44-1098(b)(1) through (4) and subsection (5) of this section.

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

(4) *Manufacturing and industrial uses*. Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other floodproofing measures in section 44-1185. Subject to the requirements of subsection (5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) *Storage of materials*. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with section 44-1185. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

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

a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with section 44-1185 to the flood protection elevation;

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

(7) *Sewage systems*. All on-site sewage disposal systems shall be floodproofed, pursuant to section 44-1185, to the flood protection elevation and shall meet the provisions of all local ordinances and Wis. Admin. Code ch. SPS 383.

(8) *Wells*. All wells shall be floodproofed, pursuant to section 44-1185, to the flood protection elevation and shall meet the provisions of Wis. Admin. Code chs. NR 811 and NR 812.

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

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

(11) *Manufactured homes*.

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

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

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

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

c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in subsection (1) of this section.

(12) *Mobile recreational vehicles*. All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in subsection (11)b and c of this section. 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.

(Code 2004, § 17.0804.3; Ord. No. 2303, 9-16-2008)

Secs. 44-1125—44-1141. Reserved.

DIVISION 4. GENERAL FLOODPLAIN DISTRICT (GFP)

Sec. 44-1142. Applicability.

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

(Code 2004, § 17.0805.1; Ord. No. 2303, 9-16-2008)

Sec. 44-1143. Permitted uses.

Pursuant to section 44-1145, it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (section 44-1097) and floodfringe areas (section 44-1123) are allowed within the general floodplain district, according to the standards of section 44-1144, provided that all permits or certificates required under section 44-1183 have been issued.

(Code 2004, § 17.0805.2; Ord. No. 2303, 9-16-2008)

Sec. 44-1144. Standards for development in the general floodplain district.

Division 2 of this article applies to floodway areas; division 3 of this article applies to floodfringe areas. The rest of this article applies to either district.

(Code 2004, § 17.0805.3; Ord. No. 2303, 9-16-2008)

Sec. 44-1145. 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 floodproofing 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 and flood flows, regional flood elevation and to determine floodway boundaries:

a. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;

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. Profile showing the slope of the bottom of the channel or flow line of the stream;

d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(3) Transmit one copy of the information described in subsections (1) and (2) of this section to the department regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of section 44-1183(b)(3) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

(Code 2004, § 17.0805.4; Ord. No. 2303, 9-16-2008)

Secs. 44-1146—44-1168. Reserved.

DIVISION 5. NONCONFORMING USES

Sec. 44-1169. General conformance standard.

(a) *Applicability*. If these standards conform to Wis. Stats. § 62.23(7)(h), 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 chapter or any amendment thereto.

(b) *Grandfathered use or accessory use of structure.* 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 terms "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. Ordinary maintenance repairs are not considered an extension, modification or addi-

tion; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. 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) The city shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

(4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dryland access must be provided for residential and commercial uses in compliance with section 44-1124(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this subsection;

(5) a. Except as provided in subsection (b)(5)b of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its predamaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.

b. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

(6) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with section 44-1098(a), flood-resistant materials are used, and construction practices and floodproofing methods that comply with section 44-1185 are used.

(Code 2004, § 17.0806.1; Ord. No. 2303, 9-16-2008)

Sec. 44-1170. Floodway areas.

(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 section 44-1169;

(3) Will not increase the obstruction to flood flows or regional flood height;

(4) Any addition to the existing structure shall be floodproofed, pursuant to section 44-1185, 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 floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

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

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

d. The use must be limited to parking 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 Wis. Admin. Code ch. SPS 383.

(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 Wis. Admin. Code chs. NR 811 and NR 812.

(Code 2004, § 17.0806.2; Ord. No. 2303, 9-16-2008)

Sec. 44-1171. Floodfringe areas.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the city, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in section 44-1124, except where subsection (b) of this section is applicable.

(b) If compliance with the provisions of subsection (a) of this section would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of zoning appeals may grant a variance from those provisions of subsection (a) of this section for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

(1) No floor is allowed below the regional flood elevation for residential or commercial structures;

(2) Human lives are not endangered;

(3) Public facilities, such as water or sewer, will not be installed;

(4) Flood depths will not exceed two feet;

(5) Flood velocities will not exceed two feet per second; and

(6) The structure will not be used for storage of materials as described in section 44-1124(5).

(c) If neither the provisions of subsection (a) or (b) of this section can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:

(1) Meets all other regulations and will be granted by permit or variance;

(2) Does not exceed 60 square feet in area; and

(3) In combination with other previous modifications or additions to the building, does not equal or exceed 50 percent of the present equalized assessed value of the building.

(d) 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 Wis. Admin. Code ch. SPS 383.

(e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this chapter and Wis. Admin. Code chs. NR 811 and NR 812.
(Code 2004, § 17.0806.3; Ord. No. 2303, 9-16-2008)

Secs. 44-1172—44-1182. Reserved.

DIVISION 6. ADMINISTRATION

Sec. 44-1183. Zoning administrator.

(a) *Authority to administer chapter.* 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 ten 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.

(6) Investigate, prepare reports, and report violations of this chapter to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.

(7) Submit copies of text and map amendments and biennial reports to the FEMA regional office.

(b) *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; and

b. Legal description, proposed use, and whether it is new construction or a modification;

(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 high water 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 (NGVD) or North American Vertical Datum (NAVD);

h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of divisions 2 or 3 of this article are met; and

i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 44-1071. This may include any of the information noted in section 44-1098(a).

(3) *Data requirements to analyze developments.* The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as subdivision is defined in Wis. Stats. ch. 236 and other proposed developments exceeding five acres in area or where the estimated cost exceeds $125,000.00 the applicant shall provide:

a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;

b. A map showing location and details of vehicular access to lands outside the floodplain; and

c. A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(4) *Expiration.* All permits issued under the authority of this chapter shall expire after six months unless substantial work has commenced, and within 18 months if the work for which the permit was issued is not substantially completed.

(c) *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 ten days after written notification that the permitted work is completed;

(4) The applicant shall submit a certification signed by a registered professional engineer, architect or 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 section 44-1185.

(d) *Other permits*. The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344.
(Code 2004, § 17.0807.1; Ord. No. 2303, 9-16-2008)

Sec. 44-1184. Plan commission.

The plan commission of the city shall oversee the zoning functions of the office of the director and review and advise the city council on all proposed amendments to this chapter, maps and text. The commission shall not grant variances nor amend the text or zoning maps in place of official action by the common council.
(Code 2004, § 17.0807.2)

Sec. 44-1185. Floodproofing plans.

(a) No permit or variance shall be issued 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.

(b) Floodproofing measures shall be designed 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; and

(4) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

(c) Floodproofing measures could include:

(1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure, or

(2) Adding mass or weight to prevent flotation.

(3) Placing essential utilities above the flood protection elevation.

(4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.

(5) Constructing water supply wells and waste treatment systems to prevent the entry of floodwaters.

(6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

(Code 2004, § 17.0807.5; Ord. No. 2303, 9-16-2008)

Sec. 44-1186. 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.

(Code 2004, § 17.0807.6; Ord. No. 2303, 9-16-2008)

Secs. 44-1187—44-1194. Reserved.

DIVISION 7. AMENDMENTS

Sec. 44-1195. Authority to change or amend.

The city council may change or supplement the floodplain zoning district boundaries and this chapter in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

(1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.

(2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.

(3) Any fill in the floodplain 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) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.

(5) Any upgrade to a floodplain zoning ordinance text required by Wis. Admin. Code § NR 116.05 or otherwise required by law, or for changes by the city.

(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 FIRM requires prior approval by FEMA.

(Code 2004, § 17.0808.1; Ord. No. 2303, 9-16-2008)

Sec. 44-1196. Procedures.

Ordinance amendments may be made upon petition of any interested party according to the provisions of Wis. Stats. § 62.23. Such petitions shall include all necessary data required by sections 44-1145 and 44-1183(b).

(1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the city council. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 62.23.

(2) No amendments shall become effective until reviewed and approved by the department.

(3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, 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 city council.

(4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the department, the zoning administrator's visual on-site inspections and other available information.

(Code 2004, § 17.0808.2; Ord. No. 2303, 9-16-2008)

Secs. 44-1197—44-1225. Reserved.

ARTICLE XI. NONCONFORMING USES, STRUCTURES, AND LOTS

Sec. 44-1226. Existing nonconforming uses.

The lawful nonconforming use of land or water, or a lawful nonconforming use in a conforming or nonconforming structure or a lawful nonconforming use on a conforming or

nonconforming lot, which existed at the time of the adoption or amendment of this chapter, may be continued although the use does not conform with the provisions of this chapter; however:

(1) *Continuation of nonconforming use.* Only that portion of the land or water in actual use may be so continued and the use may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.

(2) *Discontinuance.* If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this chapter.

(3) *Abolishment or destruction.* When a nonconforming use or a structure with a nonconforming use is damaged by fire, explosion, flood, the public enemy, or other calamity to the extent of more than 50 percent of its current equalized value, it shall not be restored except so as to comply with the use provisions of this chapter, including the requirements of section 44-1232 for nonconforming uses and structures in the FWO and FFO Overlay Districts; provided, however, that for the purpose of promoting the health, safety and general welfare of the city, the plan commission subject to confirmation by the common council may waive this provision to regulate any place, structure or object with a special character, historic interest, archaeological or aesthetic interest or other significant value for the purpose of preserving the place, structure, building or object and its significant characteristics.

(4) *Change to another nonconforming use.* If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.

(Code 2004, § 17.0901; Ord. No. 2074, 8-19-2003)

Sec. 44-1227. Conforming structures on nonconforming lots.

The use of a structure outside the FWO and FFO Overlay Districts existing at the time of the adoption or amendment of this chapter may be continued although the lot area or lot width does not conform to the requirements of this chapter.

(1) Additions and enlargements to the structures are permitted and shall conform to the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter.

(2) Existing conforming structures on nonconforming lots which are damaged or destroyed by fire, explosion, flood, or other calamity, may be reconstructed and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter.

(Code 2004, § 17.0902)

Sec. 44-1228. Nonconforming structures on a conforming or nonconforming lot.

(a) The use of a structure outside the FWO and FFO Overlay Districts existing at the time of the adoption or amendment of this chapter may be continued although the structure's size or location does not conform to the established building setback line along streets, or the yard, height, parking, loading, and/or access provisions of this chapter.

(b) An existing nonconforming structure with a conforming use that is damaged or destroyed by fire, explosion, flood, or other calamity, may be reconstructed; however, the replacement structure shall conform to the yard, height, parking, loading, and access provisions of this chapter.

(c) If a nonconforming structure with a conforming use existed prior to March 2, 2006, and was damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation, such structure may be restored to the size, location, and use that it had immediately before the damage or destruction occurred in accordance with Wis. Stats. § 62.23(7)(hc). In addition, no limits may be imposed on the costs of the repair, reconstruction, or improvement of the structure.

(d) Nonconforming structures shall not be structurally or dimensionally altered other than in a manner permitted herein or to bring about conformance with the provisions of this chapter or where otherwise required by state or federal law.

(Code 2004, § 17.0903; Ord. No. 2074, 8-19-2003; Ord. No. 2219, 9-16-2006)

Sec. 44-1229. Changes and substitutions.

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the board of zoning appeals has permitted the substitution of a more conforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the board of zoning appeals.

(Code 2004, § 17.0904)

Sec. 44-1230. Existing nonconforming lots.

(a) A lot which does not contain sufficient area to conform to the dimensional requirements of this chapter, but which is at least 30 feet wide and 3,600 square feet in area, may be used as a single-family building site provided that the use is permitted in the applicable basic use and

any overlay zoning district; provided that the lot is of record in the county register of deeds office prior to the effective date of this chapter. Nonconforming lots granted permits under this section shall be required to meet the setback and other yard requirements of this chapter. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance is granted by the board of zoning appeals.

(b) Lots that are nonconforming due in whole or part to being comprised of unjoined lots, shall be lawfully joined by a certified survey map approved by the city and which shall be recorded by the register of deeds prior to the issuance of any building permit.
(Code 2004, § 17.0905; Ord. No. 2053, 2-4-2003)

Sec. 44-1231. Wetlands.

Notwithstanding Wis. Stats. §§ 62.23(7)(h) and (hc), the [restoration], repair, reconstruction, renovation, remodeling, or expansion of a legal nonconforming structure, or any environmental control facility related to a legal nonconforming structure, located in C-1 Conservancy District and in existence at the time of adoption or subsequent amendment of this Code is permitted pursuant to Wis. Stats. § 62.231(5) and (5m).
(Code 2004, § 17.0906; Ord. No. 2219, 9-16-2006)

Sec. 44-1232. FWO and FFO overlay districts.

(a) *Modifications to floodplain nonconforming use or structure.* In accordance with Wis. Stats. § 62.23(7)(h), no modification to a floodplain nonconforming use or structure shall be permitted that would, over the life of the nonconforming use or structure, exceed 50 percent of the equalized assessed value of the structure at the time of modification, unless the entire structure is changed to a conforming structure with a conforming use or is damaged or destroyed by certain natural causes and may be restored in accordance with Wis. Stats. § 62.23(7)(hc). The percentage shall be derived from the cost of the modification compared to the structure's equalized assessed value at the time of the modification. Ordinary maintenance repairs are not considered structural repairs or alterations. Such ordinary maintenance repairs include internal and external painting, decorating, and paneling; the replacement of doors, windows, and other nonstructural components; and the maintenance, repair, or replacement of existing sewage systems, water supply systems, or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure in a floodplain. The cost of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation is excluded from the 50 percent provision in this paragraph.

(1) The construction of a deck that does not exceed 200 square feet in size in a floodplain and that is adjacent to the exterior wall of a principal structure is not an extension, modification, or addition. The roof of the principal structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(2) The building inspector shall maintain records of all floodplain nonconforming uses and structures, and modifications made to floodplain nonconforming uses and structures. Records shall reflect the current equalized assessed value of nonconforming structures, the costs of any modifications that are permitted, and the percentage of the structure's current value that those modifications represent.

(b) *Additional requirements for nonconforming uses and structures in the FWO Overlay District.* No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the floodway, unless such modification or addition:

(1) Has been granted a permit or variance that meets the requirements of this chapter.

(2) Contiguous dry land access will be provided for residential, business, industrial, and institutional uses in compliance with this chapter.

(3) Will not increase the obstruction to flood flows or regional flood height.

(4) Any addition to the existing structure shall be floodproofed, pursuant to section 44-1036, by means other than the use of fill, to the flood protection elevation.

(5) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the floodway. Any replacement, repair, or maintenance of an existing on-site sewage disposal system in the floodway shall meet all applicable requirements of city ordinances and Wis. Admin. Code ch. SPS 383.

(6) No new well or modification to an existing well used to obtain water for ultimate human consumption shall be allowed in the floodway. Any replacement, repair, or maintenance of an existing well in the floodway shall meet all applicable requirements of city ordinances and Wis. Admin. Code chs. NR 811 and NR 812.

(7) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening shall 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.

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

(c) *Additional requirements for nonconforming uses and structures in the FFO Overlay District.* No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the floodplain fringe unless such modification or addition:

(1) Has been granted a permit or variance by the city.

(2) The modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in this chapter, except where subsection (c)(3) of this section applies.

(3) Where compliance with the fill or floodproofing provisions of subsection (c)(2) of this section would result in unnecessary hardship, and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of zoning appeals, using the procedures established in article XII, division 2 of this chapter, may grant a variance for modifications or additions which are protected to elevations lower than the flood protection elevation provided:

a. No floor is allowed below the regional flood elevation for residential or business structures.

b. Human lives are not endangered.

c. Public facilities, such as water or sewer, will not be installed.

d. Flood depths will not exceed two feet.

e. Flood velocities will not exceed two feet per second.

f. The structure will not be used for storage of materials described in this chapter.

(4) An addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the FFO Overlay District on a one-time basis only, provided that the addition:

a. Has been granted a permit or variance by the city.

b. Does not exceed 60 square feet in area.

c. In combination with other previous modifications or additions to the building, does not exceed 50 percent of the present equalized assessed value of the building.

(5) All new private sewage disposal systems, or additions to, replacement, repair, or maintenance of, a private sewage disposal system shall meet all applicable provisions of city ordinances and Wis. Admin. Code ch. SPS 383.

(6) All new wells, or additions to, replacement, repair, or maintenance of a well shall meet all applicable provisions of city ordinances and Wis. Admin. Code chs. NR 811 and NR 812.

(Code 2004, § 17.0907; Ord. No. 2219, 9-16-2006)

Secs. 44-1233—44-1252. Reserved.

ARTICLE XII. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 44-1253. Public information.

To the fullest extent possible, the plan commission and its staff shall make available to the public all reports and documents concerning the city comprehensive plan and any component thereof. In addition:

(1) All available information in the form of reports, bulletins, maps, and engineering data shall be readily available and widely distributed.

(2) Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the 100-year recurrence interval floodplain at appropriate locations within the floodplain.

(3) Where useful, wetland boundaries may be staked in the field and the boundaries may be identified on a plat of survey.

(4) Information regarding the location of floodplains and wetlands shall be provided to realtors, lenders, and the general public. All legal descriptions of property containing floodplains or wetlands should include information designating the floodplains or wetland areas when property is transferred.

(5) The plan commission may set fees necessary to recover the costs of providing information to the public.

(Code 2004, § 17.1002)

Sec. 44-1254. Violations.

It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this chapter. Failure to secure the necessary permits prior to commencing construction shall also constitute a violation. In case of any violation, the common council, the building inspector, the plan commission, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this chapter.

(Code 2004, § 17.1014)

Sec. 44-1255. Remedial action.

Whenever an order of the building inspector has not been complied with within 30 days after written notice has been mailed to the owner, resident agent, or occupant of the premises, the

common council, the building inspector, or the city attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.
(Code 2004, § 17.1015)

Sec. 44-1256. Penalties.

(a) Any person who violates, disobeys, neglects, omits, or refuses to comply with or who resists the enforcement of any of the provisions of this chapter or any regulation, rule or order made hereunder shall be subject to a penalty as provided in section 1-15. Each day a violation exists or continues shall constitute a separate offense, except that in order for the defendant to be charged with a second offense it shall be a separate and distinct violation as opposed to a continuing daily violation on the same provision.

(b) The term "person" shall include a corporation, partnership, limited liability company or other entity. Any officer or registered agent of a corporation, any partner of a partnership and any member of a limited liability company or other entity may be directly and individually cited hereunder for a violation. The owner of the premises may also be cited for a violation hereunder even though not directly involved in the violation.
(Code 2004, § 17.1016)

Sec. 44-1257. Permit fees.

All persons, firms, or corporations performing work which by this chapter requires the issuance of a permit shall pay a fee for such permit to the city treasurer to help defray the cost of administration, investigation, advertising and processing of permits and variances. The permits for which a fee is required are the building permit, certificate of occupancy, planned unit development review, conditional use permit, and sign permit. A fee shall also be required for a zoning text or map amendment, and a zoning appeal or variance. The fees shall be set forth in the city fee schedule, as may be amended from time to time.
(Code 2004, § 17.1012; Ord. No. 2063, 6-3-2003)

Sec. 44-1258. Double fee.

A double fee shall be charged by the building inspector if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this chapter nor from prosecution for violation of this chapter.
(Code 2004, § 17.1013)

Sec. 44-1259. Notice of public hearings.

(a) Notice of any public hearing which the common council, plan commission, or zoning board of appeals is required to hold under the terms of this chapter shall specify the date, time and place of hearing, and the matter to be presented at the hearing. Pursuant to Wis. Stats. ch.

985 the notice shall be published as a Class 2 notice in a newspaper of general circulation in the city at least once each week for two consecutive weeks, the last publication of which shall be at least one week before the public hearing.

(b) Notice of the public hearing shall be mailed to all parties-in-interest at least 10 days before the hearing. Parties-in-interest shall be defined as the petitioner, the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the petition, and the owners of all lands included in the petition and all lands lying within 300 feet of lands included in the petition. The failure to give any notice to any property owner shall not invalidate the action taken by one of the aforementioned bodies.
(Code 2004, § 17.1301)

Sec. 44-1260. Zoning administrator designated.

The director of economic development, inpsections and zoning (director) is designated as the administrative and enforcement officer for the provisions of this chapter. The duty of the chief building inspector shall be to administer this chapter at the direction of the director and to issue, after on-site inspection if needed, all permits required by this chapter. The director shall further:

(1) Maintain records of all permits issued, inspections made, work approved, and other official actions.

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

(3) Inspect all structures, lands, and waters as often as necessary to assure compliance with this chapter.

(4) Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this chapter to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the city attorney in a manner specified by him.

(5) Assist the city attorney in the prosecution of Code violations.

(6) Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this chapter. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Wis. Stats. § 66.0119.

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

(8) Request assistance and cooperation from the city police department and city attorney as deemed necessary.

(9) Attend all meetings of the city plan commission and the city board of zoning appeals.
(Code 2004, § 17.1003)

Sec. 44-1261. Plan commission.

The city plan commission shall have the duties of making reports and recommendations related to the planning and development of the city to public officials, agencies, public utility companies, civic, educational, professional and other organizations, and citizens. The plan commission may employ staff and shall oversee the operation of the office of the zoning administrator. The commission, its members and employees, in the performance of its functions, may enter upon any land and make examinations and surveys. In general, the plan commission shall have such powers as may be necessary to enable it to perform its function and promote municipal planning.
(Code 2004, § 17.1001)

Sec. 44-1262. Site plan, architectural review, and design review process.

(a) *Approval required.* For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure in any district nor any principal structure in the RS-1, RS-2, RS-3, RD-1, and RD-2 districts, without first obtaining the approval of detailed site and architectural plans as set forth in this section.

(b) *Review by plan commission and design review committee.* The plan commission and/or the design review committee shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, utilization of landscaping and open space, and the proposed operation in all districts.

(c) *Project approval.* All projects requiring review and approval by the city plan commission shall be commenced within six months of the date of approval and completed within 18 months of the approval. The plan commission shall have the discretion and authority to modify these dates as the project or special circumstances may warrant.

(1) *Principles.* To implement and define criteria for the purposes set forth above, the following principles in addition to the city design guidelines are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

a. No building shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.

b. No building shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.

c. No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties. Metal faced buildings may be permitted where facades exposed to the public way are comprised, in whole or part, of an architecturally significant masonry material. Such material may be brick, textured CMU, finished precast panels, dimensional, cementitious siding or any aesthetically pleasing mix thereof in aggregate not less than 25 percent of the facade area.

d. No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.

e. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the city.

f. Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The plan commission may require that drainage easements be executed.

g. Appropriate erosion control measures shall be utilized in all new development.

h. Buildings and uses shall provide for safe traffic circulation and safe driveway locations.

i. Buildings and uses shall provide adequate parking and loading areas.

j. Buildings and uses shall be provided with adequate public services as approved by the appropriate utility.

k. Buildings and uses shall make appropriate use of open spaces and the city plan commission may require appropriate landscaping and planting screens.

l. No less than 10 percent of the gross area of a lot shall be subject to a managed landscape plan.

m. Pole structures are prohibited in all districts, but may be permitted as temporary structures in the M-1, M-2, B-2 and B-5 zoning districts in compliance with the provisions of this chapter and state and federal law.

(2) *Sureties.* The plan commission may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The plan commission may require appropriate sureties to guarantee that improvements will be completed on schedule.

(3) *Appeals.* Any person or persons aggrieved by any decision of the plan commission related to plan review may appeal the decision to the board of zoning appeals. Such appeal shall be filed with the city clerk within 30 days after the decision of the plan commission.

(Code 2004, § 17.1009; Ord. No. 2356, 1-4-2011)

Secs. 44-1263—44-1282. Reserved.

DIVISION 2. BOARD OF ZONING APPEALS

Sec. 44-1283. Establishment.

There is hereby established a board of zoning appeals for the city for the purpose of hearing appeals and applications, and for granting variances and exceptions to the provisions of this zoning code.

(Code 2004, § 17.1101)

Sec. 44-1284. Membership.

The board of zoning appeals shall consist of five members appointed by the mayor and confirmed by the common council.

(1) *Terms.* Terms shall be for staggered three-year periods.

(2) *Chairperson.* A chairperson shall be designated by the mayor, and in his failure to do so, the first confirmed nominee shall serve as chairman, and the second confirmed nominee shall serve as vice-chairman.

(3) *Alternate members.* The mayor shall appoint a first alternate member and a second alternate member to act only when a regular member is absent or refuses to vote because of interest. The second alternate member may act only when the first alternate is unable to act or is already sitting.

(4) *Secretary.* The board shall elect its own secretary.

(5) *Custodian of records.* The custodian of records shall be the city clerk.

(6) *Technical assistance at meetings.* The building inspector, or a designee from the office of the building inspector, shall attend all meetings for the purpose of providing technical assistance.

(7) *Taking of official oaths.* Official oaths shall be taken by all members in accordance with Wis. Stats. § 19.01 within ten days of receiving notice of their appointment.

(8) *Filling of vacancies.* Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

(Code 2004, § 17.1102)

Sec. 44-1285. Organization.

The board of zoning appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.

(1) Meetings shall be held at the call of the chairman and shall be open to the public.

(2) Minutes of the proceedings and a record of all actions shall be kept by the secretary, or other designated person, showing the vote of each member upon each question, the reasons for the board's determination, and its finding of facts. These records shall be immediately filed in the office of the city clerk and shall be a public record.

(3) The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official; grant a variance; or make an interpretation.

(Code 2004, § 17.1103)

Sec. 44-1286. Powers.

The board of zoning appeals shall have the following powers:

(1) *Errors.* To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by any administrative official.

(2) *Variances.* To hear and grant appeals for variances as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in unnecessary hardship, so that the spirit and purposes of this chapter shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted.

(3) *Substitutions.* To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the city plan commission has conducted a review and made a recommendation. Whenever the board permits such a substitution, the use may not revert and may not be changed thereafter without application.

(4) *Permits.* The board may reverse, affirm wholly, or partly modify the requirements appealed from, and may direct the issue of a permit.

(5) *Assistance.* The board may request assistance from other city officers, departments, commissions, and boards.

(6) *Oaths.* The chairman may administer oaths and compel the attendance of witnesses.

(Code 2004, § 17.1104)

Sec. 44-1287. Appeals and applications.

Appeals of the decision of the building inspector or any administrative official concerning the literal enforcement of this chapter may be made by any person aggrieved or by any officer,

department, commission, or board of the city. Such appeals shall be filed with the city clerk within 30 days after the date of written notice of the decision or order of the building inspector or any administrative official. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the city clerk. Such appeals and applications shall include the following:

(1) Name and address of the appellant or applicant and all abutting and opposite property owners of record.

(2) Site plan, or plat of survey prepared by a registered land surveyor showing all of the information required under section 44-1315 for a building permit.

(3) Additional information required by the city plan commission, public works director, board of zoning appeals, or building inspector.

(4) A nonrefundable appeals fee as set out in section 14.06(14)(aa) must be paid upon filing any appeal with the board of zoning appeals before any appeal is deemed to have been taken.

(Code 2004, § 17.1105; Ord. No. 2064, 6-3-2003; Ord. No. 2140, 3-15-2005)

Sec. 44-1288. Hearings.

The board of zoning appeals shall fix a reasonable time and place for the hearing, shall give public notice thereof, and shall give due notice to the parties in interest, the building inspector, and the city plan commission. At the hearing the appellant may appear in person, by agent, or by attorney.

(Code 2004, § 17.1106)

Sec. 44-1289. Notice to state department of natural resources.

The board of zoning appeals shall transmit a copy of each application for a variance to conservancy regulations in a shoreland or to floodplain regulations, and a copy of all shoreland and floodplain appeals, to the state department of natural resources for review and comment at least ten days prior to any public hearings. Final action on the application shall not be taken for 30 days or until the state department of natural resources has made its recommendation, whichever comes first. A copy of all decisions relating to variances to conservancy regulation in a shoreland or to floodplain regulations, and a copy of all decisions to shoreland and floodplain appeals, shall be transmitted to the state department of natural resources within ten days of the date of such decision.

(Code 2004, § 17.1107)

Sec. 44-1290. Findings.

No variance to the provisions of this chapter shall be granted by the board unless it finds that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

(1) *Preservation of intent.* No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated principal use, accessory use, or conditional use in that particular district.

(2) *Exceptional circumstances.* There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties of uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that this chapter should be changed.

(3) *Economic hardship and self-imposed hardship not grounds for variance.* No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

(4) *Preservation of property rights.* The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

(5) *Absence of detriment.* No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.

(6) *Additional requirements in floodplain districts.* Nonconforming uses and structures in the FWO Floodway Overlay District and FFO Floodplain Fringe Overlay District shall comply with the provisions of section 44-1232. No variance shall be granted in such floodplain districts where:

a. Filling and development contrary to the purpose and intent of the FWO Floodway Overlay District would result.

b. A change in the boundaries of the FWO Floodway Overlay District or the FFO Floodplain Fringe Overlay District would result.

c. An increase in flood stage equal to or greater than 0.01 foot for the particular area would result.

d. Any residential or commercial basement or crawlway located below the 100-year recurrence interval flood elevation would result.

e. Any change or alteration of an historic structure, including its use, would result in the structure losing its designation as an historic structure.

f. Any action contrary to the provisions of Wis. Admin. Code ch. NR 116, would result.

(Code 2004, § 17.1108; Ord. No. 2219, 9-16-2006)

Sec. 44-1291. Wetland, floodplain and shoreland boundary disputes.

(a) *Wetland disputes.* Whenever the board of zoning appeals is asked to interpret a C-1 Conservancy District boundary where an apparent discrepancy exists between the city's final wetland inventory map and actual field conditions, the city shall contact the state department of natural resources, or other appropriate authority, to determine if the wetland inventory map is in error. If the state department of natural resources staff, or the staff of another appropriate authority, concurs that the particular area was incorrectly mapped as a wetland, the board of zoning appeals shall direct the city plan commission to initiate appropriate action to rezone the property within a reasonable amount of time.

(b) *Floodplain disputes.* Whenever the board of zoning appeals is asked to interpret a floodplain boundary where an apparent discrepancy exists between the zoning map and actual field conditions, the following procedure shall be used. The floodplain boundary shall be determined by use of the flood profiles contained in the Federal Flood Insurance Study or an engineering study, or where such information is not available, by historical data, flood maps, or any other evidence available to the board of zoning appeals. The person contesting the location of the district boundary shall be given the opportunity to present his or her own technical evidence. Where it is determined that the floodplain is incorrectly mapped, the board of zoning appeals shall advise the city plan commission of its findings and the plan commission shall proceed to petition the common council for a map amendment.

(c) *Shoreland disputes.* Whenever the board of zoning appeals is asked to interpret the location of a shoreland boundary, the building inspector shall contact the appropriate regional office of the state department of natural resources for a determination of navigability or ordinary high water mark (OHWM) location.

(Code 2004, § 17.1109; Ord. No. 2219, 9-16-2006)

Sec. 44-1292. Decision.

The board of zoning appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the board's decision to the appellant or applicant, building inspector, and city plan commission.

(1) Conditions may be placed upon any building permit ordered or authorized by this board.

(2) Variances or substitutions granted by the board shall expire within six months unless substantial work has commenced pursuant to such grant.

(3) Applicants receiving variances in floodplains. Pursuant to federal regulations 44 (CFR Part 60.6(5)), applicants receiving variances in floodplains shall be notified, in writing, by the board of zoning appeals that increased flood insurance premiums and risk to life and property may result from the granting of the variance. The board shall keep a record of the notification in its files.

(Code 2004, § 17.1110)

Sec. 44-1293. Review by court of record.

Any person or persons aggrieved by any decision of the board of zoning appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the board of zoning appeals.

(Code 2004, § 17.1111)

Secs. 44-1294—44-1314. Reserved.

DIVISION 3. PERMITS AND CERTIFICATES

Sec. 44-1315. Building permit required.

No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after the owner or his agent has secured a building permit from the director or his designee. Applications for building permit shall be made to the department on forms furnished by the department and shall include the following where applicable.

(1) Name and addresses of the applicant, owner of the site, architect, professional engineer, and contractor.

(2) Description of the subject site by lot, block and recorded subdivision, or metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

(3) Plat of survey prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations to city datum, uses, and sizes of the following: subject site; existing and proposed structures; existing and proposed easements, streets, and other public ways; off street parking, loading areas and drive-ways; existing highway access restrictions; and existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site.

(4) Proposed sewage disposal plan, if connection is not to be made to the municipal sewerage system, which shall comply with all city ordinances, Wis. Admin. Code ch.

SPS 383 and other applicable laws and regulations. The public works director must certify that adequate and safe sewage disposal is possible on the site, based on the sewage disposal plan, prior to issuance of a building permit.

(5) Proposed water supply plan, if connection is not to be made to the municipal water supply system, which shall comply with all city ordinances, Wis. Admin. Code ch. NR 812 and other applicable laws and regulations. The public works director must certify that an adequate and safe supply of water is possible on the site, based on the water supply plan, prior to issuance of a building permit.

(6) Condominium declaration. Any developer of land in the city who elects to create a condominium pursuant to Wis. Stats. ch. 703 shall submit a copy of the condominium declaration, and any amendment thereto, to the building inspector to be attached to the file copy of the building permit application.

(7) Additional information as may be required by the director, city plan commission, public works director, building inspector, plumbing inspector or other city official.

(8) A building permit shall be granted or denied in writing by the director within 30 days after application. All conditional use permits shall be granted or denied within 60 days after application, unless the time is extended by mutual consent of the applicant and the city. The permit shall expire within six months unless substantial work has commenced, and within 18 months if the structure for which the permit was issued is not substantially completed. Any permit issued in conflict with the provisions of this chapter shall be null and void.

(Code 2004, § 17.1004)

Sec. 44-1316. Certificate of compliance and occupancy permit.

(a) No land, building, or part of a building used or proposed to be used for business or industrial purposes shall be occupied by a new tenant or a new owner or shall have the use changed without the issuance of a certificate of compliance by the director. A certificate of compliance shall be deemed a prerequisite to any permit for occupancy and a constituent part thereof and shall involve a systematic inspection of the premises to reasonably determine a hazard-free, code compliant condition. No occupancy permit shall be issued unless and until all orders to correct deficiencies have been satisfied. Such certificates shall show that the building or premises or part thereof is in substantial compliance with the applicable zoning and building codes of the city and is ready for suitable occupancy as determined by code. Application for a certificate of compliance shall be made in the same manner as an application for a permit of occupancy or a building permit. An application for a certificate of compliance shall be filed prior to any major remodeling, change of use, or change of occupant. No certificate of

compliance shall be required upon change of ownership of the premises when there is no actual physical change of contents, use or tenants except upon complaint or observance of code violations All unlawful occupancies shall be prohibited and placarded by the department.

(b) No land within a floodplain overlay district shall be developed, occupied, or used, and no structure hereafter erected, altered, or moved within a floodplain district shall be occupied until the applicant submits to the building inspector a floodplain certificate of compliance, certified by a registered professional engineer or land surveyor, that the floodplain regulations set forth in this chapter have been fully complied with. Such certification shall include the first floor and basement floor elevations of any structure erected on the site.
(Code 2004, § 17.1005; Ord. No. 2219, 9-16-2006)

Sec. 44-1317. Conditional use permit.

The city plan commission may authorize the director to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the city. Applications for conditional use permits shall be made to the director on forms furnished by the director and shall include the following where pertinent and necessary for proper review by the plan commission:

(1) Names and addresses of the applicant, owner of the site, architect, professional engineer, and contractor.

(2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds, address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located.

(3) For floodplain conditional uses, such description shall also include information that is necessary for the plan commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information shall include plans and a recommendation certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.

(4) Plat of survey prepared by a registered land surveyor showing all of the information required under section 44-1315(3), for a building permit and, in addition, the mean and historic high water lines and floodplains on or within 40 feet of the subject premises and existing and proposed landscaping.

(5) Additional information as may be required by the city plan commission, the director and his designees.

(6) Review and approval. The city plan commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed plan of operation. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the city plan commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter.

(7) Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses. Variances shall only be granted as provided in section 44-1290.

(8) Public hearing. The city plan commission shall hold a public hearing on each application giving public notice as specified in this chapter. The plan commission may subsequently issue the conditional use permit with appropriate conditions, deny the permit with reasons, or require the submittal of a modified application.

(9) Notice to state department of natural resources. The plan commission shall transmit a copy of each application for a conditional use within a shoreland-wetland in the C-1 Lowland Conservancy District, and a copy of each application for a conditional use in the FWO Floodway Overlay or FFO Floodplain Fringe Overlay District, to the state department of natural resources at least ten days prior to the public hearing. Final action on the application shall not be taken for 30 days or until the state department of natural resources has made its recommendation, whichever comes first. A copy of all conditional use decisions for uses within the shoreland or a floodplain shall be transmitted to the state department of natural resources within ten days following the decision.

(10) Amendments. Changes subsequent to the initial issuance of a conditional use permit which would result in a need to change the initial conditions shall require an amendment to the conditional use permit. Enlargement of a conditional use shall be considered an amendment. The process for amending a permit shall generally follow the same procedures as those required for granting a conditional use permit as set forth in this section.

(11) Revocation of conditional use permit. Should a permit applicant, his heirs or assigns, fail to comply with the conditions of the permit issued by the plan commission or should the use, or characteristics of the use be changed without prior approval by the

plan commission, the conditional use permit may be revoked. The process for revoking a permit shall generally follow the same procedures as those required for granting a conditional use permit as set forth in this section.

(Code 2004, § 17.1006)

Sec. 44-1318. Other permits.

It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal, or county agency. This includes, but is not limited to, a water use permit pursuant to Wis. Stats. ch. 30 or a wetland fill permit pursuant to section 404 of the Federal Clean Water Act or a water quality certification from the state department of natural resources.

(Code 2004, § 17.1008)

Secs. 44-1319—44-1349. Reserved.

DIVISION 4. CHANGES AND AMENDMENTS

Sec. 44-1350. Authority.

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the common council may, by ordinance, change the district boundaries or amend, change, or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the city plan commission.

(Code 2004, § 17.1201)

Sec. 44-1351. Initiation.

A change or amendment may be initiated by the common council or city plan commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.

(Code 2004, § 17.1202)

Sec. 44-1352. Petitions.

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the city plan commission, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use, and have attached the following:

(1) Plot plan drawn to a scale of one inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 300 feet of the area proposed to be rezoned.

(2) Owners names and addresses of all properties lying within 300 feet of the area proposed to be rezoned.

(3) Additional information required by the city plan commission or common council.

(Code 2004, § 17.1203)

Sec. 44-1353. Review and recommendations.

The city plan commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified and granted, or denied.

(Code 2004, § 17.1204)

Sec. 44-1354. Hearings.

The common council shall hold a public hearing upon each petition giving public notice thereof, listing the time, place, and the changes or amendments proposed. The common council shall also give at least ten days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.

(Code 2004, § 17.1205)

Sec. 44-1355. Common council action.

As soon as possible after such public hearing, and after careful consideration of the city plan commission's recommendations, the common council shall act on the petition either approving, modifying and approving, or disapproving of the same.

(Code 2004, § 17.1206)

Sec. 44-1356. Floodplain district boundary changes limited.

The common council shall not permit changes to the floodplain district boundaries that are inconsistent with the purpose and intent of this chapter or in conflict with the applicable rules and regulations of the state department of natural resources and the Federal Emergency Management Agency (FEMA).

(1) *Changes to the FWO Floodway Overlay District boundaries.* Changes to the FWO Floodway Overlay District boundaries shall not be permitted where the change will increase the flood stage elevation equal to or more than 0.01 foot in height, unless the petitioner has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase. No change in the boundaries of the FWO district shall be permitted where development will result in an increase in the elevation of the 100-year recurrence interval floodplain because of a loss in floodplain storage. Petitions for floodway overlay district changes shall show the

effects of the change within the associated flood fringe, and shall provide adjusted water surface profiles and adjusted floodplain limits to reflect the increased flood elevations.

(2) *Removal of land from the floodplain districts.* Removal of land from the floodplain districts shall not be permitted unless the land has been filled to an elevation at least two feet above the elevation of the 100-year recurrence interval flood and provided that such land is contiguous to lands lying outside of the floodplains.

(3) *Amendment of floodplains which were delineated by approximate methods.* Amendment of floodplains which were delineated by approximate methods shall not be permitted unless the petitioner provides the city with engineering data showing the flood profile, necessary stream cross-sections, flood elevations, and any effect the establishment of a floodway/flood fringe will have on flood stages. The effects shall be limited as set forth above for changes in the FWO district. If the approximate flood zone is five acres or less in area, and where the cost of the proposed development is estimated to be $125,000.00 or less, the state department of natural resources shall assist the petitioner in determining the required flood elevations.

(4) *Alteration or relocation of river or stream.* No river or stream shall be altered or relocated until a floodplain zoning change has been applied for and granted in accordance with the requirements of this section, and until all adjacent communities have been requested to review and comment on the proposed alteration or relocation. The flood-carrying capacity of the altered or relocated watercourse shall not be reduced to less than the flood-carrying capacity before the watercourse was altered or relocated.

(5) *Notice to and approval by state department of natural resources.* A copy of all notices for amendments or rezoning in the FWO and FFO Overlay Districts shall be transmitted to the state department of natural resources at least ten days prior to the public hearing. Notice of action taken shall be provided to the state department of natural resources within ten days of the decision. No amendments to the floodplain district boundaries or regulations shall become effective until approved by the state department of natural resources.

(6) *Notice to and approval by FEMA.* Notices of action taken for amendments or rezoning in the FWO and FFO districts shall be transmitted to the regional office of the Federal Emergency Management Agency (FEMA) within ten days of the decision. In the case of FWO or FFO district boundary changes, FEMA will determine if an official letter of map amendment (LOMA) or letter of map revision-based on fill (LOMR-F) will be required. The LOMA and LOMR-F are only waivers of federal flood insurance requirements; however, the mortgage lender retains the prerogative to require flood insurance as a condition of providing financing, regardless of the location of the

structure. In addition, these letters do not fulfill minimum requirements for removing land from the floodplain. To remove land from floodplain, the requirements in subsection (2) of this section must be met. No amendments to the floodplain district boundaries or regulations shall become effective until approved by FEMA.

(Code 2004, § 17.1207; Ord. No. 2219, 9-16-2006)

Sec. 44-1357. Shoreland C-1 amendments.

(a) *Notice to state department of natural resources.* The city shall transmit a notice of any change (text or map) in the C-1 district if such change affects land in the shoreland, as defined in section 44-4, to the state department of natural resources. Notice requirements shall be as follows:

(1) A copy of every petition for a text or map change mailed within five days of filing with the city plan commission.

(2) At least ten days prior notice of any public hearing on a Shoreland C-1 zoning amendment.

(3) Notice of a city plan commission recommendation no later than ten days following the recommendation.

(4) Notice of a common council decision no later than ten days following the decision.

(b) *Review standards.* No wetland in a shoreland portion of a C-1 district shall be rezoned if the rezoning may result in a significant adverse impact on storm or floodwater storage capacity; maintenance of dry season streamflow, the discharge of groundwater from the wetland to another area, or the flow of groundwater through a wetland; filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters; shoreline protection against soil erosion; fish spawning, breeding, nursery or feeding grounds; wildlife habitat; or areas of special recreational, scenic or scientific interest, including scarce wetland types.

(c) *State department of natural resources objections.* If the state department of natural resources has notified the city plan commission that an amendment to the shoreland portion of the C-1 district may have a significant adverse impact upon any of the criteria listed in subsection (b) of this section, that amendment, if approved by the common council, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed since written notice of the common council's approval of this amendment was mailed to the department of natural resources. During that 30-day period, the department of natural resources may notify the common council that it will adopt a superseding shoreland code for the city

pursuant to Wis. Stats. § 62.231(6). If the department does so notify the common council, the effect of this amendment shall be stayed until the Wis. Stats. § 62.231(6) adoption procedure is completed or otherwise terminated."

(Code 2004, § 17.1208)

Sec. 44-1358. Protest.

In the event of a protest against such district change or amendment to the regulations of this chapter, duly signed and acknowledged by the owners of 20 percent or more of the land area included in such proposed change, or by the owners of 20 percent or land area immediately adjacent and extending 100 feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such change or amendment shall not become effective except by the favorable vote of three-fourths of the common council members present and voting.

(Code 2004, § 17.1209)

Appendix A

SUMMARY OF AREA, YARD, AND HEIGHT REQUIREMENTS

Zoning Districts	Minimum Lot Area			Minimum Building Area			Minimum Setback and Yard Requirements			Maximum Building Height (Feet)[a]
	Total of Area (Square Feet)	Area per Family (Square Feet)	Lot Width at Setback Line (Feet)	Total Building Area (Square Feet)	Area per Family (Square Feet)	First Floor Area (Square Feet)	Front Setback (Feet)	Side Setback (Feet)	Rear Yard (Feet)	
RS-1 Single-Family Residential District	9,000	9,000	75	1,400	1,400	Bi-level: 1,000 Tri-level: 400	25	10	25	Dwelling: 35 Garage: 15 Shed: 10
RS-2 Single-Family Residential District	7,200	7,200	60	1,100	1,100	Bi-level: 800 Tri-level: 400	25	5	25	Dwelling: 35 Garage: 15 Shed: 10
RS-3 Manufactured Home Residential District	7,200	7,200	60	720	720	NA	25	5	25	Dwelling: 35 Garage: 15 Shed: 10
RD-1 Single-Family and Two-Family Residential District	9,000	4,500	75	Varies: See Section 44-169	Varies: See Section 44-169	NA	25	10	25	Dwelling: 35 Garage: 15 Shed: 10
RD-2 Single-Family and Two-Family Residential District	7,200	3,500	60	Varies: See Section 44-201	Varies: See Section 44-201	NA	25	5	25	Dwelling: 35 Garage: 15 Shed: 10
RM-1 Multifamily Residential District	9,000	Varies: See Section 44-234	75	Varies: See Section 44-235	Varies: See Section 44-235	NA	25	10	25	Dwelling: 35 Garage: 15 Shed: 10
RM-2 Multifamily Residential District	9,000	Varies: See Section 44-272	75	Varies: See Section 44-273	Varies: See Section 44-273	NA	25	10	25	Dwelling: 60 Garage: 15 Shed: 10

Zoning Districts	*Minimum Lot Area*			*Minimum Building Area*			*Minimum Setback and Yard Requirements*			*Maximum Building Height (Feet)*[a]
	Total of Area (Square Feet)	*Area per Family (Square Feet)*	*Lot Width at Setback Line (Feet)*	*Total Building Area (Square Feet)*	*Area per Family (Square Feet)*	*First Floor Area (Square Feet)*	*Front Setback (Feet)*	*Side Setback (Feet)*	*Rear Yard (Feet)*	
RM-3 Multifamily Residential District	5 acres	1,000	300	NA	Varies: See Section 44-304	NA	25	10	25	Principal: 149
B-1 Neighborhood Business District	Shopping Center: 2 acres Indiv. Sites: Sufficient Area	NA	Shopping Center: 200	NA	NA	NA	25	10	25	Principal: 35 Garage: 15 Shed: 10
B-2 Community Business District	Shopping Center: 4 acres Indiv. Sites: Sufficient Area	NA	Shopping Center: 400	NA	NA	NA	40	25	25	Principal: 40 Garage: 15 Shed: 10
B-3 Central Business District	Sufficient Area	NA	Sufficient Area	NA	NA	NA	Build-to Line See Section 44-409	See Section 44-12(4)	25	Principal: 45 Garage: 15 Shed: 10
B-4 Office and Professional Business District	9,000	NA	75	NA	NA	NA	50	25	25	Principal: 60 Garage: 15 Shed: 10
B-5 Highway Business District	9,000	NA	75	NA	NA	NA	25	10	25	Principal: 35 Garage: 15 Shed: 10
M-1 Limited Manufacturing District	9,000	NA	75	NA	NA	NA	25	15	25	Principal: 60 Garage: 15 Shed: 10

Zoning Districts	Minimum Lot Area			Minimum Building Area			Minimum Setback and Yard Requirements			Maximum Building Height (Feet)[a]
	Total of Area (Square Feet)	Area per Family (Square Feet)	Lot Width at Setback Line (Feet)	Total Building Area (Square Feet)	Area per Family (Square Feet)	First Floor Area (Square Feet)	Front Setback (Feet)	Side Setback (Feet)	Rear Yard (Feet)	
M-2 General Manufacturing District	9,000	NA	75	NA	NA	NA	60	25	25	Principal: 60 Garage: 15 Shed: 10
TUC-1 Transportation and Utility Corridor District	__[b]	NA	__[b]	__[b]	NA	NA	__[b]	__[b]	__[b]	__[a]
I-1 Institutional District	9,000	NA	75	NA	NA	NA	25	10	25	Principal: 35 Garage: 15 Shed: 10
P-1 Park District	NA	NA	NA	NA	NA	NA	40	40	40	Principal: 35 Garage: 15 Shed: 10
C-1 Lowland Conservancy District	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
FWO Floodway Overlay District	__[c]	__[c]	__[c]	__[c]	__[c]	__[c]	__[c]	__[c]	__[c]	__[c]
FFO Floodplain Fringe Overlay District	__[c]	__[c]	__[c]	__[c]	__[c]	__[c]	__[c]	__[c]	__[c]	__[c]

Zoning Districts	*Minimum Lot Area*			*Minimum Building Area*			*Minimum Setback and Yard Requirements*			*Maximum Building Height (Feet)*[a]
	Total of Area (Square Feet)	*Area per Family (Square Feet)*	*Lot Width at Setback Line (Feet)*	*Total Building Area (Square Feet)*	*Area per Family (Square Feet)*	*First Floor Area (Square Feet)*	*Front Setback (Feet)*	*Side Setback (Feet)*	*Rear Yard (Feet)*	
HPD Historic Preservation Overlay District	—[c]	—[c]	—[c]	—[c]	—[c]	—[c]	—[c]	—[c]	—[c]	—[c]
APO Airport Overlay District	—[c]	NA	—[c]	NA	NA	NA	—[c]	—[c]	—[c]	See Section 17.0343
PUD Planned Unit Development Overlay District	See article II, division 23	See article II, division 23	See article II, division 23	See article II, division 23	See article II, division 23	See article II, division 23	See article II, division 23	See article II, division 23	See article II, division 23	See article II, division 23
LKC Lakeside Commons Overlay District	See article II, division 24	See article II, division 24	See article II, division 24	See article II, division 24	See article II, division 24	See article II, division 24	See article II, division 24	See article II, division 24	See article II, division 24	See article II, division 24

[a] Subject to airport height restrictions established by Milwaukee County.

[b] As determined by the city common council.

[c] As per underlying basic use district requirements, if not in conflict with overlay regulations. In the case of conflict, the strictest regulation shall apply.

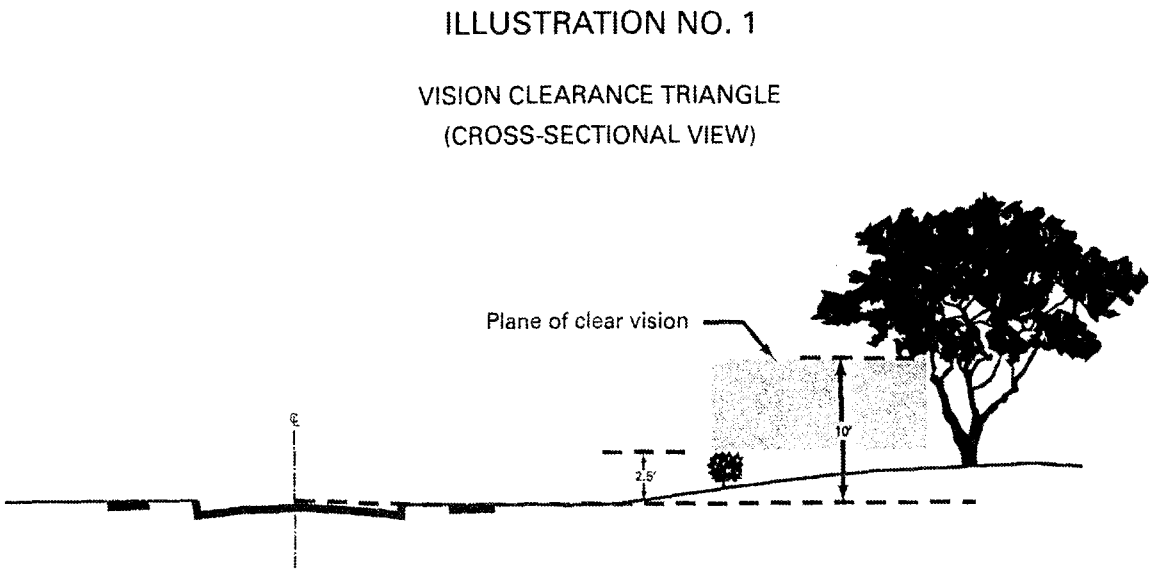
(Code 2004, ch. 17, app. A)

Appendix B

ILLUSTRATIONS

Sec. B-1. Vision clearance triangle (cross-sectional view).
Sec. B-2. Vision clearance triangle (plan view).
Sec. B-3. Typical parking lot landscape island.
Sec. B-4. Height and location of fences.
Sec. B-5. Measuring height and setback of antennas.
Sec. B-6. Typical corner, double frontage, flag, and interior lots.
Sec. B-7. Location of yards and required setbacks on a typical interior lot.
Sec. B-8. Measuring size of sandwich board signs.

Sec. B-1. Vision clearance triangle (cross-sectional view).



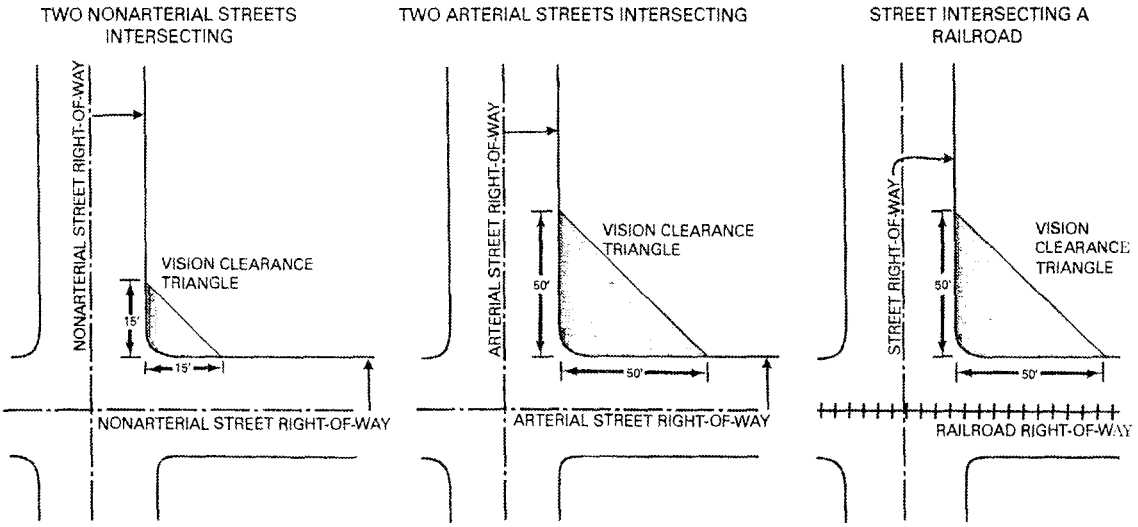
(Code 2004, ch. 17, app. B)

Sec. B-2. Vision clearance triangle (plan view).

ILLUSTRATION NO. 2

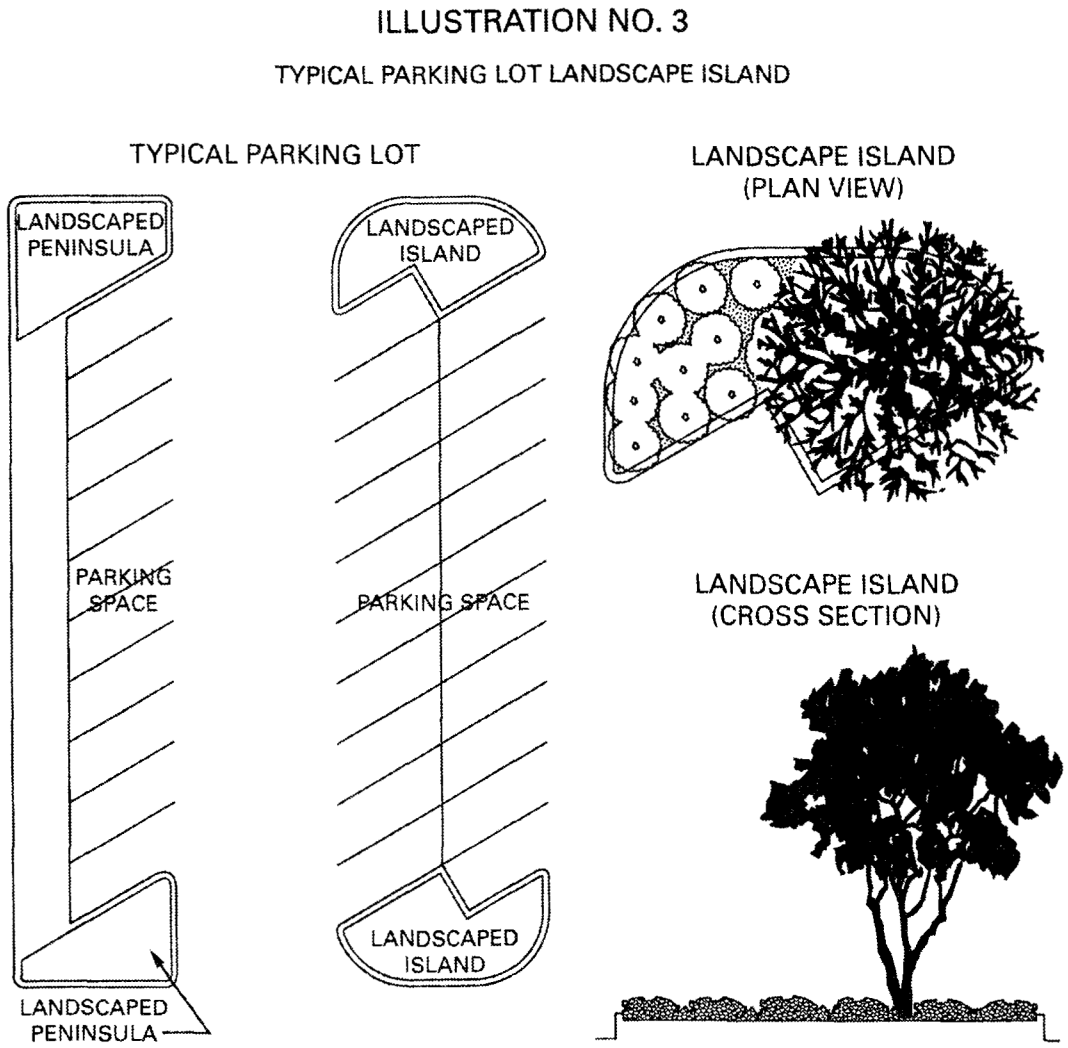
VISION CLEARANCE TRIANGLE

(PLAN VIEW)



(Code 2004, ch. 17, app. B)

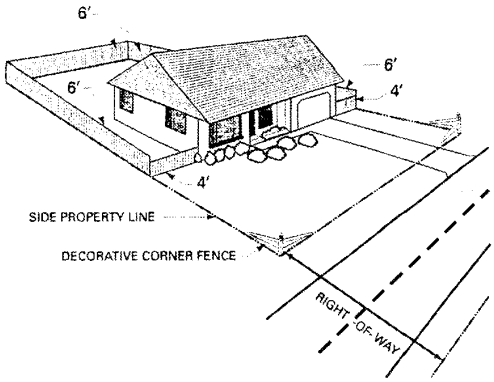
Sec. B-3. Typical parking lot landscape island.



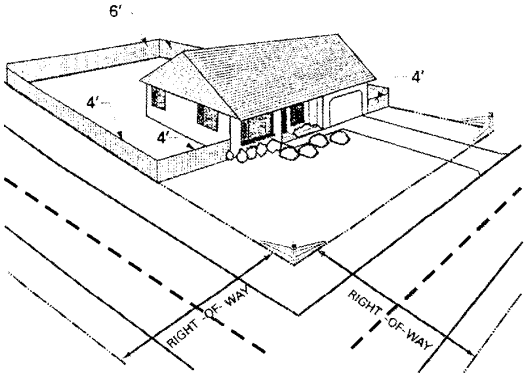
(Code 2004, ch. 17, app. B)

Sec. B-4. Height and location of fences.

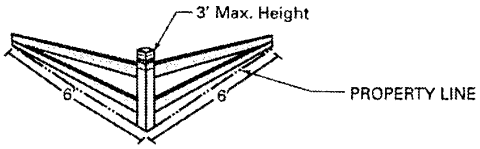
ILLUSTRATION NO. 4
HEIGHT AND LOCATION OF FENCES



INTERIOR LOT



CORNER LOT



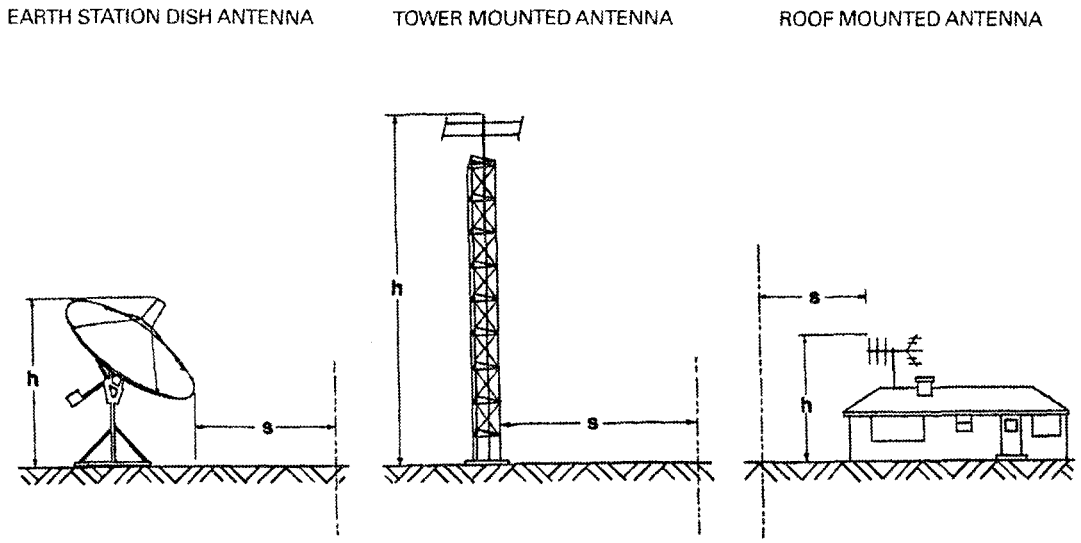
DECORATIVE CORNER FENCE

(Code 2004, ch. 17, app. B)

Sec. B-5. Measuring height and setback of antennas.

ILLUSTRATION NO. 5

MEASURING HEIGHT AND SETBACK OF ANTENNAS



s = setback

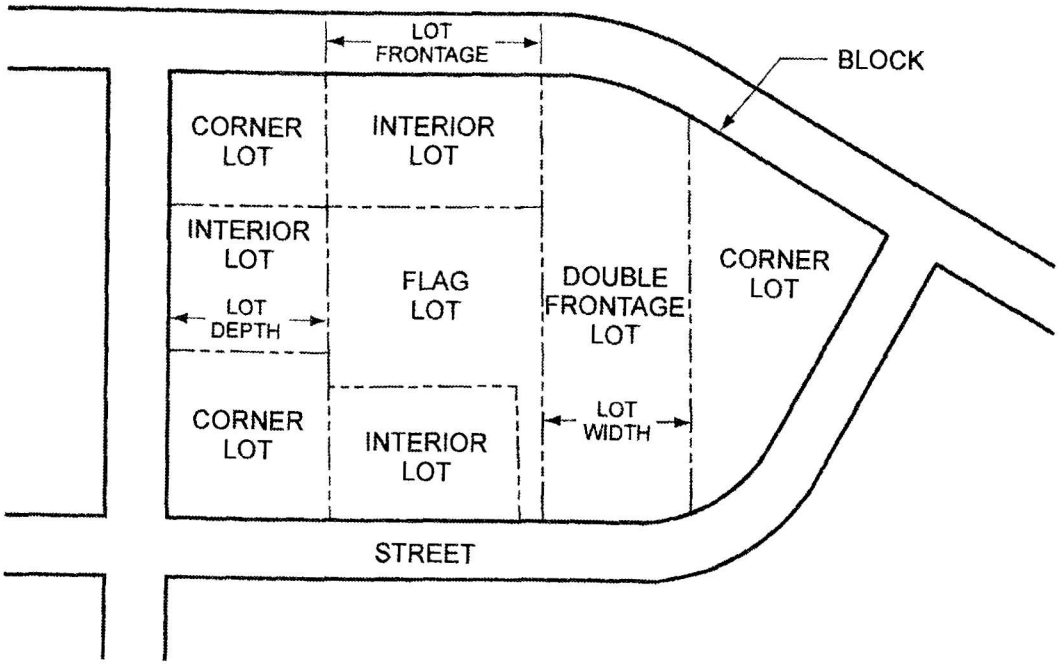
h = height

(Code 2004, ch. 17, app. B)

Sec. B-6. Typical corner, double frontage, flag, and interior lots.

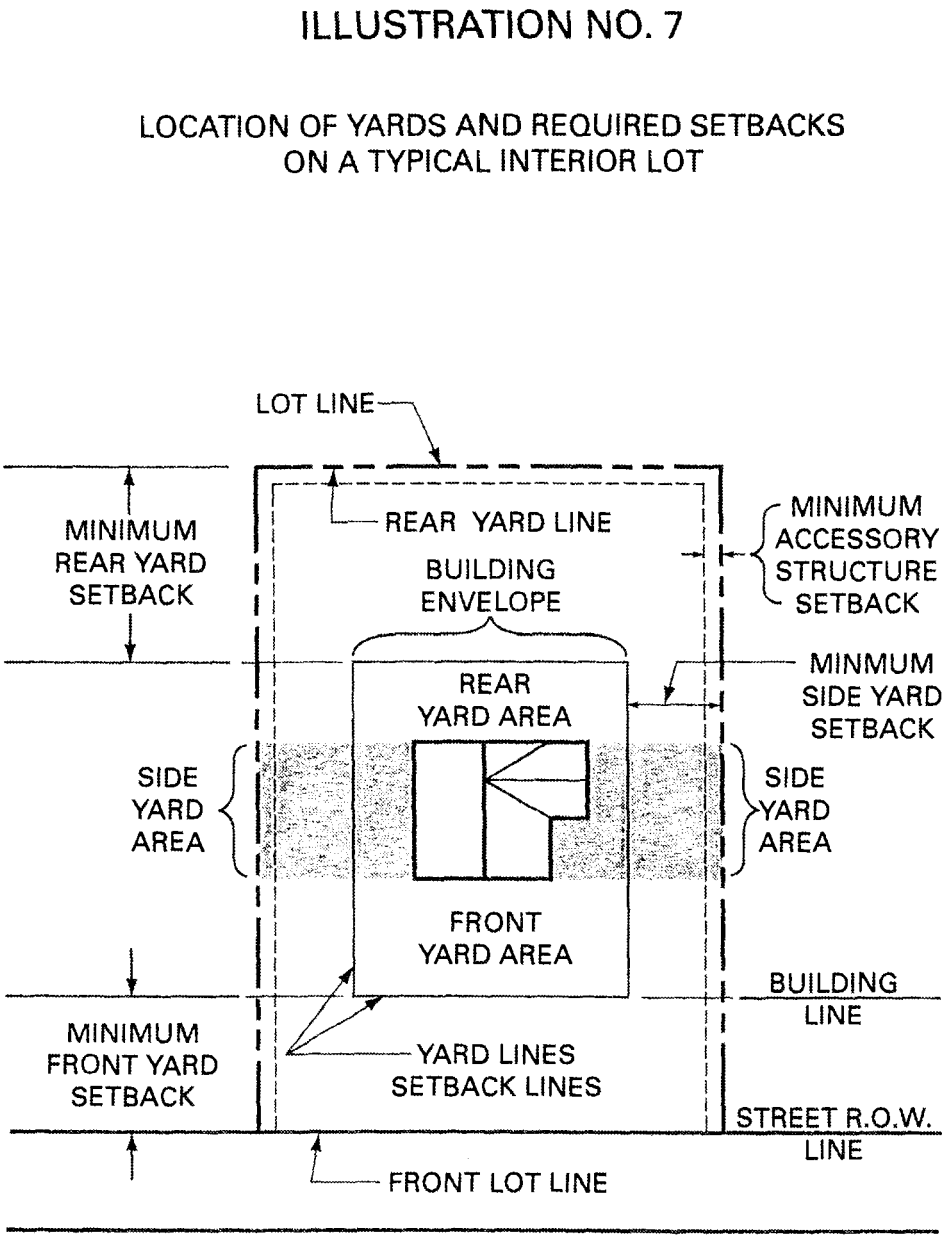
ILLUSTRATION NO. 6

TYPICAL CORNER, DOUBLE FRONTAGE, FLAG AND INTERIOR LOTS



(Code 2004, ch. 17, app. B)

Sec. B-7. Location of yards and required setbacks on a typical interior lot.

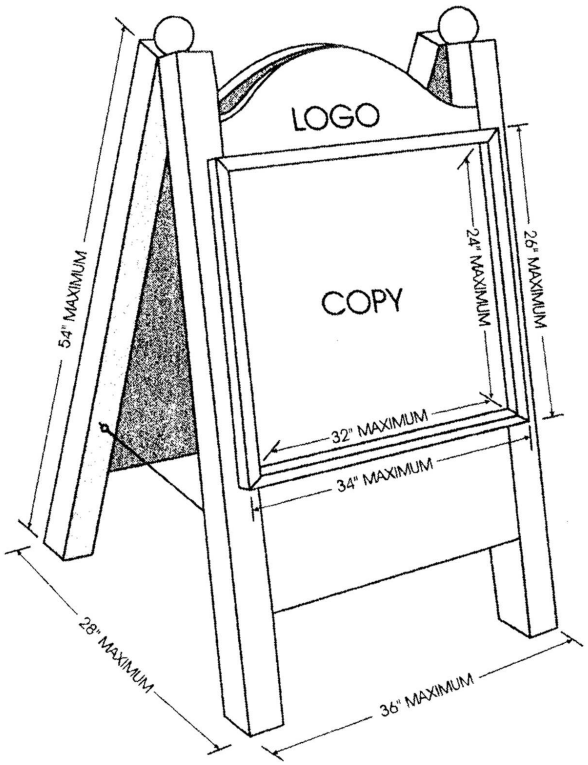


(Code 2004, ch. 17, app. B)

Sec. B-8. Measuring size of sandwich board signs.

ILLUSTRATION NO. 8

MEASURING SIZE OF
SANDWICH BOARD SIGNS



(Code 2004, ch. 17, app. B)

CODE COMPARATIVE TABLE

2004 CODE

This table gives the location within this Code of those sections of the 2004 Code, as supplemented through February 19, 2014, that are included herein. Sections of the 2004 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

2004 Code Section	Section this Code	2004 Code Section	Section this Code
1.01	2-1	1.44(1)	34-43
1.02	2-163	1.44(5)	34-44
1.03	2-164	1.44(6)	2-209
1.04	2-165	1.44(8)	34-46
1.05(1), (2)	2-266	1.44(9)	34-47
1.05(3)	2-167	1.44(10)	34-48
1.06	2-168	1.44(11)	34-49
1.07	2-169	1.44(12)	34-50
1.08	2-5	1.44(13)	34-51
1.10	2-192	1.44(14)	34-52
1.11	2-193	1.44(15)	34-54
1.13	2-194	1.44(16)	34-55
1.16	2-197	1.44(17)	34-45
1.17	2-198	1.45	2-227
1.18	2-199	1.46	2-228
1.19	2-200	1.47	2-229
1.20	2-201	1.50	2-3
1.21	2-202	1.51	2-4
1.22	2-203	1.60	2-2
1.23	2-204	1.75	2-260
1.24	2-205	2.01	2-67
1.25	2-206	2.01(1)	2-60
1.26	2-207	2.01(2)	2-61
1.30	2-252	2.01(3)	2-62
1.31	2-208	2.01(4)	2-63
—	2-253	2.01(5)	2-64
1.32	2-254	2.01(6)	2-65
1.33(1)—(3)	2-255	2.01(7)	2-66
1.33(5)	2-196	2.02(1)	2-96
—	2-255	2.02(2)	2-68
1.34	2-256	2.03(1)	2-124
1.35	2-257	2.03(2)	2-125
1.36	2-258	2.03(3)	2-126
1.37	2-259	2.03(4)	2-127
1.38	2-261	2.03(5)	2-128
1.39	2-262	2.03(6)	2-129
1.43	2-263	2.03(7)	2-130

2004 Code Section	Section this Code	2004 Code Section	Section this Code
2.03(8)	2-131	5.002	16-22
2.03(9)	2-132	5.003	16-23
2.04(1)	2-95	5.004	16-24
2.04(2)	2-98	5.005	16-25
2.04(3)	2-99	5.006	16-26
2.04(4)	2-100	5.007	16-27
2.04(5)	2-101	5.009	16-28
2.04(6)	2-102	5.010	16-29
2.04(7)	2-103	5.013	16-30
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