

TITLE 13

Zoning

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- Chapter 2 Floodplain Zoning
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CHAPTER 1

Zoning Code

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ARTICLE A

Introduction

SEC. 13-1-1 AUTHORITY.

This Chapter is adopted under the authority granted by Wis. Stat. §§ 62.23(7) and 87.30 and amendments thereto.

State Law Reference: Wis. Stat. § 62.23(7).

SEC. 13-1-2 TITLE.

This Chapter shall be known as, referred to and cited as the "Zoning Code, City of Plymouth, Wisconsin" and is hereinafter referred to as the "Code" or "Chapter."

SEC. 13-1-3 GENERAL PURPOSE.

The purpose of this Chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the people of the City of Plymouth, Wisconsin.

SEC. 13-1-4 INTENT AND PURPOSES IN VIEW.

The general intent and purposes in view of this Chapter are to regulate and restrict the use of all structures, lands and waters and to:

- (a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people;
- (b) Divide the City into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business, and manufacturing and other specified uses;
- (c) Protect the character and the stability of the residential, business, manufacturing and other districts within the City and to promote the orderly and beneficial development thereof;
- (d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- (e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
- (f) Regulate parking, loading, and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (g) Secure safety from fire, panic, flooding, pollution, contamination, and other dangers;
- (h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the City;
- (i) Preserve and protect the beauty of the City of Plymouth;
- (j) To prohibit uses, buildings, or structures incompatible with the character of development or intended uses within specified zoning districts;

- (k) To provide for the elimination of nonconforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district;
- (l) Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters;
- (m) Further the maintenance of safe and healthful water conditions;
- (n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (o) Provide for and protect a variety of suitable commercial and industrial sites;
- (p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (q) Implement those municipal, county, watershed, and regional comprehensive plans or components of such plans adopted by the City of Plymouth;
- (r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

SEC. 13-1-5 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, rules, regulations, or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

SEC. 13-1-6 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 construed to be a limitation or repeal of any other power now possessed by the City of Plymouth.

SEC. 13-1-7 SEVERABILITY AND NON-LIABILITY.

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

(b) If any application of this Chapter to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment.

(c) The City does not guarantee, warrant, or represent that only those areas designated as Woodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the Common Council, its agencies or employees for any flood damages, sanitation problems, or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

SEC. 13-1-8 REPEAL AND EFFECTIVE DATE.

All other ordinances or parts of ordinances of the City inconsistent or conflicting with this Chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

SEC. 13-1-9 RESERVED FOR FUTURE USE.

ARTICLE B

General Provisions

SEC. 13-1-10 JURISDICTION AND GENERAL PROVISIONS.

(a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water, and air within the corporate limits of the City of Plymouth. The provisions of this Chapter shall be held to be the minimum requirements for carrying out the intent and purpose of this Chapter.

(b) **Compliance.** No new structure, new use of land, water, or air or change in the use of land, water, or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without full compliance with the provisions of this Chapter and all other applicable local, county, and state regulations.

(c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged, or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.

(d) **Yard Reduction or Joint Use.**

(1) 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.

(2) No yard or other open space allocated to a structure or parcel of land shall be used to satisfy yard, other open spaces, or minimum lot area requirements for any other structure or parcel.

(e) **Lots Abutting More Restrictive District.** Any side yard, rear yard, or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two (2) districts which abut the district boundary line.

(f) **Relationship with Other Laws.** Where the conditions imposed by any part of this Chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Chapter or any other laws, ordinances, resolutions, rules, or regulations of any kind, the regulations which are more restrictive (or impose higher standards or requirements) shall be enforced.

SEC. 13-1-11 USE REGULATIONS.

Only the following uses and their essential services may be allowed in any district:

(a) **Permitted Uses.** Permitted uses, being the principal uses, specified for a district.

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

(c) **Conditional Uses.**

(1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing, and approval by the Plan Commission in accordance with Article E of this Chapter excepting those existent at time of adoption of the Zoning Code.

(2) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing, and approval by the Plan Commission in accordance with Article E of this Chapter.

(3) Conditional uses authorized by the Plan Commission may be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.

(4) Conditional uses authorized by the Plan Commission shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Plan Commission approval and the procedures required in Article E of this Chapter.

(d) **Classification of Unlisted Uses.** Any use not specifically listed as a permitted use or a conditional use in the districts established in Section 13-1-26 shall be considered to be prohibited except as may be otherwise specifically provided hereinafter. In case of question as to the classification of an unlisted use, question shall be submitted to the Plan Commission for determination, in accordance with the following procedure:

(1) Application. Application for determination for classification of an unlisted use shall be made in writing to the Zoning Administrator and shall include a detailed description of the proposed use and such other information as may be required by the Plan Commission to facilitate the determination.

(2) Investigation. The Plan Commission shall make or have made such investigations as it deems necessary in order to compare the nature and characteristics of the proposed use with those of the uses specifically listed in the Chapter and to recommend its classification.

(3) Determination. The determination of the Plan Commission shall be rendered within sixty (60) days from the application and shall include conclusion. The Commission shall determine if the stated use is a permitted use, conditional use or prohibited use in one (1) or more of the districts established in Section 13-1-20.

(4) Effective Date of Determination. At the time of this determination of the classification of the unlisted use by the Plan Commission, the classification of the unlisted use shall become effective.

(e) **Prohibited Uses.**

(1) No required side yard or front yard in any district shall be used for storage or for the conducting of business.

(2) No required side yard or front yard in any Residence District shall be used for open parking or storage of trucks, trailers, boats, recreational vehicles, machinery, or unlicensed automobiles.

SEC. 13-1-12 SITE REGULATIONS.

(a) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and shall comply with the minimum frontage requirements of the zoning district in which located, but no lot shall be less than eighty (80) feet in frontage, unless any such lot is provided with access to a public street by means of an approved privately owned road or driveway permitted in accordance with the procedures set forth in Section 14-1-73 (e).

(b) **Principal Structures.** All principal structures shall be located on a lot. Except in the case of planned unit developments, no lot in the R-1, R-2, R-3 zoning districts shall have more than one (1) principal building. The Plan Commission may permit as a planned unit development more than one (1) principal structure per lot in any district where more than one (1) such 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 distances between structures.

(c) **Dedicated Street.** All streets shall abut a public street or approved private road or way which is constructed to applicable standards. 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.

(d) **Lots Abutting More Restrictive Districts.** 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 yard setbacks in the less restrictive district shall be modified for a distance of not less than sixty (60) feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.

(e) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Common Council, upon the recommendation of the Plan Commission, 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 community. The Plan Commission, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Plan Commission may affirm, modify, or withdraw its determination of unsuitability when making its recommendation to the Common Council.

(f) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Common Council, upon the recommendation of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.

(g) **Decks; Porches.** For purposes of this Chapter, porches shall be considered a part of a building or structure, while decks shall be considered as an accessory use.

(h) **Vacated Streets.** Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding.

(i) **Platting.** All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features of proper subdivision and land platting.

(j) **Dwelling Units.** No cellar, basement or unfinished home, garage, tent, trailer or accessory building shall, at any time, be used as a dwelling unit, except mobile homes located in an approved mobile home park. Basements shall not be used as dwelling units, except where specifically designed for such use through proper damp-proofing, fire-protecting walls and other requirements as may be imposed by the building and housing codes.

(k) **Stormwater Detention Areas.** Stormwater control detention/retention related uses shall be permitted in all zoning districts subject to the review and approval of the Plan Commission with recommendation from the Director of Public Works.

(l) **Temporary Uses.** Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Plan Commission.

SEC. 13-1-13 MODIFICATIONS.

(a) **Height.** The district height limitations stipulated elsewhere in this Chapter may be exceeded, but such modification shall be in accord with the following:

(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, gas tanks, grain elevators, scenery lots, radio and television receiving antennas, 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, 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, aerials, and observation towers shall not exceed in height three (3) times their distance from the nearest lot line.

(5) Public or Semipublic Facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices, and stations are increased not more than one (1) foot for each foot the structure exceeds the district's maximum setback requirement.

(b) **Yards.** The yard requirements stipulated elsewhere in this Chapter may be modified as follows:

(1) Architectural Projections, such as chimneys, flues, sills, eaves, belt courses, ornaments, or landings may project onto any required yard not greater than two (2) feet, and unroofed stoops and fire escapes may project onto any required yard not greater than four (4) feet.

(2) Essential Services, utilities, electric power, and communication transmission lines are exempt from the yard and distance requirements of this Chapter.

(3) Landscaping and Vegetation are exempt from the yard requirements of this Chapter, excepting however that all tree plantings after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

(c) **Average Building Setbacks.** In Residential Districts, except for corner lots, required setbacks shall be modified in the following cases:

Where fifty percent (50%) or more of the frontage on a block is occupied by residences having setbacks less than that required by this Chapter, setback on each remaining lot shall be determined by the following rule. The front building

line of a proposed structure shall be no nearer the front lot line than a line joining adjacent front corners of the nearest principal structures which are in the same block frontage on either side of the proposed structure. If, on a block frontage, no principal structure exists to one side of a proposed structure, a structure may be assumed to exist on the corner lot which conforms to the minimum setback and side yard width requirements of this Chapter.

(d) **Special Exceptions.** Special exceptions may be granted from the terms of this Zoning Code by the Common Council or Plan Commission where enforcement of the strict terms thereof are deemed inappropriate to the circumstances, including specific exceptions by site plans approved under Sec. 13-1-173.

SEC. 13-1-14 REDUCTION OR JOINT USE.

No lot, yard, parking area, building area, or other space shall be reduced in area or dimensions so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

SEC. 13-1-15 SCREENING AND FENCING REQUIREMENTS.

Screening or fencing as required by this Chapter shall be subject to the following provisions:

(a) **Approval Required.** Any use or conditional use listed in this Chapter requiring screening or fencing shall be permitted only when authorized by the City and subject to its approval of a screening or fencing plan for that particular use.

(b) **Objective.** Planting or other suitable screening including fences or freestanding walls shall be required where deemed necessary for screening for enclosure purposes by the City, such as around outdoor storage yards and industrial property lines, salvage yards, refuse disposal sites, quarries and mines, mobile home parks, and trailer camps. Such provisions shall be required to the extent needed to provide for:

- (1) Screening of objectionable views.
- (2) Adequate shade.
- (3) Enclosure of storage materials.
- (4) Public health and safety.
- (5) A suitable setting for the particular use and other facilities.

(c) **Extent.**

(1) Screen Planting. Adequate to screen objectionable views effectively within a reasonable time; in some cases temporary screening devices may be required until suitable screen planting can be achieved.

(2) Other Planting. For mobile home parks and trailer camps, other planting should be adequate in size. Quantity and character to provide an attractive setting for the mobile homes, trailers, and other improvements, to provide adequate privacy and pleasant outlooks for living units, to minimize reflected glare, and to afford summer shade.

(3) Existing Planting. Acceptable as required planting to the extent that it is equivalent, suitable, and preserved in good condition.

(4) Fences and Walls. Appropriately designed for the function intended and shall be substantially constructed to withstand conditions of soil, weather, and use.

(5) Proper Maintenance Required. All screening, fences, and walls required by this Chapter shall be maintained so as not to provide an objectionable view by themselves.

(d) **Required Buffer Strips in Industrial Districts**. Where an Industrial District abuts a Residential District, there shall be provided along any rear, side or front line, coincidental with any Industrial-Residential boundary, a buffer strip not less than thirty (30) feet in width, as measured at right angles to said lot line. Plant materials at least six (6) feet in height, of such variety and growth habits as to provide a year-round effective visual screen when viewed from the Residential District, shall be planted within the exterior twenty-five (25) feet abutting the Residential District. If the required planting screen is set back from the Industrial-Residential boundary, the portion of the buffer strip facing the Residential District shall be attractively maintained. The exterior twenty-five (25) feet of the buffer strip shall not be devoted to the parking of vehicles or storage of any material or accessory uses. The interior fifteen (15) feet may be devoted to parking of vehicles.

SEC. 13-1-16 NOTICE OF ZONING AMENDMENT.

(a) All proposed amendments to this Chapter shall first be submitted to the Plan Commission for its recommendation. A class 2 publication of notice shall precede a public hearing before the Common Council prior to passage. If a proposed amendment shall have the effect of changing the allowable use of any property within the City, such notice shall include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the City Clerk or Common Council.

(b) The City Clerk shall maintain a list of persons who submit a written request to receive notice of any proposed zoning action that may be taken that affects the allowable use of the person's property. All persons on said list shall be sent a notice which contains a copy of the tentative recommendation, proposed changes to the proposed district plan, and regulations or proposed amendments, the allowable use of which may be affected by the tentative recommendations or proposed changes or amendments. Such notice shall be sent by mail, or in any reasonable form that is agreed to by the person so requesting. The person requesting such notice shall be required to pay a fee that does not exceed the appropriate cost of providing said notice.

SEC. 13-1-17 THROUGH SEC. 13-1-19 RESERVED FOR FUTURE USE.

ARTICLE C

Zoning Districts

SEC. 13-1-20 ESTABLISHMENT OF DISTRICTS.

(a) **Districts.** For the purpose of this Chapter, present and future, provision is hereby made for the division of the City of Plymouth into the following sixteen (16) basic zoning districts:

- (1) R-1 Rural Single-Family Residential District
- (2) R-2 Single-Family Residential District
- (3) R-3 Two-Family Residential District
- (4) R-4 Multi-Family Residential District
- (5) PN Planned Neighborhood District
- (6) Repealed
- (7) B-1 Business or Professional Offices District
- (8) B-2 General Business District
- (9) CB Central Business District
- (10) B-3 Highway Business District
- (11) L-I Light Industrial District
- (12) H-I Heavy Industrial District
- (13) A- Agricultural District
- (14) C- Conservancy District
- (15) R-MH Mobile Home District
- (16) SU Special Use District

SEC. 13-1-21 VACATION OF STREETS; ANNEXATIONS.

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

(b) **Annexations.** Annexations to or consolidations with the City subsequent to the effective date of this Chapter shall be placed in the A Agricultural District, unless the annexation ordinance places the land in another district. Within one (1) year, the Plan Commission shall evaluate and recommend a permanent district classification to the Common Council.

SEC. 13-1-22 ZONING MAP.

(a) The revised official zoning map is an integral part of this Chapter. A copy of this map titled "Zoning Map, Plymouth, Wisconsin," together with a copy of this Chapter, shall be available in the Zoning Administrator's office for public inspection during office hours. Any changes in zoning district boundaries shall be recorded on the map.

(b) The district boundaries are either streets or alleys unless otherwise shown, and where the designation on the map indicates that the various districts are approximately bounded by a street or alley line, such street or alley line shall be construed to be the district boundary line.

(c) The District Boundaries shall be determined by measurement from and as shown on the Official Zoning Map, and in case of any question as to the interpretation of such boundary lines, the Plan Commission shall interpret the map according to the reasonable intent of this Zoning Code. Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the center lines of streets, highways, railways, or alleys.

SEC. 13-1-23 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(c) Boundaries indicated as approximately following City boundaries shall be construed as following municipal boundaries.

(d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(e) Boundaries indicated as following shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed

as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.

(f) Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

SEC. 13-1-24 R-1 RURAL SINGLE-FAMILY RESIDENTIAL DISTRICT.
(Master Plan Reference: Ex-Urban Residential)

(a) **Permitted Uses.** The R-1 District is intended to provide a more spacious residential land use in a rural setting while providing City services. This district will be served by a rural road cross-section, with curb, gutter, and sidewalks not being required. The following uses are permitted:

- (1) Single family dwellings.
- (2) Public parks, playgrounds, recreational and community center buildings and grounds, and county fairgrounds.
- (3) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create a public or private nuisance.
- (4) Churches, public and parochial schools, libraries, museums not operated for profit.
- (5) Governmental buildings not detrimental to the character of the residential area, not including sewage plants, garbage incinerators, warehouses, garages, shops, and junk or storage yards.

(b) **Lot Requirements.**

- (1) Width. Minimum one hundred twenty-five (125) feet.
- (2) Lot Area Per Family. Minimum twenty thousand (20,000) square feet; Maximum Two (2) acres.

(c) **Building Requirements.**

- (1) Maximum Principal Building Height. Thirty-five (35) feet.
- (2) Maximum Accessory Building Height. 15 feet or 60% of the principal dwelling unit height, whichever is greater.

(3) Minimum Dwelling - Unit Floor Space. One thousand five hundred (1,500) square feet on any one floor level.

(4) Minimum Principal Building Width. Twenty-four (24) feet.

(d) **Yards.**

(1) Front. Minimum thirty (30) feet.

(2) Rear. Minimum forty (40) feet.

(3) Side. Minimum twenty (20) feet.

(4) Maximum Lot Coverage of all Buildings shall not exceed 30%.

(e) **Off-Street Parking Required.**

(1) Minimum two (2) spaces per family.

(f) **Tree Plantings.**

(1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-25 R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT.

(Master Plan Reference: Single Family Residential)

(a) **Permitted Uses.** The R-2 District is intended to provide a quiet, pleasant and relatively spacious living area protected from traffic hazards and intrusion of incompatible land uses. The following uses are permitted:

(1) Single family dwellings.

(2) Any use permitted in the R-1 District.

(3) Telephone and utility buildings, exchanges, and lines and transformer stations, excepting service garages and storage yards, and excepting microwave radio relay structures.

(4) Conversions of existing dwellings to two-family dwellings after approval and recommendation of the Plan Commission, the holding of a public hearing thereon, notice of which shall be published as a Class 1 notice, and upon approval of the Common Council.

(5) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create a public or private nuisance.

(b) **Lot Requirements.**

- (1) Width. Minimum eighty (80) feet.
- (2) Area. Minimum ten thousand (10,000) square feet for one-family; six thousand (6,000) square feet per unit for a two-family.

(c) **Building Requirements.**

- (1) Maximum Principal Building Height. Thirty-five (35) feet.
- (2) Maximum Accessory Building Height. 15 feet or 60% of the principal dwelling unit height, whichever is greater.
- (3) Minimum Dwelling- Unit Floor Space. One thousand one hundred (1,100) square feet on any one floor for one-family; eight hundred (800) square feet per dwelling unit for two-family.
- (4) Minimum Principal Building Width. Twenty-four (24) feet.

(d) **Yards.**

- (1) Front. Minimum thirty (30) feet.
- (2) Rear. Minimum twenty-five (25) feet.
- (3) Side Yards. Each side, principal building: Minimum nine (9) feet. Each side, accessory building: Minimum three (3) feet.
- (4) Maximum Lot Coverage of all Buildings shall not exceed 50%.

(e) **Off-Street Parking Required.**

- (1) Residential. Minimum two (2) spaces per family.
- (2) Places of Public Gathering. Minimum one (1) per five (5) seats.

(f) **Tree Plantings.**

- (1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-26 R-3 TWO-FAMILY RESIDENTIAL DISTRICT.
(Master Plan Reference: Two Family/Townhouse Residential)

(a) **Permitted Uses.** The R-3 District is intended to provide living area that is pleasant but not as spacious as the R-2 District for two-family duplex housing. The following uses are permitted:

- (1) Any use permitted in the R-2 District.
- (2) Two-family dwellings. (In newly platted subdivisions 50% of lots zoned R-3 shall be corner lots with each unit fronting on a different street.)
- (3) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create a public or private nuisance.

(b) **Lot Requirements.**

- (1) Width. Minimum one hundred (100) feet.
- (2) Area. Minimum twelve thousand (12,000) square feet.

(c) **Building Requirements.**

- (1) Maximum Principal Building Height. Thirty-five (35) feet.
- (2) Maximum Accessory Building Height. 15 feet or 60% of the principal dwelling unit height, whichever is greater.
- (3) Minimum Dwelling Unit Floor Space. Eight hundred (800) square feet for two-family dwelling; one thousand one hundred (1,100) square feet on any one floor for single family dwelling.
- (4) Minimum Principal Building Width. Twenty-four (24) feet.

(d) **Yards.**

- (1) Front. Minimum thirty (30) feet.
- (2) Rear. Minimum twenty-five (25) feet.
- (3) Side. Minimum fifteen (15) feet.
- (4) Maximum Lot Coverage for all Buildings shall not exceed 50%.

(e) **Off-Street Parking Required.**

- (1) Minimum two (2) spaces per family.

(f) **Tree Plantings.**

- (1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-27 R-4 MULTI-FAMILY RESIDENTIAL DISTRICT.

(Master Plan Reference: Mixed Residential)

(a) **Permitted Uses.** The R-4 District is intended to provide a living area that is pleasant, but not as spacious as the R-3 District. The following uses are permitted:

- (1) Any use permitted in the R-3 District.
- (2) Multiple family dwellings.
- (3) Boarding and rooming houses where meals or lodging are provided for not more than six (6) persons not members of the family.
- (4) Hospitals, excepting animal hospitals; medical and dental clinics.
- (5) Private garage and accessory buildings and uses customarily incident to the above uses.

(b) **Conditional Uses.** The following uses are conditional uses pursuant to Article E:

- (1) Charitable institutions;
- (2) Correctional institutions;
- (3) Remedial institutions and treatment centers;
- (4) Rest homes;
- (5) Convalescent homes;
- (6) Private non-profit clubs and lodges.

(c) **Lot Requirements.**

- (1) Width. Minimum one hundred twenty-five (125) feet.
- (2) Minimum Lot Area Per Family.
 - a. Ten thousand (10,000) square feet for a one (1) family dwelling unit.
 - b. Six thousand (6,000) square feet per unit for the first two (2) dwelling units of each building, and in addition thereto, four thousand (4,000) square feet per unit for each unit in excess of two (2) dwelling units located within each structure upon a lot or parcel. Each building shall be considered separately for purposes of density computation. Multi-family residential dwellings shall not exceed 12 dwelling units for each building structure located upon a lot or parcel.

c. In determining such required minimum square feet per dwelling unit, all that area of such lot or parcel which shall be included in a wetland area as determined by the Plan Commission shall be considered at the rate of fifty percent (50%) of such wetland area, but in no event shall any lands determined to be wetlands permit the construction of greater than eight (8) additional dwelling units upon any lot or parcel.

d. Assisted living and nursing home facilities shall require a minimum of 2,000 square feet for each living unit.

(d) **Building Requirements.**

(1) Maximum Principal Building Height. Forty-five (45) feet.

(2) Maximum Accessory Building Height. Twenty (20) feet.

(3) Minimum Dwelling Unit Floor Space. One thousand one hundred (1,100) square feet for one-family; eight hundred (800) square feet per dwelling unit for two-family; six hundred (600) square feet average per dwelling unit for greater than two-family (exterior measure).

(4) Multiple Building Placement. Each principal building on a single lot shall maintain the minimum front yard, rear yard, and side yard requirement as established herein. Each such building shall be so placed upon such lot so as to maintain such minimum lot requirements unto itself.

(5) Minimum Principal Building Width. Twenty-four (24) feet.

(e) **Yards.**

(1) Front. Minimum thirty (30) feet.

(2) Rear. Minimum twenty-five (25) feet.

(2a) Rear Yards Adjoining or Adjacent to R-1, R-2, or R-3 Districts. Minimum forty (40) feet

(3) Side Yards, Each Side, Principal Building. Minimum fifteen (15) feet.

(4) Side Yards, Each Side, Accessory Buildings. Minimum three (3) feet.

(5) Maximum Lot Coverage for all Buildings shall not exceed 50%.

(f) **Off-Street Parking Required.**

(1) Residential. Minimum two (2) per family and one (1) per two (2) boarders.

(2) Places of Public Gathering. Minimum one (1) per five (5) seats.

(g) **Tree Plantings.**

(1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-28 PN - PLANNED NEIGHBORHOOD DISTRICT.

(Master Plan Reference: Planned Neighborhood)

(a) **Permitted Uses.** The Planned Neighborhood district shall permit a mix of Single-Family, Two-Family, Mixed Residential, Institutional, Neighborhood Office, Neighborhood Commercial, Park, and Open Space use. Permitted uses are those that are permitted in the matching zoning districts described elsewhere in this article. As a guide, the following distributions are suggested:

Minimum 60% of dwelling units shall be contained in single family structures

Maximum 20% of dwelling units shall be contained in two-family structures

Maximum 20% of dwelling units shall be contained in multi-family structures

Maximum 20% of land area shall be allowed as office or business use, excluding street right-of-way area for such computation.

(b) **Lot Requirements.** The lot requirements for a particular lot will be identical to those provided for the zoning district which best resembles the proposed use of said lot. For example, a single-family residential use must meet the R-2 Single Family Residence District requirements; a multi-family residential use must meet the R-4 Multi-Family Residential District requirements, and so forth.

(c) **Building Requirements.** Building requirements are those found in the section for the matching zone for a particular use.

(d) **Yards.** Required yards are those as found in the section for a matching zone for a particular use.

(e) **Parking Requirements.** All uses are required to have off-street parking in accordance with Section 13-1-92.

(f) **Tree Plantings.**

(1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-29 REPEALED.

SEC. 13-1-30 B-1 BUSINESS OR PROFESSIONAL OFFICES DISTRICT.

(Master Plan Reference: Planned Office and Neighborhood Office/Neighborhood Business)

(a) **Permitted Uses.** The B-1 District is intended to provide areas for limited business and professional needs of the community. The following uses are permitted:

(1) Hotels including uses associated with such use that are located within the principal building.

(2) Professional and business offices including offices and clinics for doctors and dentists; offices for real estate and insurance business, for architects, engineers, utilities, banks, and building and loan associations.

(3) Indoor sales, maintenance, and service (including indoor restaurants not having drive-through food ordering or pick-up) not exceeding 10,000 square feet of floor space for each separate use.

(4) Other uses similar to any of the above uses.

(5) Accessory uses customarily incident to the above uses.

(b) **Conditional Uses.** The following uses are permitted as conditional uses pursuant to Article E.

(1) Fine Food Restaurants (Excluding fast-food/drive through/food ordering and pick-up)

(2) Coffee Houses

(3) Convention Centers

(4) Theaters

(5) Indoor sales, maintenance, and service (Excluding any outside displays, equipment, or storage)

(c) **Lot Requirements.**

(1) Width. Minimum one-hundred (100) feet.

(d) **Building Requirements.**

(1) Maximum Principal Building Height. Sixty (60) feet.

(2) Maximum Accessory Building Height. Twenty-five (25) feet.

(3) Minimum Principal Building Width. Twenty-four (24) feet.

(e) **Yards.**

(1) Front. Minimum thirty (30) feet.

(2) Rear. Minimum twenty-five (25) feet.

(3) Side Yards: Each Side: Principal Building. Minimum ten (10) feet.

(4) Maximum Lot Coverage for all Buildings shall not exceed 50%.

(5) Pavement shall be a minimum of fifteen (15) feet from the front lot line and ten (10) feet from all other lot lines.

(f) **Off-Street Parking Required.**

(1) Places of Public Gathering. Minimum one (1) per five (5) seats.

(2) Business. Minimum one (1) per two hundred (200) square feet of gross floor space.

(g) **Tree Plantings.**

(1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-31 B-2 GENERAL BUSINESS DISTRICT.

(Master Plan Reference: General Business)

(a) **Permitted Uses.** The B-2 District is intended to provide areas for the less restricted business needs of the community than in the B-1 District. The following uses are permitted:

(1) Any use permitted in the B-1 District.

(2) Post offices.

(3) General business and commercial uses which do not generate noise, smoke or odors that would create a public or private nuisance.

These uses generally include:

- a. Mercantile business establishments including groceries, meat markets, drug stores, hardware stores, and clothing stores.
- b. Hotels, motels, taverns, and restaurants.
- c. Places of amusement; theaters.
- d. Personal service; automobile service, sales, and storage; and equipment service establishments.
- e. (Repealed)
- f. Bus depots.
- g. Uses customarily incident to any of the above uses.

(4) Any use permitted in the R-4 District.

(b) **Lot Requirements.**

(1) Width. No minimum.

(2) Lot Area Per Family. Minimum ten thousand (10,000) square feet for one-family; six thousand (6,000) square feet per unit for two-family; four thousand (4,000) square feet per unit for more than two-family. Multi-family residential dwellings shall not exceed 12 dwelling units for each building structure located upon a lot or parcel.

(c) **Building Requirements.**

(1) Maximum Principal Building Height. Forty-five (45) feet.

(2) Maximum Accessory Building Height. Twenty-five (25) feet.

(3) Minimum Principal Building Width. Twenty-four (24) feet.

(d) **Yards.**

(1) Front. No minimum.

(2) Rear. No minimum.

(3) Side Yards, Each Side, Principal and Accessory Buildings. No minimum, except as required by the Building Code.

(e) **Parking Requirements.** All uses are required to have off-street parking in accordance with Section 13-1-92.

(f) **Tree Plantings.**

- (1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-32 CB CENTRAL BUSINESS DISTRICT.

(Master Plan Reference: Central Mixed Business)

(a) **Permitted Uses.** The CB Central Business District is intended to provide a suitable business environment for the main downtown business area of the city. Any reference to the B-2 General Business District in this code shall also apply to this CB Central Business District. The following uses are permitted:

- (1) Any use permitted in the B-2 Districts, excepting however that residential dwelling units other than those located in a hotel or motel are allowed only above the ground floor and not at grade, unless authorized by Conditional Use Permit

(b) **Lot Requirements.**

- (1) Width. No minimum.
- (2) Lot Area Per Family. Same as for B-2 District.

(c) **Building Requirements.**

- (1) Maximum Principal Building Height. Forty-five (45) feet.
- (2) Maximum Accessory Building Height. Twenty-five (25) feet.
- (3) Minimum Principal Building Width. Twenty-four (24) feet.

(d) **Yards.**

- (1) Front. No minimum.
- (2) Rear. No minimum.
- (3) Side Yards, Each Side, Principal and Accessory Buildings. No minimum, except as required by the Building Code.

(e) **Off-Street Parking Required.** All uses are required to have off-street parking in accordance with Section 13-1-92.

(f) **Tree Plantings.**

- (1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-33 B-3 HIGHWAY BUSINESS DISTRICT.

(Master Plan Reference: Planned Business)

(a) **Permitted Uses.** The B-3 District is intended to provide for businesses and customer services logically related to vehicular traffic or associated with the mobile population. Areas suitable for this District would be located along highways and major street arteries. These uses include the following:

- (1) Any use permitted in the B-2 District.
- (2) Rest homes, nursing homes, or convalescent homes.
- (3) Clubs or lodges.
- (4) Governmental buildings, office buildings and banking facilities.
- (5) Shopping centers, malls and other retail business establishments.
- (6) Automobile sales and service associated with said sales.
- (7) Drive-through facilities for other permitted uses.
- (8) Bus depots.
- (9) Restaurants.
- (10) Motels and hotels.
- (11) Gasoline service stations.

(b) **Conditional Uses.**

- (1) Body repair shops.
- (2) Repair garages without new car sales.
- (3) Outdoor theaters, summer theaters, or outdoor music facilities.
- (4) Amusement parks.
- (5) Storage garages or warehouses for rent.
- (6) Any commercial use which may generate noise, smoke, or odors that would create a public or private nuisance.
- (7) Adult-Oriented Establishments licensed pursuant to Section 7-11-1 of this Code, provided that no such establishment may be located within 500 feet of a church, synagogue, or regular place of religious worship, a public school, private school, or licensed day care center serving pre-school, kindergarten, elementary, middle school, secondary, or post high school students regardless of age, a public park, or another adult-oriented establishment. Such measurement shall be made in a straight line without regard to intervening structures from the nearest portion of the building used as an adult-oriented establishment to the nearest property line of the restricted locations as defined above.

(c) **Lot Requirements.**

- (1) Width. Minimum one hundred (100) feet.

(d) **Building Requirements.**

- (1) Maximum Principal Building Height. Thirty-five (35) feet.
- (2) Maximum Accessory Building Height. Twenty-five (25) feet.
- (3) Minimum Principal Building Width. Twenty-four (24) feet.

(e) **Yards.**

- (1) Front. Minimum fifty (50) feet.
- (2) Rear. Minimum forty (40) feet.
- (3) Side Yards. Each Side, Principal Buildings. Minimum twenty (20) feet.
- (4) Side Yards: Each Side, Accessory Building. Minimum ten (10) feet.
- (5) Maximum Lot Coverage for all Buildings shall not exceed 50%.

(f) **Off-Street Parking Required.**

- (1) Residential. Minimum two (2) per family and one (1) per two (2) boarders.
- (2) Places of Public Gathering. Minimum one (1) per five (5) seats.
- (3) Business. Minimum one (1) per two hundred (200) square feet of floor space.

(f) **Tree Plantings.**

- (1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-34 L-I LIGHT INDUSTRIAL DISTRICT.

(Master Plan Reference: Planned Industrial)

(a) **Permitted Uses.** The L-I District is intended to provide for light industrial and manufacturing in areas separated from other sections of the community. In the L-I District, any light industrial use or business is permitted except those that are dangerous, or generate noise, smoke, traffic, or air, water or soil pollution that would create a public or private liability or nuisance. All residential uses are prohibited.

(b) **Lot Requirements.**

- (1) Width. One hundred fifty (150) feet minimum.

(c) **Building Requirements.**

- (1) Maximum Building Height. Thirty-five (35) feet.
- (2) Maximum Accessory Building Height. Twenty-five (25) feet.

(d) **Yards.**

- (1) Front. Minimum twenty-five (25) feet.
- (2) Rear. Minimum forty (40) feet.

- (3) Side Yards. Each Side, Principal Buildings. Minimum twenty (20) feet.
- (4) Side Yards, Each Side: Accessory Buildings. Minimum ten (10) feet.
- (5) Maximum Lot Coverage for all Buildings shall not exceed 50%.

(f) **Tree Plantings.**

- (1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-35 H-I HEAVY INDUSTRIAL DISTRICT.

(Master Plan Reference: General Industrial)

(a) **Permitted Uses.** The H-I District is intended to provide for all uses permitted in the L-I District plus industries that normally include the use of heavy machinery and may require outdoor storage areas for raw materials and finished products, provided such storage is enclosed by a suitable screen of fencing or planting. Residential uses for caretaker or superintendent are prohibited; also prohibited are uses and industrial operations that are dangerous or may be a public or private nuisance due to smoke, odor, gas, vibrations, dust, noise, or traffic congestion. The following are permitted uses:

- (1) Automotive body repairs.
- (2) Automotive upholstery.
- (3) Cleaning, pressing, and dyeing establishments.
- (4) Commercial bakeries.
- (5) Commercial greenhouses.
- (6) Distributors.
- (7) Farm machinery.
- (8) Laboratories.
- (9) Machine shops.
- (10) Manufacture and bottling of nonalcoholic beverages.
- (11) Painting.
- (12) Printing.
- (13) Publishing.
- (14) Storage and sale of machinery and equipment.
- (15) Trade and contractor's offices.
- (16) Warehousing.
- (17) Wholesaling.
- (18) Manufacture, fabrication, packing, packaging, and assembly of products from:
 - a. Furs.
 - b. Glass.
 - c. Leather.

- d. Metals.
- e. Paper.
- f. Plaster.
- g. Plastics.
- h. Textiles.
- i. Wood.

(19) Manufacture, fabrication, processing, packaging, and packing of:

- a. Confections.
- b. Cosmetics.
- c. Electrical appliances.
- d. Electronic devices.
- e. Food, except cabbage, fish and fish products, meat, and pea vining.
- f. Instruments.
- g. Jewelry.
- h. Pharmaceuticals.
- i. Tobacco.
- j. Toiletries.

(b) **Lot Requirements.**

(1) Width. Minimum two hundred (200) feet.

(c) **Building Requirements.**

- (1) Height - Maximum forty-five (45) feet for any structure.
- (2) Height – Maximum of eighty (80) feet for any building structure by conditional use permit.

(d) **Yards.**

- (1) Front. Minimum forty (40) feet.
- (2) Rear. Minimum forty (40) feet.
- (3) Side Yards; Each Side, Principal Building. Thirty (30) feet minimum.
- (4) Side Yards: Each Side; Accessory Building. Ten (10) feet minimum.
- (5) Maximum Lot Coverage for all Buildings shall not exceed 50%.

(e) **Tree Plantings.**

(1) All trees planted after February 1, 2004, shall be set back a minimum of six (6) feet from the public right-of-way line.

SEC. 13-1-36 A - AGRICULTURAL DISTRICT.

(Master Plan Reference: Agriculture/Rural)

(a) **Permitted Uses.** The A District provides for agricultural uses. The intent is to help conserve good farming areas and prevent uncontrolled, uneconomical spread of residential development which results in excessive costs to the community for premature provision of public utilities, improvements, and services. The following uses are permitted:

(1) Floriculture, forestry, greenhouses, horticulture, nurseries, orchards, truck farming, and viticulture.

(2) One (1) and two (2) family farm residences, but only when occupied by owners, relatives of owners and/or persons engaged in farming activities on the farm on which it is located.

(3) Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housings and other necessary appurtenant equipment and structures; radio and television stations and transmission towers, and microwave radio relay towers.

(4) Public and private schools, churches, public parks and recreation areas, and historic sites.

(5) Customary accessory buildings, including not more than one (1) roadside stand for the sale of farm products produced on the premises. Any such stand shall conform to setback, sign, and other provisions of this Chapter but may be ordered removed by the county highway committee if said committee determines that it constitutes a traffic hazard or nuisance. Not more than two (2) non-illuminated signs not larger than twenty (20) square feet in area and advertising produce may be erected back of required front yards within one hundred (100) feet of the stand.

(6) Churches, schools, parks, municipal buildings, airports, and institutional uses.

(b) **Conditional Uses.**

(1) Animal hospital or clinic provided the lot area is not less than two (2) acres and all principal structures and uses are not less than one hundred (100) feet from a residential district.

(2) Incinerators and sewage disposal plants including age, sewage, rubbish, or offal.

(3) Commercial raising, propagation, boarding or butchering of animals, such as dogs, mink, rabbits, foxes, goats and pigs; the commercial production of eggs; and the hatching, raising, fattening, or butchering of fowl.

(4) Pea vineries, creameries, and condenseries.

(5) Recreational uses: Camps, conservatories, driving ranges, firearm ranges, golf courses, pools, riding academies, skating rinks, sport fields, zoological, and botanical gardens.

(6) Unless otherwise specified, all conditional uses shall meet lot, height, and yard requirements of the District.

(c) **Lot Requirements.**

(1) Width. Minimum two hundred (200) feet.

(d) **Building Requirements.**

(1) Principal Building Height. Minimum thirty-five (35) feet.

(2) Agricultural Building Height. No maximum.

(e) **Yards.**

(1) Front. Minimum forty (40) feet.

(2) Rear. Minimum forty (40) feet.

(3) Side Yards: Each Side, Principal and Accessory Buildings. Twenty-five (25) feet minimum.

SEC. 13-1-37 C - CONSERVANCY DISTRICT.

(Master Plan Reference: Passive Recreation/Environmental Corridor)

(a) **Permitted Uses.** The C District is intended to preserve the natural state of scenic areas in the community, to prevent uncontrolled, misplaced, uneconomical spread of residential, business, or other development, to prevent soil and water pollution, and to help discourage intensive development of marginal and flood plain lands so as to prevent potential hazards to public and private property. The following uses are permitted:

(1) Fishing.

(2) Preservation of scenic, historic and scientific areas.

(3) Soil and water conservation.

(4) Sustained yield forestry.

(5) Stream bank and lakeshore protection.

(6) Water retention.

- (7) Wildlife preserves.
- (8) Parks and parkways; recreation areas; cemeteries.
- (9) Dams, power stations, and transmission lines.

(b) **Conditional Uses.**

- (1) Drainage.
- (2) Water measurement and water control facilities.
- (3) Grazing.
- (4) Utilities.
- (5) Wild crop harvesting.

The above uses shall not involving the dumping, filling, cultivation, mineral, soil or peat removal or any other use that would disturb the natural fauna, flora, watercourses, water regimen or topography.

(c) Upon written permission from the Common Council in keeping with the purposes of this Chapter after recommendation of the Plan Commission and, if applicable, the Joint Extra-Territorial Zoning Committee, after a public hearing, landfill areas, sewage disposal plants, water pumping or storage facilities, amusement parks, golf courses and driving ranges, and public camping grounds.

SEC. 13-1-38 R-MH MOBILE HOME DISTRICT.

The requirements for property in the R-MH Mobile Home District shall be as provided in Article L of this Chapter.

SEC. 13-1-39 SU SPECIAL USE DISTRICT.

(Master Plan Reference: Special Use/Extraction/Institutional/Surface Water)

(a) **Permitted Uses.** The Special Use District is intended to cover land uses that occur rarely or are seldom used in the City. As such, it is difficult to prescribe specific uses or requirements for this zone as the result of varying and unique circumstances. All buildings and operations in this zone shall be Conditional Uses and will make use of Article E of this Zoning Code which details Conditional Use procedures.

SUMMARY OF MINIMUM REQUIREMENTS
Height, Yard, Area, Lot Widths, Parking and Unloading

	Business L-1 District	Business H-1 District	Business A District
Maximum Height, feet			
Principal Building	35	45	35
Accessory Building	--	--	25

Side Yards, each side, feet

Principal Building	20	30	25
Accessory Building	5	5	25
Front Yard Setback, feet	25	40	40
Rear Yard Setback, feet	40	40	40
Lot Area per Family, square feet	--	--	--
Minimum Lot Width, feet	100	150	--
Parking: Off-street, Number of Spaces Required			
Residence	--	--	--
Business	1 per 200 sq. ft of floor space devoted to business	Same as L-1	--
Industrial	1 per 2 employees	L-1	
Places of Public Gathering	--	--	--
Truck Unloading Area			

*Height - Top of building roof to front street.

**Defined with reference to the main, front street as the front yard line, provided that the standard set-back requirement shall apply to both abutting front or corner lots.

ARTICLE D

PUD Planned Unit Development Procedures

SEC. 13-1-40 PURPOSE OF THE PLANNED UNIT DEVELOPMENTS.

(a) Planned Unit Developments are intended to provide for greater flexibility in design and to provide for a combination of uses in a manner compatible to each and to the surrounding environment. A Planned Unit Development (PUD) is any development to be constructed and maintained by a single owner or group of owners acting through a corporation located on a single tract, planned as an entity and, therefore, acceptable for development and regulation as one (1) land unit. Planned Unit Developments are established to encourage and promote improved environmental design in the City of Plymouth by allowing for greater freedom, imagination, and flexibility in the development of land while insuring substantial compliance to the basic intent of the zoning ordinance and the general plan for community development. The PUD concept allows

diversification and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived and implemented as comprehensive and cohesive, unified projects. It is further intended to encourage more rational and economic development in regard to public services and encourage and facilitate preservation of open land.

SEC. 13-1-41 PHYSICAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS.

(a) **Dimensional Requirements.** With PUD'S, the requirements for lot area, lot width side yard, rear yard, front yard, lot coverage and building height shall be consistent with sound planning and zoning principles. However, lots and buildings may be approved which do not meet the dimensional requirements in other districts of this Chapter. Such requirements as are made a part of an approved recorded precise development plan shall be, along with the recorded plat itself, construed to be and enforced in accordance with this Chapter.

(b) **Conditional Uses.** Any use allowed only as a conditional use in any of the other Districts of this Chapter may be permitted subject to the criteria as established in Section 13-1-46 following, but such requirements as are made a part of an approved recorded precise development plan shall be, along with the recorded plan itself, construed to be and enforced as a part of the Chapter.

(c) **Single Parcel, Lot, or Tract.** Each PUD shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the County Register of Deeds.

(d) **Off-Street Parking.** In each PUD, off-street parking shall be provided in accordance with Article G of this Chapter.

(e) **Signs.** In each PUD, signs shall be classified and permitted in accordance with Article H, Sign Regulations.

SEC. 13-1-42 CRITERIA FOR APPROVAL.

As a basis for determining the acceptability of a Planned Unit Development application to the Plan Commission and Common Council, the following criteria shall be applied to the application for such district with specific consideration as to whether or not it is consistent with the spirit and intent of this Chapter, is consistent with the policies of the City development plan, has been prepared with professional advice and guidance and produces significant benefits in terms of environmental design:

(a) **Character and Intensity of Land Use.** In a Planned Unit Development, the uses proposed and their intensity and arrangement on the site shall be of a visual and operational character which:

(1) Are compatible to the physical nature of the site with particular concern for preservation of natural features, tree growth and open space.

(2) Would produce an attractive environment of sustained aesthetic and ecologic desirability, economic stability and functional practicality compatible with the general development plans for the area as established by the community.

(3) Would not adversely affect the anticipated provision for school or other municipal services.

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

(b) **Economic Feasibility and Impact.** The proponents of a Planned Unit Development application shall provide evidence satisfactory to the Plan Commission and Common Council of its economic feasibility, of available adequate financing, and that it would not adversely affect the economic prosperity of the City or the values of surrounding properties.

(c) **Engineering Design Standards.** The width of street rights-of-way, width of paving, width and location of street or other paving, outdoor lighting, location of sewer and water lines, provision for storm water drainage or other similar environmental engineering consideration shall be based on standards necessary to implement the specific function in the specific situation, provided, however, in no case shall standards be less than those necessary to insure the public safety and welfare as determined by the City designated engineer.

(d) **Preservation and Maintenance of Open Space.** In a Planned Unit Development, adequate provisions shall be made for the permanent preservation and maintenance of "open space" either by private reservation or dedication to the public.

(1) 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 over such open areas restricting the area against any future building or use except as consistent with that of providing landscaped open space for the aesthetic and recreational benefit of the PUD. Buildings or uses for noncommercial, recreational or cultural purposes compatible with the open space objective may be permitted only where specifically authorized as part of the development plan or, subsequently, with the express approval of the Common Council following approval of building, site and operational plans by the Plan Commission.

(2) The care and maintenance of such open space reservations shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be included in any contractual agreement with the City and shall be included in the title to each property.

(3) Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the City and made a part of the conditions of the plan approval.

(e) **Implementation Schedule.** The proponents of a Planned Unit Development shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Common Council, including suitable provisions for assurance that each phase could be brought to completion in a manner which would not result in an adverse effect upon the community as a result of termination at that point.

SEC. 13-1-43 PROCEDURAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS.

(a) **Pre-application Conference.**

(1) Before submitting an application for a PUD, an applicant shall confer with the Plan Commission, City staff and other City department heads, if required, in connection with the preparation of the planned unit development.

(2) The purpose of the pre-application conference shall be to familiarize both the applicant and the Plan Commission with each other's intentions with respect to the PUD before the applicant enters into binding commitments or incurs substantial expense.

(3) At the pre-application conference, the Plan Commission shall familiarize the applicant with the PUD process and explain to the applicant issues that should be considered in planning the project. The applicant shall inform the Plan Commission of his development concept through general outlines and sketch plans. Any statement made by either the Plan Commission or the applicant concerning potential disposition of a PUD application or the final form of the development shall not be legally binding.

(b) **Implementation Schedule.** The proponents of a Planned Unit Development shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Plan Commission, including suitable provisions for assurance that each phase could be brought to completion in a

manner which would not result in adverse effects upon the community as a result of termination at that point.

(c) **Zoning Procedure.** The procedure for zoning a PUD shall be the same as required for a zoning amendment, except that in addition the zoning may only be considered in conjunction with a specific development plan. The applicant shall file with the Plan Commission a specific development plan which shall include the following information:

- (1) Statement of development concept, including the planning objectives and the character of the development to be achieved through the PUD.
- (2) An accurate map of the project area, including its relationship to surrounding properties and existing topography and key features.
- (3) The pattern of proposed land use including shape, size and arrangement of proposed use areas, density and environmental character (single-family, multiple-family, commercial, public, etc.).
- (4) The pattern of public and private streets.
- (5) The location, size and character of recreational and open space areas reserved or dedicated for public uses such as recreational areas and common open space areas.
- (6) Preliminary engineering plans, including site grading, street improvements, drainage, public utility extensions and landscaping plans.
- (7) Preliminary building plans, including floor plans and exterior designs or elevations.
- (8) Development schedule indicating the appropriate date when construction of the PUD can be expected to begin and be completed, including initiation and completion dates of separate stages of a phased development.
- (9) General outline of intended organizational structure related to property owners' association, deed restrictions and private provision of common services.
- (10) Statement of financing plan, including projected sources and amounts of funds.

(11) Statement of intentions regarding the future setting or leasing of all or portions of the PUD, such as land areas, dwelling units and public facilities.

(12) Any additional information as required by the Plan Commission necessary to evaluate the character and impact of the proposed PUD.

(13) The application shall be accompanied by the appropriate fee to defray the cost of living notice, investigation and other administrative processing.

(d) **Referral and Public Hearing.**

(1) Within thirty (30) days after completion of the filing of the petition for approval of a general development plan, the Plan Commission shall forward the petition to the Common Council with a recommendation that the plan be approved as submitted, approved with modifications or disapproved.

(2) Within thirty (30) days of the receipt of the Plan Commission's recommendations, the Council shall determine whether or not to initiate a proposed zoning change to permit the proposed PUD and to schedule the required public hearing.

(3) Approval of the rezoning and related general development plan shall establish the basic right of use for the area in conformity with the plan as approved, which shall be recorded as an integral component of the district regulations, but such plan shall be conditioned upon approval of a final implementation plan and shall not make permissible any of the uses as proposed until a final implementation plan is submitted and approved for all or a portion of the general development plan.

(e) **Criteria for Approval.** Approval of the general development plan shall be granted only upon determination by the Plan Commission and Common Council that the preliminary development plan:

(1) Conforms with the development controls set forth in this Article.

(2) Provides benefits to the City which outweigh its adverse effects; in making this determination, the Plan Commission and Common Council shall consider the following:

a. Quality of site design, including integration of a variety of land uses, building types and densities, preservation of natural features; compatibility with adjacent land uses; provision and type

of open space; provision of other amenities designed to benefit the general public.

- b. Traffic flow and safety.
- c. Adequacy of utilities and other public works.
- d. Impact on existing public facilities within the City.
- e. Potential fiscal impact.

(f) **Abandonment of Project.** In the event approval is granted, but prior to final approval, the applicant or developer elects to abandon said development plan and notifies the Commission in writing or fails to file for a final approval within the specified times, the approval shall be deemed to be revoked. All areas within the development plan which have not received final approval shall be controlled by the zoning and subdivision regulations applicable before the development plan and rezoning was approved, and the revocation of approval shall be noted on the Zoning District Map and in the records of the Plan Commission.

(g) **Final Development Plan.**

(1) In the event the general development plan and the rezoning are granted tentative approval, with or without conditions, the applicant shall submit a final development plan or a final development plan of that segment to be developed first to the Zoning Administrator within one (1) year from the date of tentative approval. In the case of a final development plan which provides for development over a period of more than one (1) year, the time between submittals for final approval of each part of a final development plan shall be not less than twelve (12) months.

(2) The final development plan shall consist of final versions of all statements and graphics presented in the general development plan as required in Subsection (c) and must contain any revisions which are required by the Common Council at the time of tentative approval of the general development plan. The final development plan and any related materials shall be a specific and detailed plan for implementation of all or a part of the proposed planned unit development and shall be suitable for recording with the Sheboygan County Register of Deeds.

(3) Following a review of the final development plan, the Plan Commission shall recommend to the Council that it be approved as submitted, approved with modifications or disapproved.

(4) Upon receipt of the Plan Commission's recommendation, the Common Council shall review the final development plan and any related materials within forty-five (45) days and shall then approve, approve with modifications or disapprove the final development plan. The Common Council shall approve the final development plan only if the final development plan is in substantial compliance with the general development plan and in accordance with the provisions of Subsection (e).

(h) Recording of Final Development Plan and Amendment of Zoning District Map.

(1) A final development plan, or any part thereof, which has received final approval shall be so certified by the Plan Commission and filed by the applicant or developer with the Sheboygan County Register of Deeds. Evidence of such recording shall be provided to the City in the form of one (1) true and correct reproducible copy of the plan as recorded. No development shall proceed until such time as the final development plan has been placed on record. Upon the recording of the final development plan, the Zoning District Map shall be amended to designate the area covered by the recorded final development plan as a "Planned Unit Development District."

(2) Following such action by the Commission, the zoning and subdivision regulations otherwise applicable to the land included in such final development plan shall cease to apply thereto and the recorded final development plan shall govern.

(i) Zoning Administration - Permits.

(1) The Zoning Administrator may issue permits for site or building construction for that part of the development plan that has been approved in the area covered by the approved final development plan for work in conformity with the approved final development plan and with all other applicable ordinances and regulations.

(2) However, the Zoning Administrator shall not issue an occupancy permit for any building or structure shown on the development plan of any stage of the planned unit development unless the open space and public facilities allocated to that stage of the development schedule have been conveyed to the proper authorities. He shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final development plan if the completed building or structure conforms to the requirements of the approved final development plan and all other applicable regulations and ordinances.

(j) Enforcement.

(1) The developer shall begin construction of the PUD within twelve (12) months of the date of the recording of the final development plan. The Plan Commission may grant in writing an extension of this time period of up to twelve (12) months upon demonstration of good cause by the developer. If the developer fails to commence construction of the PUD within the specified time, the Plan Commission shall proceed with actions as specified in Subsection (3) below.

(2) If the PUD is to be developed in stages, then the developer must begin the construction of each stage within the time limits specified in the final development plan. Construction in each phase shall include all the elements of that phase specified in the final development plan.

(3) The Plan Commission, or its designee, shall periodically monitor the construction of the PUD with respect to start of construction and development phasing. If the Plan Commission, or its designee, finds that either the developer has failed to begin development within the specified time period or that the developer is not proceeding in accordance with the approved development phasing with respect to either timing or construction of an approved mix of project elements, then the Plan Commission shall give written notice to the developer to appear before the Commission upon thirty (30) days to report on the status of the PUD. Upon review of the PUD, the Commission may extend the time for start of construction or the length of time needed to complete a phase, recommend that the developer amend the final development plan subject to the procedures specified in Subsection (k) below or terminate the project and repeal the zone change. When the Commission deems it necessary to terminate the project and repeal the zone change, it shall recommend to the Common Council that the Planned Unit Development District created for such project be nullified and the original zoning classification returned to the land herein. The repeal of the zone change shall subject to the procedures specified in Article N. At the time of such zone change, existing completed or partially completed structures and uses thereon that do not conform to the regulations for the district in which located shall be deemed nonconforming as defined by this Chapter.

(k) **Amendments to Final Development Plan.**

(1) After approval of the final development plan by the Common Council, the developer may seek amendments to the final development plan as recorded, only if difficulties are encountered in constructing the PUD which could not have reasonably been foreseen, such as with terrain or soil conditions or other complications.

(2) Minor changes in the location, sitting and height of buildings and structures may be authorized by the Plan Commission without additional public hearings if required by engineering or other circumstances not foreseen at the time the final plan was approved. No change authorized by this Subsection may cause any of the following:

- a. A change in the use or character of the development.
- b. An increase in overall coverage of structures.
- c. An increase in the intensity of use.
- d. An increase in the problems of traffic circulation and public utilities.
- e. A reduction in approved open space.
- f. A reduction of off-street parking and loading space.
- g. A reduction in required pavement widths.

(3) All other changes in use, or rearrangement of lots, blocks and tracts, or any changes in the provision of common open spaces and changes other than listed above must be made by the Common Council after review and recommendation by the Plan Commission subject to the procedures specified in Subsection (d). Such amendments may be made only if they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in community policy. Any changes which are approved in the final plan must be recorded as amendments in accordance with the procedure established for the recording of the initial final plan documents.

SEC. 13-1-44 THROUGH SEC. 13-1-59 RESERVED FOR FUTURE USE.

ARTICLE E

Conditional Uses

SEC. 13-1-60 STATEMENT OF PURPOSE - CONDITIONAL USES.

The development and execution of this Article is based upon the division of the City into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without

consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location, Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

SEC. 13-1-61 AUTHORITY OF THE PLAN COMMISSION; REQUIREMENTS.

(a) The Plan Commission may authorize the Zoning Administrator to issue a conditional use permit for either regular or limited conditional use after review and public hearing, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of 'the neighborhood or the community. In the instance of the granting of a limited conditional use, the Plan Commission in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing limited rather than regular conditional use. Such Plan Commission resolution and the resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.

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

(c) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

(d) The Plan Commission or Common Council may obtain such technical or expert advice that it may deem necessary and appropriate with respect to an application for conditional use or any amendment thereof. The cost thereof shall be paid by the applicant in full prior to the issuance of the conditional use permit or any amendment thereof.

SEC. 13-1-62 INITIATION OF CONDITIONAL USE.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest

which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses in the zoning district in which such land is located.

SEC. 13-1-63 APPLICATION FOR CONDITIONAL USE.

An application for a conditional use shall be filed in duplicate on a form prescribed by the City. Such applications shall be forwarded to the Plan Commission on receipt by the Zoning Administrator. Such applications shall include where applicable:

(a) A statement, in writing, by applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-66 hereinafter.

(b) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within one hundred (100) feet.

(c) 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 lies.

(d) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and existing and proposed landscaping.

(e) Additional information as may be required by the Zoning Administrator, Plan Commission or other boards, commissions or officers of the City. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high water mark and ground water conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walk-ways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

SEC. 13-1-64 HEARING ON APPLICATION.

All requests for conditional uses shall be to the Plan Commission or the Plan Commission can, on its own motion, apply conditional uses when applications for rezoning come before it. Upon receipt of the application and statement referred to in Section 13-1-63 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by such Commission. The hearing shall be conducted and a record

of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

SEC. 13-1-65 NOTICE OF HEARING ON APPLICATION.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 Notice under the Wisconsin Statutes in the official City newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Common Council and Plan Commission, and the owners of record as listed in the office of the City Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least seven (7) days prior to the date of such public hearing.

SEC. 13-1-66 STANDARDS - CONDITIONAL USES.

No application for a conditional use shall be granted by the Plan Commission or granted by the Common Council on appeal unless the following conditions are present:

- (a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
- (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (f) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
- (g) That the proposed use does not violate flood plain regulations governing the site.

(h) That, when applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission and Council shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

(i) That, in addition to passing upon a Conditional Use Permit, the Plan Commission and Council shall also evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution including sedimentation.
- (3) Existing topographic and drainage features and vegetative cover on the site.
- (4) The location of the site with respect to floodplains and floodways of rivers and streams.
- (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (6) The location of the site with respect to existing or future access roads.
- (7) The need of the proposed use for a shoreland location.
- (8) Its compatibility with uses on adjacent land.
- (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

SEC. 13-1-67 DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT.

When a decision of denial of a conditional use application is made, the Plan Commission shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Commission has used in determining that each standard was not met.

SEC. 13-1-68 APPEALS.

Any action of the Plan Commission in granting or denying a conditional use permit may be appealed to the Common Council if a written request for an appeal is filed within ten (10) days after the date of the Plan Commission's action in granting or denying the permit. Such request for appeal shall be signed by the

applicant or by the owners of at least twenty percent (20%) of the land area immediately adjacent extending one hundred (100) feet therefrom or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land. The request shall be filed with the Zoning Administrator who shall submit it to the Common Council at its next meeting, together with any documents and other data used by the Plan Commission in reaching its decision. The Common Council may consider the matter forthwith, refer the matter to a subsequent meeting or set a date for a public hearing thereon. In the event the Common Council elects to hold a public hearing, notice thereof shall be given by mail to the known owners of the lands immediately adjacent thereto and directly opposite any street frontage of the lot or parcel in question and by publication of a Class I notice in the official newspaper at least ten (10) days before the date of the hearing. The Common Council may either affirm or reverse by a two-thirds (2/3), vote, in whole or in part, the action of the Plan Commission and may finally grant or deny the application for a conditional use permit.

SEC. 13-1-69 CONDITIONS AND GUARANTEES.

The following provisions shall apply to all conditional uses:

(a) **Conditions.** Prior to the granting of any conditional use, the Plan Commission, or the Common Council on appeal, may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the Plan Commission and Common Council shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

- (1) Landscaping;
- (2) Type of construction;
- (3) Construction commencement and completion dates;
- (4) A surety bond, letter of indemnification, or cash deposit, in an amount sufficient as determined by the Plan Commission or Common Council to indemnify the City for any and all future costs, fees and expenses arising from the continued use of the site upon which the conditional use permit, or any amendment thereof, is granted with respect to public safety and/or potential future litigation costs and damages with respect thereto.

- (5) Lighting;
- (6) Fencing;
- (7) Operational control;
- (8) Hours of operation;
- (9) Traffic circulation;
- (10) Deed restrictions;
- (11) Access restrictions;
- (12) Setbacks and yards;
- (13) Type of shore cover;
- (14) Specified sewage disposal and water supply systems;
- (15) Planting screens;
- (16) Piers and docks;
- (17) Increased parking; or
- (18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.

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

(c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Plan Commission.

(d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Plan Commission may require the use of certain general types of exterior construction materials and/or architectural treatment.

(e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils

which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

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

(g) **Deposit Required for Potential or Threatened Litigation.** In the event a request for a conditional use permit, or any amendment thereof, shall be granted, and should it appear that the same may be contested by litigation, the applicant shall be required, as a condition of the issuance of said permit or amendment, to make a cash deposit with the City Clerk in an amount deemed sufficient by the Plan Commission or Common Council to cover all litigation costs, including any possible damages, that may be incurred by the City to defend the granting of such permit or amendment, including any appeals thereof. Such deposit shall be drawn upon at the discretion of the Common Council in reimbursement of the actual costs of such litigation, with any balance remaining to be remitted to the applicant along with an accounting for funds expended. No interest shall be paid upon such deposit. No permit or amendment shall be issued until such deposit is received in full.

SEC. 13-1-70 VALIDITY OF CONDITIONAL USE PERMIT.

Where the Plan Commission has approved or conditionally approved an application for a conditional use permit, such approval shall become null and void within twelve (12) months of the date of the Commission's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within four (4) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Plan Commission may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the City at least thirty (30) days before the expiration of said permit.

SEC. 13-1-71 COMPLAINTS REGARDING CONDITIONAL USES; REVOCATION OF PERMIT.

The Plan Commission shall retain continued jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Plan Commission, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use as provided in Section 13-1-69. Additionally, the offending party may be subjected to a forfeiture as set forth in this Chapter and Section 1-1-7. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Plan Commission may revoke the subject conditional approval and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Plan Commission shall be furnished to the current owner of the conditional use stating the reasons therefore. An appeal from a decision of the Plan Commission under this Section may be taken to the Common Council. A vote to approve the appeal requires a two-thirds (2/3) vote of the Common Council.

SEC. 13-1-72 BED AND BREAKFAST ESTABLISHMENTS.

(a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residential Districts pursuant to the requirements of this Article.

(b) **Definitions.**

(1) "Bed and Breakfast Establishment" means any place of lodging that provides eight (8) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner or agent at the time of rental and in which the only meal served to guests is breakfast.

(2) "Agent" shall mean the person designated by the owner as the person in charge of such establishment and whose identity shall be filed in

writing with the Zoning Administrator upon issuance of the permit and updated five (5) days prior to a designated agent taking charge.

(c) **Regulations.**

(1) Compliance with State Standards. All bed and breakfast establishments and licensee shall be subject to and comply with Chapter HSS 197, Wis. Admin. Code, relating to bed and breakfast establishments or Wisconsin Administrative Code HSS 195 relating to hotels, motels and tourist rooming houses.

(2) Registry. Each bed and breakfast establishment shall provide a register and require all guests to register their true names and addresses before assigned quarters. The register shall be kept intact and available for inspection by a City representative for a period of not less than one (1) year.

(d) **Permit Required.**

(1) City Permit Required. In addition to the permit required by Wis. Admin. Code § Chs. SS 19 or SS I, before opening for business every bed and breakfast establishment shall obtain a permit from the Zoning Administrator by application made upon a form furnished by said officer and shall obtain a conditional use permit.

(2) Application Requirements. The following is required to be furnished at the time an application is filed for a conditional use permit in addition to the other application requirements of this Article:

- a. Site plan showing location and size of buildings, parking areas and signs.
- b. Number, surfacing and size of parking stalls.
- c. Number, size, and lighting of signs.

(3) Display of Permit. The permit issued by the Zoning Administrator shall be conspicuously displayed in the bed and breakfast establishment.

(e) **Off-Street Parking Required.** Permits shall be issued only to those establishments that provide a minimum of one (1) improved off-street parking space for each two (2) rooms offered for occupancy, unless a variance is granted due to the unique characteristics of the property. Establishments otherwise qualifying under this Section regulating bed and breakfast establishments shall not be subject to the other requirements of the Zoning Code with respect to traffic, parking and access.

(f) **On-Site Merchandising.** On-site merchandising for gifts, antiques and other related items is permitted as part of the bed and breakfast operations, provided that not more than ten percent (10%) of the structure or a maximum of three hundred (300) square feet (whichever is greater) is devoted to such activity.

(g) **On-site Signs.** Total signage shall be limited to a total of twelve (12) square feet and may be lighted in such manner and nature as to not alter or deteriorate the nature of the surrounding neighborhood. Establishments otherwise qualifying under this Section regulating bed and breakfast establishments shall not be subject to the requirements of this Zoning Code with respect to signs.

(h) **Termination of Permit.** A bed and breakfast use permit shall be void upon the sale or transfer of the property ownership. The Plan Commission shall review and conditionally approve or disapprove an application submitted by a person anticipating the purchase of premises for such use. A permit issued in accordance with Subsection (c) above shall be valid until terminated by action of the Zoning Administrator for violation of the provisions of this Section, or of State of Wisconsin regulations as set forth in Wis. Admin. Code Chs. HSS 195 or HSS 197 or as above provided.

SEC. 13-1-73 HOME OCCUPATIONS.

(a) **Defined.** A "home occupation" is defined as any activity involving the rendition of services or sales carried out for gain by an occupant upon the occupant's residential premises where such premises is the principal location of such activity.

(b) **General Conditions.** Home occupations shall comply with the following general conditions:

(1) The total area devoted to such home occupations shall not exceed twenty-five percent (25%) of the gross area of a single-family dwelling unit nor more than twenty percent (20%) of other dwelling units involved and shall be located within a principal structure.

(2) Offensive noise, vibration, dust, odors, pollution or interference with radio or television reception shall not be permitted to emanate from the dwelling.

(3) Persons operating a home occupation shall employ no more than one (1) nonresident employee.

(4) Materials used in or produced by a home occupation may not be stored or displayed outside or be displayed so as to be visible from outside the premises.

(5) The volume of vehicular or pedestrian traffic or parking shall not result in excess of what is compatible with a residential neighborhood.

(6) All home occupations shall meet fire and building safety requirements.

(7) Persons conducting home occupations must furnish such information as required by municipal officials with respect to procedures and processes, equipment, materials, chemicals, and any other items utilized in the home occupation.

(8) No substantial stock in trade shall be displayed, warehoused or sold on the premises. "Substantial" shall be defined as more than One Thousand Dollars (\$1,000.00) in value.

(9) No home occupation, as defined, shall hereafter be established, altered, or enlarged unless it complies with all of the standards applicable to the district in which it is located and the standards of this Section.

(10) The home occupation shall be conducted entirely within the principal residential building.

(c) **Permitted Home Occupations.** The following home occupations are permitted in any residence, without Plan Commission review, provided that all conditions of this Section are met:

(1) Dressmaking, tailoring, and sewing.

(2) Painting, sculpturing, weaving, printmaking, lapidary work, writing, and similar artistic endeavors.

(3) Typing, transcribing, word processing, telephone answering, preparing mailing, and similar business services.

(4) Computer programming.

(5) Teaching of voice, musical instruments, dance, or other tutoring, limited to no more than two (2) students at one time.

(6) Office of a manufacturer's representative, architect, tradesman, engineer, or consultant.

(d) **Prohibited Home Occupations.** The following are prohibited as home occupations, even if the conditions of this Section are met:

- (1) Medical or dental offices.
- (2) Photographic studios.
- (3) Pet grooming or boarding.
- (4) Automobile or truck repair or painting shops.
- (5) Small engine repair shops.
- (6) Welding.

(e) **Unspecified Home Occupations.** Any proposed home occupation, particularly home professional offices, that is neither specifically permitted nor specifically prohibited by this Section may be considered and be granted or denied at the discretion of the City Plan Commission and upon consideration of those standards contained in this Section and as outlined in this Article.

SEC. 13-1-74 CONSTRUCTION STANDARDS FOR WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS.

(a) **Separation Between Towers.** Separation distances between towers shall be applicable for a proposed tower and any preexisting towers. The separation distance shall be measured by a straight line between the base of an existing tower and the base of a proposed tower. See TABLE:

(b) **Tower Height.** The following criteria shall apply in determining the maximum height of a tower:

- (1) For a single user, up to 90 feet.
- (2) For two users, up to 120 feet.
- (3) For three or more users, up to 150 feet.

(c) **Availability of Suitable Existing Towers Other Structures or Alternative Technology.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City Council that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. Evidence submitted to the City Council to determine that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (1) No existing towers or structures are located within the geographic areas which meet the applicant's engineering requirements.
- (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

(3) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

(5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

SEC. 13-1-75 DETACHED HEATING SYSTEM.

(a) **Permit Required.** No person shall allow, maintain or use any detached heating system in the City of Plymouth without first obtaining a conditional use permit for the installation/operation of said appliance. The permit will be issued to install only new "listed" appliances. All detached heating systems are to meet emission standards currently required by the Environmental Protection Agency (EPA) and the Underwriters Laboratories (UL) listing. This documentation must be provided to the Building Inspector at the time the Permit Application is made.

(b) **Fee.** A permit to operate and install a detached heating system will require the minimum permit fee as listed in PMC §15-1-17. Said permit will expire every year on October 1, and will require annual renewal to continue operation of the detached heating system.

(c) **Compliance Requirements.** Any existing detached heating system shall immediately comply with all manufacturer's requirements and appropriate fuel requirements, and within 30 days of the adoption of this ordinance, conform to the requirements within the City of Plymouth Ordinance that regulate them. The permit to operate said appliance must be made available to any City Official upon their request.

(d) **Location.**

(1) No detached heating system shall be located in a front or street yard. The intended location shall be behind the rear building line of the principal structure served by the appliance.

(2) Setbacks shall be as follows: Side and rear yard setbacks shall be not less than 100 feet to the lot line.

(3) Distance to buildings served by the appliance shall be per the manufacturer.

(4) Distance to any structures of adjoining properties not served by the appliance, and related stack heights, will be as follows;

a. 100-200 feet away from adjoining property structure: stack height to meet or exceed the peak line of the residence plus two feet.

b. 200 feet away from adjoining property structure: 20 foot minimum stack height measured from the adjoining grade to the appliance. The minimum chimney height shall be 20' unless a greater height is required by the above requirements.

(e) **Operation of Detached Heating System**

(1) Installation: All detached heating systems shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter than the regulations promulgated hereunder, in which case the manufacturer's instructions shall apply.

(2) Fuel: Fuel shall be only natural untreated wood or wood specifically permitted by the manufacturer or other fuels listed by the manufacturer of the unit. Stacks of fuel for the outdoor wood-burning furnaces shall be arranged in a neat and orderly fashion so as to maintain the aesthetic value of the neighboring City properties. Other fuels shall be stored in suitable containers to prevent attracting rodents. Notwithstanding the foregoing following fuels are strictly prohibited:

a. The burning of processed wood products and other non-wood products, including but not limited to pallet lumber.

b. Kerosene.

- c. Garbage.
- d. Painted wood and/or any "treated" wood.
- e. Any other item not specifically allowed by the manufacturer or this provision.

(3) Usage: The operation of a detached heating system shall be allowed only from November 1 to March 1 of any calendar year.

- (f) **Definition.** A detached heating system shall include any system for the production of heat for any residential or other structure used for human habitation, whether fueled by the burning of wood or other approved natural or processed materials which is located outside of the structure for which the heat is generated. Such shall include but not be limited to outdoor wood-burning furnaces and other detached energy systems, whether the same be free-standing or encompassed within a separate building or structure not intended as the primary beneficiary of the heat produced thereby, and regardless of the method of heat exchange.
- (g) **Enforcement/Penalties.** Any person violating any provision of this section, including the operation of a detached heating system without a permit, shall be punishable by a forfeiture not to exceed one hundred (\$100.00) dollars for each occurrence. Every twenty-four (24) hours of continued unauthorized or illegal use after the initial citation may be cited as a separate occurrence. Any enforcement officer with citation powers may issue the citation for the offense.

SEC. 13-1-76 THROUGH SEC. 13-1-79 RESERVED FOR FUTURE USE.

ARTICLE F

Nonconforming Uses, Structures, and Lots

SEC. 13-1-80 EXISTING NONCONFORMING USES AND STRUCTURES.

(a) The lawful nonconforming use of a structure or land, including but not limited to fences, parking and zoning setbacks existing 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, only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, 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.

(b) If no structural alterations are made, a nonconforming use of a building may be changed to any use permitted in the same use district as that in which

the use existing is permitted according to the provisions of this Chapter; provided when a use district is changed, any existing, nonconforming use in such changed district may be continued or changed to a use permitted in the same use district as that in which the existing use is permitted; provided all other regulations governing the new use are complied with.

(c) Substitution of new equipment may be permitted by the Board of Zoning Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

SEC. 13-1-81 ABOLISHMENT OR REPLACEMENT.

(a) **Termination.** If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this Chapter.

(b) **Building Destroyed by Fire.** Where a building located in a district restricted against its use has been destroyed by fire or other calamity to the extent of not more than fifty percent (50%) of its assessed value, the owner may rebuild; but where such a building is destroyed to the extent of more than fifty percent (50%) of its assessed value, the structure shall not be rebuilt unless a permit is granted for its reconstruction by the Common Council, if it is found to be in the public interest, within twelve (12) months from the date of such fire or other calamity, except any public utility located in a restricted district shall be permitted to rebuild, alter or enlarge in any business or industrial district as the interest of the public demands.

SEC. 13-1-82 EXISTING NONCONFORMING STRUCTURES.

The lawful nonconforming structure existing at the time of the adoption or amendment of this Chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Chapter. However, it shall not be extended, enlarged, reconstructed, 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.

SEC. 13-1-83 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 restrictive nonconforming 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.

SEC. 13-1-84 THROUGH SEC. 13-1-89 RESERVED FOR FUTURE USE.

ARTICLE G

Traffic Visibility, Loading, Parking, and Access

SEC. 13-1-90 TRAFFIC VISIBILITY TRIANGLE.

(a) Where two (2) public streets intersect at grade level, the intersection shall be day-lighted by excluding all buildings, structures and other obstructions to view, except where permitted in the B-2 District, including shrubbery exceeding three (3) feet and trees (except highway and street signs) from the triangles adjacent to the intersection described as follows:

Bounded on two (2) sides by the near boundaries of the intersecting streets and on the third side by a line drawn so as to intersect the street boundaries at points twenty (20) feet distant from the point of intersection of the right-of-way lines.

(b) In situations where trees of large diameter, large numbers of trees, or some combination of these are present, this provision shall be construed to mean that a sufficient number of trees shall be removed so as to render an object such as a motor vehicle clearly visible across the vision clearance triangle from one street or road to another, the intent being to provide for the public safety; but it shall not necessarily be construed to mean that every tree in the vision clearance triangle must be removed.

SEC. 13-1-91 LOADING REQUIREMENTS.

(a) **Loading Space Requirements.** On every lot on which a business, commercial or industrial use is hereafter established, loading space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:

	Square Feet of Gross User Floor Area	Required Off-Street Loading Spaces
School		1
Hospital	Under 10,000	None
	From 10,000 – 30,000	1
	For each additional 30,000 or major fraction thereof	1 additional
Funeral home		1
Office, hotel, retail, service, wholesale,	Under 10,000	None
	From 10,000 – 25,000	1

warehouse,	From 25,001 – 40,000	2
manufacturing, processing or repairing uses	From 40,001 – 60,000	3
	From 60,001 – 100,000	4

(b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

(c) **Location.** Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street.

(d) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than seven (7) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.

(e) **Size.** An individual loading space shall be at least fifteen (15) feet wide by seventy (70) feet long and have a minimum high clearance of sixteen (16) feet.

(f) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

(g) **Central Loading.** Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:

(1) Each zoning lot served shall have direct access to the Central Loading Area without crossing streets or alleys at grade.

(2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)

(3) No zoning lot served shall be more than three hundred (300) feet removed from the Central Loading Area.

(4) The tunnel or ramp connecting the Central Loading Area with the zoning lot served shall be not less than seven (7) feet in width and have a clearance of not less than seven (7) feet.

SEC. 13-1-92 PARKING REQUIREMENTS.

(a) **Application.** The off-street parking provisions of this Chapter shall apply to all new buildings, to any existing building where the intensity of the use is increased or the size of the building is increased, and to any building which is converted to a different use.

(b) **Plan Commission Approval Required.** New parking lots and alterations to existing parking lots are subject to Plan Commission approval. This includes parking areas accessory to commercial or multifamily uses. The plans submitted should include the parking layout, landscaping, drainage, driveway location, lighting, and other information deemed necessary by the Plan Commission.

(c) **Design Standards.** The design of the parking area shall be such that no vehicle is required to back into a street. Each space shall have at least 136 square feet, with a length of at least 16 feet, and a minimum 8.5 foot width. Where a parking area is adjacent to a R-1, R-2, or R-3 zone, a 4-foot high fence or equivalent plantings are required as a visual screen between the parking area and residential yard.

(d) **Location.** The location of the driveways and parking spaces on the lot shall be as follows:

- (1) R-1, R-2, R-3, and Agricultural zones: 3 feet or more from property lines.
- (2) R-4 and B-1 zones: 5 feet or more from property lines.
- (3) B-2 and B-3 zones: A minimum of 15 feet from street right-of-ways, and a minimum of 15 feet from residentially zoned property lines.
- (4) HI and LI zones: A minimum of 15 feet from street right-of-ways, and a minimum of 25 feet from residentially zoned property lines.

(e) **Landscaping.** Landscaped areas shall be provided which equal at least 10% of the surfaces drive and parking areas. Location of the landscaping is subject to approval by the Plan Commission.

(f) **Number of Stalls.** The number of required parking spaces is determined by the building use as follows:

Use	Minimum On-Site Parking Required
One-and two-family homes	2 spaces for each dwelling unit
Multi-family dwelling	2 spaces for each dwelling unit
Senior citizen multi-family dwellings	1 space for each dwelling unit

Hotels or motels	1 stall for each guest room plus 1 space for each employee
Hospitals, lodges, boarding houses	1 space for each bed
Rest, assisted living, and nursing homes.....	1 space for each 2 beds
Medical and dental clinics	5 spaces for each doctor
Churches, theaters, banquet halls, restaurants, places of public assembly	1 space for each 2 seats
Retail stores	1 space per 125 square feet of retail floor area
Office building	1 space for each 250 square feet of office space
Manufacturing plant	1 space for each employee in the most populous shift of employment
Unlisted uses	Same as a similar use, or to be determined by the Plan Commission
Combined uses	Compute each use separately, then add the required spaces

When the use of a building changes to a different category, the parking requirements of the new use shall be met. Uses in the B-2 and CB districts shall be exempt from this provision.

(g) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.

SEC. 13-1-93 HIGHWAY ACCESS.

(a) 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 of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance ramps).

No driveway openings shall be permitted within one hundred (100) feet of the intersection of an arterial street right-of-way line.

(b) Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.

(c) Temporary access to the above rights-of-way may be granted by the Director of Public Works after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

SEC. 13-1-94 THROUGH SEC. 13-1-99 RESERVED FOR FUTURE USE.

ARTICLE H

Signs and Billboards

SEC. 13-1-100 PURPOSE OF SIGN AND BILLBOARD REGULATIONS.

The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location, and maintenance of all signs and billboards.

SEC. 13-1-101 SIGNS AND BILLBOARDS – DEFINITIONS.

In addition to the general definitions found in Article P of this Chapter, the following definitions are used in this Article:

(a) **Awning Sign.** Any lettering or imagery sewn or painted on the fabric portion of an awning. Decorative awnings without lettering or imagery are not considered signs. See Sec. 13-1-104 (l) or regulations.

(b) **Banner Sign.** A banner sign is generally constructed of a flexible non-rigid material (i.e. canvas, cloth, plastic, etc.) upon which goods, events, or advertising has been placed.

(c) **Billboard.** A billboard is a sign for hire or rent upon which is placed or may be placed advertising for any off-premises activity, business, product, or service, and visible to passersby.

(d) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.

- (e) **Changeable Message Billboard.** A billboard utilizing changing electronic, digital, or video display or flashing, motion, animated, or changeable electronic variable message copy or digital technology capable of changing the message or copy on the sign electronically.
- (f) **Changeable Copy/Message.** A sign such as a message center or bulletin board where the copy or message changes.
- (g) **Directly-Illuminated Sign.** Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.
- (h) **Directory Sign.** Shall mean any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories.
- (i) **Electronic Message Unit Sign.** Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather, or information concerning civic, charitable, or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays but excludes changeable message billboards.
- (j) **Flags or Pennants.** Devices generally made of flexible materials, such as cloth, paper, or plastic and displayed on strings or wires. These are not regulated.
- (k) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- (l) **Ground Mounted Sign.** A sign which extends from the ground or has support which places the bottom of the sign less than two (2) feet from the ground.
- (m) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, or institution on the premises or combination of these.
- (n) **Indirectly-Illuminated Sign.** Shall mean a sign that is illuminated from a source outside of the actual sign.
- (o) **Mural.** A hand-painted work of visual art of historic significance that is either affixed to or painted directly on the exterior wall of a structure. A mural does not include mechanically-produced or computer-generated prints or images, including but not limited to digitally printed vinyl; electrical or mechanical

components; or changing image art display. A mural does not promote or sell current commercial products or services at the property where it is located.

(p) **Neon or Other Gas Tube Illumination.** Illumination from a light source consisting of neon or other gas tube which forms letters, symbols, or other shapes.

(q) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Article.

(r) **Off-Premises Event Sign.** A sign which promotes an event and which sign is not specifically located at the site of the organized activity.

(s) **Permanent Sign.** A sign placed, installed, or attached to a building or property other than a temporary sign or banner.

(t) **Painted Wall Sign.** A sign painted directly on the side of an exterior wall but excluding murals.

(u) **Pole Sign.** Any sign erected and maintained on a freestanding frame, mast or pole and independent of support from any building and not including a not including ground mounted signs. (Also referred to as "Free-Standing Sign.")

(v) **Portable Sign.** Any sign not permanently attached to the ground which is designed to be easily moved from one location to another, including but not limited to signs displayed upon the side of semi-trailers for the promotion of sales events (i.e. "Truckload Sale" type signs).

(w) **Poster Sign.** Poster signs are generally constructed of heavy laminated paper approximately six to ten (6-10) square feet in size and intended to advertise a specific product (i.e. cigarettes, beer, motor oil, etc.).

(x) **Promotional Goods Signs.** A sign placed on goods merchandised and/or sold outside of a business building, but within the property owner's boundary, or within the boundary of the developer from which the business rents or leases space for conduct of their business. When such signs denote the product and price of the merchandise upon which it is located, and is two (2) square feet or less in size, a sign permit is not required.

(y) **Roof Sign.** Any sign erected upon or over the roof or parapet of any building.

(z) **Sandwich Board Sign.** A hinged or unhinged A-frame or other similar portable sign which is temporary in nature, and no more than eight (8) square feet per side.

(aa) **Temporary Sign.** A banner, pennant, poster, or advertising display of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood, or other like materials and that appears to be intended or is determined by the Zoning Administrator to be displayed for a limited period of time and is not permanently mounted.

(bb) **Wall Sign.** Any sign attached to, erected on, or painted on the wall of a building or structure and projecting not more than eighteen (18) inches from such wall.

(cc) **Window Sign.** Any sign located completely within an enclosed building and visible from a public way.

SEC. 13-1-102 SIGN PERMIT REQUIRED.

(a) Except those specified in Section 13-1-104, no signs shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Article and all ordinances of the City of Plymouth. Applications for a sign permit shall be made to the Zoning Administrator.

(b) Fees for sign permits shall be as specified in Section 15-1-17 of the Municipal Code of the City of Plymouth.

SEC. 13-1-103 PROHIBITED SIGNS.

(a) Signs are prohibited in all Districts unless:

(1) Constructed pursuant to a valid sign permit when required under this Code; and

(2) Authorized under this Code.

(b) **No fee for display.** A property owner may not accept a fee for posting or maintaining a sign allowed under Section 13-1-104. Any sign that is posted or maintained in violation of this provision is prohibited.

(c) **Traffic Interference.** Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices or the safe flow of traffic. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility. A vision triangle is hereby created which has one (1) corner as the intersection of the right-of-way lines, and the other two (2) corners as points twenty (20) feet in each direction from the initial point along the right of way. In

this triangle, no sign may be placed unless the bottom of the sign is at least ten (10) feet above the center of the intersection. The pole for a sign may be located in the area.

(d) **Public Property.** No person may place a sign in a public right-of-way or on public property.

(e) **Moving or Flashing Signs.** No sign shall be erected which has any bare reflecting-type bulbs, banners, streamers, or any other fluttering or spinning ornamentation.

(f) **Billboards.** No new billboards shall be permitted in the City of Plymouth after December 31, 1994. All billboards then existing shall be subject to Section 13-1-111(b). Billboards located upon property annexed to the City and existing as of November 1, 1994, are permitted to remain unless the owner structurally alters such billboard in any manner. If damaged, or if structural alteration is made/required, such billboard shall be permanently removed. Any billboards not existing as of November 1, 1994, must be removed permanently within one (1) year following annexation, and with such removal being agreed by the owner/lessor/lessee thereof in writing prior to such annexation.

(g) **Painted Wall Signs.** Painted wall signs which are signs painted directly onto the surface of the building, except where specifically allowed as a conditional use by the Planning Commission.

(h) **Immoral Sign Subjects.** Signs which bear or contain statements, words, pictures, or symbols or obscene, pornographic, or immoral subjects.

(i) **Poster Sign.** Display of a poster sign outside of the building is prohibited except when allowed as a temporary sign as provided in Sec. 13-1-104(f).

(j) **Construction Site Signs.** Signs at new construction sites and remodeling, repairing, or renovation projects are not permitted in residential zones or at residential buildings in all zones, except for safety warning signs.

(k) **Commercial Signs in Residential Districts.** In residential zones or on property used for non-transient residential uses, commercial signs are prohibited except for home occupations or legal nonconforming commercial uses which shall be subject to the provisions of this code.

SEC. 13-1-104 AUTHORIZED SIGNS.

The following signs are authorized in any zoning district without a sign permit:

(a) Although these regulations do not apply to signs erected, maintained or posted by the State, federal, or local government, this section clarifies that the

government signs are allowed in every zoning district including the signs described in this section when erected and maintained pursuant to this Code.

(b) Traffic control devices on private or public property must be erected and maintained to comply with the Wisconsin Manual on Uniform Traffic Control Devices.

(c) Memorial signs, historic tablets, or markers, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure, and subdivision identification signs, except that historic markers and subdivision signs may be free standing on the premises only if located not less than ten (10) feet from a property line and have the approval of the Plan Commission.

(d) Signs not exceeding three (3) square feet in area and bearing only property numbers, post box numbers, or names of occupants of premises.

(e) Two (2) flags that are no more than 4 feet by 8 feet each.

(f) Temporary signs allowed:

(1) A property owner may place one sign with a sign face no larger than two square feet per sign face on the property at any time.

(2) Any sign posted or maintained inside a structure or displayed inside a window.

(3) In addition to the temporary signs allowed under subsections (f)(1) and (f)(2)., above, one temporary sign not exceeding eight square feet per sign face in residential districts and the CB District or one temporary sign not exceeding thirty-two square feet per sign face in the commercial (except CB), agricultural or industrial districts may be located on a property when:

a. the owner consents and the property is being offered for sale through a licensed real estate agent;

b. if not offered for sale through a real estate agent, when the sign is owned by the property owner and that property is offered for sale by the owner; and

c. the property has been sold, for a period of (15 days) following the closing of the sale.

(4) In addition to the temporary signs allowed under subsections (f)(1)-(3), one temporary sign may be located on the owner's property on a

day when the property owner is opening the property to the public; provided, however, the owner may not use this type of sign in a Residential District on more than (two days in a year and the days must be consecutive) and may not use this type of sign in any (Commercial District) for more that (14 days in a year and the days must be consecutive). For purposes of this section a year is counted from the first day on which the sign is erected counting backwards and from the last day on which the sign exists counting forward.

(5) During the 40-day period December 1 to January 10, a property owner may place one temporary sign on the property.

SEC. 13-1-105 POLITICAL MESSAGE SIGNS.

(a) In this section:

(1) "Election campaign period" means:

a. 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 on which candidates would circulate nomination paper were papers to be required, and ending on the day of the election.

b. 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.

(2) "Political message" means a message intended for a political purpose of a message which pertains to an issue of public policy of possible concern to the electorate, but does not include a message intended solely for a commercial purpose.

(3) "Residential property" means property occupied or suitable to be occupied for residential purposes and property abutting that property for which the owner or renter is responsible for the maintenance or care. If property is utilized for both residential and nonresidential purposes, "residential property" means only the portion of the property occupied or suitable to be occupied for residential purposes.

(b) Except as prohibited in Wis. Stat. §§ 12.03 or 12.035, any individual may place a sign containing a political message upon residential property owned or occupied by that individual during an election campaign period, except as otherwise restricted under subsections (c) or (d) below.

(c) During election campaign periods, any provision of this code restricting the size, shape, or placement shall not apply to a residential property subject to

subsection (d) below. No sign shall be placed in violation of Section 13-1-103(b). The limit on the number of temporary signs specified in Section 13-1-104(f) shall remain in effect during the election campaign period.

(d) No owner shall place a sign exceeding 11 square feet per sign face upon a residential property.

SEC. 13-1-106 COMMERCIAL SIGNS PERMITTED.

Signs are permitted in the B-1, B-2, B-3, CB, LI, and HI Districts subject to the regulations of the City Code and the following restrictions:

(a) Wall signs placed against the exterior walls of buildings shall not extend more than eighteen (18) inches outside of a building's wall surface nor extend above or beyond the wall itself. Total sign area (including multiple business/tenant signs on a single property) shall not exceed one (1) square foot for each lineal foot of the building parallel with the street frontage. Rear or side entrance signs are subject to the same size restrictions as that found at the principal (front/main) entrance to the building. Signs on other building facades (i.e. non-entrance side facades) are limited to one-half (1/2) square foot per lineal foot of such facade. All signs attached or affixed to a building shall not exceed twenty (20) feet in height above the mean ground grade level except in the HI, LI, and B-3 Districts where such signs shall not exceed thirty (30) feet in height above the mean ground grade level; roof signs are prohibited.

(b) Projecting identification signs not exceeding two (2) sign faces per business shall be permitted but not to exceed two (2) such signs per building. [Such signs are limited to identifying the business name and street address only but may include the trademarked names or logos of products sold by the business provided the size of such logos and trademarks do not exceed one-half (1/2) the size of the name of the business selling the trademarked products, excepting from such size limitation those businesses where the business name is trademarked (i.e. McDonald's, Hardee's, etc.).] Projecting signs fastened to, suspended from or supported by a building shall not extend more than five (5) feet, shall not be less than ten (10) feet above the sidewalk nor less than fifteen (15) feet above a driveway or alley, and shall not exceed twenty (20) square feet in size. Maximum height shall not exceed fifteen (15) feet or front of facade, whichever is less, and shall be located a minimum of ten (10) feet from a side lot line. Projecting signs shall not be internally illuminated. Exterior neon lights shall be permitted, and are not considered as being internally illuminated.

(c) Pole signs shall not exceed twenty (20) feet in height in the B-1, B-2, and LI Districts and thirty (30) feet in height in the B-3 and HI Districts. Height is measured above the mean centerline of street grade. The sign shall be completely within the property upon which it is located. One (1) pole sign per street frontage is permitted. Size is limited to one hundred (100) square feet for

one (1) side or two hundred (200) square feet for all sides. When there exists a property zoned in the B-3 or HI Districts with continuous road/highway frontage in excess of three hundred (300) feet, the size is limited to two hundred (200) square feet per side or four hundred (400) square feet for all sides. Any pole sign in the B-3 Business District shall have a minimum landscaped area of sixteen (16) square feet around the base of the pole unless a waiver thereof is granted by the Plan Commission.

(d) Ground signs shall be limited to one hundred (100) square feet for one (1) face or two hundred (200) square feet for all faces. When there exists a property zoned in the B-3 or HI Districts with continuous road/highway frontage in excess of three hundred (300) feet, the size is limited to two hundred (200) square feet per side or four hundred (400) square feet for all sides. One (1) ground sign is permitted on a street frontage provided there is no pole sign on that side. Any ground sign in the B-3 Business District shall have a minimum landscaped area of sixteen (16) square feet around the base of the ground sign unless a waiver is granted by the Plan Commission.

(e) Combinations of any of the above signs shall meet all the requirements for the individual sign.

(f) Signs in the B-1, B-2, B-3, and CB Districts shall only advertise on-site businesses and events. In instances where the property owner or business tenant wishes to erect a sandwich board, there is a limit of one (1) sandwich board per business tenant and such sign shall not exceed four (4) feet in height and eight (8) square feet per side display area.

(g) Exterior neon or gas illumination signs.

(h) Awnings with professionally painted or screen-printed lettering and/or symbols are permitted. The size of such printing shall not exceed twenty-five percent (25%) of awning surface and is calculated as part of the total permissible wall signage area for the building's facade. A sign permit is required for such awnings.

(j) Temporary signs, as defined in Sec. 13-1-101 (aa), and not including banners, when authorized by the Zoning Administrator or Plan Commission upon such conditions and restrictions as may be reasonable and proper. As used in this Section, "temporary" shall mean duration not to exceed thirty (30) days and not to exceed two (2) times per year for any one (1) location. Portable signs shall not exceed thirty-two (32) square feet on one side or sixty-four (64) square feet on all sides, except as otherwise provided in this Code and shall not be placed closer than ten (10) feet to any public right-of-way so as to interfere with traffic visibility including traffic ingress or egress to the premises immediately adjacent thereto.

(k) A sign identifying a planned shopping center grouping may be permitted with the approval of the Plan Commission, and the Commission may, in such case, modify the regulations applicable to the height, size, and location of such sign consistent with the spirit and intent of the regulations.

(l) For purpose of calculating the allowable sign area or sign size, the area or size includes the entire surface area of a sign including the non-structural trim. The supports, uprights, or structures on which the sign is mounted are not included in size. Sign area for individual letters, symbols, logos, or statuary shall include the total area within the periphery of the display which can be enclosed within a geometric shape such as a triangle, square, or rectangle. Multi-faced signs shall be computed as the areas of a single face.

(m) **Electronic Message Unit Signs.**

(1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.

(2) Segmented messages must be displayed for not less than one-half (1/2) second and more than ten (10) seconds.

(3) Traveling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second.

SEC. 13-1-107 DANGEROUS AND ABANDONED SIGNS AND BILLBOARDS.

(a) **Removal.** All signs or billboards shall be removed by the owner or lessee of the premises upon which the sign or billboard is located when a business which it advertises has not been conducted for a period of six (6) months or when, in the judgment of the Zoning Administrator, such sign or billboard is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Common Council may remove the sign or billboard at cost of the owner, following adequate written notice.

(b) **Alterations.** Any sign or billboard which was erected before the adoption of this sign Article shall not be rebuilt or relocated without conforming to all of the requirements of this Article.

(c) **Violations.** All signs or billboards constructed or maintained in violation of any of the provisions of this Article are hereby declared public nuisances within the meaning of this Code of Ordinances. In addition to the above penalty provisions for violation of this Chapter, the Common Council may bring an action to abate the nuisance in the manner set forth in the State Statutes.

SEC. 13-1-108 VARIANCES OR EXCEPTIONS.

Variations or exceptions to these sign regulations may be granted by the Board of Appeals.

SEC. 13-1-109 CONSTRUCTION AND MAINTENANCE REGULATIONS FOR SIGNS.

(a) **Installation.** All signs and billboards shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Inspector.

(b) **General Requirements.**

(1) Awnings. The lowest part of any awning shall be a minimum of eighty (80) inches above the sidewalk and shall not exceed four (4) feet or one-half (1/2) the sidewalk width, whichever is less.

(2) Illuminated Signs. Any illuminated signs or billboards shall not interfere with surrounding properties or traffic.

(3) Projection. Signs including supports shall not project beyond ten (10) feet of the face of the wall to which attached.

(4) Blanketing. Blanketing of signs shall not be allowed.

(5) Maintenance. All billboards and signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean.

(c) **Search Lights.** The Common Council may permit the temporary use of a search light for advertising purposes in any district provided that the search light will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Search light permits shall not be granted for a period of more than five (5) days in any six- (6-) month period.

SEC. 13-1-110 BANNER SIGNS.

(a) **Banner Sign Limitations.** In B-1, B-2, B-3 and CB Districts an annual permit may be applied for allowing the erection of the following:

(1) one (1) banner per entrance façade [with a maximum of two (2) such entrance façade banners], at any given time as long as such banner is affixed or attached flat against the building façade no higher than the wall itself or twenty (20) feet, whichever is less; or

(2) one (1) banner not exceeding thirty-two (32) square feet in size erected off the building façade but attached to a permanent, flat, rigid surface, such as a fence.

(b) **Permit and Duration.** A permit therefore shall be valid on a calendar year basis, and require annual re-application. The duration of an individual banner placement shall be no more than 30 (thirty) consecutive days per quarter of the calendar year. Renewal and banner approval shall be at the discretion of the Zoning Administrator and shall be based upon the applicant's previous history of proper banner maintenance. Permit issuance for a previous calendar year period shall not guarantee issuance for a renewal period.

SEC. 13-1-111 NONCONFORMING SIGNS.

(a) **Signs Eligible for Characterization as Legal Nonconforming.** Any sign located within the City of Plymouth limits on the date of adoption of this Chapter or located in an area annexed to the City of Plymouth hereafter which does not conform with the provisions of this Article is eligible for characterization as a legal nonconforming sign and is permitted, providing it meets the following requirements:

(1) The sign was covered by a proper sign permit prior to the date of adoption of this sign ordinance;

(2) If no permit was required under the applicable law for the sign in question and the sign was, in all respects, in compliance with applicable law on the date of adoption of this sign ordinance.

(b) **Loss of Legal Nonconforming Status.**

(1) A sign or billboard loses its nonconforming status and must be immediately brought into compliance with these regulations if one (1) or more of the following should occur:

a. The sign is structurally altered in any way which tends to make the sign less in compliance with the requirements of this Article than it was before alteration.

b. The sign is relocated.

c. The business property is sold or leased to a new owner/lessee, in which event all existing signs lose legal

nonconforming status one (1) year after the date of purchase/lease, excepting for the continuation of an existing business.

d. The sign fails to conform to requirements regarding maintenance and repair, abandonment, or dangerous or defective signs.

(2) On the date of occurrence of any of the above, the sign shall immediately be brought into compliance with this Article with a new permit secured therefore or shall be removed.

(c) **Legal Nonconforming Sign Maintenance and Repair.** Nothing in this Article shall relieve the owner or user of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Article regarding safety, maintenance, and repair of signs.

SEC. 13-1-112 WIND PRESSURE AND DEAD LOAD REQUIREMENTS.

All billboards, signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed to receive dead loads as required in the Building Code or other ordinances of the City of Plymouth.

SEC. 13-1-113 MURALS.

(a) **Conditional Use Permit Required.** Murals are allowed as a conditional use in the CB District.

(b) **Maintenance Agreement Required.** The owner of the property shall enter into an agreement with the City of Plymouth related to the construction and maintenance of the mural. If any third-party has agreed to undertake any responsibilities related to the construction and maintenance, said party shall also be a party to such agreement.

(c) **Historic Significance.** All murals shall be of historic significance to the City of Plymouth or surrounding areas and constructed in such a manner as to be compatible with the neighboring properties.

SEC. 13-1-114 PENALTY.

Any person who shall violate any provision of PMC 13-1-102 through PMC 13-1-112 shall forfeit not more than \$25 for each violation, plus the costs of prosecution. Each day of continued violation shall constitute a separate offence subject to said penalty.

SEC. 13-1-115 THROUGH SEC. 13-1-119 RESERVED FOR FUTURE USE.

ARTICLE I

Performance Standards - Industrial Developments

SEC. 13-1-120 ARTICLE INTENT.

It is the intent of this Article to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects.

SEC. 13-1-121 VIBRATION.

(a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground or structure borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

(b) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

SEC. 13-1-122 EXTERNAL LIGHTING.

No operation or activity shall produce any intense glare or lighting with the source directly visible beyond an Industrial District's boundaries.

SEC. 13-1-123 PARTICULATE EMISSIONS.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Wis. Admin. Code § NR 154.1 1.

SEC. 13-1-124 VISIBLE EMISSIONS.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Wis. Admin. Code § NR 154.11(6).

SEC. 13-1-125 HAZARDOUS POLLUTANTS.

No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all

emissions of hazardous substances shall not exceed the limitations established in Wis. Admin. Code § NR 154.19.

SEC. 13-1-126 THROUGH SEC. 13-1-129 RESERVED FOR FUTURE USE.

ARTICLE J

Signal Receiving Antennas; Wind Energy Systems

SEC. 13-1-130 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS.

(a) Wireless telecommunications towers and antennas may be installed, erected and maintained pursuant to the provisions of this section. Telecommunication towers and antennas shall not be regulated or permitted as essential services, public utilities, or private utilities.

(b) Purpose. The purpose of this ordinance is to strike a balance between the federal interest concerning the construction, modification and placement of telecommunications towers and antennas for use in providing personal wireless services, and the legitimate interest of the City of Plymouth in regulating local zoning. The goals of this ordinance are to protect residential areas and land uses from potential adverse impacts of towers and antennas; minimize the total number of towers throughout the community; encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; consider the public health and safety of communication towers, and avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City of Plymouth shall give due consideration to the Comprehensive Plan, Zoning Map, and existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(c) Definitions. As used in this ordinance, the following terms shall have the meanings set forth herein:

(1) **Alternative Tower Structure:** Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas.

(2) **Antenna:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio

frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

(3) **Backhaul Network:** The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

(4) **Collocation:** The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.

(5) **FAA:** Federal Aviation Administration.

(6) **FCC:** Federal Communications Commission.

(7) **Height:** When referring to a tower or other structure, the distance measured from finished grade to the highest point on the tower or other structure, including the base pad.

(8) **Preexisting Towers/Antennas:** Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance.

(9) **Tower:** Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(d) Applicability.

(1) New Towers and Antennas: All new towers or antennas in the City of Plymouth shall be subject to these regulations, except as provided in Sections (3)(b) and (3)(c).

(2) Amateur Radio Station Operators/Receive Only Antennas: This ordinance shall not govern any tower, or the installation of any antenna, that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

(3) Preexisting Towers or Antennas: Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Section (5)(b).

(e) Permit Required. No tower or antenna shall be installed unless a permit is first obtained by the owner or his agent from the Building Inspector. The following shall be required as part of the application submittal:

(1) A scaled site plan clearly indicating the location, type and height of the proposed tower and appurtenant equipment, any proposed and existing structures, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, tower and equipment setbacks from property lines, and other information deemed by the Building Inspector to be necessary to assess compliance with this ordinance;

(2) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted residentially zoned properties;

(3) The separation distance from other towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the City of Plymouth, or within one mile of the border thereof, including specific information about the location, height, and design of each tower;

(4) Landscape plan showing specific plant materials;

(5) Method of fencing, including location, materials and finished color and, if applicable, vegetative screening; and

(6) Description of compliance with Section (5).

(f) General Requirements. In addition to compliance with all applicable regulations of this ordinance, the following standards shall apply for the installation of any tower or antenna:

(1) Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Building Inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(2) State or Federal Requirements. All towers and antennas shall meet or exceed current standards and regulations of the FAA, FCC, and any

other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner of a tower and antenna governed by this ordinance shall bring such tower and antenna into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(3) Collocation. A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for additional users. Towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights.

(4) Height. Antenna height shall not be restricted, provided such device is installed and maintained in accord with applicable state or local building codes, and in compliance with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas. Tower height shall not be restricted when such structure is a permitted land use; where a conditional use permit is required, the provisions of Section 13-1-74 shall apply.

(5) Setbacks. A tower shall be located not closer than a distance equal to 100% of the height of the tower from any adjoining lot line. Guy wires and appurtenant equipment and buildings shall comply with requirements of the underlying zoning district in which the tower is located.

(6) Separation Between Land Uses. Tower separation shall be measured from the base of the tower to the lot line of the off-site use and/or designated area as specified herein.

<u>Land Use/Zoning</u>	<u>Separation Distance</u>
R-1; R-2; R-3; R-MH	200 feet or 300% of tower height, whichever is greater
R-4; B-1	100 feet or 100% of tower height, whichever is greater
B-2; B-3; L1; H1; A-1	No separation requirements; Tower subject to required setback

(7) Aesthetics. Towers shall maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Where an antenna is installed on a structure other than a tower, the antenna and appurtenant equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(8) Signs. No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners, or waving, fluttering, or revolving devices, but not including weather devices.

(9) Lighting. Towers shall not be artificially illuminated unless required by the FAA or any other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(10) Fencing. A tower shall be enclosed by security fencing not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design, materials, and colors shall reflect the character of the surrounding area.

(11) Landscaping. A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet in width outside the perimeter of the tower compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural land forms shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(12) Appurtenant Equipment and Buildings.

a. Antennas mounted on structures or rooftops: The equipment cabinet or structure used in association with an antenna may be located on a roof provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements.

b. Antennas mounted on utility poles, light poles or towers: The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development

standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

(g) Permitted Uses.

(1) Allowable Zoning Districts: The installation of a tower or antenna, including the placement of buildings or other supporting equipment used in connection with said tower or antenna, may be permitted in the B-2, B-3, LI and HI Zoning Districts.

(2) Municipal Sites: Antennas installed on a structure other than a new communication tower, or antennas installed on an existing communication tower shall be permitted where located on property owned, leased or otherwise controlled by the City of Plymouth, irrespective of zoning district, provided that a lease or other agreement to authorize such antenna or tower has been approved by the City.

(3) Antennas or Towers On Existing Structures: An antenna or tower may be situated on the roof of a commercial, industrial, professional, or institutional structure may be allowed, provided that such device is installed and maintained in accord with applicable state or local building codes, and complies with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.

(4) Antennas On Existing Towers: The attachment of a new antenna on an existing tower may be allowed, to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that:

a. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same type as the existing tower, unless reconstructed as a monopole;

b. An existing tower may be modified or rebuilt to accommodate the collocation of additional antenna and may be moved on-site within 50 feet of its existing location, but the relocation may only occur one time per communication tower;

c. After a tower is rebuilt to accommodate collocation, only one tower may remain on the site; and

d. The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the City Council.

(5) Alternative Tower Structure: The use of an alternative tower structure may be permitted, where such use would be consistent with the goals set forth in Section I of this ordinance, as determined by the Zoning Administrator.

(6) Cable Microcell Network: The installation of a cable microcell network may be permitted through the use of multiple low-powered transmitters/receivers attached to existing wireline Systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(h) Conditional Uses. The installation of towers and antennas, including the placement of appurtenant equipment or buildings, may be allowed by conditional use permit in the B-1, B-2, B-3, LI, and HI Zoning Districts. An application for a conditional use permit shall be subject to the procedures and requirements of Article E of this Chapter and in particular Section 13-1-74. In addition, a conditional use permit proposal shall include plans, specifications and other pertinent information and materials to demonstrate compliance with this ordinance.

(i) Removal of Abandoned Antennas and Towers. An antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the City of Plymouth notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(j) Nonconforming Uses.

(1) Not Expansion of Nonconforming Use. Towers that are constructed and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

(2) Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance.

SEC. 13-1-131 WIND ENERGY SYSTEMS.

(a) **Construction of Wind Energy Systems.** No person shall construct or operate a wind energy conversion system (WECS) without having fully complied with the provisions of this Section.

(b) **Permits Required.**

(1) A zoning permit shall be obtained from the Plan Commission to allow construction of a WECS.

(2) A WECS permit shall be obtained from the Zoning Administrator for the construction of all WECS.

(c) **Application Requirements.** An application for a permit to build a wind energy system shall include the following:

(1) The property lines of the proposed site of construction.

(2) Proposed location of the WECS.

(3) Location and description of all structures located on the property where the WECS site is proposed.

(4) Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS.

(5) Location of all underground utility lines on the property where a WECS site is proposed.

(6) Dimensional representation of the structural components of the tower construction including the base and footings.

(7) Schematic of electrical systems associated with the WECS including all existing and proposed electrical connections.

(8) Manufacturer's specifications and installation and operation instructions or specific WECS design information.

(9) Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirements for structure as defined by the Uniform Building Code.

(d) **Blade Clearance.** The minimum distance between the ground and any protruding blade(s) utilized on a WECS shall be fifteen (15) feet, as measured at

the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

(e) **Climbing Towers, Tower Access.** Access to towers shall be controlled by fences six (6) feet in height around the tower and anti-climbing devices. Existing local regulations regarding attractive nuisances shall cover wind systems as well. A sign indicating shock hazard shall be placed on the tower. Such sign shall state: "*Warning. Electrical shock hazard. No unauthorized persons on tower. No trespassing.*" Cables, ropes, or wires used to secure the WECS shall be appropriately marked to prevent accidental bodily harm.

(f) **Tower Construction.** Tower construction shall be in accordance with all applicable sections of the Wisconsin State Building Code including, but not limited to, Wis. Admin. §§ ILHR 50.12, 53.10, 53.12, 62.37, 62.38, 62.39, 62.40, and 62.41, and any future amendments, additions, and/or revisions to same.

(g) **Utility Interconnection.** The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's then-current service regulations applicable to WECS; these standards are subject to review by the Public Service Commission.

(h) **Setback Requirements.**

(1) No WECS shall be constructed in any setback, dedicated easement, nor dedicated roadway.

(2) Installation of any WECS may not be nearer to any property lines or right-of-way for overhead electrical transmission or distribution lines than three (3) times the height of the WECS structure.

(i) **Noise.** During all operations, from commencement through abandonment, all noise and vibrations shall conform with the requirements of the City of Plymouth Code of Ordinances.

(j) **Interference with Navigational Systems.** No WECS shall be installed or operated in such a manner that is not in compliance with Federal Aviation Administration regulations.

(k) **Electrical Distribution Lines.** All WECS electrical distribution lines shall be located underground.

(l) **Required Safety Features.**

(1) All WECS shall be designed with an automatic overspeed control to render the system inoperable when winds are blowing in excess of the speeds for which the machine is designed.

(2) All WECS shall have a manually operable method to render the system inoperable in the event of a structural or mechanical failure of any part of the system including the automatic overspeed control.

(3) All WECS shall be designed with an automatic control to render the system inoperable in case of loss of utility power to prevent the WECS from supplying power to a de-energized electrical distribution system.

(4) Any WECS thereof declared to be unsafe by the Assessor/Inspector by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in the City of Plymouth Code of Ordinances.

(m) **Maintenance.** The Zoning Administrator or his representative shall have the right, at any reasonable time, to enter, in the company of the owner or his agent, the premises on which a WECS has been constructed to inspect all parts of said WECS installation and require that repairs or alterations be made within thirty (30) days if, in his judgment, there exists a deficiency in the structural stability of the system.

(n) **Inspections.** A yearly inspection at a fee to be determined from time to time by resolution of the Common Council shall be made by the Zoning Administrator to certify the safety and maintenance of the WECS and accessory structures.

SEC. 13-1-132 SOLAR ENERGY CONVERSION SYSTEMS.¹

(a) **Definition of "Solar Energy Conversion System."** For purposes of this section a "solar energy conversion system" shall mean "a device, structure, or a part of a device or structure which has the substantial purpose of transforming solar energy into thermal, mechanical, chemical, or electrical energy."

(b) **Solar Energy Conversion Systems on Structures.**

(1) Permitted Accessory Use/Conditional Use. Solar energy conversion systems that are constructed on a principal or accessory structure shall be allowed as permitted accessory uses in the R-1, R-2, B-3, L-1, H-1, or A Districts and may be allowed as a conditional use in all other districts.

¹ Created by Ordinance No. 11 of 2011. Enacted June 28, 2011.

(2) Permit Required. Every property owner shall obtain a building permit from the Building Inspector prior to the installation of a solar energy conversion system on a principal or accessory structure.

(3) Calculation of Square Footage. For purposes of determining the allowable square footage of a solar system conversion system as an accessory use, the size of the panel shall be used to calculate the number of square feet allocated towards the total allowable accessory area per lot.

(c) **Free-standing Solar Energy Conversion Systems.**

(1) Conditional Use. Free-standing solar energy conversion systems may be allowed as a conditional use in any district, except the CB, R-1, R-2, R-3, or R-4 Districts, so long as the principal use of the property is not residential.

(2) Permit Required. Every property owner shall obtain a permit for the installation of a free-standing solar energy conversion system using the conditional use permit application and approval process as set forth in Article E of the Zoning Code.

(3) Placement Plan Required. Every property owner submitting a conditional use application for the installation of a free standing solar energy conversion system shall submit a placement plan to the Zoning Administrator in connection with the conditional use permit application. The placement plan shall contain the following:

- a. A scaled drawing showing the location of the solar energy conversion system on the lot.
- b. The design of the solar energy conversion system, including dimensions.
- c. The location of improvements and landscaping on adjoining lots having an impact on the functionality of the proposed solar energy conversion system.
- d. Additional materials may be required by the Zoning Administrator or Plan Commission.

(d) **Location and Height.** Solar energy conversion systems shall meet all setback, height, and other accessory use regulations for the district in which they are located.

SEC. 13-1-133 THROUGH SEC. 13-1-139 RESERVED FOR FUTURE USE.

ARTICLE K

Accessory Uses and Structures; Fences

SEC. 13-1-140 ACCESSORY USES OR STRUCTURES.

(a) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.

(b) **Placement Restrictions - Residential Districts.** Accessory structures in single family or duplex residential districts are subject to the following regulations:

(1) Residences with attached garages:

a. One attached garage per dwelling unit shall be permitted.

1. The maximum square feet of floor area shall be limited to the smaller of 1,200 square feet or the first floor dwelling unit area in the case of a single family residence.

2. The maximum square feet of floor area shall be limited to the smaller of 750 square feet per dwelling unit, or the first floor dwelling unit area in the case of a duplex dwelling.

3. Minimum yards shall be the same as that required for the principal structure.

b. One detached accessory structure per dwelling unit shall be permitted, provided the combined area of the attached garage and accessory structure does not exceed the maximum limits set forth in subsection a. hereinabove, and complies with the location and height regulations for detached garages as provided in Section 13-1-140(b)(2) hereinbelow.

(2) Residences with detached garages:

a. One detached garage per lot shall be permitted.

1. The maximum square feet of floor area shall be limited to the smaller of 1,200 square feet, the first floor

dwelling unit area of the principal structure, or 35% of the rear yard.

2. The maximum square feet of floor area shall be limited to the smaller of 750 square feet per dwelling unit, or the first floor dwelling unit area in the case of a duplex dwelling.

3. When located to the rear of the principal dwelling unit, the structure shall be a minimum of 3 feet from the rear and side lot lines; if located in a side yard, the structure shall be a minimum of 9 feet from the side property line. In either event, the structure shall be a minimum of 10 feet from the dwelling unit, and shall not be located in a required front or street side yard for a corner lot.

4. A detached garage shall have a maximum height of 15 feet or 60% of the principal dwelling unit height, whichever is greater.

a. One additional accessory structure per dwelling unit shall be permitted provided the combined floor area of the two detached structures shall not exceed the area permitted for a detached garage as set forth in this subsection, and complies with all applicable height and location requirements for detached garages.

(c) **Use Restrictions - Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade, or industry and shall not be occupied as a dwelling unit.

(d) **Reversed Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three (3) feet to the property line of the adjacent structure.

(e) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area not regulated by vision clearance regulations. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs, flowers, and gardens.

(f) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.

(g) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:

(1) That such private garage shall be located not less than five (5) feet from the front lot line;

(2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and

(3) That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.

(h) **Outdoor lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.

(i) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.

(j) **Retaining Walls.** Retaining walls on private property are allowed, but may not exceed six (6) feet in height from grade to the top of the wall. A person building a retaining wall which creates a drop down of three (3) feet or more for a neighboring property or public land shall be required to protect the upper ground with a guardrail pursuant to applicable building code requirements, or provide and maintain on their own property plantings which give similar protection as a guardrail. Any terraced wall shall have a run equal to or greater than its lower rise. The sum of the rises may be greater than the six-foot limit. Exceptions to these basic regulations may be approved by the Common Council. Notice of the construction or reconstruction of a retaining wall shall be given to the Building Inspector prior to commencement of construction; a building permit shall be required only for retaining walls greater than six (6) feet in height. Any retaining wall constructed prior to January 1, 2002, shall be exempt from this paragraph, except if the same shall be substantially reconstructed.

(k) **Decks.** Decks shall be considered as uncovered accessory structures and shall have setback requirements as follows, whether they are attached or detached from the principal building:

(1) Front yard. A deck may be located up to six (6) feet into the required front yard or ahead of the existing building setback for the block, and shall not exceed sixteen (16) inches above ground level.

(2) Rear yard. A deck may be located no closer than three (3) feet from the lot line.

(3) Side yard. A deck may be located no closer than three (3) feet from the lot line.

(l) **Canopy Units**. No canopy structure, whether permanent or temporary, shall be permitted in a required front, side, or rear yard, for a period of time greater than fifteen (15) days, except with the consent of the Plan Commission.

SEC. 13-1-141 OUTSIDE STORAGE OF FIREWOOD.

(a) No person shall store firewood in the front yard on residentially zoned property except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.

(b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.

(c) All brush, debris, and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.

(d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.

(e) Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one (1) time.

SEC. 13-1-142 FENCES.

(a) **Fences Defined**. For the purpose of this Section, a "fence" is herein defined as an enclosed barrier consisting of wood, stone, or metal intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.

(b) **Fences Categorized**. Fences shall be categorized into five (5) classifications:

(1) Boundary Fence. A fence placed on or within three (3) feet of the property lines of adjacent properties.

- (2) **Protective Fence.** A fence constructed to enclose a hazard to the public health, safety, and welfare.
- (3) **Architectural or Aesthetic Fence.** A fence constructed to enhance the appearance of the structure or the landscape.
- (4) **Ticket Fence.** A fence having a pointed post, stake, pale, or peg laced vertically with the point or sharp part pointing upward to form a part of the fence.
- (c) **Placement of Fences Regulated.** Fences and walls shall be permitted in all yards subject to the following limitations:
- (1) **Residential Fences:** Permitted on property lines in residential districts, but shall not in any case exceed a height of six (6) feet, shall not be placed in any required front yard or street side yard, and shall not be closer than ten (10) feet to any public right-of-way.
- (2) **Security Fences:** Permitted on the property lines in all districts except residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (d) **Prohibited Fences.** No fence shall be constructed which is of a dangerous design, as determined by the Assessor/Inspector, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area.
- (e) **Fences to be Repaired.** All fences shall be kept safe and maintained in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property. The unfinished side shall be the side with the majority of framing facing the adjoining property.
- (f) **Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four- (4-) foot intervals. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.
- (g) **Permit Required.** Prior to commencing construction of a fence, a fence permit shall first be obtained from the Zoning Administrator. The fee for such

permit shall be Ten Dollars (\$10.00), and shall be accompanied by design specifications.

SEC. 13-1-143 SWIMMING POOLS.

(a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than one and one-half (1-1/2) feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.

(b) **Exempt Pools.** Storable children's swimming or wading pools with a maximum dimension of twenty (20) feet and a maximum wall height of twenty (20) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.

(c) **Permit Required.** Before work is commenced on the construction or erection of private or residential swimming pools or on any alterations, additions, remodeling, or other improvements, an application for a swimming pool building permit to construct, erect, alter, remodel, or add must be submitted in writing to the Building Inspector. Plans and specifications and pertinent explanatory data should be submitted to the Building Inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. A proper fee shall accompany such application.

(d) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction as provided for in Subsection (c), unless the following construction requirements are observed:

(1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and code and with any and all Ordinances of the City now in effect or hereafter enacted.

(2) All plumbing work shall be in accordance with all applicable Ordinances of the City and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located.

(3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and City Ordinances regulating electrical installations.

(e) **Setbacks and Other Requirements.**

(1) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.

(2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool be, less than ten (10) feet from any lot line.

(f) **Fence.**

(1) A fence, barrier, or wall shall be constructed so as to afford no external handholds or footholds. The barrier shall be at least 4 feet in height. Gates in the barrier shall be equipped with a self-closing, lockable closure mechanism at a distance of at least 3 inches from the top of the gate on the pool side. Fences serving as barriers shall have no opening greater than 4 inches in width or diameter. The bottom of a fence or wall shall be a maximum of 4 inches from grade. Doors in fences and walls shall be self-closing and lockable.

(2) The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on the top or where the sidewalls are a minimum of thirty-six (36) inches high and pool ladders can be removed when not in use.

(3) Above-ground pools with sides greater than thirty-six (36) inches above grade high are not required to be enclosed by a suitable fence and if using a ladder for ingress or egress shall have this ladder removed or flipped up when the pool is not in use.

(4) A pool may be protected by a motorized safety pool cover which requires the operation of a key switch which meets the American Society of Testing and Materials Emergency Standards 13-89 and which does not require manual operation other than the use of the key switch.

(g) **Compliance.** All swimming pools existing at the time of passage of this Code of Ordinances not satisfactorily fenced shall comply with the fencing requirements of this Section or shall so comply prior to water being placed therein.

(h) **Draining and Approval Thereof.** No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Plumbing Inspector. In all cases where a private swimming pool is to be constructed on premises served by a private sewage disposal system, approval of the State Board of Health shall be necessary before the construction of any such pool may commence.

(i) **Filter System Required.** All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.

(j) **Dirt Bottoms Prohibited.** All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.

SEC. 13-1-144 KEEPING OF CHICKENS.²

(a) **Purpose.** The purpose of this section is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to keep a small number of female chickens on a non-commercial basis while limiting the potential adverse impacts on the surrounding neighborhood. The City recognizes that adverse neighborhood impacts may result from the keeping of domesticated chickens as a result of noise, odor, unsanitary animal living conditions, unsanitary waste storage and removal, the attraction of predators, rodents, insects, or parasites, and non-confined animals leaving the owner's property. This article is intended to create standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.

(b) **Definitions.**

(1) *Chicken Pen* shall mean an area enclosed by protective fence, which is connected to a henhouse for the purpose of allowing chickens to leave the henhouse while remaining in an enclosed, predator-safe environment. The fence enclosure shall be secured to the ground and constructed to burrow resistant standards.

² Created by Ordinance No. 9 of 2012. Enacted on June 26, 2012.

(2) *Enclosure* shall mean a chicken pen, fenced area, or henhouse.

(3) *Henhouse* shall mean a structure for the sheltering of female chickens. An existing shed or garage can be used for this purpose if it meets the standards contained in Subsection (e), below, including the required distance from property lines.

(c) **Keeping of Chickens as Permitted Accessory Use.** A maximum of five (5) chickens shall be allowed as a permitted accessory use on any lot where the principal use is a single-family residence. No roosters shall be kept within the City limits. Chickens shall be kept within the chicken pen at all times. At night, chickens shall be kept in the secured henhouse. Free range of chickens shall not be allowed at any time. Any primary or secondary school open to public enrollment shall be exempt from the requirements of Sec. 13-1-144 and Sec. 7-1-19 and may keep chickens for educational purposes.

(d) **Enclosures.**

(1) Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.

(2) Enclosures must provide adequate ventilation and adequate sun and shade.

(3) No enclosure shall be placed in the front yard nor located closer than forty (40) feet to any principal structure on an adjacent lot. An attached garage shall be considered part of a principal structure.

(e) **Henhouses.**

(1) A henhouse shall be provided and shall be designed to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood.

(a) The structures shall be enclosed on all sides and shall have a roof, structural floor, and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator-and bird-proof wire of less than one- (1-) inch openings.

(b) The henhouse must be impermeable to rodents, wild birds, and predators, including dogs and cats.

(2) Henhouses shall be considered an accessory building subject to Section 13-1-140 of the City of Plymouth Zoning Code, except the

enclosure setback requirements established by paragraph (d) above shall control.

(f) **Chicken Pens.** An enclosed chicken pen must be provided consisting of sturdy wire fencing. The pen must be covered with wire, aviary netting, or solid roofing.

(g) **Feed and Water.** Chickens must be provided with access to feed and clean water at all times; such feed and water shall be unavailable to rodents, and predators. Feed must be contained in an impervious (metal or plastic) container.

(h) **Waste Storage and Removal.** All persons keeping chickens must properly dispose of manure by using it for fertilizer, removing it from the property, or working it into a compost bin or container. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. All other manure not used for composting or fertilizing shall be removed in a timely manner, and no accumulation in manure piles shall be allowed. In addition, all enclosures and the surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

(i) **Selling or Slaughter Prohibited.** No person shall sell or offer for sale any chickens, eggs, or meat from their residence. No person shall slaughter any chickens on site regardless of whether the meat is intended for personal use or for sale to others.

(j) **License Required.** No person shall keep chickens on any lot within the City prior to obtaining a Chicken License pursuant to Section 7-1-19, Keeping of Chickens License, of the City Code."

SEC. 13-1-145 THROUGH SEC. 13-1-149 RESERVED FOR FUTURE USE.

ARTICLE L

Mobile Homes

SEC. 13-1-150 INTENT - WHERE MOBILE HOME DISTRICTS PERMITTED.

(a) Residential-Mobile Home (R-MH) Zoning Districts may hereafter be established in accordance with the procedures, requirements and limitations set forth in this Article. Within such District, mobile homes, with such additional supporting uses and occupancies as are permitted herein, may be established subject to the requirements and limitations set forth in these and other regulations.

(b) It is the intent of this Article to recognize mobile homes constructed prior to October 1, 1974, as distinct and different from units designated as Mobile

Homes within the definitions of this Article and to prohibit units not meeting the requirements for Mobile Homes as defined herein. Units constructed prior to 1974 are prohibited unless already in place at the time of adoption of this Section.

SEC. 13-1-151 DEFINITIONS.

The following definitions are used in this Article:

(a) **Mobile Home Communities (Parks).** Mobile home communities/parks are distinguished from subdivisions lacking common facilities and continuing management services. The later would be controlled by general subdivision regulations, which would apply also to mobile home subdivisions without common open space or continuing management.

(b) **Mobile Home Subdivision.** A parcel of land platted for subdivision according to all requirements of the comprehensive plan, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by mobile homes.

(c) **Residential Mobile Home.** A single-family dwelling built on or after October 1, 1974, in accordance with the ANSF Code (American National Standards Institute) or in accordance with the HUD Code (Housing & Urban Development), both of which govern the heating and cooling systems, electrical systems, fire safety, body and frame construction, thermal protections and plumbing systems. All said homes shall bear the proper approved Wisconsin insignia as required by the Wisconsin Administrative Code, ILHR 20.12-20.17. "Mobile home" also means a dwelling which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances, except that a mobile home is not deemed a mobile home if the assessable value of such additions, attachments, annexes, foundations and appurtenances equals or exceed fifty percent (50%) of the assessable value of the mobile home. The term "mobile home" shall not include a factory-built structure meeting the following requirements:

- (1) Intended to be set on a foundation by virtue of its construction.
- (2) Which is normally transported only once, from the factory to the construction site.
- (3) Which from its very beginning is designed to be permanently affixed to land.

(d) **Foundation Siding.** A fire and weather-resistant, pre-finished material surrounding the entire perimeter of a home and completely enclosing a space between the exterior wall of such home and the ground. Foundation siding shall be properly vented, harmonious, and compatible with the house and installed within sixty (60) days from the date of placement on site.

(e) **Primary Exposure.** Open areas adjacent to the front wall (or main entrance) of a dwelling unit.

(f) **Secondary Exposure.** Open areas adjacent to side and rear walls of a dwelling unit.

(g) **Statutory Definitions.** In addition to the above definitions, definitions contained in Wis. Stat. § 66.0435 shall also be applicable.

SEC. 13-1-152 MINIMUM DIMENSIONAL REQUIREMENTS FOR R-MH DISTRICTS AND FOR INDIVIDUAL MOBILE HOME COMMUNITIES; MINIMUM NUMBER OF LOTS OR SPACES.

(a) Where a R-MH District is to be established for the development of a mobile home community, the minimum area shall be ten (10) acres. The minimum number of lots or spaces completed and ready for occupancy before first occupancy is permitted shall be established as twenty-five percent (25%) of total units permitted on zoned site.

(b) These limitations shall not apply where expansion of an existing mobile home community is concerned and where such expansion will not increase variation from requirements applying to mobile home communities, as set forth herein.

SEC. 13-1-153 PERMITTED AND PERMISSIBLE USES AND STRUCTURES.

The following principal uses and structures are permitted within R-MH Districts:

(a) **One-Family Detached Mobile Homes (residential mobile home).** In mobile home communities, recreational vehicles shall not be occupied as living quarters, and sales lots shall not be permitted but dwellings may be sold on lots they occupy in residential use.

(b) **Permitted Accessory Uses and Structures.** Uses and structures that are customarily accessory and clearly incidental to permitted principal uses and structures shall be permitted, except for those requiring specific approval as provided below.

(c) **Rental.** No mobile home site shall be rented for a period of less than thirty (30) days or contrary to applicable state law.

SEC. 13-1-154 MOBILE HOME PARK SITE PLAN REVIEW.

(a) No person shall construct, alter, modify, or extend any mobile home park within the limits of the City without first securing approval of the site plan from the Plan Commission and having the property re-zoned to the R-MH District.

(b) Applications for mobile home park site plan review shall be filed with the Zoning Administrator with sufficient copies for the Clerk/Treasurer to forward one (1) each to the Director of Public Works, Utilities Manager, Assessor/Building Inspector, and Fire Chief which shall investigate and review said application to determine whether the applicant, the premises on which said park will be located, and the proposed design and specifications thereof and all buildings proposed to be constructed thereon will comply with the applicable regulations, ordinances, and laws of the State and City.

(c) Applications for mobile home park site plan review shall be accompanied by a fee of One Hundred Dollars (\$100.00) for each fifty (50) spaces or part thereof to cover the cost of investigation and processing, plus regular building permit fees for all buildings or structures to be erected within the proposed park.

(d) Applications shall include the following information:

(1) Name and address of applicant.

(2) Location and legal description of the proposed park, addition, modification or extension.

(3) A complete plot plan showing compliance with all applicable provisions of this Chapter.

(4) Complete preliminary engineering plans and specifications, including a scale drawing of the proposed park showing, but not limited to:

a. Plans and specifications of all utilities, including: sewerage collection and disposal, storm water drainage, water and electrical distribution and supply, refuse storage and collection, lighting, telephone, and TV antenna systems.

b. Location and width of roadways and walkways, buffer strips, recreational and other common areas.

c. The location of mobile home stands with the mobile home spaces, including a detailed sketch of at least one (1) typical mobile home space and stand therein.

- d. Landscape plan showing all plantings.
- e. Plans and specifications of all park buildings and structures.

(5) Interest of applicant in proposed mobile home park or extension thereof. If the owner of the tract is a person other than the applicant, a duly verified statement by the owner that applicant is authorized by him to construct and maintain the proposed park, addition, modification, or extension and make the Application.

(e) Final engineering plans and specifications complying with the provisions of this Article and the zoning regulations and any modifications or conditions imposed by the governing body shall be submitted to the Zoning Administrator and checked by the proper municipal officials for compliance before the site plan is approved.

(f) The procedure for creation of an R-MH District shall be as prescribed in Article 0 of this Chapter.

SEC. 13-1-155 STANDARD REQUIREMENTS FOR MOBILE HOME PARKS, ADDITIONS, OR EXTENSIONS.

All mobile home parks and modifications of or additions or extensions to existing parks under the R-MH District shall comply with the following:

(a) Wis. Admin. Code Ch. COMM 95 as now existing or hereafter amended is hereby made a part of this Chapter and incorporated herein by reference as if fully set forth, except that such regulations shall not be deemed to modify any requirement of this Chapter or any other applicable law or ordinance of the State or City.

(1) Each mobile home space shall be clearly defined or delineated, have a minimum of five thousand (5,000) square feet, and shall have a minimum frontage of fifty (50) feet and depth of one hundred (100) feet.

(2) Each mobile home unit and any attachments thereto and any accessory structure shall have a street yard of not less than twenty-five (25) feet and side and rear yards of not less than five (5) feet.

(3) Each mobile home space shall provide not less than two (2) spaces for off-street parking of vehicles.

(4) Movable footing slabs of reinforced concrete or other suitable means of supporting the mobile home shall be provided. Enclosing the foundation is required for looks and insulating. Basements are not authorized.

- (5) A service slab shall be provided for each mobile home space.
 - (6) Areas not hard-surfaced shall be seeded or sodded to prevent the blowing of sand or dirt. Landscaping is encouraged.
 - (7) Attachments and/or accessory structures shall be designed and constructed so that they will blend in with and not detract from the appearance of the mobile home units. No such attachments or accessory structures shall be constructed without first securing a building permit from the Building Inspector.
 - (8) Attachments to the mobile home unit, such as a sun porch windbreak, etc., shall not be wider than twelve (12) feet or longer than twenty-four (24) feet.
 - (9) Accessory structures, such as a carport, detached garage, storage shed, etc., shall not be wider than twelve (12) feet or longer than twenty-eight (28) feet, and shall be located at least ten (10) feet from any mobile home, and at least 5 feet from other lot lines.
 - (10) A double-wide manufactured home which is designed such that it can have an attached garage may have a garage wider than 12 feet and shall be governed as follows:
 - a. The attached garage shall be shorter than the dwelling unit on that same side.
 - b. The maximum size of the garage attached to a double-wide home is 676 square feet.
- (b) No mobile home park shall be laid out, constructed, or operated without City water supply and sanitary sewer service. All water or sanitary sewerage facilities in any unit not connected with public water or sewer systems by approved pipe connections shall be sealed and their use is hereby declared unlawful.
- (c) Streets shall be provided as follows:
- (1) All mobile home spaces shall abut upon a street.
 - (2) Public streets shall have a right-of-way width of sixty-six (66) feet and a dust-free surfaced width of not less than thirty-two (32) feet.
 - (3) Private streets shall have a right-of-way width of forty (40) feet and a dust-free surfaced width of not less than twenty-four (24) feet.

(d) All mobile home parks shall have a greenbelt or buffer strip not less than twenty (20) feet wide along all boundaries. Unless adequately screened by existing vegetative cover, all mobile home parks shall be provided within such greenbelt or buffer strip with screening of natural growth or screen fence, except where the adjoining property is also a mobile home park. Compliance with this requirement shall be made within five (5) years from the site plan approval. Permanent planting shall be grown and maintained at a height of not less than six (6) feet. Screening or planting requirements may be waived or modified by the governing body if it finds that the exterior architectural appeal and functional plan of the park, when completed, will be materially enhanced by modification or elimination of such screen planting requirements.

(e) In all mobile home parks, there shall be one (1) or more recreation area easily accessible to all park residents. Recreation areas shall be so located as to be free of traffic hazards and convenient to mobile home spaces which they serve.

(f) No signs shall be erected in mobile home parks except signs pertaining to the lease, hire, or sale of individual mobile homes not more than six (6) square feet in area and one (1) mobile home park identification sign not more than fifty (50) square feet in area at each park entrance.

(g) All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home space. Entrances to parks shall be designed to minimize congestion and traffic hazards and allow free movement of traffic on adjacent streets.

**SEC. 13-1-156 OPERATION OF MOBILE HOME PARKS;
RESPONSIBILITIES OF PARK MANAGEMENT.**

(a) In every mobile home park there shall be located an office of the attendant or person in charge of said park. A copy of the park license and of this Chapter shall be posted therein.

(b) The attendant or person in charge and the park licensee shall operate the park in compliance with this Chapter and regulations and Ordinances of the City and State and their agents or officers and shall have the following duties:

(1) Maintain a register of all park occupants, to be open at all times to inspection by state, federal and municipal officers, which shall show:

- a. Names and addresses of all owners and occupants of
- b. Number of children of school age.

- c. State of legal residence.
 - d. Dates of entrance and departure of each mobile home.
 - e. Make, model, year and serial number or license number of each mobile home and towing or other motor vehicles and state, territory, or country which issue such licenses.
 - f. Place of employment of each occupant, if any.
- (2) Supervise the placement of each mobile home on its stand which includes securing its stability and installing all utility connections and tie-downs.
- (3) Maintain park grounds, buildings and structures free of insect and rodent harborage and infestation and accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
- (4) Maintain the park free from growth of noxious weeds.
- (5) Maintain the park free of litter, rubbish and other flammable materials and cause every area within the park designated as a fire lane by the Fire Chief to be kept free and clear of obstructions.
- (6) Insure that every mobile home unit has furnished, and in operation, a substantial, fly-tight, watertight, rodent proof container for the deposit of garbage and refuse in accordance with the Ordinances of the City. The management shall provide stands for all refuse and garbage containers so designed as to prevent tipping and minimize spillage and container deterioration and facilitate cleaning.
- (7) Provide for the sanitary and safe removal and disposal of all refuse and garbage at least weekly. Removal and disposal of garbage and refuse shall be in accordance with the laws of the State of Wisconsin and the Ordinances and regulations of the City, including regulations promulgated by the Fire Chief.

SEC. 13-1-157 RESPONSIBILITIES AND DUTIES OF MOBILE HOME PARK OCCUPANTS.

- (a) Park occupants shall comply with all applicable requirements of this Chapter and regulations issued hereunder and shall maintain their mobile home space, its facilities, and equipment in good repair and in a clean and sanitary condition.

(b) Park occupants shall register with the park operator within 24 hours of occupancy.

(c) Park occupants shall be responsible for proper placement of their mobile homes on the mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management.

(d) Each owner or occupant of a nonexempt mobile home within a mobile home park shall remit to the licensee or authorized park management the cash deposit and monthly parking permit fee.

(e) It shall be the duty of every occupant of a park to give the park licensee or management, or his agent or employee, access to any part of such park or mobile home premises at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this Chapter or any law or Ordinance of the State or City or lawful regulation or order adopted thereunder.

(f) Mobile homes shall be parked only on the mobile home stands provided and shall be placed thereon in accordance with all requirements of this Chapter.

(g) No mobile home owner or occupant shall conduct in any unit or any mobile home park any business or engage in any other activity which would not be permitted in single-family residential areas in the City.

(h) No person shall discharge any wastewater on the surface of the ground within any mobile home park.

(i) No person shall erect or place upon any mobile home space any permanent or temporary structure intended to be used for dwelling purposes or in connection with any mobile home unit except as specifically authorized by this Chapter.

SEC. 13-1-158 ADDITIONAL REGULATIONS ON MOBILE HOMES AND MOBILE HOME PARKS.

(a) Wrecked, damaged, or dilapidated mobile homes shall not be kept or stored in a mobile home park or upon any premises in the City. The Zoning Administrator, Assessor/Inspector, or Common Council shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy. Such mobile homes are hereby declared to be a public nuisance. Whenever the Zoning Administrator, Assessor/Inspector, or Common Council so determines, he shall notify the licensee or landowner and owner of the mobile home in writing that such public nuisance exists within the park or on lands owned by him giving the findings upon which his determination is based and shall order such home removed from the park or site or repaired to a safe, sanitary

and wholesome condition of occupancy within a reasonable time, but not less than thirty (30) days.

(b) The Assessor/Inspector, Fire Chief, or their lawful agents or employees are authorized to inspect mobile home parks not less than once in every twelve- (12-) month period to determine the health, safety, and welfare of the occupants of the park and inhabitants of the City as affected thereby and the compliance of structures and activities therein with this Chapter and all other applicable laws of the State and Ordinances of the City.

(c) All plumbing, building, electrical, oil or gas distribution, alterations, or repairs in the park shall be in accordance with the regulations of applicable laws, ordinances, and regulations of the State and municipalities and their authorized agents.

(d) All mobile homes in mobile home parks shall be skirted unless the unit is placed within one (1) foot vertically of the stand with soil or other material completely closing such space from view and entry by rodents and vermin. Areas enclosed by such skirting shall be maintained free of rodents and fire hazards.

(e) No person shall construct, alter, or add to any structure, attachment, or building in a mobile home park or on a mobile home space without a permit from the Assessor/Inspector. This Subsection shall not apply to addition of awnings, antennas, or skirting to mobile homes. Accessory structures on mobile home spaces shall comply with all set-back, side yard, and rear yard requirements for mobile home units.

(f) Storage under mobile homes is prohibited.

SEC. 13-1-159 COMPLIANCE WITH PLUMBING, ELECTRICAL, AND BUILDING ORDINANCES.

All plumbing, electrical, building, and other work on or at any mobile home park under this Chapter shall be in accordance with the Ordinances of the City and the requirements of the State Plumbing, Electrical, and Building Codes and the regulations of the State Board of Health. Licenses and permits granted under this Chapter grant no right to erect or repair any structure, to do any plumbing work, or to do any electric work.

SEC. 13-1-160 LIMITATIONS ON SIGNS.

In connection with Mobile Home Communities within the R-MH District, no sign intended to be read from any public way adjoining the district shall be permitted except:

(a) No more than one (1) identification sign, not exceeding fifty (50) square feet in area, for each principal entrance.

(b) No more than one (1) sign, not exceeding six (6) square feet in area, advertising property for sale, lease or rent, or indicating "Vacancy" or "No Vacancy" may be erected at each principal entrance.

(c) In the case of new mobile home communities consisting in whole or in part of mobile home subdivisions or condominiums, one (1) sign, not exceeding twenty (20) square feet in area, may be erected for a period of not more than two (2) years at each principal entrance to advertise the sale of lots or dwellings.

(d) No source of illumination for any such signs shall be directly visible from adjoining streets or residential property and no such signs shall be erected within five (5) feet of any exterior property line.

SEC. 13-1-161 COMMON RECREATIONAL FACILITIES.

(a) No less than ten percent (10%) of the total area of any mobile home community established under these regulations shall be devoted to common recreational areas and facilities, such as playgrounds, swimming pools, community buildings, ways for pedestrians and cyclists away from streets, play areas for small children, or other recreational areas in block interiors. At least one (1) principal recreation and community center shall contain not less than five percent (5%) of the total area of the community.

(b) To be countable as common recreational area, interior-block ways for pedestrians or cyclists shall form part of a system leading to principal destinations. Such ways may also be used for installations of utilities.

(c) Common recreational area shall not include streets or parking areas, shall be closed to automotive traffic except for maintenance and service vehicles, and shall be improved and maintained for the uses intended.

SEC. 13-1-162 STANDARDS FOR GENERAL SITE PLANNING FOR MOBILE HOME COMMUNITIES.

The following guides, standards, and requirements shall apply in site planning for mobile home communities:

(a) **Principal Vehicular Access Points.** Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, minor streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor

streets by substantial amounts of through traffic. No lot within the community shall have direct vehicular access to a street bordering the development.

(b) **Internal Relationships.** The site plan shall provide for safe, efficient, convenient, and harmonious groupings of structures, uses and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features. In particular:

(1) Streets, Drives and Parking and Service Areas. Streets, drives and parking and service areas shall provide safe and convenient access to dwellings and community facilities and for service and emergency vehicles, but streets shall not be so laid out as to encourage outside traffic to traverse the community, nor occupy more land than is required to provide access as indicated, nor create unnecessary fragmentation of the community into small blocks. In general, block size shall be the maximum consistent with use, the shape of the site and the convenience and safety of the occupants.

(2) Vehicular Access to Streets. Vehicular access to streets from off-street parking areas may be direct from dwellings if the street or portion of the street serves fifty (50) units or less. Determination of units served shall be based on normal routes anticipated for traffic. Along streets or portions of streets serving more than fifty (50) dwelling units, or constituting major routes to or around central facilities, access from parking and service areas shall be so combined, limited, located, designed and controlled as to channel traffic conveniently, safely and in a manner that minimizes marginal traffic friction, and direct vehicular access from individual dwellings shall generally be prohibited.

SEC. 13-1-163 THROUGH SEC. 13-1-169 RESERVED FOR FUTURE USE.

ARTICLE M

Administration

SEC. 13-1-170 GENERAL ADMINISTRATIVE SYSTEM.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and recommendation by the Plan Commission and ultimate action by the Common Council. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

SEC. 13-1-171 ZONING ADMINISTRATOR.

(a) **Appointment.** The Common Council shall designate the Zoning Administrator and as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter.

(b) **Duties.** In enforcing and administering this Chapter, the Administrator shall perform the following duties:

(1) Issue the necessary building permits and occupancy and zoning use permits required by the provisions of this Chapter, provided its provisions have been complied with.

(2) Keep an accurate record of all permits, numbered in the order of issuance, in a record book for this purpose.

(3) In case of any finding of a violation of a provision of this Chapter, notify, in writing, the actual violator where known, the owner of the property on which the violation has taken place indicating the nature of the violation and the action necessary to correct it.

(4) Receive, file, and process for action all applications for conditional uses, variances and amendments to this Chapter which are filed in the zoning office.

(5) Initiate, direct and review, from time to time, a study of the provisions of this Chapter and make reports of the recommendations to the Plan Commission for investigation and appropriate action.

(6) Carry out such additional responsibilities as are hereinafter set forth by the provisions of this Chapter.

(c) **Authority.** In the enforcement of this Chapter, the Administrator shall have the power and authority for the following:

(1) At any reasonable time and for any proper purpose to enter upon any public or private premises and make inspection thereof.

(2) Upon reasonable cause or question as to proper compliance, to revoke any building or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Chapter, such revocation to be in effect until reinstated by the Administrator or the Board of Appeals, or

take any other action as directed by the Common Council to insure compliance with or to prevent violation of its provisions.

(3) In the name of the City commence any legal proceedings necessary to enforce the provisions of this Chapter or the Building Code, including the collection of forfeitures provided for herein.

SEC. 13-1-172 ROLE OF SPECIFIC CITY OFFICIALS IN ZONING ADMINISTRATION.

(a) **Plan Commission.** The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the City to the Common Council, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Chapter, its functions are primarily recommendatory to the Common Council pursuant to guidelines set forth in this Chapter as to various matters and, always, being mindful of the intent and purposes of this Chapter, except that it shall decide applications for conditional use permits. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing. The Plan Commission shall have the powers to conduct and hold public hearings on all proposed amendments to the City Zoning Ordinance as provided in Wis. Stat. § 62.23(7)(d).

(b) **Common Council.** The Common Council, the governing body of the City, subject to recommendations by the Plan Commission and the holding of public hearings by said Council, has ultimate authority to grant planned unit development applications, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this Chapter. The Common Council may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this Chapter.

(c) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article P of this Chapter for detail provisions.

SEC. 13-1-173 SITE PLAN AND DESIGN APPROVAL.

(a) **Site Plan Approval.** No building or zoning permit shall be issued for any construction within any R-4 (when more than two (2) dwelling units are planned), PN, B-1, B-2, CB, B-3, LI, or HI district, or for any community living arrangement as defined in Wis. Stat. § 46.03(22), a foster home as defined in Wis. Stat. § 48.02(6), a treatment foster home as defined in Wis. Stat. § 48.02(17q), or an

adult family home as defined in Wis. Stat. § 50.01(1) irrespective of the zoning district in which the same shall be located unless site and construction plans for such construction shall be first approved by the Plan Commission.

(b) **Application.** The applicant shall submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter. The full cost of any outside consultant retained by the Plan Commission to review such application shall be paid by the developer/owner upon billing by the City Clerk, and which payment is a condition of site plan approval, with full payment to be made prior to the issuance of any building permits for the project. Such application shall be submitted upon such form as is prescribed by the Director of Public Works, and shall be accompanied by a non-refundable application fee in the amount of \$200.00. Such application shall at minimum conform to the following:

- (1) Contain a vicinity map showing railroad, major streams or rivers, and public streets within 1,000 feet of the site.
- (2) Be prepared at a scale of 1" = 10' to 1" = 60'.
- (3) Be arranged so that top or left of the plan represents north, and have directional arrows and appropriate scale shown clearly.
- (4) Show the date of preparation and name, address, phone, and fax number of preparer.
- (5) Provide the address and legal description of the site and show the boundaries and dimensions graphically.
- (6) Show the present and proposed topography of the site and adjacent areas with 50' by 2' contour lines, and by use of directional arrows the proposed flow of drainage from the site.
- (7) Show the total area of the site in acres or square feet and the location of existing and proposed structures and indicate as applicable height and building dimensions, entrances, number of dwelling units, and square footage by category of use.
- (8) Show existing structures within 50' of the site and show the building line of existing buildings adjacent to any proposed structures.
- (9) Show the location and dimensions of existing and proposed curb cuts, aisles, off-street parking and loading spaces, and walkways.

- (10) Show all curb cuts adjacent to the street.
- (11) Show the location and provide a landscaping schedule of all plantings, including grasses, shrubs, and trees.
- (12) Show the location, height, and material for screening walls and fences.
- (13) Show all exterior signs on the site.
- (14) List the type and surfacing proposed for all parking, loading, and walkway areas.
- (15) Describe the proposed use, list the number of required parking spaces, and specify the location and number of parking spaces provided, including handicapped spaces.
- (16) Show the location of all fire hydrants and all existing and proposed facilities for water, telephone, communication, sewer, electric, natural gas, and storm drainage transmission facilities.
- (17) Show existing and proposed public street or right-of-way, easements, or other reservations of land on the site.
- (18) Show adjacent property which is held under the same ownership and its zoning and current use.
- (19) Show the location, size, and method of screening for outdoor trash areas, and heating/cooling, electrical, gas, or other mechanical equipment.
- (20) Show the location, height, and direction of proposed lighting.
- (21) Show the elevation views of propose buildings and structures.
- (22) Show the ultimate development of the site and indicate development phases when the site is to be developed in stages.
- (23) Include a copy of covenants or deed restrictions intended to cover all or any portion of the site.
- (24) Including a statement and plan describing erosion control during and following project completion and describing the method intended to prevent tracking of dirt and other materials from the site onto public streets during construction.

(25) A drainage control plan which conforms to the Stormwater Management Restrictions of the City of Plymouth.

(26) Show a timetable for start and completion of the project.

(27) Contain any other information that may be requested by the Plan Commission, Director of Public Works, or Building inspector.

(c) **Administration.** The Zoning Administrator and Director of Public Works shall make a preliminary review of the application and plans and refer them, along with a report of their findings, to the Plan Commission at its next regular meeting or within ten (10) days, whichever is greater. The Plan Commission shall review the application and may refer the application and plans to any expert consultants selected by the Plan Commission to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within ninety (90) days of its receipt of the application, the Commission shall approve, conditionally approve, or deny the proposal. A denial shall indicate a specific and detailed basis thereof.

(d) **Requirements.** In acting on any site plan, the Plan Commission shall consider the following:

(1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.

(2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.

(3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.

(4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section.

(5) The following conditions shall be applied to a group development as a whole, and to individual uses within a group development:

- a. All required off-street parking spaces and access drives shall be located entirely within the boundaries of the group development.
- b. The development shall contain a sufficient number of waste bins to accommodate all trash and waste generated by the land uses in a convenient manner.
- c. No group development shall have access upon a local residential street.
- d. All development located within a group development shall be located so as to comply with the intent of this Title 13 regarding setbacks of structures and buildings from lot lines. As such, individual principal and accessory structures and buildings located within group developments shall be situated within building envelopes that serve to demonstrate complete compliance with said intent. Said building envelopes shall be depicted on the site plan required for review of group developments. The use of this approach to designing group developments will also ensure the facilitation of subdividing group developments in the future, (if such action is so desired).
- e. The following standards shall apply to all new institutional, commercial, and office buildings in excess of 5,000 gross square feet and to all multi-building group developments in which the combined total of all structures on a site, regardless of diverse ownership, use, or tenancy, combine to exceed 5,000 square feet. These conditions shall also be applied to the entire building and site in instances where building additions bring the total building site to over 5,000 gross square feet. Such conditions shall apply to both the building additions and to older portions of the building and the site that were constructed prior to the adoption of this section. This 5,000 square foot limit shall apply to individual free-standing buildings and to group developments in which the combined total of all structures on a site, regardless of diverse use or tenancy, combine to more than 5,000 gross square feet:
 1. Building exterior materials shall be of high quality on all sides of the structure including glass, brick, decorative concrete block, or stucco, or such other materials as are approved by the Plan Commission. Decorative architectural metal with concealed fasteners may be approved with special permission from the Plan Commission.

2. Building exterior design shall be unified in design and materials throughout the structure, and shall be complementary to other structures in the vicinity. However, the development shall employ varying building setbacks, height, roof, treatments, door and window openings, and other structural and decorative elements to reduce the apparent size and scale of the structure. A minimum of 20 percent of the combined facades of the structure shall employ actual facade protrusions or recesses. A minimum of 20 percent of the combined linear roof eave or parapet lines of the structure shall employ differences in height of eight (8) feet or more. Roofs with particular slopes may be required by the Plan Commission to complement existing buildings or otherwise establish a particular aesthetic objective.

3. Mechanical equipment, refuse containers and any permitted outdoor storage shall be fully concealed from on-site and off-site ground level views, with materials identical to those used on the building exterior.

4. Standard corporate trademark building designs, materials, architectural elements, and colors all shall be acceptable, as determined by the Plan Commission, only as subtly integrated into the more generic design of the building as a whole. Color schemes of all architectural elements shall be muted, neutral, non-reflective and non-use nor tenant specific.

5. Public entryways shall be prominently indicated from the building's exterior design, and shall be emphasized by on-site traffic flow patterns. All sides of the building that directly face or abut a public street shall have public entrances.

6. Loading areas shall be completely screened from surrounding roads, residential, office, and commercial properties. Said screening may be through internal loading areas, screening wall which will match the building exterior in materials and design, fully opaque landscaping at time of planting, or combinations of the above. Gates and fencing may be used for security purposes, but not for screening, and shall be of high aesthetic quality.

7. Vehicle access from public streets shall be designed to accommodate peak traffic volumes without disrupting

traffic on public streets from inadequate throat length access drive width or design or inadequate driveway location. The impact of traffic generated by the proposed development shall be demonstrated by a traffic impact analysis performed by the applicant's traffic engineer to not adversely impact off-site public roads, intersections, interchanges during the traffic peak associated with a full parking lot. Where the project shall adversely impact off-site traffic, the Plan Commission may deny the application, may require a size reduction in the proposed development, or may require off-site improvements.

8. Parking lot design shall employ interior landscaped islands with a minimum of 400 square feet at all parking isle ends, and in addition shall provide a minimum of one landscaped island of a minimum of 400 square feet in each parking isle for every twenty (20) cars in that aisle. Aisle-end islands shall count toward meeting this requirement. Landscaped medians shall be used to break large parking areas into distinct pods, with a maximum of one-hundred (100) spaces in any one pod.

9. A minimum of one two-hundred (200) square foot cart return area shall be provided for every parking area pod. There shall be no exterior cart return nor cart storage areas located within twenty-five (25) feet of the building in areas located between the building and a public street.

10. The applicant shall demonstrate full compliance with all requirements for stormwater, utilities, erosion control and public safety.

11. On-site landscaping shall be provided per the landscaping requirements of the Plan Commission.

12. A conceptual plan for exterior signage shall be provided at time of site plan review that provides for coordinated and complimentary exterior sign location, configurations, and colors throughout the planned development. All freestanding signage within the development shall compliment the on-building signage. Free-standing sign materials and design shall compliment building exterior, and may not exceed the maximum height requirement of the zoning ordinance.

13. The entire development shall provide for full and safe pedestrian and bicycle access within the development, and shall provide appropriate connections to the existing and planned pedestrian and bicycle facilities in the community and in surrounding neighborhoods, including sidewalk connections to all building entrances from all public streets. The development shall provide secure bicycle parking and pedestrian furniture in appropriate quantities and location. A central pedestrian gathering area shall be provided.

14. The Plan Commission may waive any of the above standards, but only if supplemental design elements or improvements are incorporated into the project that compensate for the waiver of the particular standard.

15. A written Development Agreement may be required by the Plan Commission prior to final site plan approval which shall set forth, in addition to the provisions of said section (e), all of the requirements of the site plan and project development as may be required by the Plan Commission in accordance with this section (d). Site plan approval shall be contingent upon full compliance with such Agreement.

(6) The following design guidelines shall be applied to all multi-family residential development:

a. Large, monotonous building facades are undesirable and should be avoided when designing multi-family projects. Balconies, porches, stoops, garden walls, varied building and facade setbacks, varied roof designs, bay windows, and similar design features are strongly encouraged in new multi-family residential project designs. Boring box-like buildings that detract from the community should be avoided. Multi-family dwelling units should be designed so that they appear to be a grouping of smaller residential units.

b. Garage doors and parking lots should be located so that they are not the dominant visual element of the project. All outdoor parking areas shall be screened from public view.

c. Large unscreened parking lots shall be considered undesirable and should be broken up with landscaping islands and similar features.

d. Landscaping shall be provided in the following locations:

1. Along all public and private street frontages.
 2. Along the perimeter of all paved areas (parking lots, walkways, driveways).
 3. Along all building foundations.
 4. Along yards separating land uses which differ in intensity, density, or character.
 5. Around all outdoor storage areas such as trash receptacles and recycling bins.
 6. Around all utility structures or mechanical structures that are visible from the public right of ways or less intensive and uses.
 7. Within open areas of the site.
- e. Large, plain-walled parking garages are undesirable and shall be avoided. When such structures are necessary to meet parking requirements, the facades of the structures should be broken up with foundation landscaping, varied facade setbacks or projections, and recessed garage doors. In no circumstances shall structures be highly visible from public right of ways or low density residential areas.
- f. All parking lots shall be directly linked to building entrances by pedestrian walkways that are physically separated from vehicular movement areas.
- g. All multi-family projects shall provide on-site open space areas that serve the needs of the project's residents, in addition to public park land and equipment development requirements applicable to all residential development.
- h. Facilities for bicyclists (bike storage racks, bike paths, etc.) shall be included in all multi-family designs.
- i. The architectural design of new multi-family units shall be compatible with and fit the context of the surrounding neighborhood. This includes selection of building and facade materials, building height, building bulk, setbacks, window and door styles and placements, roof design, and colors.

(7) The following design guidelines shall be applied to all new commercial or expanded existing commercial uses:

- a. The use of canopies, awnings, and trellises to add visual interest to building facades shall be encouraged.
- b. The use of multi-planed, pitched roofs to avoid monotony shall be encouraged.
- c. The use of roof overhangs, recessed entryways, and arches shall be encouraged.
- d. The use of high quality landscaping treatment of buffer yards, street frontages, paved areas, and building foundations shall be required when and where deemed appropriate.
- e. The number of access drives along arterial and collector streets shall be limited.
- f. New driveways shall have adequate throat depths to allow for proper vehicle stacking.
- g. All required parking lots shall be heavily landscaped.
- h. All signage shall be of high quality and of minimum height and size necessary.
- i. All commercial structures shall be arranged so that pedestrian areas and plazas are created on the site through strategic placement of buildings and open spaces. Long, unbroken, or unarticulated strips of commercial structures shall be avoided.
- j. Commercial sites shall be designed so as to separate pedestrians, bicyclists, and motorists.
- k. Amenities such as benches, fountains, and canopy shade trees shall be incorporated into commercial projects whenever possible.
- l. All loading facilities shall be located behind buildings and shall be screened from the view of public rights-of-way and adjacent properties to the maximum extent possible.
- m. In multi-building commercial developments, all buildings shall be linked with safe pedestrian walkways that are separated from vehicular traffic areas.

- n. Pedestrian linkages between adjacent commercial developments are encouraged whenever possible.
- o. The use of common driveways which serve more than one commercial use is required whenever possible.
- p. Driveways shall be located as far as possible from street intersections so that adequate vehicular stacking room is provided. The number of access points shall be limited to the minimum amount necessary to provide adequate circulation. Direct access onto arterial streets shall be limited.
- q. Parking lot areas shall be designed so that pedestrians walk parallel to moving cars so as to minimize conflicts between pedestrians and vehicles.
- r. Screens, such as hedges, berms, trees, and decorative walls, shall be used to block the view of parking lots from public streets and adjacent residential areas.
- s. All outdoor storage shall be screened from public view.
- t. All mechanical equipment shall be screened from public view using either architectural elements or landscaping elements depending upon the specific situation.
- u. All outdoor lighting shall be shielded and all light shall be confined on-site through the use of cut-off luminaries.
- v. The following elements are to be avoided to the maximum extent possible:
 - 1. Large blank walls on visible facades.
 - 2. Unpainted concrete block walls.
 - 3. Monotonous "box like" structures.
 - 4. Inappropriate mixtures of unrelated styles and materials.
 - 5. Excessive signage.
 - 6. Unscreened outdoor storage, loading and equipment areas.
 - 7. Poorly designed, unscreened parking lots.
 - 8. An excessive number of driveway access points along arterial and collector streets.
 - 9. Inadequately designed driveways.

(8) The following design guidelines shall be applied to all new industrial or expanded existing industrial uses:

a. In situations where industrial uses abut non-industrial uses, screening shall be provided. Hedges, evergreen trees, berms, decorative fences, or a combination of these screening elements shall be used when and where deemed appropriate.

b. Long monotonous industrial building facades shall be avoided by varying building setbacks and placing vegetation in strategic locations along foundations.

c. Parking lots shall be screened from the view of the public right-of-way and non-industrial uses. Large parking lots for employee and truck parking shall not be located between the building and public right-of-way. Smaller parking lots for visitors may be located in front of buildings but shall be screened from public rights-of-way and non-industrial uses.

d. Pedestrian walkways shall be separated from vehicular traffic and loading areas.

e. Industrial projects shall be designed so that vehicles servicing the site shall be able to move from one area of the site to another without re-entering a public street.

f. Public streets shall not be used for parking trucks associated with the operation of industrial facilities. Truck loading and staging activities shall not be allowed within the public streets.

g. Loading areas for industrial uses shall be located at the rear of buildings and shall be screened from the public rights-of-way and adjacent non-industrial uses.

h. All outdoor storage areas shall be screened from public view using berms, hedges, decorative walls, or decorative fences. The height of such screens shall be determined by the height of the material being screened. Outdoor storage of materials or products shall only be allowed as a conditional use.

i. All mechanical equipment including but not limited to air conditioners, ventilation equipment, and refrigeration equipment, shall be screened from public view, whether the same be located upon the roof or at ground.

j. The following shall not be permitted in any new industrial development:

1. Large, blank unarticulated wall surfaces.
2. Un-landscaped chain link fences and barbed wire.
3. Non-architectural facade materials such as untreated exterior cement block walls and metal siding with exposed fasteners.
4. "Pole barn" type buildings.

(9) The following design guidelines shall be applied to all new institutional development projects:

a. Proposed institutional projects shall not have an unacceptable negative effect upon existing traffic flows and volumes in the surrounding neighborhood. The existing street system must be adequate to meet increased traffic associated with the project.

b. Existing residential uses shall be adequately buffered from the institutional use via the use of decorative fencing, vegetative screening, berms, or similar features.

c. Institutional projects shall not generate on-street parking in residential neighborhoods. Appropriate parking needs must be provided on-site.

d. High quality site design, building materials and design, lighting, and signage shall be required.

(e) **Effect on Municipal Services.** Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the City Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Common Council and shall not issue final approval until the Common Council has entered into an agreement with the applicant regarding the development of such facilities.

SEC. 13-1-174 FEES.³

(a) **Zoning Fee Schedule.** The fees for the various procedures, permits, applications, and requests as identified by this Chapter shall be as stated in the

³ Repealed in its entirety and recreated by Ordinance No. 3 of 2011. Enacted on March 8, 2011. All other fee amounts contained in Chapter 13 that are inconsistent with the City of Plymouth Zoning and Subdivision Fee Schedule shall also be repealed.

City of Plymouth Zoning and Subdivision Fee Schedule. In addition, the City of Plymouth may charge a fee, as listed in the City of Plymouth Zoning and Subdivision Fee Schedule, for the following services when such services are required by state or local law or requested by a private party:

- (1) Amendments to the text of the Zoning Code.
- (2) Amendments to the Official Zoning Maps.
- (3) Amendment to the text of the Comprehensive Plan.
- (4) Amendment to the maps of the Comprehensive Plan.
- (5) Driveway permit.
- (6) Special meetings at the request of a private party.

(b) **Fees Submitted to Zoning Administrator.** All fees and applications required under this Chapter shall be submitted to the City Zoning Administrator who shall forward such applications to the appropriate reviewing body.

(c) **Professional Consultant Review Services.** The City may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the City's review of a proposal coming before the Plan Commission. The City may apply the charges for these services to the applicant. The City may delay acceptance of the application or petition as complete, or may delay final approval of the proposal, until such fees are paid by the applicant. The submittal of a development proposal application or petition by an applicant shall be construed as an agreement to pay for such professional review services applicable to the proposal. Review fees which are applied to an applicant, but which are not paid, may be assigned by the City as a special assessment to the subject property.

(d) **Amendments to Zoning Fee Schedule.** The Common Council shall have the ability to amend the City of Plymouth Zoning and Subdivision Fee Schedule from time to time by resolution.

SEC. 13-1-175 VIOLATIONS AND PENALTIES.

(a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Common Council, the Zoning Administrator, the Plan Commission or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.

(b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, the resident agent or occupant of the premises, the

Common Council, the Zoning Administrator or the City Attorney may institute appropriate legal action or proceedings.

(c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-7 of this Code of Ordinances.

SEC. 13-1-176 THROUGH SEC. 13-1-189 RESERVED FOR FUTURE USE

ARTICLE N

Changes and Amendments to the Zoning Code

SEC. 13-1-190 AUTHORITY.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Common Council may by ordinance change the district boundaries established by this Chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

SEC. 13-1-191 INITIATION OF CHANGES OR AMENDMENTS.

The Common Council, the Plan Commission, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this Chapter to the District boundaries hereby established or by amendments hereto in the accompanying zoning map made a part of this Chapter and/or the Supplementary Floodland Zoning Map to be made a part of this Chapter by reference.

SEC. 13-1-192 PROCEDURE FOR CHANGES OR AMENDMENTS.

(a) **Petition.**

(1) Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Common Council and shall be filed with the City Clerk/Treasurer. The person requesting such action shall provide all information requested on the petition including:

- a. Name and street address of the petitioner.

- b. The lot number of any real estate owned by the petitioner adjacent to the area proposed to be changed.
- c. Legal description of the property to be altered.
- d. The existing use of all buildings on such land.
- e. The principal use of all properties within three hundred (300) feet of such land.
- f. Purpose for which such property is to be used.
- g. Reciting of facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this Chapter.
- h. Names and addresses of all abutting and opposite property owners within three (300) feet of the property to be altered.
- i. Plot plan or survey plat, drawn to scale, showing the property to be rezoned, location of structures, and property lines within three hundred (300) feet of the parcel.
- j. Any further information requested to the petition or which may be required by the Plan Commission to facilitate the making of a comprehensive report to the Council.

(2) Failure to supply such information shall be grounds for dismissal of the petition.

(3) A petition for change or amendment submitted by a private property owner shall be prepared in triplicate and filed with the City Clerk/Treasurer and shall be accompanied by the appropriate fee to defray the cost of giving notice, investigation and other administrative proceeding.

(b) **Recommendations.** The Common Council or the City Clerk/Treasurer shall cause the petition to be forwarded to the Plan Commission for its consideration and recommendation. The Plan Commission shall review all proposed amendments to the text and zoning map(s) within the corporate limits and shall recommend in writing that the petition be granted as requested, modified or denied. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation. In arriving at its recommendation, the Commission may on occasion of its own volition conduct its own public hearing on proposed amendment(s).

(c) **Hearings.**

(1) The Common Council, following receipt of recommendation of the Plan Commission, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes. At least ten (10) days prior, written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.

(2) The Common Council may delegate to the Plan Commission the responsibility to hold public hearings as required under this Section.

(d) **Council's Action.** Following such hearing and after consideration of the Plan Commission's recommendations, the Common Council shall vote on the proposed ordinance effecting the proposed change or amendment. A three-fourths (3/4) vote of the full Common Council membership is required to override the Plan Commission's determination.

SEC. 13-1-193 PROTEST.

(a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Common Council membership.

(b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Common Council membership to adopt such amendment.

SEC. 13-1-194 THROUGH SEC. 13-1-209 RESERVED FOR FUTURE USE.

ARTICLE O

Appeals

SEC. 13-1-210 APPEALS TO THE ZONING BOARD OF APPEALS.

(a) **Scope of Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within reasonable thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Common Council. The Officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.

(b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(c) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:

(1) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector/Zoning Administrator.

(2) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare, and substantial justice secured.

(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 Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

(4) Temporary Uses. To hear on appeal applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject

to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.

(5) Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

SEC. 13-1-211 HEARING ON APPEALS.

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) days prior to the hearing of the fee owners of records of all land within one hundred (100) feet of any part of the subject building or premises involved in the appeal.

SEC. 13-1-212 DECISIONS OF BOARD OF APPEALS.

(a) **Time frame.** The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.

(b) **Conditions.** Conditions may be placed upon any zoning permit ordered or authorized by the Board of Appeals.

(c) **Validity.** Variances, substitutions, or use permits granted by the Board shall expire within six (6) months unless the change in use or construction project has been completed.

SEC. 13-1-213 VARIATIONS.

(a) **Purpose.**

(1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause unnecessary hardship due to the unique physical limitations of the property and that the granting of the variance will result in no harm to public interests.

(2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in practical

difficulty or unnecessary hardship and so that the spirit of the Zoning Code shall be observed, public safety and welfare secured, and substantial justice done. No variance shall permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.

(b) **Application for Variation.** The application for a variance shall be filed with the City Clerk/Treasurer. Applications may be made by the owner, lessee, or agent of the structure, land, or water to be affected. The application shall contain the following information:

- (1) Name and address of applicant and all abutting and opposite property owners of record.
- (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
- (3) Address and description of the property.
- (4) A site plan showing an accurate depiction of the property.
- (5) Additional information required by the Plan Commission, City Engineer, Board of Zoning Appeals or Zoning Administrator.

(c) **Public Hearing of Application.** The Board of Appeals shall conduct at least one (1) public hearing on the proposed variation. Notice of such hearing shall be given not more than thirty (30) days and not less than seven (7) days before the hearing in one (1) or more of the newspapers in general circulation in the City, and shall give due notice to the parties in interest, the Zoning Administrator and the Plan Commission. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant, Zoning Administrator and Plan Commission.

(d) **Action of the Board of Appeals.** For the Board to grant a variance, it must find that an applicant has met the burden of proof to demonstrate that all three criteria defined in Wis. Stat. § 62.23(7)(e)7 and as interpreted by the courts have been satisfied.

- (1) Unnecessary hardship. For *use variances*, unnecessary hardship exists only if the property owner shows that the owner would have no reasonable use of the property without a variance. For *area variances*, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

(2) Unique property limitations. Unnecessary hardship must be due to unique physical limitations of the property such as steep slopes or wetlands that prevent compliance with the ordinance. The board should not consider the circumstances of an applicant (growing family, need for a larger garage, etc.) when deciding whether to grant a variance.

(3) No harm to public interests. The board may not grant a variance which results in harm to public interests. The board should review the purposes of the ordinance and related statutes to identify the public interests involved with the variance request.

(e) **Conditions.** The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

SEC. 13-1-214 REVIEW BY COURT OF RECORD.

Any person or persons aggrieved by any decision of the Board of Appeals may present to a 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 thirty (30) days after the filing of the decision in the offices of the Board of Appeals.

SEC. 13-1-215 THROUGH SEC. 13-1-219 RESERVED FOR FUTURE USE.

ARTICLE P

Definitions

SEC. 13-1-220 DEFINITIONS.

(a) For the purposes of this Chapter, the following definitions shall be used unless a different definition is specifically provided for a section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.

(1) Abutting. Have a common property line or district line.

(2) Accessory Use or Structure. A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.

- (3) Acre, Net. The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.
- (4) Alley. A public way not more than twenty-one (21) feet wide which affords only a secondary means of access to abutting property.
- (5) Apartment. A suite of rooms or a room in a multiple dwelling, which suite or room is arranged, intended or designed to be occupied as a residence of a single family, individual or group of individuals, with separate facilities and utilities which are used or intended to be used for living, sleeping, cooking, and eating.
- (6) Arterial Street. A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.
- (7) Basement. That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-round living accommodations.
- (8) Bed and Breakfast Establishment Building. A building that provides four (4) or fewer sleeping rooms for temporary occupancy for compensation by transient guests who are traveling for business or pleasure and is the owner's personal residence and occupied by the owner at the time of rental. The partnership form of ownership shall be allowed under this definition.
- (9) Block. A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.
- (10) Boarding House. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for three (3) or more persons not members of a family, but not exceeding ten (10) persons and not open to transient customers.
- (11) Buildable Lot Area. The portion of a lot remaining after required yards have been provided.
- (12) Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

- (13) Building, Detached. A building surrounded by open space on the same lot.
- (14) Building, Height of. The maximum height of all buildings as established in this Chapter shall be measured from the top of the roof at its maximum elevation to the established centerline of the street unless a variance specifically is granted by the Plan Commission for topography.
- (15) Building, Principal, or Main. The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.
- (16) Building Setback Line. A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Code.
- (17) Building, Principal. A building in which the principal use of the lot on which it is located is conducted.
- (18) Business. An occupation, employment, or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
- (19) Canopy. A rigid structure attached to and extending outward from a building, designed to protect the building and/or people under the canopy from the sun, rain, or snow.
- (20) Carport. An automobile shelter having one (1) or more sides open.
- (21) Cellar. That portion of a building having more than half of the floor-to-ceiling height below the average grade of the adjoining ground. This portion is not a completed structure and serves as a substructure or foundation for a building.
- (22) Channel. Those Woodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well established banks.
- (23) Clinic, Medical or Dental. A group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including bed patient care.
- (24) Club or Lodge. A building or portion thereof or premises owned by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as business.

(25) Conditional Use. The occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning district, which for their respective conduct, exercise, or performance in such designated districts may require reasonable but special, peculiar, unusual, or extra-ordinary limitations, facilities, plans, structures, thoroughfares, condition modification, or regulations in such district for the promotion or preservation of the general public welfare, health, convenience, or safety therein and in the City and, therefore, may be permitted in such district only by a conditional use permit.

(26) Community Living Arrangement. The following facilities licensed or operated or permitted under the authority of the Wisconsin State Statutes: Child welfare agencies under Wis. Stat. § 48.60, group foster homes for children under Wis. Stat. § 48.02(7m), and community-based residential facilities under Wis. Stat. § 50.01 but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons, and jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wisconsin State Statutes, including §§ 46.03(22), 69.97(15), 62.23(7)(l), and 62.23(7a) and amendments thereto and also the Wisconsin Administrative Code.

(27) Controlled Access Arterial Street. The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.

(28) Corner Lot. On corner lots, the setback shall be measured from the street line on which the lot fronts. The setback from the side street shall be equal to one hundred percent (100%) of the setback required on residences fronting on the side street but the side yard setback shall in no case restrict the buildable width to less than thirty (30) feet. Said corner lots shall be consisting of a parcel of property abutting on two (2) or more streets at their intersection providing that the interior angle of such intersection is less than one hundred thirty-five degrees (135°).

(29) Conservation Standards. Guidelines and specifications for soil and water conservation practices and management enumerated in the *Technical Guide* prepared by the USDA Soil Conservation Service for Sheboygan County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.

(30) Development. Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.

(31) District, Basic. 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.

(32) District, Overlay. Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

(33) Dwelling. A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.

(34) Dwelling Unit. A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.

(35) Dwelling, Efficiency. A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

(36) Dwelling, Single-Family. A detached building designed for or occupied by one (1) family.

(37) Dwelling, Two-Family. A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.

(38) Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.

(39) Essential Services. 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, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm

boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

(40) Family. The body of persons, not exceeding four (4) unrelated persons, who live together in one (1) dwelling unit as a single housekeeping entity.

(41) Farming, General. General farming shall include floriculture, forest and game management, orchards, raising of grain, grass, mint and seed crops, raising of fruits, nuts and berries, sod farming and vegetable farming. General farming includes the operating of such an area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.

(42) Farmstead. A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.

(43) Floor Area, Business and Manufacturing Buildings. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

(44) Foster Family Home. The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of the Wisconsin Statutes and amendments thereto.

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

(46) Garage, Private. An accessory building or space for the storage only of personal property, including motor vehicles. No business or commercial use shall be permitted, except as may be authorized under Article E of this Chapter.

(47) Garage, Public. Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.

(48) Grade. When used as a reference point in measuring the height of a building, the "grade" shall be the average elevation of the finished ground at the exterior walls of the main building.

(49) Group Foster Home. Any facility operated by a person required to be licensed by the State of Wisconsin under Wis. Stat. § 48.62 for the care and maintenance of five (5) to eight (8) foster children.

(50) Home Occupation. An accessory use of a dwelling unit for gainful employment meeting the applicable requirements of this Chapter involving the manufacture, provision or sale of goods and/or services that is clearly secondary to the residential use and does not change the character of the structure as a residence and meets all the applicable limitations of this Chapter.

(51) Hospital. An institution intended primarily for the medical diagnosis, treatment and care of patients being given medical treatment. A hospital shall be distinguished from a clinic by virtue of providing for bed-patient care.

(52) Hotel. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.

(53) Institution. A building occupied by a nonprofit corporation or a nonprofit establishment for public use.

(54) Junk. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal, or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood, and lumber.

(55) Junkyard. Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or assorted, including but not limited to used or salvaged or new scrapped base metal or metals, their compounds or combinations, used for salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick, and similar property, except animal matter, and used motor vehicles, machinery, or equipment which

are used, owned, or possessed for the purpose of wrecking or salvaging parts therefrom.

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

(57) Lodging House. A building where lodging only is provided for compensation for not more than three (3) persons not members of the family.

(58) Lot. A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located.

(59) Lot, Corner. A lot situated at the intersection of two (2) streets.

(60) Lot, Interior. A lot with frontage on only one (1) street.

(61) Lot, Through. A lot other than a corner lot with frontage on two (2) streets.

(62) Lot Area. The area of contiguous land bounded by lot lines, exclusive of land designated for public thoroughfares.

(63) Lot Depth. The shortest horizontal distance between the front lot line and the rear lot line measured at a ninety (90) degree angle from the road right-of-way.

(64) Lot Line. Legally established lines dividing one (1) lot, plot of land, or parcel of land from an adjoining lot or plot of land or parcel of land as defined herein.

(65) Lot Line, Front. A line separating the lot from the street or approved private road.

(66) Lot Line, Rear. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line ten (10) feet in the length within the lot, parallel to and at the maximum distance from the front lot line.

(67) Lot Line, Side. Any lot boundary line not a front line or a rear lot line.

(68) Lot of Record. A lot which has been recorded in the Office of the Register of Deeds prior to the effective date of this Chapter.

(69) Lot Width. The horizontal distance between the side lot lines at the building setback line.

(70) Manufactured Home. A structure certified and labeled as a manufactured home under Wis. Admin. Code Ch. 42 USC §§ 5401-5426, which, when placed on the site:

a. Is set on an enclosed continuous foundation in accordance with Wis. Stat. § 70.43(I), and Wis. Admin. Code Ch. ILHR 21, Subchapters III, IV, and V or is set on a comparable enclosed continuous foundation system approved by the City Building Inspector who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;

b. Is installed in accordance with the manufacturer's instructions; and

c. Is properly connected to utilities.

(71) Minor Structures. Any small, movable, accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under four (4) feet in height.

(72) Mobile Home. A manufactured home that is HUD-certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis, and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.

(73) Mobile Home Lot. A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

(74) Mobile Home Park. Any lot on which two (2) or more mobile homes are parked for the purpose of permanent habitation and including any associated service, storage, recreations, and other community service facilities designed for the exclusive use of park occupants.

(75) Mobile Home Subdivision. A land subdivision, as defined by Wis. Stat. ch. 236 and any City Land Division Ordinance with lots intended for the placement of individual mobile home units. Individual home sites are

in separate ownership as opposed to the rental arrangements in mobile home parks.

(76) Modular Unit. A prefabricated, detached, single or double dwelling unit designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, which is or was designed to be transported and mounted on a permanent foundation.

(77) Nonconforming Lot. A lot of record existing on the date of passage of this Chapter which does not have the minimum width or contain the minimum area for the zone in which it is located.

(78) Nonconforming Uses. Any structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Code or amendments thereto and which is not in conformance with this Code. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall not be considered a nonconforming use but shall be considered nonconforming with respect to those characteristics.

(79) Nursing Home. An establishment used as a dwelling place by the aged, infirm, chronically ill, or incurably afflicted in which not less than three (3) persons live or are kept or provided for on the premises for compensation, excluding clinics and hospitals and similar institutions devoted to the diagnosis, treatment, or the care of the sick or injured.

(80) Parking Lot. A structure or premises containing five (5) or more parking spaces open to the public.

(81) Parties in Interest. Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.

(82) Planned Unit Development. A large lot or tract of land containing two (2) or more principal buildings of uses developed as a unit where such buildings or uses may be located in relation to each other rather than to a lot line or zoning district boundaries.

(83) Professional Home Offices. Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, tradesmen, authors, musicians, or other recognized professions used to conduct their professions where the office does not exceed

one-half (1/2) the area of only one (1) floor of the residence and only one (1) non-resident person is employed. Tradesmen shall be defined as a person or persons who hold themselves out with a particular skill including, but not limited to, carpenters, masons, plumbers, electricians, roofers, and others involved in the building trade.

(84) Public Airport. Any airport which complies with the definition contained in Wis. Stat. § 114.013(3) or any airport which serves or offers to serve common carriers engaged in air transport.

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

(86) Restaurant. A business establishment consisting of a kitchen and dining room, whose primary purpose is to prepare and serve food to be eaten by customers seated in the dining room.

(87) Restaurant, Drive-in. A business establishment consisting of a kitchen with or without a dining room where food is prepared and packaged to be eaten either off the premises or within automobiles parked on the premises.

(88) Retail. The sale of goods or merchandise in small quantities to the consumer.

(89) Setback. The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed twenty-four (24) inches. Any overhang of the cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback.

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

(91) Signs. Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation,

profession, business, commodity, or product and which is visible from any public street or highway.

(92) Single Family Dwelling. Includes a manufactured home.

(93) Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.

(94) Story, Half. That portion of a building under a gable, hip, or mansard roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one- (1-) family dwellings, two- (2-) family dwellings, and multi-family dwellings less than three (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.

(95) Street. Property other than an alley or private thoroughfare or travelway which is subject to public easement or right-of-way for use as a thoroughfare and which is twenty-one (21) feet or more in width.

(96) Street Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) street yards.

(97) Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

(98) Structural Alterations. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

(99) Temporary Structure. A movable structure intended for limited duration of use not designed for human occupancy. No temporary structure shall be permitted to remain in the same location or vicinity for more than 30 days without the consent of the Plan Commission, and any such structure which shall remain longer shall be considered as permanent and shall be subject to Article K hereof.

(100) Use. The purpose or activity for which the land or building thereof is designed, arranged, or intended or for which it is occupied or maintained.

(101) Use, Accessory. A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.

(102) Use, Principal. The main use of land or building as distinguished from subordinate or accessory use.

(103) Utilities. Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations inclusive of associated transmission facilities but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards, and power plants.

(104) Variance. A relaxation of the terms of this Chapter by the Board of Appeals where the literal enforcement of this Chapter would deny to the property owner a use of his property enjoyed as a right by other property owners within the same zoning district.

(105) Vision Setback Area. An unoccupied triangular space at the intersection of highways or streets with other highways or streets as defined in Section 13-1-90.

(106) Yard. An open space on the same lot with a building, unobstructed by structures except as otherwise provided herein.

(107) Yard, Front. A yard extending the full width of the lot between the front lot line and the nearest part of the principal building excluding uncovered steps.

(108) Yard, Rear. Where there is one structure located upon the parcel in question, the rear yard shall be defined as a yard extending the full width of the lot between the rear lot line to the nearest part of the principal building. Where there is more than one structure upon the parcel in question, the rear lot line shall be defined as the property line or lines behind the front of a structure whether the structure abuts a public roadway or private drive, as determined by the Zoning Administrator or Plan Commission.

(109) Yard, Side. A yard on each side of the principal building extending from the building to the lot line and from the front yard line to the rear yard line.

(110) Zero Lot Line. The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.

(111) Zoning Permit. A permit which may be issued by the Zoning Administrator to certify that the use of lands, structures, air, and waters subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.

(112) Group Developments. A group development is any development containing: a) Two or more structures containing principal land uses on the same lot; b) Any single structure on a single lot which contains 5 or more dwelling units or 2 or more non-residential uses; and/or; c) Any single structure devoted to institutional, office or commercial land uses containing more than 5,000 gross square feet of floor area. Common examples of group developments include 6-unit apartment buildings, apartment complexes, condominium complexes, strip centers, shopping centers, and office centers. (One tenant office or commercial buildings containing less than 5,000 square feet of gross floor area, a single 4-unit apartment building, and other land uses in which each non-residential building contains only one tenant, or where the lot contains only one structure.)

CHAPTER 2

FLOODPLAIN ZONING

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ARTICLE A

Introduction

SEC. 13-2-1 STATUTORY AUTHORIZATION.

This ordinance is adopted pursuant to the authorization in Wis. Stat. §§ 61.35 and 62.23 for villages and cities; Wis. Stat. §§ 59.69, 59.692, and 59.694 for counties; and the requirements in Wis. Stat. § 87.30.

SEC. 13-2-2 FINDING OF FACT.

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare, and tax base.

SEC. 13-2-3 STATEMENT OF PURPOSE.

- (a) This ordinance is intended to regulate floodplain development to:
- (1) Protect life, health, and property;
 - (2) Minimize expenditures of public funds for flood control projects;
 - (3) Minimize rescue and relief efforts undertaken at the expense of the
 - (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 home buyers;
- (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.

SEC. 13-2-4 TITLE.

This ordinance shall be known as the Floodplain Zoning Ordinance for Plymouth, Wisconsin.

ARTICLE B

General Provisions

SEC. 13-2-10 AREAS TO BE REGULATED.

This ordinance regulates all areas that would be covered by the regional flood or base flood.

Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

SEC. 13-2-11 OFFICIAL MAPS & 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 of Plymouth 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 DNR and FEMA before it is effective. No changes to Regional Flood Elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Building Inspector and Zoning Administrator of the City of Plymouth. If more than one map or revision is referenced, the most restrictive information shall apply.

OFFICIAL MAPS: Based on the Sheboygan County Flood Insurance Study (FIS), dated April 2, 2009, volume numbers

55117CV000A Sheboygan County Flood Insurance Rate Map (FIRM), panel numbers 55117C0170F, 55117C0188F, 55117C0190F, 55117C0301F, 55117C0302F, and 55117C0306F dated April 2, 2009, with corresponding profiles that are based on the FIS.

Approved by: The DNR and FEMA

In May 2019, the Wisconsin Department of Natural Resources (DNR) approved the dam failure analysis for the Brickbauer Dam located on the Mullet River in the Southeast Quarter of the Southwest Quarter of Section 27, Township 15, Range 21 East, Sheboygan County. Based on the results of the approved study and development in the hydraulic shadow, the dam was assigned a final hazard rating of High Hazard due to homes located within the hydraulic shadow which will be inundated greater than 2 feet if a failure were to occur. The areas of potential dam failure (hydraulic shadow) are adequately reflected on a map with additional information such as stationing water surface profile, maximum velocities, and floodway widths provided on a profile plot and in a floodway data table. This information is provided for and referenced in the following titled data table, hydraulic shadow map, and flood profiles:

BRICKBAUER DAM ANALYSIS:

1. Hydraulic Shadow Map titled “Brickbauer Dam Hydraulic shadow Map”.
2. Floodway data table titled “Floodway Data Table”.
3. Flood profiles titled “Brickbauer Dam. Hydraulic shadow Profiles”.

(Revised 2/09, Amended 6/19)

SEC. 13-2-12 ESTABLISHMENT OF DISTRICTS.

- (a) 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.

SEC. 13-2-13 LOCATING FLOODPLAIN BOUNDARIES.

- (a) Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or

(b) below. If a significant difference exists, the map shall be amended according to sec. 13-2-70. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to sec.13-2-62 (5) and the criteria in (a) and (b) below.

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

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

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to sec. 13-2-70 (6).

SEC. 13-2-14 REMOVAL OF LANDS FROM FLOODPLAIN.

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to sec. 13-2-70.

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

SEC. 13-2-15 COMPLIANCE.

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

SEC. 13-2-16 MUNICIPALITIES AND STATE AGENCIES REGULATED.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if Wis. Stat. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and

bridges by the Wisconsin Department of Transportation are exempt when Wis. Stat. § 30.2022 applies.

SEC. 13-2-17 ABROGATION AND GREATER RESTRICTIONS.

(1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stat. §§ 59.69, 59.692 or 59.694 for counties; Wis. Stat. § 62.23 for cities; Wis. Stat. § 61.35 for villages; or Wis. Stat. § 87.30 which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

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

SEC. 13-2-18 INTERPRETATION.

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by 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 ordinance or in effect on the date of the most recent text amendment to this ordinance.

SEC. 13-2-19 WARNING AND DISCLAIMER OF LIABILITY.

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

SEC. 13-2-20 SEVERABILITY.

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

SEC. 13-2-21 ANNEXED AREAS FOR CITIES AND VILLAGES.

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

SEC. 13-2-22 GENERAL DEVELOPMENT STANDARDS.

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed 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 ordinance.

ARTICLE C

General Standards Applicable to All Floodplain Districts

SEC. 13-2-23 HYDRAULIC AND HYDROLOGIC ANALYSES.

- (1) Except as allowed in par. (3) below, 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 sub. (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 ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with sec. 13-2-70.

Note: This section 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 DNR.

SEC. 13-2-24 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.

SEC. 13-2-25 WIS. STAT. CHS. 30 AND 31, DEVELOPMENT.

Development which requires a permit from the Department, under Wis. Stat. 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, BFE's 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 sec 13-2-70.

SEC. 13-2-26 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 are such that a 72-hour warning of an impending flood can be given to all campground occupants.

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

(5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in sub. (4) to remain in compliance with all applicable regulations, including those of the state department of health 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 municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.

(10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Article D or Article E 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.

ARTICLE D

Floodway District (FW)

SEC. 13-2-27 APPLICABILITY.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to sec. 13-2-43.

SEC. 13-2-28 PERMITTED USES.

(a) The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if

- (1) They are not prohibited by any other ordinance;
- (2) They meet the standards in sec. 13-2-29 and sec. 13-2-30; and
- (3) All permits or certificates have been issued according to 13-2-60:
 - a. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - b. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - c. 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 sec. 13-2-29(4).
 - d. Uses or structures accessory to open space uses, or classified as historic structures that comply with sec. 13-2-29 and sec. 13-2-30.
 - e. Extraction of sand, gravel or other materials that comply with sec. 13-2-29(4).

f. 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. Stat. chs. 30 and 31.

g. Public utilities, streets, and bridges that comply with sec. 13-2-29 (3).

SEC. 13-2-29 STANDARDS FOR DEVELOPMENT IN FLOODWAY AREAS.

(1) GENERAL.

a. Any development in floodway areas shall comply with Article C and have a low flood damage potential.

b. Applicants shall provide the following data to determine the effects of the proposal according to sec 13-2-23:

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

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

c. The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.

(2) STRUCTURES.

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

a. The structure is not designed for human habitation and does not have a high flood damage potential;

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

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

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

(3) PUBLIC UTILITIES, STREETS AND BRIDGES.

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

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

b. Construction meets the development standards of sec. 13-2-23.

(4) FILLS OR DEPOSITION OF MATERIALS.

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

a. The requirements of sec. 13-2-23 are met;

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

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

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

SEC. 13-2-30 PROHIBITED USES.

All uses not listed as permitted uses in sec.13-2-28 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. COMM 83;

(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 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.

ARTICLE E

Floodfringe District (FF)

SEC. 13-2-31 APPLICABILITY.

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to sec. 13-2-43.

SEC. 13-2-32 PERMITTED USES.

Any structure, land use, or development is allowed in the floodfringe district if the standards in sec. 13-2-23 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in sec. 13-2-60 have been issued.

SEC. 13-2-33 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS.

Standards. Sec. 13-2-23 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 par. (d).

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

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

2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(2) ACCESSORY STRUCTURES OR USES

a. Except as provided in paragraph b. 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 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 13-2-29 (2) (a),(b),(c) and (d) and 4.3 (5) below.

(3) COMMERCIAL USES.

Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of sec. 13-2-33. Subject to the requirements of sec. 13-2-33(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES.

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in sec. 13-2-64. Subject to the requirements of sec. 13-2-33(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) STORAGE OF MATERIALS.

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with sec. 13-2-64. 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 sec. 13-2-64 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 sec. 13-2-64, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

(8) WELLS.

All wells shall be floodproofed, pursuant to sec. 13-2-64, to the flood protection elevation and shall meet the provisions of Wis. Admin. Code Chs. NR 811 812.

(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 ordinance.

(11) MANUFACTURED HOMES.

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

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

1. Have the lowest floor elevated to the flood protection elevation; and
2. Be anchored so they do not float, collapse or move laterally during a flood

c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in sec. 13-2-33(1).

(12) MOBILE RECREATIONAL VEHICLES.

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in sec. 13-2-33(11)(b) and (c). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices and has no permanently attached additions.

ARTICLE F

General Floodplain District (GFP)

SEC. 13-2-40 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.

SEC. 13-2-41 PERMITTED USES.

Pursuant to sec. 13-2-43, it shall be determined whether the proposed use is located within a floodway or floodfringe area.

Those uses permitted in floodway (13-2-28) and floodfringe areas (13-2-32) are allowed within the general floodplain district, according to the standards of sec.13-2-42, provided that all permits or certificates required under sec. 13-2-60 have been issued.

SEC. 13-2-42 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT.

Article D applies to floodway areas, Article E applies to floodfringe areas. The rest of this ordinance applies to either district.

SEC. 13-2-43 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS.

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height 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 pars. (1) and (2) 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 sec. 13-2-60 (2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

ARTICLE G

NONCONFORMING USES

SEC. 13-2-50 GENERAL.

(1) **APPLICABILITY.** If these standards conform with Wis. Stat. § 59.69(10) for counties or Wis. Stat. § 62.23(7)(h) for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

a. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding, or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not

considered an extension, modification, or addition; 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;

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

c. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

d. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with sec. 13-2-33(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% provisions of this paragraph; *(Revised 2/09)*

e. 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value; *(Revised 2/09)*

2. 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.

f. 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 sec. 13-2-29(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with sec. 13-2-64 are used.

SEC. 13-2-51 FLOODWAY AREAS.

(1) 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:

a. Has been granted a permit or variance which meets all ordinance requirements;

b. Meets the requirements of sec. 13-2-50;

c. Will not increase the obstruction to flood flows or regional flood height;

d. Any addition to the existing structure shall be floodproofed, pursuant to sec. 13-2-64 by means other than the use of fill, to the flood protection elevation;

e. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

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

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

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

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

(2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in 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. COMM 83.

(3) 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 812.

SEC. 13-2-52 FLOODFRINGE AREAS.

(1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and 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 sec. 13-2-33, except where sec. 13-2-52(2) is applicable.

(2) Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in sec. 13-2-62, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

a. No floor is allowed below the regional flood elevation for residential or commercial structures;

b. Human lives are not endangered;

c. Public facilities, such as water or sewer, will not be installed

- d. Flood depths will not exceed two feet
- e. Flood velocities will not exceed two feet per second; and
- f. The structure will not be used for storage of materials as described in sec. 13-2-23(6).

(3) If neither the provisions of par. (1) or (2) above 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:

- a. Meets all other regulations and will be granted by permit or variance;
- b. Does not exceed 60 square feet in area; and
- c. In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalize assessed value of the building.

(Revised 2/09)

(4) 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. COMM 83, Wis. Adm. Code.

(5) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this ordinance and Wis. Admin. Code Chs. NR 811 and 812.

ARTICLE H

ADMINISTRATION

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under Wis. Stat. §§ 59.69, 59.692, or 62.23(7) these officials shall also administer this ordinance.

SEC. 13-2-60 ZONING ADMINISTRATOR.

(1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- a. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the

regional flood elevation for the proposed development is shown on all permit applications.

b. Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.

c. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

d. Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;

2. Documentation of certified lowest floor and regional flood elevations for floodplain development;

a. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.

b. All substantial damage assessment reports for floodplain structures.

e. Submit copies of the following items to the Department Regional office:

1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

2. Copies of 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.

3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

Note: Information on conducting substantial damage assessments is available on the DNR website – <http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>

f. Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

g. Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(2) 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:

a. GENERAL INFORMATION.

1. Name and address of the applicant, property owner and contractor;

2. Legal description, proposed use, and whether it is new construction or a modification;

b. SITE DEVELOPMENT PLAN. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

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

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

3. Location of any structures with distances measured from the lot lines and street centerlines;

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

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

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

7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Article D or Article E are met; and

9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to sec. 13-2-23 This may include any of the information noted in sec. 13-2-29(1).

c. DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

1. 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. Stat. ch. 236 and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. 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.

d. 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.

d. EXPIRATION. All permits issued under the authority of this ordinance shall expire one (1) year after issuance.

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

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

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

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

d. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of sec. 13-2-64.

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

SEC. 13-2-61 ZONING AGENCY.

(1) The Plan Commission shall:

a. oversee the functions of the office of the zoning administrator; and

b. review and advise the Governing body on all proposed amendments to this ordinance, maps and text.

(2) This zoning agency shall not

a. grant variances to the terms of the ordinance in place of action by the Board of Appeals; or

b. amend the text or zoning maps in place of official action by the Governing body.

SEC. 13-2-62 BOARD OF APPEALS.

(1) STATUTORY AUTHORITY. The Board of Appeals, created under Wis. Stat. § 62.23(7)(e) is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers

conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

(2) POWERS AND DUTIES.

a. The Board of Appeals shall:

1. Appeals – Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
2. Boundary Disputes – Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
3. Variances – Hear and decide, upon appeal, variances from the ordinance standards.

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

(4) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES.

a. Notice – The board shall:

1. Fix a reasonable time for the hearing;
2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

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

1. Resolve boundary disputes according to sec. 13-2-62(3).
2. Decide variance applications according to sec. 13-2-62(4).
3. Decide appeals of permit denials according to sec. 13-2-63.

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

1. Be made within a reasonable time;
2. Be sent to the Department Regional office within 10 days of the decision;
3. Be a written determination signed by the chairman or secretary of the Board;
4. State the specific facts which are the basis for the Board's decision;
5. Either affirm, reverse, vary, or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(5) BOUNDARY DISPUTES. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
- b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.

c. If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Article I.

(6) VARIANCE.

a. The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

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

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

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

4. The variance is consistent with the purpose of this ordinance in sec. 13-2-3.

b. In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

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

2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;

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

c. A variance shall not:

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

2. Be granted for a hardship based solely on an economic gain or loss.
 3. Be granted for a hardship which is self-created.
 4. Damage the rights or property values of other persons in the area.
 5. Allow actions without the amendments to this ordinance or map(s) required in sec. 13-2-70.
 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- d. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

SEC. 13-2-63 TO REVIEW APPEALS OF PERMIT DENIALS.

(1) The Zoning Agency (sec. 13-2-61) or Board shall review all data related to the appeal. This may include:

- a. Permit application data listed in sec. 13-2-60(2).
- b. Floodway/floodfringe determination data in sec. 13-2-43.
- c. Data listed in sec. 13-2-29(1)(b) where the applicant has not submitted this information to the zoning administrator.
- d. Other data submitted with the application, or submitted to the Board with the appeal.

(2) For appeals of all denied permits the Board shall:

- a. Follow the procedures of sec. 13-2-62;
- b. Consider zoning agency recommendations; and
- c. Either uphold the denial or grant the appeal.

(3) For appeals concerning increases in regional flood elevation the Board shall:

- a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or

greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

SEC. 13-2-64 FLOODPROOFING.

(1) 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.

(2) Floodproofing measures shall be designed to:

a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

b. Protect structures to the flood protection elevation;

c. Anchor structures to foundations to resist flotation and lateral movement; and;

d. Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

(3) Flood-proofing measures could include:

a. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or,

b. Adding mass or weight to prevent flotation.

c. Placing essential utilities above the flood protection elevation.

d. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.

e. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.

- f. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

SEC. 13-2-65 PUBLIC INFORMATION.

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) All real estate transfers should show what floodplain zoning district any real property is in.

ARTICLE I

AMENDMENTS

SEC. 13-2-70 AMENDMENTS. The governing body may change or supplement the floodplain zoning district boundaries and this ordinance 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 municipality.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA. **Note:** Consult the FEMA web site - www.fema.gov - for the map change fee schedule.

SEC. 13-2-71 PROCEDURES.

Ordinance amendments may be made upon petition of any interested party according to the provisions of Wis. Stat. § 62.23 for cities and villages, or Wis. Stat. § 59.69 for counties. Such petitions shall include all necessary data required by sec. 13-2-43 and sec. 13-2-60 (2).

(1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stat. § 62.23 for cities and villages or Wis. Stat. § 59.69 for counties.

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

(3) All persons petitioning for a map amendment that obstructs flow, 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 governing body.

(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. (See sec. 13-2-13)

ARTICLE J

ENFORCEMENT AND PENALTIES

SEC. 13-2-80 ENFORCEMENT AND PENALTIES.

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$ \$100 and not more than \$500, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to Wis. Stat. § 87.30.

ARTICLE K

DEFINITIONS

SEC. 13-2-90 DEFINITIONS.

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

- (1) "A ZONES" – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2) "ACCESSORY STRUCTURE OR USE" – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure, or building.
- (3) "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.
- (4) "BASEMENT" – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- (5) "BUILDING" – See STRUCTURE.
- (6) "BULKHEAD LINE" – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to Wis. Stat. § 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 ordinance.
- (7) "CAMPGROUND" – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- (8) "CAMPING UNIT" – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

(9) "CERTIFICATE OF COMPLIANCE" – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

(10) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

(11) "CRAWLWAYS" OR "CRAWL SPACE" – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

(12) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

(13) "DEPARTMENT" – The Wisconsin Department of Natural Resources.

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

(15) "DRYLAND ACCESS" – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

(16) "ENCROACHMENT" – Any fill, structure, equipment, building, use or development in the floodway.

(17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

(18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

(19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" – The federal agency that administers the National Flood Insurance Program.

(20) "FLOOD INSURANCE RATE MAP" (FIRM) – 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 community. This map can only be amended by the Federal Emergency Management Agency.

(21) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- a. The overflow or rise of inland waters,
- b. The rapid accumulation or runoff of surface waters from any source,
- c. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
- d. 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.

(22) "FLOOD FREQUENCY" – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent chance of occurring in any given year.

(23) "FLOODFRINGE" – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

(24) "FLOOD HAZARD BOUNDARY MAP" – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

(25) "FLOOD INSURANCE STUDY" – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

(26) "FLOODPLAIN" – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

(27) "FLOODPLAIN ISLAND" – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

(28) "FLOODPLAIN MANAGEMENT" – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

(29) "FLOOD PROFILE" – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

(30) "FLOODPROOFING" – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

(31) "FLOOD PROTECTION ELEVATION" – An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)

(32) "FLOOD STORAGE" – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

(33) "FLOODWAY" – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

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

(35) "HABITABLE STRUCTURE" – Any structure or portion thereof used or designed for human habitation.

(36) "HEARING NOTICE" – Publication or posting meeting the requirements of Wis. Stat. ch. 985. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

(37) "HIGH FLOOD DAMAGE POTENTIAL" – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

(38) "HISTORIC STRUCTURE" – Any structure that is either:

a. 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,

b. 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,

c. 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

d. 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.

(39) "INCREASE IN REGIONAL FLOOD HEIGHT" – 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.

(40) "LAND USE" – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

(41) "MANUFACTURED HOME" – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

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

(43) "MUNICIPALITY" or "MUNICIPAL" – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

(44) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" – Elevations referenced to mean sea level datum, 1988 adjustment.

(45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" – Elevations referenced to mean sea level datum, 1929 adjustment.

(46) "NEW CONSTRUCTION" – For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it

includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

(47) "NONCONFORMING STRUCTURE" – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

(48) "NONCONFORMING USE" – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

(49) "OBSTRUCTION TO FLOW" – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

(50) "OFFICIAL FLOODPLAIN ZONING MAP" – That map, adopted and made part of this ordinance, as described in Article B, which has been approved by the Department and FEMA.

(51) "OPEN SPACE USE" – Those uses having a relatively low flood damage potential and not involving structures.

(52) "ORDINARY HIGH WATER MARK" – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

(53) "PERSON" – An individual, or group of individuals, corporation, partnership, association, municipality, or state agency.

(54) "PRIVATE SEWAGE SYSTEM" – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of 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.

(55) "PUBLIC UTILITIES" – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, and storm sewer.

(56) "REASONABLY SAFE FROM FLOODING" – Means base flood waters 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.

(57) "REGIONAL FLOOD" – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

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

(59) "STRUCTURE" – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed, or lake bed including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams, and culverts.

(60) "SUBDIVISION" – Has the meaning given in Wis. Stat. § 236.02(12).

(61) "SUBSTANTIAL DAMAGE" – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

(62) "UNNECESSARY HARDSHIP" – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

(63) "VARIANCE" – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

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

(65) "WATERSHED" – The entire region contributing runoff or surface water to a watercourse or body of water.

(66) "WATER SURFACE PROFILE" – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

(67) "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.

CHAPTER 3

Shoreland-Wetland Zoning

Article A Statutory Authorization, Findings of Fact, Statement of Purpose and Title

- 13-3-1 Statutory Authorization
- 13-3-2 Findings of Fact
- 13-3-3 Title of Chapter
- 13-3-4 through
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Article B General Provisions

- 13-3-10 Compliance

- 13-3-11 Municipalities and State Agencies Regulated
- 13-3-12 Abrogation and Greater Restrictions
- 13-3-13 Interpretation
- 13-3-14 Severability
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ARTICLE A

Statutory Authorization, Findings of Fact,
Statement of Purpose and Title

SEC. 13-3-1 STATUTORY AUTHORIZATION.

This Chapter is adopted pursuant to the authorization in Wis. Stat. §§ 62.23, 62.231, 87.30, and 144.26.

SEC. 13-3-2 FINDINGS OF FACT.

Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the City of Plymouth would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

- (a) Promote the public health, safety, convenience and general welfare;
- (b) Maintain the storm and flood water storage capacity of wetlands;
- (c) Prevent and control water pollution by filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (d) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (e) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (f) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling, and other earth moving activities.

SEC. 13-3-3 TITLE OF CHAPTER.

Shoreland-Wetland Zoning Ordinance/Chapter for the City of Plymouth, Wisconsin.

SEC. 13-3-34 THROUGH SEC. 13-3-9 RESERVED FOR FUTURE USE.

ARTICLE B

General Provisions

SEC. 13-3-10 COMPLIANCE.

The use of wetlands and the alteration of wetlands within the shoreland area of the City of Plymouth shall be in full compliance with the terms of this Chapter and other applicable local, state or federal regulations. (However, see Section 13-3-25 of this Chapter for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

SEC. 13-3-11 MUNICIPALITIES AND STATE AGENCIES REGULATED.

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

SEC. 13-3-12 ABROGATION AND GREATER RESTRICTIONS.

(a) This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stat. §§ 62.23 or 87.30 which relate to shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

SEC. 13-3-13 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 municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Wis. Admin. Code Ch. NR 117, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Wis. Admin. Code Ch. NR 117 standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

SEC. 13-3-14 SEVERABILITY.

Should any portion of this Chapter be declared invalid or unconstitutional for any reason by a court of competent Jurisdiction, the remainder of this Chapter shall not be affected.

SEC. 13-3-15 ANNEXED AREAS.

The Sheboygan County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's official zoning map. The Sheboygan County

shoreland 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.

SEC. 13-3-16 THROUGH SEC. 13-3-19 RESERVED FOR FUTURE USE.

ARTICLE C

Shoreland-Wetland Zoning District

SEC. 13-3-20 PURPOSE OF SHORELAND-WETLAND ZONING.

This Chapter is adopted to maintain safe and healthful conditions, to prevent and control water pollution, to protect fish spawning grounds, fish and aquatic life and wildlife habitation, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetlands the development should occur in a manner which minimizes adverse impacts upon the wetlands

SEC. 13-3-21 OFFICIAL SHORELAND-WETLAND ZONING MAPS.

The following maps are hereby adopted and made a part of this Chapter and are on file in the office of the City Clerk/Treasurer:

- (a) Wisconsin Wetland Inventory maps stamped "FINAL" on May 9, 1990.
- (b) Floodplain zoning maps titled "Flood Boundary and Floodway Map," and dated July 5, 1983.
- (c) United States Geological Survey maps dated 1974.
- (d) Zoning maps titled "Zoning Map - City of Plymouth," and dated February, 1991.

SEC. 13-3-22 DISTRICT BOUNDARIES.

(a) The shoreland-wetland zoning district includes all wetlands in the City of Plymouth, Wisconsin, which are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-3-21 and which are:

- (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the City of Plymouth shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base

maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-21 of this Chapter.

(2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-3-21. Flood Hazard Boundary Maps, Flood Insurance Rate Maps, Flood Boundary-Floodway Maps, County Soil Survey Maps or other existing community floodplain zoning maps used to delineate floodplain area which have been adopted by the City of Plymouth shall be used to determine the extent of floodplain areas in the City.

(b) Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high water mark.

(c) When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official shoreland-wetland zoning maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department staff concurs with the Zoning administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official shoreland-wetland zoning maps, the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

SEC. 13-3-23 PERMITTED USES.

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

(a) Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:

(1) Hiking, fishing, trapping hunting, swimming, snowmobiling and boating;

- (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (3) The practice of agriculture, including the planting, thinning and harvesting of timber;
 - (4) The pasturing of livestock;
 - (5) The cultivation of agricultural crops; and
 - (6) The construction and maintenance of duck blinds.
- (b) Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
- (1) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - (3) The maintenance and repair of existing drainage ditches, where permissible under Wis. Stat. § 30.20 or of other existing drainage systems (such as tiling) to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Wis. Stat. ch. 30 and that dredged spoil is placed on existing spoil banks where possible;
 - (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (5) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed in Section 13-3-38 (c) of this Chapter; and

(7) The maintenance, repair, replacement, and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

(c) Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below:

(1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted in this Section, provided that:

a. The road cannot, as a practical matter, be located outside the wetland;

b. The road is designed and constructed to minimize the adverse impact on the natural functions of the wetland listed in Section 13-3-38 of this Chapter;

c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;

d. Road construction activities are carried out in the immediate area of the roadbed only; and

e. Any wetland alteration must be necessary for the construction or maintenance of the road.

(2) The construction and maintenance of nonresidential buildings provided that:

a. The building is used solely in connection with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;

b. The building cannot, as a practical matter, be located outside the wetland;

c. The building does not exceed five hundred (500) square feet in floor area; and

d. Only limited filling and excavating necessary to provide structural support for the building is allowed.

(3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

a. Any private development allowed under this paragraph shall be used exclusively for permitted purpose;

b. Only limited filling and excavating necessary for the development of public launching ramps, swimming beaches, or the construction of park shelters or similar structures is allowed;

c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) of this Section; and

d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

(4) The construction and maintenance of electric and telephone transmission lines and water, gas and sewer distribution lines, and related facilities provided that:

a. The utility transmission and distribution lines and related facilities and railroad lines cannot, as a practical matter, be located outside the wetland;

b. Only limited filling or excavating necessary for such construction or maintenance is allowed; and

c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-38 (c) of this Chapter.

(5) The construction and maintenance of railroad lines, provided that:

a. The railroad lines cannot, as a practical matter, be located outside the wetland;

b. Only limited wetland alteration necessary for such construction or maintenance is allowed; and

- c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland as listed in Section 13-3-38 of this Chapter.

SEC. 13-3-24 PROHIBITED USES.

(a) Any use not listed in Section 13-3-23 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-3-38 of this Chapter.

(b) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters is prohibited.

SEC. 13-3-25 NONCONFORMING STRUCTURES AND USES.

The lawful use of a building, structure, or property which existed at the time this Chapter, or an applicable amendment to this Chapter, took effect and which is not in conformity with the provisions of the Chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

(a) The shoreland-wetland provisions of this Chapter authorized by Wis. Stat. § 62.231 shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure in existence on the effective date of the shoreland-wetland provisions, or of any environmental control facility in existence on May 7, 1982 related to such a structure. All other modifications to nonconforming structures are subject to Wis. Stat. § 62.23(7)(h) which limits total lifetime structural repairs and alterations to fifty percent (50%) of current fair market value.

(b) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure, or property shall conform to the appropriate provisions of this Chapter.

(c) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Chapter adopted under Wis. Stat. §§ 62.231 or 61.351 may be continued although such use does not conform with the provisions of this Chapter. However, such nonconforming use may not be extended.

(d) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Wis. Stat. § 30.121.

(e) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

SEC. 13-2-26 FILLED WETLANDS.

Wetlands which are filled prior to June 1990, the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this Chapter.

SEC. 13-3-27 WETLANDS LANDWARD OF A BULKHEAD LINE.

Wetlands located between the original ordinary high water mark and a bulkhead line established prior to May 7, 1982, under Wis. Stat. § 30.11 are not subject to this Chapter.

SEC. 13-3-28 THROUGH SEC. 13-3-29 RESERVED FOR FUTURE USE.

ARTICLE D

Administrative Provisions

SEC. 13-3-30 ZONING ADMINISTRATOR.

The Assessor/Inspector is appointed Zoning Administrator for the purpose of administering and enforcing this Chapter. The Zoning Administrator shall have the following duties and powers:

- (a) Advise applications as to the provisions of this Chapter and assist them in preparing permit applications and appeal forms.
- (b) Issue permits and certificates of compliance and inspect properties for compliance with this Chapter.
- (c) Keep records of all permits issued, inspections made, work approved and other official actions.
- (d) Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
- (e) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation and map or text amendments within ten (10) days after they are granted or denied to the appropriate district office of the Department.

(f) Investigate and report violations of this Chapter to the appropriate City planning agency and the District Attorney, corporation counsel or City Attorney.

SEC. 13-3-31 ZONING PERMITS.

(a) **When Required.** Unless another Section of this Chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 13-3-41(b)(4) of this Chapter, or any change in the use of an existing building or structure is initiated.

(b) **Application.** An application for a permit shall be made to the Zoning Administrator upon forms furnished by the City and shall include, for the purpose of proper enforcement of these regulations, the following information:

(1) General Information.

- a. Name, address and telephone number of applicant, property owner and contractor, where applicable.
- b. Legal description of the property and a general description of the proposed use or development.
- c. Whether or not a private water or sewage system is to be installed.

(2) Site Development Plan. The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:

- a. Dimensions and area of the lot;
- b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
- c. Location of any existing or proposed on-site sewage systems or private water supply systems;
- d. Location of the ordinary high-water mark of any abutting navigable waterways;
- e. Location and landward limit of all wetlands;
- f. Existing and proposed topographic and drainage features and vegetative cover;

- g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
- h. Location of existing or future access roads; and
- i. Specifications and dimensions for areas of proposed wetland alteration.

(c) **Expiration.** All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.

SEC. 13-3-32 CERTIFICATES OF COMPLIANCE.

(a) Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt, or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator subject to the following provisions:

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

(2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.

(3) The certificate of compliance shall be issued within ten (10) days after the completion of the work specified in the zoning or conditional use permit, providing the building or premises or proposed use thereof conforms with all the provisions of this Chapter.

(b) The Zoning Administrator may issue a temporary certificate of compliance for a building, premises, or part thereof, pursuant to rules and regulations established therefore by the Common Council.

(c) Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.

SEC. 13-3-33 CONDITIONAL USE PERMITS FOR WETLAND AREAS.

(a) **Application.** Any use listed as a conditional use in this Chapter shall be permitted only after an application has been submitted to the Zoning

Administrator and a conditional use permit has been granted by the Board of Appeals, following the procedures in Sections 13-3-37(c), (d) and (e) for hearing and deciding appeals.

(b) **Conditions.** Upon consideration of the permit application and the standards applicable to the permitted uses in Section 13-3-23(c) of the Chapter, the Board of Appeals shall attach such conditions to a conditional use permit in addition to those required elsewhere in this Chapter as are necessary to further the purposes of this Chapter as listed in Section 13-3-2 of this Chapter. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion potential; increased side yard set-backs; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction.

To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this Chapter.

SEC. 13-3-34 FEES.

The Common Council may, by resolution, adopt fees for the following:

- (a) Zoning permits.
- (b) Certificates of compliance.
- (c) Public hearings.
- (d) Legal notice publications.
- (e) Conditional use permits.
- (f) Rezoning petitions.

SEC. 13-3-35 RECORDING.

Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.

SEC. 13-3-36 REVOCATION.

Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Board of Appeals.

SEC. 13-3-37 BOARD OF APPEALS.

(a) **Appointment.** The Mayor shall appoint a Board of Appeals under Title 2, Chapter 4 of this Code of Ordinances and Wis. Stat. § 62.23(7)(e) consisting of five (5) members subject to confirmation by the Common Council. The Board of Appeals shall adopt rules for the conduct of the business of the Board of Appeals as required by Wis. Stat. § 62.23(7)(e)3.

(b) **Powers and Duties.** The Board of Appeals shall:

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

(2) Hear and decide applications for conditional use permits under this Chapter.

(3) May authorize, upon appeal in specific cases, such variance from the terms of the Chapter as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of this Chapter will result in unnecessary hardship. In the issuance of a variance, the spirit of the Chapter shall be observed and substantial justice done. No variance from the terms of this Chapter shall be granted which is contrary to the public interest. A variance may be granted where, owing to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. The granting of a variance shall not have the effect of granting or extending any use of property which is prohibited in that zoning district by this Chapter.

(c) **Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board, or bureau of the community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the official from whom the appeal is taken and with the Board of Appeals, a notice of appeal specifying the reasons therefore. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board all the papers constituting the record on which the appeal action was taken.

(d) **Public Hearings.**

(1) Before making a decision on an appeal, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Wis. Stat. ch. 985 specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.

(2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten (10) days prior to all public hearings on issues involving shoreland-wetland zoning.

(e) **Decisions.**

(1) The final disposition of an appeal or Application for a conditional use permit, to the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or persecution, or grant the application for a conditional use.

(2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within ten (10) days after the decision is issued.

SEC. 13-3-38 AMENDING SHORELAND-WETLAND ZONING REGULATIONS.

The Common Council may, from time to time, alter, supplement or change the district boundaries and the regulations contained in this Chapter in accordance with the requirements of Wis. Stat. § 62.23(7)(d)2, Wis. Admin. Code Ch. NR 117, and the following:

(a) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the City planning agency.

(b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the City Plan Commission, and a public hearing shall be held as required by Wis. Stat. § 62.23(7)(d)2. The appropriate district office of the Department shall be provided with written notice of the public hearing at least ten (10) days prior to such hearing.

(c) In order to insure that the shoreland protection objectives in Wis. Stat. § 144.26 will be accomplished by the amendment, the Common Council may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:

(1) Storm and flood water storage capacity;

- (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (4) Shoreline protection against soil erosion;
 - (5) Fish spawning, breeding, nursery or feeding grounds;
 - (6) Wildlife habitat; or
 - (7) Areas of special recreational scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- (d) Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, the Department shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment.
- (e) The appropriate district office of the Department shall be provided with:
- (1) A copy of the recommendations and report, if any, of the City Plan Commission on the proposed text or map amendment within ten (10) days after the submission of those recommendations to the Common Council; and
 - (2) Written notice of the Common Council's action on the proposed text or map amendment within ten (10) days after the action is taken.
- (f) If the Department notifies the City Plan Commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, that proposed amendment, if approved by the Common Council, may not become effective until more than thirty (30) days have elapsed since written notice of the Common Council approval was mailed to the Department, as required by Subsection (e) of this Section. If, within the thirty (30) day period, the Department notifies the Common Council that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the City under Wis. Stat. § 62.231(6) the proposed amendment may not become effective until the ordinance adoption procedure under Wis. Stat. § 62.231(6) is completed or otherwise terminated.

SEC. 13-3-39 RESERVED FOR FUTURE USE.

ARTICLE E

Penalties; Definitions

SEC. 13-3-40 ENFORCEMENT AND PENALTIES.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this Chapter in violation of the provisions of this Chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Common Council and the City Attorney who shall prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture as specified in Sec. 1-1-7, "General Penalties, of this Code of Ordinances, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the City, the State or any citizen thereof pursuant to Wis. Stat. § 87.30(2).

SEC. 13-3-41 DEFINITIONS.

(a) For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.

(b) The following terms used in this Chapter mean:

(1) Accessory Structure or Use. A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

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

(3) Class 2 Public Notice. Publication of a public hearing notice under Wis. Stat. ch. 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing.

(4) Conditional Use. A use which is permitted by this Chapter provided that certain conditions specified in the Chapter are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.

(5) Department. The Wisconsin Department of Natural Resources.

(6) Development. Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures, or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation, or drilling operations; and the deposition or extraction of earthen materials.

(7) Drainage System. One (1) or more artificial ditches, tile drains, or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

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

(9) Fixed Houseboat. As defined in Wis. Stat. § 30.121(l) a structure not actually used for navigation which extends beyond the ordinary high water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

(10) Navigable Waters. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters which are navigable under the laws of this State. Under Wis. Stat. § 144.26(2)(d), notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stat. § 62.231 and Wis. Admin. Code Ch. NR 117 do not apply to lands adjacent to farm drainage ditches if:

- a. Such lands are not adjacent to a natural navigable stream or river;

b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and

c. Such lands are maintained in nonstructural agricultural use.

(11) Ordinary High-Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic.

(12) Planning Agency. The City Plan Commission created under Section 62.23(l), Wis. Stats.

(13) Shorelands. Lands within the following distances from the ordinary high water mark of navigable waters; one thousand (1,000) feet from a lake, pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(14) Shoreland-Wetland District. The zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13-3-lf of this Chapter.

(15) Unnecessary Hardship. That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.

(16) Variance. An authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Chapter.

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

(18) Wetland Alteration. Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures, or dike and dam construction in a wetland area.

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