

# Zoning Code Comparison, Existing Code and New Draft Code

*(Revised for 3-15-2011 Common Council meeting)*

The purpose of this document is to compare the existing zoning code with the new draft zoning code (final substitute, March 2011). The document identifies existing code sections which have been deleted or omitted from the new code, sections that have been added to the new code which currently do not exist, and sections which differ from the existing code to the new code. In some cases, the new code includes new concepts, which do not allow for direct comparison to the existing code.

This document was first prepared as a tool for the Plan Commission to use when reviewing the draft code and associated recommendations and comments from boards, commissions and committees and other interested parties. The current document has been updated to include recommendations from the Plan Commission, as found in the final substituted draft that has been forwarded to the Common Council for review and adoption.

Red font color is used to identify existing code sections, and blue is used to identify new code sections. “Black” font color is used for staff introductions, comments, and suggestions. **Black text** highlights the changes or differences between the codes, and dashed lines separate the code sections for discussion. Each of the following sections begins with an introduction/ discussion by zoning staff and in some cases concludes with a staff recommendation.

This document generally follows the section order of the existing code. The following existing code sections were reviewed for this document:

28.02 Intent And Purpose.

28.03 Rules And Definitions.

28.04 General Provisions.

(1) Interpretation.

(2) Separability.

(3) Scope Of Regulations

(4) Number Of Residential Buildings On A Zoning Lot.

(5) Accessory Buildings.

(6) Bulk Regulations.

(7) Zoning Of Annexed Land.

(8) Existing Conditional Uses.

(9) Lots or Parcels of Land.

(10) Access To Improved Public Street.

(11) Development Of Deep Residential Lots.

(13) Drainage Courses.

(16) Special Provisions Applicable To Miscellaneous Uses.

(17) Activities Which May Be Potential Hazards Or Nuisances.

(18) Exemptions.

(21) Development Adjacent to Public Parks.

(23) Planned Commercial Site.

28.07 Special Districts.

(1) General Requirements.

(2) Conservancy District.

(3) Agriculture District.

28.08 Residence Districts.

(1) General Requirements.

- (2) R1 Single-Family Residence District.
- (3) R2 Single-Family Residence District.
- (4) R3 Single-Family and Two-Family Residence District.
- (5) R4 General Residence District.
- (6) R5 General Residence District.
- (7) R6 General Residence District.
- (8) OR Office Residence District.
- (9) R4L Limited General Residence District.
- (10) RS Residence Shoppe District.
- (11) R4A Limited General Residence District.
- (12) R1-R Rustic Residence District
- (13) R2S Single-Family Residence District.
- (14) R6H General Residence District.
- (15) R2T Single-Family Residence District.
- (16) R2Y Single-Family Residence District
- (17) R2Z Single-Family Residence District.

28.085 Office Districts.

- (1) General Requirements.
- (2) O-1 Limited Office - Residence District.
- (3) O-2 Business and Professional Office District.
- (4) O-3 Administrative Office District.
- (5) O-4 Administrative Office and Research and Development District.

28.09 Commercial Districts.

- (1) General Requirements.
- (2) C1 Limited Commercial District.
- (3) C2 General Commercial District.
- (4) C3 Highway Commercial District.
- (6) C3L Commercial Service And Distribution District (Nonresidential).

28.10 Manufacturing Districts.

- (1) General Requirements.
- (2) RPSM Research Park - Specialized Manufacturing District.
- (3) SM Specific Manufacturing District.
- (4) M1 Limited Manufacturing District.
- (5) M2 General Manufacturing District.
- (6) RDC Research and Development Center District.

28.11 Off-Street Parking And Loading Facilities.

28.108 Neighborhood Conservation Districts.

The following code sections **were not reviewed** for this document. These sections have been reviewed by staff and/or the Plan Commission in other documents or formats, as part of the rewrite process.

28.01 Title

28.04 General Provisions.

- (12) Screening and Vision Clearance.
- (14) Capitol View Preservation.
- (19) Waterfront Development.
- (20) Regulations for all Floodplain Districts.
- (22) Telecommunication Facilities and Antennas.
- (24) Inclusionary Housing.
- (25) Inclusionary Housing.

- (26) Home Occupations.
  - 28.05 Nonconforming Buildings And Uses.
  - 28.06 Zoning Districts And Zoning District Maps.
  - 28.07 Special Districts.
    - (4) Planned Community Development District (PCD).
    - (5) Planned Community Mobile Home Park District.
    - (6) Planned Unit Development District (PUD).
    - (7) Wetland District.
  - 28.09 Commercial Districts.
    - (5) C4 Central Commercial District.
  - 28.105 Flood Plain Districts.
  - 28.106 Historic District Suffixes.
  - 28.107 Wellhead Protection Districts.
  - 28.12 Administration And Enforcement.
    - (1) Organization.
    - (2) Office Of The Zoning Administrator.
    - (3) Zoning Board of Appeals.
    - (4) City Plan Commission--Jurisdiction.
    - (5) Zoning Certificates.
    - (6) Occupancy Certificates.
    - (7) Appeals.
    - (8) Area Exceptions.
    - (9) Variances.
    - (10) Map and Text Amendments.
    - (11) Conditional Uses.
    - (12) Approval of Demolition (Razing, Wrecking) and Removal.
    - (13) Fees.
    - (14) Penalties
  - 28.13 Negative Use Restrictions
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Several concepts found in the **Intent and Purpose** section of the existing code have been omitted from the new code, and several concepts have been introduced in the new code that are not found in the existing code. Both the existing and new **Intent and Purpose** sections are listed below. Concepts which are found in the existing code but not the new code, or found in the new code but not the existing code are in **bold type**.

**28.02 Intent and Purpose**

**28.002 Intent and Purpose**

**28.02 INTENT AND PURPOSE.** This ordinance is adopted for the following purposes:

- (1) To promote the public health, safety, morals, comfort, convenience, prosperity, and general welfare of the City and environs.
- (2) To lessen congestion in the public streets.
- (3) To secure safety from fire, explosion, noxious fumes and other hazards.
- (4) To provide adequate light, air, **privacy and convenience of access to property.**
- (5) **To prevent the overcrowding of land.**
- (6) **To avoid undue concentration of population.**
- (7) To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- (8) To conserve and enhance the taxable value of land and buildings.

- (9) To encourage the most appropriate use of land throughout the City and environs.
- (10) To preserve and increase the amenities of the City and environs.
- (11) To protect residential, commercial and manufacturing areas alike from harmful encroachments by incompatible uses.
- (12) To protect the character and maintain the stability of residential, commercial and manufacturing areas within the City and environs, and to promote the orderly and beneficial development of such areas.
- (13) To regulate and restrict the location and intensity of use of buildings, structures and land for residential, commercial, manufacturing and other uses, and to establish building or setback lines for such uses.
- (14) To segregate and control unavoidable nuisance producing uses.**
- (15) To establish districts of such number, shape and area as may be deemed best suited to carry out the purposes of this ordinance.**
- (16) To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereinafter.**
- (17) To provide for the elimination of those uses of land, buildings and structures which are adversely affecting the character, development and taxable value of property in each district.**
- (18) To define the powers and duties of the administrative officers and bodies as provided hereinafter.**
- (19) To minimize expenditures of public monies for costly flood control projects.**
- (20) To minimize rescue and relief efforts, generally undertaken at the expense of the general public.**
- (21) To minimize business interruptions.**
- (22) To minimize damage to public utilities and public facilities such as water mains, sewer mains, and bridges.**
- (23) To minimize the occurrence of future flood blight areas on flood plains.**

## **28.002 INTENT AND PURPOSE**

- (1) This ordinance is adopted for the following purposes:
  - (a) To promote land uses and development patterns that are consistent with the city's comprehensive plan and of adopted neighborhood, corridor or special area plans.
  - (b) To promote and protect the public health, safety and general welfare of the City.
  - (c) To secure safety from fire, flooding, pollution, contamination and other dangers.
  - (d) To maintain and promote safe pedestrian and vehicular circulation.
  - (e) To minimize congestion in the public rights-of-way through the regulation of off-street parking, maneuvering, loading and signage;
  - (f) To ensure the provision of adequate open space for light, air, fire safety and recreation.
  - (g) To protect environmentally sensitive areas.**
  - (h) To address and mitigate the effects of climate change.**
  - (i) To remove obstacles and provide incentives for energy conservation and renewable energy.**
  - (j) To promote and restore the conservation, protection, restoration and enhancement of historic resources.
  - (k) To facilitate the adequate, efficient and cost-effective provision of infrastructure and other public services and facilities.
  - (l) To preserve the natural scenic beauty of the City and to enhance the aesthetic desirability of the environment as well as the design of buildings.
  - (m) To encourage reinvestment in established urban neighborhoods while protecting their unique characteristics.
  - (n) To stabilize, protect, and enhance property values.
  - (o) To preserve productive agricultural land and provide opportunities for local food production.**

- (p) To encourage innovative project design in the city, including developments that incorporate mixed uses.
  - (q) To encourage the creation, promotion, sale, and enjoyment of art.
  - (r) To create a sense of place.
  - (s) To encourage pedestrian-oriented development.
  - (t) To promote the orderly development and economic vitality of the City.
  - (u) To provide an adequate variety of housing and commercial building types to satisfy the city's social and economic goals.
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## 28.03(2) Definitions

### 28.211 Definitions

Many of the existing **definitions** have been renamed, modified, or merged into new definitions. There are also several definitions found in the existing code that are omitted from the new code and several definitions introduced in the new code that are not found in the existing code. The following definitions have been renamed, modified, or merged into new definitions from the existing code to the new code.

**Accessory Building/ Accessory Use:** In the existing code, the definition of Accessory Building and Accessory Use are combined in one definition. In the new code, the definition of Accessory Building or Structure is separated from the definition of Accessory Use.

**Accessory Building Or Use.** An accessory building or use is one which:

1. Is customary and clearly incidental to the principal building or principal use;
2. Serves exclusively the principal building or principal use;
3. Is subordinate in floor area, extent or purpose to the principal building or principal use served or is a secondary dwelling unit;
4. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and
5. Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot as the building or use served.

An accessory building or use includes, but is not limited to, the following:

1. A children's playhouse, garden house or private greenhouse;
2. A garage, carport, compost bin, shed or building for storage incidental to a permitted use;
3. Incinerators incidental to a permitted use;
4. Storage of goods used in or produced by permitted manufacturing activities on the same zoning lot with such activities, unless such storage is excluded by the district regulations;

**Accessory Building or Structure.** A subordinate building or structure, the use of which is clearly incidental to that of the main building and which is located on the same lot as the principal building, and is subordinate to the principal building in height and floor area.

**Use, Accessory.** A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, and serving the occupants of the principal use or structure.

**Day Care Center:** The existing definitions of Adult Day Care Facility and Day Care Center are merged into the new definition for Day Care Center.

**Adult Day Care Facility.** An adult day care facility is a facility other than an adult family day care home in which for compensation or consideration, **three (3) or more adults** who have difficulty in functioning independently receive daytime group companionship and care.

**Day Care Center.** A facility licensed by the State Department of Health and Family Services or any other government agency that assumes its authority and responsibilities where a person(s) provides, for compensation and/or consideration, group care for **four (4) or more children between the ages of infancy and seven (7) years of age**, at a location other than the child’s own home or the home of relatives or guardians. Day care centers include nursery schools that are similarly licensed.

**Day Care Center.** A facility licensed by the State Department of Health and Family Services, or any other government agency that assumes its authority and responsibility, in which qualified persons, other than a relative or guardian provide care and supervision for children, adolescents, or adults for less than twenty-four (24) hours per day. Day Care Centers include nursery schools that are similarly licensed.

**Day Care Home, Family:** The existing definitions of Adult Family Day Care Home and Family Day Care Home are merged into the new definition for Day Care Home, Family.

**Adult Family Day Care Home.** An adult family day care home is a dwelling where, for compensation or consideration, a resident of the dwelling provides daytime group companionship and care for **at least three (3) but not more than five (5) adults** who have difficulty in functioning independently at a location other than the home of those receiving care or the home of their relatives.

**Family Day Care Home.** A family day care home is a dwelling also licensed as a day care center by the State Department of Health and Family Services where, for compensation or consideration, a resident of the dwelling provides group care for **at least four (4) but not more than eight (8) children between the ages of infancy and seven (7) years of age**, at a location other than the child’s own home or the home of relatives or guardians.

**Day Care Home, Family.** An occupied residence in which a qualified person or persons residing in the dwelling provides care for **four (4) to eight (8) children or adults**. The care of less than four (4) people is not subject to the regulations of this Chapter.

**Adult Family Home:** The definition of Adult Family Home has been modified.

**Adult Family Home.** An adult family home is a private residence, licensed, operated, certified or permitted under the authority of the Department of Health and Family Services of the State of Wisconsin, where care and maintenance above the level of room and board but not including nursing care, are provided for three (3) or four (4) developmentally disabled adults (or more if all adults are siblings) by a care provider whose primary domicile is the residence; or a place where three (3) or four (4) adults who are not related to the operator reside and receive care, treatment or service that is above the level of room and board and may include up to seven (7) hours per week of nursing care per resident.

For the purpose of this definition, an adult family home may contain a second kitchen for privacy of staff, but such kitchen facilities shall be dismantled and removed when the arrangement is discontinued.

**Adult Family Home.** A State of Wisconsin licensed or certified place where three (3) or four (4) adults reside and receive care, treatment or services that are above the level of room and board and that may include up to seven (7) hours per week of nursing care per resident. Adult family homes are further defined in Wis. Stat. § 50.01(1).

**Adult Entertainment Venue or Tavern:** The new definition of Adult Entertainment Establishment has been expanded to include definitions for Adult Book or Video Store and Adult Motion Picture Theater. The definition of Adult Entertainment Tavern has been modified.

**Adult Entertainment Establishment.** An adult entertainment establishment is an adult book or video store or an adult motion picture theater.

**Adult Entertainment Taverns.** An adult entertainment tavern is any establishment licensed to sell fermented malt beverages or intoxicating liquor pursuant to Chapter 38 of these ordinances which is used for presentations or service distinguished or characterized by an emphasis on exposure to view of human genitals, pubic area, buttocks or anus or a female's vulva or breasts below the top of the areola; or male genitals in a discernable turgid state, even if opaquely covered; or on acts of or acts which simulate sexual intercourse, masturbation, flagellation, erotic touching, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus, or any sexual acts prohibited by Wis. Statutes.

**Adult Motion Picture Theater.** An adult motion picture theater is an enclosed building used for presenting or exhibiting a motion picture film, show or other presentation having as its dominant theme or distinguished or characterized by an emphasis on exposure to view of human genitals, pubic area, buttocks or anus; or a female's vulva or breasts below the top of the areola ; or male genitals in a discernable turgid state, even if opaquely covered; or on acts of or acts which simulate sexual intercourse, masturbation, flagellation, erotic touching, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus, or any sexual acts prohibited by Wis. Statutes.

**Adult Entertainment Establishment.** An adult entertainment establishment is an adult book or video store or an adult motion picture theater.

(a) **Adult Book or Video Store.** An establishment which is used for selling, renting or loaning, for monetary consideration, the following materials, when such activity constitutes a substantial or significant part of the business conducted therein:

1. Any pictures, photographs, drawings, motion picture films or similar visual representations or images of a person or portions of a human body which are distinguished or characterized by their emphasis on matters depicting, or describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein; or
2. Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains any matter enumerated in Paragraph 1. above. 232
3. Significant part of the business means dedication or use of more than ten percent (10%) of the available floor, wall and display space to the sale, rental or loan of the subject matter referenced in Paragraphs 1. and 2. above, including space devoted to the viewing of videotapes or films, or display and advertisement of subject matter referenced herein in excess of ten percent of the total merchandise for sale, rental or loan.

4. Material, however distributed, which is published by a medical products manufacturer, a medical or health association, an insurance company, or by a consumer education organization shall not be considered part of the business of operating an adult book or video store.

5. Words used in this definition shall be defined as provided by Sec. 26.05(1).

(b) **Adult Motion Picture Theater.** An adult motion picture theater is an enclosed building used for presenting or exhibiting a motion picture film, show or other presentation having as its dominant theme or distinguished or characterized by an emphasis on or exposure to “specified anatomical areas” or “specified sexual activities” as defined herein.

**Adult Entertainment Tavern.** Any establishment, including those licensed to sell fermented malt beverages or intoxicating liquor pursuant to Chapter 38, of these ordinances, which is used for presentations or services distinguished or characterized by an emphasis on “specified anatomical areas” or “specified sexual activities” as defined herein.

**Alley:** The existing definition of Alley specifies a maximum width of 24 feet while the new definition does not specify a maximum width.

**Alley.** An alley is a public right-of-way which affords only a secondary means of access to abutting property, and which is **not more than twenty-four (24) feet in width.**

**Alley.** A public right-of-way usually of reduced width compared to a street, which affords a secondary means of access to the side or rear of an abutting property and is not intended for general traffic circulation.

**Accessory Dwelling Unit/ Secondary Dwelling Unit:** The existing term Secondary Dwelling Unit has been renamed Accessory Dwelling Unit, and the definition has been modified.

**Secondary Dwelling Unit.** An attached or detached dwelling unit with a maximum size of six-hundred forty (640) square feet that is located on the same lot as a single-family dwelling and is identified on a subdivision plat approved after August 1, 2004.

**Accessory Dwelling Unit.** A second dwelling unit contained within a single-family dwelling or within a detached building located on the same lot as a single-family dwelling. This definition includes accessory buildings constructed in connection with a private garage or a private garage converted into a dwelling unit. (See Section 28.172, “Residential Building Forms.”)

**Artisan Production Shop/ Artisan Studio/ Artisan Workshop:** The existing definitions of Artisan Production Shop and Artisan Studio differ based on the number of artists working in the building space. The new definition of Artisan Workshop does not refer to the number of artists but does limit the power and size of the mechanical equipment used in production.

**Artisan Production Shop.** An artisan production shop is a building or portion thereof used for the creation of original handmade works of art or craft items by **more than three but less than six artists or artisans**, either as a principal or accessory use.

**Artisan Studio.** An artisan studio is a building or portion thereof used for the creation of original handmade works of art or craft items by **no more than three artists or artisans**, either as a principal or accessory use.



**Artisan Workshop.** A use primarily involving the limited on-site production of goods by hand manufacturing which involves only the use of hand tools or **domestic mechanical equipment that does not exceed two (2) horsepower each or a single kiln not exceeding eight (8) cubic feet in volume** and the incidental direct sale to consumers. Typical production includes: custom furniture, ceramic studios, glass blowing, candle making, custom jewelry, stained and leaded glass, woodworking, custom textile manufacturing and crafts production.

**Assisted Living, Congregate Care or Nursing Home:** The existing definition of Convalescent Home and Nursing Home has been split into separate new definitions for Assisted Living Facility, Congregate Care Facility and Skilled Nursing Care.

**Convalescent Home and Nursing Home.** A convalescent home or a nursing home is a home for the aged, infirm, chronically ill or incurably ill in which five (5) or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases or mental illness.

**Assisted Living Facility.** Housing primarily for the elderly in which assistance with daily activities, dining services, and limited health care are provided.

**Congregate Care Facility.** A facility with private living quarters, centralized dining, some communal space and transportation, social, and some personal-care services.

**Skilled Nursing Care.** A facility for the chronically ill that provides long-term nursing care, rehabilitation, and other services.

**Brewpub:** The definition of Brewpub has been modified.

**Brewpub.** A brewpub is a restaurant which manufactures up to five thousand (5,000) barrels of fermented malt beverages per year on premises for either consumption on premises, or off premises in hand-capped or sealed containers in quantities up to one-half barrel or 15-1/2 gallons sold directly to the consumer. **Wholesaling shall be permitted only where authorized within the zoning code.**

**Brewpub.** An establishment which manufactures up to five thousand (5,000) barrels of fermented malt beverages per year on premises for either consumption on premises, or off premises in hand-capped or sealed containers in quantities up to one-half barrel or 15-1/2 gallons sold directly to the consumer. **May include food sales.**

**Clinic:** The definition of Clinic has been renamed and modified.

**Clinic, Medical and Dental.** A medical and dental clinic is a building in which a group of physicians, dentists, or physicians **and dentists and allied professional assistants** are associated for the purpose of carrying on their professions. The clinic may include an accessory dental or medical laboratory. It shall not include inpatient care or operating rooms for major surgery.

**Clinic, Health.** A building in which a group of physicians, dentists, or other health care professionals are associated for the purpose of carrying on their professions. The clinic may include an accessory laboratory, but not inpatient care or operating rooms for major surgery.

**Conditional Use:** The two existing definitions of Conditional Use have been merged into one definition.

**Conditional Use.** A special exception to the expressly permitted uses of land in a zoning district.

**Use, Conditional.** A conditional use is a use which, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. After due consideration, as provided for in this ordinance, of the impact of such use upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be granted.

**Use, Conditional.** A conditional use is a use which, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district.

**Dwelling Unit:** The existing definition of a Dwelling Unit provides that a single-family detached dwelling may have a maximum of two kitchen facilities. The new definition provides that a single-family detached dwelling may have more than one kitchen.

**Dwelling Unit.** A dwelling unit consists of one or more rooms which are arranged, designed or used as living quarters for one family only. Individual bathrooms and a complete kitchen facility, permanently installed, shall always be included with each dwelling unit. No dwelling unit may have more than one kitchen facility except that **a single-family detached dwelling may have two kitchen facilities provided the dwelling is designed, arranged or used as living quarters for one family only.** For purposes of this exception, the family shall not include roomers.

**Dwelling Unit.** One or more rooms which are arranged, designed or used as living quarters for one family only. Individual bathrooms and a complete kitchen facility, permanently installed, shall always be included with each dwelling unit. No dwelling unit may have more than one kitchen facility except that **a single-family detached dwelling may have more than one kitchen facility provided the dwelling is designed, arranged or used as living quarters for one family only.** For purposes of this exception, the family shall not include roomers.

**Environmental Control Facility:** The definition of Environmental Control Facility has been modified.

**Environmental Control Facility** means any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, **including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.**

**Environmental Control Facility.** Any facility, temporary or permanent, which is designed 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.

**Fence:** The definition of Fence has been modified, and definitions for Fence, Ornamental and Fence, Solid have been added to the new code.

**Fence.** A “fence” is a structure providing enclosure or serving as a barrier, but not protecting against the elements (as distinguished from “building”).

**Fence.** A structure providing enclosure or serving as a barrier, **such as wooden posts, wire, iron, or other manufactured material or combination of materials erected to enclose, screen or separate areas. Structures designed to enclose recreational facilities, such as tennis courts or backstops, shall not be considered fences.**

**Fence, Ornamental.** A fence that is no more than fifty percent (50%) opaque.

**Fence, Solid.** A fence that is at least ninety percent (90%) opaque.

**Physical Culture and Health Services:** The existing definition of Physical Culture and Health Services has been modified and merged with the new definition of Health/ Sports Club.

**Physical culture and health services.** Such is a facility for the improvement of muscle tone or for providing cardiovascular and related exercise or participation in court sports or swimming; this use may include massage as an incidental service.

**Health/Sports Club, Fitness Center or Studio.** An establishment for the conduct of indoor sports and exercise activities, which may include related locker and shower rooms, offices and classrooms, and where use is offered on a membership basis.

**Hotel:** The definition of Hotel has been modified.

**Hotel.** A hotel is a building in which lodging accommodations, with or without meals, are provided to the public for compensation, and which is open to transient guests in contradistinction to a lodging house. A hotel is commonly known as a hotel in the City and provides customary hotel services such as maid, telephone and secretarial, bellboy and desk services, the use and upkeep of furniture and the furnishing and laundering of linen.

**Hotel, Inn.** A building containing rooming units providing temporary lodging accommodations (less than 30 days duration) to the general public, with rooms having access to the outside through an interior hallway connected to the main lobby of the building and which may provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

**Kitchen Facility:** The definition of Kitchen Facility has been modified.

**Kitchen Facility.** A kitchen facility is one which includes kitchen fixtures such as cabinets, sinks, refrigerators and stoves, or articles used or intended to be used for cooking. **For the purpose of this ordinance, a coffee percolator and a popcorn popper shall not be considered a kitchen facility.**

**Kitchen Facility.** A kitchen facility is one which includes kitchen fixtures such as cabinets, sinks, refrigerators and stoves, or articles used or intended to be used for cooking.

**Laboratory:** The definition of Laboratory has been modified.

**Laboratory** means a facility where the “laboratory use of hazardous chemicals” occurs. It is a workplace where relatively small quantities of hazardous chemicals are used on a nonproduction basis.

**Laboratories for Research, Development and Testing.** Establishments which conduct research, development, or controlled production of high-technology electronic, industrial, or scientific products or commodities for sale; or establishments conducting educational or medical research or testing. May include limited accommodations for researchers or research subjects.

**Lodging House:** The definition of Lodging House has been modified.

**Lodging House.** A lodging house is a residential building or portion thereof, containing lodging rooms which accommodate **five (5) or more persons** who are not members of the keepers family. Lodging or meals, or both, are provided for compensation on a monthly or longer basis.

**Lodging House.** A house where **more than five (5) paying guests** are provided with meals and lodging, on a monthly or longer-term basis.

**Lodging Room:** The existing definition of Lodging Room is used to determine lot area and off-street parking requirements. In the new definition, a lot area requirement has been eliminated for individual lodging rooms. The new definition is used to determine useable open space and off-street parking requirements.

**Lodging Room.** A lodging room is a room rented as sleeping and living quarters, but without kitchen facilities, and with or without an individual bathroom. In a suite of rooms without kitchen facilities, each room which provides sleeping accommodations shall be counted as one lodging room for the purpose of this ordinance.

**Lodging Room (for determining lot area requirements and off-street parking requirements).** For the purpose of **determining lot area requirements and off-street parking requirements**, any lodging room designed or intended to be occupied by more than two (2) persons shall be determined as one lodging room for each two (2) persons, provided however that in a lodging house, or a fraternity and sorority house, the number of lodging rooms shall be determined by dividing the total number of persons intended to occupy the lodging rooms by two (2).

**Lodging Room.** A room rented as sleeping and living quarters, but without kitchen facilities, and with or without an individual bathroom. In a suite of rooms without kitchen facilities, each room which provides sleeping accommodations shall be counted as one lodging room for the purpose of this ordinance. A lodging room

designed for more than two (2) people shall be counted as one lodging room for each two (2) persons of total occupancy, **for open space and parking requirements.**

**Lot:** The definition of Lot has been modified.

**Lot.** A lot is a zoning lot except as the context shall indicate a lot of record, in which case a lot is a lot of record.

**Lot.** A tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds.

**Lot Line, Front:** The definition of Lot Line, Front has been modified.

**Lot Line, Front.** The front lot line in the case of a lot abutting upon only one street, shall mean the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this ordinance, have the privilege of electing any street lot line the front lot line, providing that such choice, in the opinion of the Zoning Administrator, will not be injurious to the existing, or to the desirable future development of the adjacent properties.

**Lot Line, Front.** The boundary of a lot which abuts an existing, dedicated or officially mapped street. In the case of lot abutting more than one street, the owner may choose any street lot line as the front lot line, with the consent of Zoning Administrator, based on the effects of such choice on development **of the lot itself** or on adjacent properties.

**Lot Line, Rear:** The definition of Lot Line, Rear has been modified, to eliminate “rear yard” measurement line for irregular lots.

**Lot Line, Rear.** The rear lot line shall mean that lot line which is opposite and most distant from the front lot line. **In the case of an irregular, triangular or gore-shaped lot, a line ten (10) feet in length entirely within the lot, parallel to and most distant from the front lot line shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions is applicable, the Zoning Administrator shall designate the rear lot line.**

**Lot Line, Rear.** That lot line which is opposite and most distant from the front lot line.

**Lot Width:** The definition of Lot Width has been modified.

**Lot Width.** Lot width is the horizontal distance between the side lot lines of a lot, measured at right angles to the lot depth, said measurement to be made at the rear line of the required front yard or, when approved by the Plan Commission, at the required setback line where noted on the plat or land division map and such setback is greater than the required front yard.

**Lot Width.** The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required structure setback line.

**Mission House:** The definition of Mission House has been modified.

**Mission House.** A mission house is a nonprofit organization which provides lodging or meals, or both, without compensation, and may also offer or provide any church service.

**Mission House.** An accessory use of a religious institution or a nonprofit organization which provides lodging or meals, or both, without compensation, and may also offer or provide worship services **or supportive services.**

**Mobile Home:** The definition of Mobile Home has been modified.

**Mobile Home.** A mobile home is a trailer designed and constructed for dwelling purposes.

**Mobile Home, 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.”

**Motel:** The definition of Motel has been modified.

**Motel.** A motel is an establishment consisting of a group of attached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists. **A motel furnishes customary hotel services such as maid service and laundering of linen, telephone and secretarial or desk service, and the use and upkeep of furniture.** In a motel, less than fifty percent (50%) of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists.

**Motel.** A building containing rooming units designed primarily for providing sleeping accommodations for transient and semi-permanent lodgers, with rooms having a separate entrance providing direct access to the outside and with automobile parking located adjacent to or near sleeping rooms. A maximum of fifty percent (50%) of a motel’s rooming units may be occupied by non-transient guests (30 days or more).

**Motor Vehicle Salvage:** The existing definition of Motor Vehicle Salvage Business has been renamed to Motor Vehicle Salvage Yard, Scrap Yard and has been modified.

**Motor Vehicle Salvage Business.** Motor vehicle salvage business is any business of buying, gathering or storing of motor vehicles which are unfit to be reconditioned for use on the public highways and the selling, delivering, or storing of used parts of motor vehicles, or old iron, metal, glass, paper cordage, or other waste or discarded secondhand material which has been a part of or is intended to be a part of a motor vehicle.

**Motor Vehicle Salvage Yard, Scrap Yard.** A facility where used motor vehicles and vehicle parts are sorted, stored, dismantled, assembled, and distributed, including wholesale and retail sales of such materials. Scrap or salvage materials include, but are not limited to, scrap iron and other metals, rubber tires, plastics, and other material which has been a part of or is intended to be a part of a motor vehicle.

**Nonprofit:** The definition of Nonprofit has been modified.

**Nonprofit.** “Nonprofit” or “not operated for profit” when used with respect to a recreational building or community center means a facility owned or operated by a corporation or association, no part of the earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under the Internal Revenue Code. “Nonprofit” when used with respect to an organization means a corporation or association, no part of the earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under the Internal Revenue Code.

**Nonprofit.** A group, often a corporation, organized for purposes other than generating profits; for example, a charitable, educational, religious, or scientific organization, the income of which is exempt from taxation under the Internal Revenue Code. When used with respect to a recreational building or community center, “nonprofit” means a facility owned or operated by a nonprofit corporation or association.

**Restaurant:** The definition of Restaurant has been modified.

**Restaurant** means any building, room or place wherein meals or lunches are prepared or served or sold to transients or the general public, and all places used in connection therewith. “Meals or lunches” shall not include soft drinks, ice cream, milk, milk drinks, ices and confections. The serving in taverns of free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall not constitute such taverns to be restaurants. The term “restaurant” does not apply to churches, religious, fraternal, youths” or patriotic organizations, service clubs and civic or union organizations which occasionally prepare or serve or sell meals or lunches to transients or the general public nor shall it include any public or private school lunchroom.

**Restaurant.** A commercial establishment open to the public where food and beverages are prepared, served, and consumed and where food sales constitute the majority of gross sales. Does not include fermented malt beverages or intoxicating liquor sales.

**Tavern:** The definition of Tavern has been modified.

**Tavern** shall mean any place in which fermented malt beverages or intoxicating liquors are sold for consumption upon said premises.

**Tavern.** An establishment serving fermented malt beverages or intoxicating liquors primarily for consumption on the premises and where food or packaged alcoholic beverages may be served or sold only as accessory to the primary use.

**Useable Open Space:** The definition of Useable Open Space has been modified.

**Usable Open Space.** Usable open space is that part of the ground level of a zoning lot, other than in a required front or corner side yard, which is unoccupied by driveways, drive aisles, service drives, off-street parking spaces

and/or loading berths, principal buildings, accessory buildings other than greenhouses or swimming pool domes approved as a conditional use and is unobstructed to the sky except for greenhouses or swimming pool domes. This space of minimum prescribed dimension shall be available to all occupants of the building, shall not be graveled, and shall be usable for greenery, drying yards, recreational space, gardening, greenhouses, and other leisure activities normally carried on outdoors. Usable open space may be paved for recreational use provided sufficient barriers are installed which are designed, constructed and maintained to prevent the illegal entry and parking of motor vehicles. Where and to the extent prescribed in these regulations, balconies and roof areas, designed and improved for outdoor activities, may also be considered as usable open space. Ground level for this purpose may include open terraces above the average level of the adjoining ground, but may not include a permanently roofed-over terrace or porch.

**Usable Open Space.** That portion of a zoning lot, outside of a required front or corner side yard, as extended to the rear lot line, that is available to all occupants for outdoor use. Usable open space shall not include areas occupied by buildings, driveways, drive aisles, off-street parking, paving and sidewalks, except that paved paths no wider than five (5) feet, and pervious pavement may be included in usable open space. Usable open space may include balconies and roof decks where specified in this ordinance.

**Yard:** The definition of Yard has been modified.

**Yard.** A yard is an open space on a zoning lot which is unoccupied or unobstructed from its lowest level to the sky, except as otherwise provided herein. For the purpose of this ordinance, a “yard” extends along a lot line and at right angles to such lot line only to a depth or width specified in the yard regulations for the zoning district in which such zoning lot is located.

**Yard.** Open space on a zoning lot between the principal building and the adjoining lot lines.

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### **Existing Definitions Omitted**

The following **definitions** are in the existing code, but have been omitted from the new code.

**Amusement Arcade.** Any establishment, other than a tavern, that contains eleven (11) or more amusement devices.

**Amusement Device.** Any machine, game, or similar device, whether or not operated by coins, slugs, tokens, or similar items which permits a person or operator to use the device as a game or contest of skill or amusement, whether or not the device registers a score, which may cause a person or operator of the same to secure some amusement, enjoyment, or entertainment, and which is not a gambling device. The term shall include, but not be limited to because of enumeration, electronic or mechanical game machines, pinball machines, shuffleboard, and pool or billiard tables.

**Area Exception.** A special exception to the bulk requirements in a zoning district.

**Bar.** For the purpose of this code, the term “bar” shall mean a counterlike object, located in a tavern, with or without accessory seating for customers, over which fermented malt beverages or intoxicating liquors are sold for consumption upon said premises. A cocktail service bar shall not be considered a bar.



**Collection Office.** A collection office is the business location of any person engaged in the business of collecting or receiving payment for others on any account, bill or other indebtedness.

**Drive-in Establishment.** An establishment of the drive-in type is one which accommodates the patrons' motor vehicles, from which the occupants may obtain or receive a service or obtain a product which may be used or consumed in the vehicle, on the same premises. However, any restaurant or food establishment at which facilities are provided for patrons to consume the products there from in motor vehicle while on the premises, or, any such establishment which permits patrons to consume the products there from in motor vehicles while on the premises shall be considered a drive-in establishment.

**Efficiency Unit.** An efficiency unit is a dwelling consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove shall not exceed ninety (90) square feet in area and shall not be used for sleeping purposes.

**Handgun shop.** A handgun shop is any premises or portion thereof used for the sale, vending, dealing, exchange or transfer, within a twelve (12) month period, of two (2) or more handguns as defined in Sec. 25.01(1), Madison General Ordinances, or short-barreled handguns as defined in Sec. 25.02(2), Madison General Ordinances.

**Nameplate.** A nameplate is a sign indicating the name and address of a building, or the name of the occupant thereof, and the practice of a permitted occupation therein.

**Outpatient Housing Facility.** An outpatient housing facility is a building in which lodging accommodations are provided, with or without meals for compensation. At least seventy-five percent (75%) of such accommodations are occupied by persons receiving treatment as outpatients at a nearby hospital.

**Planned Development-Hospital Facility.** A planned development-hospital facility is a parcel or tract of land as required in the district regulations under single management and control and which is a site for one or more hospital or hospital-related buildings, not including convalescent homes and nursing homes or institutions for the aged or for children, and where yard and other requirements as required by district regulations may be modified as regulated in the ordinance. The issuance of a permit for a planned development-hospital facility shall require approval as provided in this ordinance.

**Planned Residential Development-Mobile Home Park.** A planned residential development-mobile home park is a parcel or tract of land having an area as required in the district regulations under common management, single ownership, and which is the site for mobile homes and where yard requirements as required by district regulations may be modified as regulated in this ordinance. The issuance of a permit for a planned residential development-mobile home park shall require approval as provided in this ordinance.

**Planned Residential Development-Student Housing Facility.** A planned residential development-student housing facility is a parcel or tract of land as required in the district regulations under common management, single ownership and control, and which is the site for one or more residential buildings for university students and where yard requirements as required by district regulations may be modified as regulated in this ordinance. The issuance of a permit for a planned residential development-student housing facility shall require approval as provided in this ordinance.

**Public Bath.** A public bath is a facility equipped with hot tubs, steam baths or rooms, saunas, whirlpools or related equipment for rental to the public; this use may include massage as an incidental service.

**Radio and Television Tower.** A radio and television tower is a mast, pole, monopole, guyed tower, free-standing tower, or other structure designed and primarily used to support antennas for radio and television transmission. A ground or building mounted mast greater than fifteen feet tall and six inches in diameter supporting one or more antennas, dishes or arrays primarily used for radio and television transmission shall be considered a radio and television tower. "Radio and television tower" does not include amateur radio towers which comply with the standards of Sec. 28.04(22)(i) of these ordinances.

**Reducing Salons.** A reducing salon is a facility for providing weight loss instruction and related programs without the use of exercise or exercise equipment or massage on the premises.

**Reservoir Parking Spaces.** Reservoir parking spaces are those off-street parking spaces allocated for temporary standing of automobiles awaiting entrance to a particular establishment.

**Specialized educational school facilities** are intended to house programs for students in grades 7-12 which: 1) provide alternatives to the regular school program; 2) house programs for students who have dropped out of high school; and 3) house programs for students who become pregnant.

**Guest, Permanent.** A permanent guest is a person who occupies or has the right to occupy on a monthly or longer basis a hotel or apartment hotel accommodation as his domicile and place of permanent residence.

**Hotel, Apartment.** An apartment hotel is a building in which at least ninety percent (90%) of the accommodations are dwelling units or are occupied by permanent guests.

**Lot Of Record.** A lot of record is a lot which is part of a subdivision or a certified survey map which has been recorded in the office of the Dane County Register of Deeds; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the effective date of this ordinance. Any lot or parcel of land created through a violation of any other applicable laws or ordinances of the State of Wisconsin and the City of Madison shall not, in this instance, be considered a lot of record. (see definition of "lot")

**Masseurs and masseuses.** Masseurs and masseuses are persons who provide any process or procedure for remedial or hygienic purposes consisting of rubbing, kneading or tapping, by physical or mechanical means, of the external parts or tissues of the body of another for anything of value.

**Professional Office In A Home.** A professional office in a home shall mean the office or studio in the residence of a person engaged in a recognized professional specialty and including the fields of religion, architecture, engineering, law, medicine, personal health services, and instruction in the liberal or fine arts, provided that such use shall comply with all the conditions of a home occupation, except that mechanical equipment customarily appurtenant to said profession may be used provided no external manifestations thereof are apparent at the property line.

**Public Bath.** A public bath is a facility equipped with hot tubs, steam baths or rooms, saunas, whirlpools or related equipment for rental to the public; this use may include massage as an incidental service.

**Railroad Right-Of-Way.** A railroad right-of-way is a strip of land containing railroad tracks and customary auxiliary facilities for only track operation. For the purpose of this ordinance, a railroad right-of-way does not include land used or intended to be used for switching, spur, lead, team or siding tracks, freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, car yards or classification yards.

**Yard, Street Side.** A side yard abutting on a street.

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## New Definitions Added

The following are **definitions** that have been added to the new code but are not found in the existing code.

**Accessory Apartment, Temporary.** A second dwelling unit within a single-family detached dwelling, which is occupied for a limited period of time to provide care or assistance to an owner/occupant of the dwelling.

**Addition.** Any walled and/or roofed expansion to the perimeter and/or height of a building in which the addition is connected by a common load-bearing wall or foundation.

**Agriculture, Animal Husbandry.** All operations primarily oriented to the on-site raising and/or use of animals, at an intensity of less than one animal unit per acre. Apiaries and fish farms are considered animal husbandry land uses.

**Agriculture, Cultivation.** The use of land for growing or producing field crops, including field crops for consumption by animals located off-site, or for tree farming or nursery operations.

**Agriculture, Intensive.** All operations primarily oriented to the on-site raising and/or use of animals at an intensity equal to or exceeding one (1) animal unit per acre, or agricultural activities requiring large investments in permanent structures.

(a) To calculate number of animal units, use the most current Animal Units Calculation Worksheet of the Department of Natural Resources. This worksheet is used to determine whether an operation will reach or exceed one thousand (1,000) animal units, in which case a WPDES permit is required under NR 243, Wis. Admin. Code.

**Animal Boarding Facility, Kennel, Animal Shelter.** Any lot or premises on which dogs, cats and other household pets are kept, boarded or raised for sale.

**Animal Day Care.** An establishment that provides care of dogs and other domestic pets for periods of less than twelve (12) hours a day.

**Animal Grooming Facility.** An establishment where domestic animals are bathed, clipped, or combed, including boarding for not more than forty-eight (48) hours incidental to the grooming services.

**Auto Body Shop.** A shop in the business of making substantial repairs to the shell or body of any automobile. Such repairs may include substantial painting of the shell or body.

**Auto Repair Shop.** A shop or business where the following services may occur: general motor vehicle repair; engine rebuilding or reconditioning of motor vehicles; and minor collision service.

**Automobile Sales.** An establishment providing wholesale and retail sales or leasing of new or used automobiles, motorcycles, trucks, trailers, boats, or outdoor recreational vehicles, including outdoor sales area, incidental storage and maintenance and warranty repair work, or other repair service conducted as an accessory use.

**Bicycle Parking, Long-Term.** Bicycle parking that is designated for multiple-day or storage use.

**Bicycle Parking, Short-Term.** Bicycle parking that is designated for daily or intermittent use.

**Building, Attached.** A building joined to another building or structure by a shared wall.

**Building Envelope.** The area of a lot between the front, side and rear setback lines, within which an allowed building or structure may be placed.

**Building Material Sales.** An establishment that sells or rents building supplies, construction equipment, or home decorating fixtures and accessories. This term does not include a lumberyard or home improvement center.

**Building, Mixed-use.** A building that houses multiple uses, which may include residential and nonresidential uses.

**Building, Nonresidential.** A building that houses no residential uses, with the exception of a caretaker's dwelling.

**Business Sales and Services.** An establishment primarily providing services to businesses or individual businesspeople on a fee or contract basis, including, but not limited to:

- Business equipment and furniture sales or rental.
- Copy center, excluding offset printing and publishing.
- Commercial photography studio.
- Mailing and packaging service.
- Building maintenance, janitorial.

**Catering.** A business that prepares food and beverages to be delivered off premises for consumption at a social, business, or civic function and may also provide service at the function.

**City.** The City of Madison, Wisconsin.

**Coffee Shop, Tea House.** An establishment engaged principally in the sale of coffee, tea, and other nonalcoholic beverages for consumption on the premises or for carryout, which may also include the sale of a limited number of food items.

**Cohousing Community.** A living arrangement that combines private living quarters with common dining and activity areas in a community whose residents share in tasks such as childcare. Living quarters may range from detached units to townhouses or multifamily units, but do not include lodging rooms.

**College, University, or Similar Institution of Higher Learning.** An institution for post-secondary education, public or private, offering courses in general, technical, or religious education and not operated for profit, which operates in buildings owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities, and sororities, but not including colleges or trade schools operated for profit.

**Commercial Use.** A use that involves the exchange of cash, goods or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over any period of time.

**Community Garden.** An area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption or

donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

**Concrete, Asphalt, and Rock Crushing Facility.** A use in which the principal activity is the processing, handling, sale and transport of concrete, asphalt, rock, brick, cement, or other similar paving or building materials.

**Contractor's Yard.** An establishment providing general contracting or building construction services, including outdoor storage of machinery or equipment.

**Convenience Store.** An establishment where motor fuel products or other minor accessories are retailed directly to the public on the premises, in combination with sale of items typically found in a convenience market or supermarket.

**Correctional Facility.** A public or private facility providing for the confinement of juvenile or adult offenders, for the incarceration, confinement, rehabilitation or detention of individuals arrested or convicted of a crime.

**Counseling/Community Service Organization.** An organization that provides social services, including day treatment services

**Courtyard.** Space on a building with three (3) or more sides, open to the sky, with direct access to a point of ingress or egress for a building.

**Cutting Of Timber, Selective.** One-time, cumulative or continuous clearing, cutting or other destruction of trees (including by fire) comprising less than or equal to thirty percent (30%) of the woodlands on the property.

**Cutting Of Timber, Clear Cutting.** One-time, cumulative or continuous clearing, cutting or other destruction of trees (including by fire) comprising more than thirty percent (30%) of the woodlands on the property. Clear cutting does not include timber harvesting for commercial purposes.

**Director.** The Director of Planning and Community and Economic Development.

**Distillery/Winery.** A facility that produces, by distillation, spirits for consumption, the sale and distribution of which are regulated by law.

**Dormitory.** A building designed for or used as group living quarters for students of a high school, college, university or seminary, organized and owned by a high school, college, university or seminary.

**Drive-Through Facility.** A facility consisting of a driveway and window, opening, canopy, or other facilities used for serving patrons seated in an automobile. Drive-through facilities may be associated with principal uses, such as restaurants, banks, or drugstores, or may be free-standing, such as coffee kiosks, ATMs, etc.

**Dry Cleaning Establishment, Commercial Laundry.** An establishment that launders or dry cleans fabric, textiles, wearing apparel, or similar articles, including drop-off of articles by customers or cleaning of articles dropped off at other locations.

**Electric Substation.** An assemblage of equipment, at a location other than where power is produced, through which electric energy in bulk is passed for the purposes of switching or modifying its characteristics to meet the needs of consumers.

**Emergency Electric Generator.** An electric generator capable of providing electricity **for on-site or off-site use**, that powered by internal combustion engines which are fueled by gaseous fuels, gasoline or distillate fuel oil and whose purpose is to provide electricity if normal electrical service is interrupted.

**Equipment Building, Shelter or Cabinet.** A cabinet or building used to house equipment.

**Farmers Market.** An indoor or outdoor establishment involving sale of farm products, personally prepared food and handcrafted goods as defined in Sec. 9.13(6)(e), MGO. May include concurrent special events, including cooking demonstrations, activities for children, and small scale theatrical, musical and educational presentations.

**Floor Area.** The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls.

**Floor Area, Residential** (for determining floor area ratio on lakefront residential lots). The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls, or from the center line of walls separating two buildings. Residential floor area includes finished or occupiable attic and basement space, elevated decks open to the sky, attached garages and open or enclosed porches.

**Food and Related Goods Sales.** An establishment required to be licensed under Wisconsin Statutes §97.30, and all other commercial enterprises, fixed or mobile, where food is processed or sold or offered for sale at retail. It includes retail grocery stores, meat markets, poultry markets, fish markets, delicatessens, bakeries, candy stores, catering establishments, ice cream shops, cheese stores, convenience marts, milk cases, spice and herb shops, temporary retail food establishments and all other establishments where food is processed or sold or offered for sale at retail.

**Fraternity or Sorority House.** A building used as group living quarters for students of a college, university, or seminary, who are members of a fraternity or sorority that has been officially recognized by the college, university, or seminary.

**Frontage.** The relationship between the front facade of a building and the abutting street, encompassing the placement of the building and its entrances, and the treatment of front setback areas.

**Front Façade.** The wall of building closest to the street that separates interior living spaces from exterior. An open porch without living space above it shall not be considered a front façade. For buildings on corner or through lots, the front façade is usually that façade that fronts the street of higher classification.

**Garden Center.** An establishment that includes indoor and outdoor retail sales of plants not grown on the site, lawn furniture and garden supplies.

**Greenhouse, Nursery.** An establishment whose principal activity is the sale of plants grown on the site, which may include outdoor storage, growing or display, and may include sales of lawn furniture and garden supplies.

**Home Occupation.** An office or studio, service business or limited production of goods within a dwelling unit by a resident of the dwelling, provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes.

**Hospital.** An institution, licensed by the state department of health, providing primary health services and medical or surgical care to persons, primarily in-patients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.

**Housing Cooperative.** A residential occupancy where one-hundred percent (100%) of the ownership is held by a Cooperative Corporation organized under Wis. Stat. ch. 185, for the purpose of residential living where the residents share common areas and cooking, dining, and maintenance duties. All residents shall be members of the Cooperative Corporation.

**Limited Production and Processing.** Uses that produce minimal off-site impacts due to their limited nature and scale, are compatible with office, retail and service uses, and may include wholesale and off-premises sales. Limited production and processing includes, but is not limited to, the following:

- Apparel and other finished products made from fabrics;
- Blueprinting;
- C. Computers and accessories, including circuit boards and software;
- Electronic components, assemblies, and accessories;
- Film, video and audio production;
- Food and beverage products, except no live slaughter, grain milling, cereal, vegetable oil or vinegar processing;
- Jewelry, watches and clocks;
- Milk, ice cream, and confections;
- Musical instruments;
- Novelty items, pens, pencils, and buttons;
- Precision dental, medical and optical goods;
- Signs, including electric and neon signs and advertising displays;
- Toys;
- Wood crafting and carving; and
- Wood furniture and upholstery.

**Limousine.** Any of the various large passenger vehicles, especially a luxurious motor vehicle, usually driven by a chauffeur and sometimes having a partition separating the passenger compartment from the driver's seat.

**Live/Work Unit.** A dwelling unit in combination with a shop, office, studio, or other work space within a mixed-use building, where the resident occupant both lives and works.

**Lot Coverage.** The total area of all buildings, measured at grade, all accessory structures including pools, patios, etc., and all paved areas as a percentage of the total area of the lot, with the following exceptions: sidewalks or paved paths no wider than 5 feet, pervious pavement, and green roofs.

**Manufacturing, General.** An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its property line. Some activities may occur outside of enclosed buildings. This term includes, but is not limited to:

- Animal, poultry slaughter or processing facility. Processing of byproducts from industrial operations
- Processing and packaging of alcohol beverages.
- Chemical manufacturing.
- Stonework or concrete product manufacturing.
- Fabrication of metal products.
- Manufacturing of agricultural, construction or mining machinery.
- Motor vehicle manufacturing.
- Lumber milling.
- Paper manufacture.

**Manufacturing, Light.** An establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services. This term includes, but is not limited to, a business engaged in the processing, fabrication, assembly, treatment or packaging of food (not including meat and fish products), beverages, textile, leather, wood, paper, chemical, plastic or metal products, but does not include basic industrial processing from raw materials.

**Market Garden.** An area of land managed and maintained by an individual or group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, to be sold for profit

**Multi-Family Complex.** A group of two (2) or more multi-family buildings on a single parcel or tract of land, developed under single ownership and common management.

**Natural Grade.** The grade of a site before it is modified by moving earth, adding or removing fill, or installing a berm, retaining wall or other earthwork feature. Natural grade is determined by reference to a survey, or other information as determined by the zoning administrator.

**Office.** Use of a building for administrative, executive, professional, research, or similar organizations having only limited contact with the public. A general office is characterized by a low proportion of vehicle trips attributable to visitors or clients in relationship to employees. Examples include, but are not limited to, firms providing architectural, computer software consulting, data management, engineering, interior design, graphic design, or legal services.

**Outdoor Display.** The display of goods for sale or rental outside of an enclosed building on a permanent or recurring basis.

**Outdoor Sales Events.** A seasonal or occasional sale held on the sidewalk or other location outside a building.

**Outdoor Storage.** Permanent storage of goods, materials, equipment or service vehicles outside of an enclosed building. Off-street parking is not considered “outdoor storage.”

**Parking Facility, Private.** A parking facility owned or operated by any entity other than the City of Madison.

**Parking Facility, Public.** A parking facility owned and/or operated by the City of Madison.

**Pervious Pavement.** Pavement that is designed and maintained to allow precipitation to infiltrate into the ground, in order to reduce the volume and velocity of stormwater runoff. Pervious pavement materials include pervious interlocking concrete paving blocks, concrete grid pavers, perforated brick

**Physical, Occupational or Massage Therapy.** An establishment where licensed professional therapists provide services to clients on an outpatient basis.

**Place of Worship.** A facility where people regularly assemble for religious worship and any incidental religious education which is maintained and controlled by a religious body.

**Porch.** A floor-like platform structure with a roof-like covering, attached to the exterior walls of the building and extending from the structure, and which may be enclosed by screen, latticework, windows or other similar materials.



**Portable Storage Units.** A portable structure used for temporary storage of household goods in residential areas.

**Power Plant.** A facility that, regardless of fuel or energy sources, is operated by a public utility or independent power producer and whose primary function is the provision of electricity to the electrical distribution system.

**Public Safety Facility.** A government facility for public safety, service, and emergency services, including a facility that provides police or fire protection and public-related services.

**Recreation, Indoor.** A facility for the indoor conduct, viewing, or participation in recreational activities. This term includes, but is not limited to, an indoor driving range, volleyball court, tennis court, bowling alley, ice or roller skating rink, swimming pool, billiard hall, or basketball court. pavers, and similar materials determined by the City Engineer to qualify.

**Recreation, Outdoor Commercial.** A facility for outdoor conduct, viewing, or participation in recreational activities, which may include one or more structures. This term includes but is not limited to a golf facility, tennis, basketball or volleyball court, soccer, baseball or football field, sporting club, amusement park, miniature golf course, or water park.

**Recycling Collection Center, Drop-Off Station.** A facility for the deposit, sorting, or batching but not processing of post-consumer recyclable materials, including limited compacting or crushing of recyclable materials.

**Retail, General.** General retail sales include the retail sale of products to the general public, sometimes with provision of related services, and produce minimal off-site impacts. For the purpose of this ordinance, general retail sales include but are not limited to the following:

- Antiques and collectibles store;
- Art gallery;
- Bicycle sales and repair;
- Book store, music store;
- Clothing and accessories;
- Drugstore, pharmacy;
- Electronics sales and repair;
- Florist;
- Jewelry store;
- Hardware store;
- News stand, magazine sales;
- Office supplies;
- Pet store;
- Photographic equipment, film developing;
- Stationery store;
- Picture framing; and
- Video store.

**Schools, Public and Private.** Public, parochial, or private schools which provide an educational program for one or more grades between kindergarten and grade twelve (12) and which are commonly known as elementary schools, grade schools, middle schools, junior high schools, or high schools.

**Schools, Arts, Technical or Trade.** Business, professional, trade, or other specialty schools, including but not limited to schools offering instruction in music, art, dance, martial arts, GED preparation, computer use or programming, or cosmetology.

**Secondhand Store, Consignment Store.** A retail establishment that sells used merchandise, such as clothing, furniture, books, shoes, or household appliances, on consignment or a retail store that sells used merchandise donated to a charitable, tax exempt organization that also sorts, cleans, and marks goods for resale.

**Service Business.** Business that provide services to the general public that produce minimal off-site impacts. Service businesses include but are not limited to the following:

- Barber and beauty shops;
- Dry-cleaning pick-up station;
- Interior decorating/upholstery;
- Locksmith;
- Mailing and packaging services;
- Photocopying, document reproduction services;
- Consumer electronics and repair;
- Shoe repair;
- Tailor shop; and
- Watch repair, other small goods repair.

**Service Businesses with Showroom or Workshop.** Office of a contractor, builder, painter, etc. that includes an enclosed showroom for display of samples, appliances, supplies, and other materials used in the business and/or an enclosed workshop for limited assembly or preparation of building materials.

**Setback.** The minimum distance by which any building or structure must be separated from a street right-of-way, lot line, or Ordinary High Water Line. Also known as “required yard.”

**Setback, Front Yard.** The minimum distance by which any building or structure must be separated from the front lot line.

**Setback, Rear Yard.** The minimum distance by which any building or structure must be separated from the rear lot line. In the case of an irregular, triangular or gore-shaped lot, a line ten (10) feet in length entirely within the lot, parallel to and most distant from the front lot line shall be considered to be the rear lot line for the purpose of determining the rear yard setback.

**Setback, Side Yard.** The minimum distance by which any building or structure must be separated from the side lot line.

**Setback, Street Yard.** The minimum distance by which any building or structure must be separated from the front, side or rear lot line when such lot line abuts a street right-of-way.

**Sewage Treatment Plant.** A facility which collects, treats, and disposes of water-borne sewage generated within a given service area.

**Stepback.** A step-like recession in an exterior wall located at a level above the ground floor.

**Storage Facility, Personal Indoor Storage.** A facility consisting of individual self-contained storage units or spaces leased to individuals, organizations, or businesses for storage of personal or business property.

**Storefront.** The street-level side of a commercial space, such as a store, shop or restaurant that faces the street.

**Taxicab or Limousine Business.** A service which offers transportation in passenger automobiles and vans to persons including those who have a disability in return for remuneration. The business may include facilities for dispatching, servicing, repairing, and fueling the taxicabs or vans.

**Telecommunications Center.** An office facility that is responsible for transmission, receipt, acceptance, processing, and distribution of incoming and outgoing communications.

**Temporary Outdoor Sales Event.** A seasonal or occasional sale held on the sidewalk or other location outside a building, where the principal use is non-residential.

**Theater, Assembly Hall.** A facility for presenting motion pictures or live performances for patrons. This term includes an outdoor stage, band shell, or amphitheater but does not include an adult entertainment establishment.

**Traffic.** The passage of pedestrians or vehicles along routes of transportation.

**Veterinary Clinic, Animal Hospital.** An establishment for the routine examination, medical or surgical treatment and care of domestic animals, generally with overnight boarding facilities for animals in care but without kenneling of animals.

**Warehousing and Storage.** An establishment providing storage and distribution of merchandise and bulk goods, typically involving heavy truck and/or freight rail traffic.

**Wholesale Establishment.** An establishment providing storage, distribution and sale of merchandise and bulk goods, including mail order and catalog sales, importing, wholesale or retail sales of goods received by the establishment but not sale of goods for individual consumption.

**Yard Waste Site, Municipal.** A facility for collection, storage, and composting of vegetative matter resulting from landscape maintenance.

**Zoo.** A park that is open to the public, where live wild animals from different parts of the world are kept in enclosures for people to view, and where said animals may be bred or studied.

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## **28.04(1) General Provisions, Interpretation**

### **28.004 Interpretation**

The following item of **Interpretation** is found in the existing code but not in the new code.

**28.04(1)(f)** The Dane County floodplain zoning provisions in effect on the date lands are annexed to the City of Madison shall remain in effect and shall be enforced for all annexed lands until the City adopts and enforces an ordinance that meets the requirements of NR 116, Wis. Adm. Code and the National Flood Insurance Program. County floodplain provisions are incorporated by reference for the purpose of administering this subdivision and are on file in the office of the Zoning Administrator.

The following item of **Interpretation** is found in the new code but is not in the existing code.

28.004(4) Any use, building, structure, or lot that is lawfully existing at the time of the adoption of this ordinance, or any subsequent amendment(s), may be continued, subject to the provisions in Subchapter 28N, Nonconformities.

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The following in the **General Provisions section 28.04** of the existing code are **not** found in the new code.

**28.04 General Provisions**

**28.04(3)(e) A conditional use permit** shall be deemed to authorize only one particular conditional use and shall expire if the conditional use shall cease for more than six (6) months for any reason.

**28.04(6)(a) Continued Conformity With Bulk Regulations.** The maintenance of yards, courts, usable open spaces, and other open spaces and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, courts, usable open spaces, other open spaces or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, court, usable open space, other open space or minimum lot area requirements for any other building.

**28.04(6)(c) Location Of Required Open Space.** All yards, courts, usable open spaces and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group

**28.04(6)(d) Required Yards For Existing Buildings.** No yards now or hereafter provided for a building existing on the effective date of this ordinance shall subsequently be reduced below, or further reduced, if already less than the minimum required by this ordinance for equivalent new construction.

**28.04(3)(f)** Where a lot is to be occupied for a permitted use without buildings, the side yards and front yard required for such lot shall be provided and maintained unless otherwise stipulated in this ordinance, except that yards shall not be required on lots used for garden purposes without buildings or structures, nor on lots used for public recreation areas.

**28.04(8) Existing Conditional Uses.**

- (a) Where a use is classified as a conditional use under this ordinance, and exists as a conditional or permitted use at the date of the adoption of this ordinance, it shall be considered to be a legal conditional use, subject to all other provisions of this ordinance.
  - (b) Where a use is not allowed as a conditional or permitted use under this ordinance, and exists as a conditional use at the date of the adoption of this ordinance, it shall be considered to be a nonconforming use and shall be subject to the applicable nonconforming use provisions of Section 28.05, Nonconforming Buildings and Uses.
  - (c) Where a drive-in establishment classified as a conditional use under this ordinance exists as a permitted use with an occupancy certificate dated prior to September 14, 1976, premised on the interpretation of the Zoning Administrator, it shall be deemed to be an existing conditional use subject to all other provisions of this ordinance.
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The existing code provides for **increasing the height of an Accessory Building** by obtaining an area exception, while the new code **does not** provide this exception.

**28.04(5)(a)3. Height Of Accessory Buildings In Required Rear Yards.** No detached accessory building located in a required rear yard shall exceed fifteen (15) feet in height **unless an area exception is obtained, in which case, a detached accessory building located in a required rear yard may not exceed seventeen (17) feet in height.**

**28.131(1)(c) Maximum height.** The height of the principal building or fifteen (15) feet, whichever is lower. The following are exempt from this requirement:

1. Accessory dwelling units are exempt from this requirement; maximum height shall be determined by the district requirements for zoning districts where such units are allowed.
  2. Carriage houses within historic districts may be replaced at their original height.
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The existing code states that **Accessory Buildings** must be a minimum of 3 feet from any other building or structure on the same lot. The new code does not require a minimum separation between an Accessory Building and any other building or structure.

**28.04(5)(b) Location In Special And Residence Districts.** No accessory building in a special or residence district shall be erected in any yard except a rear yard, and **all accessory buildings shall be located not less than three (3) feet from all lot lines and from any other building or structure on the same lot** except as provided hereunder:...

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For a **Rear Yard Garage Replacement**, the height of the replacement garage cannot be increased in the existing code. The new code provides that the height of a replacement garage can be increased by 2 feet.

**28.04(5)(b)4. Rear Yard--Garage Replacement.** A detached garage located in a rear yard may be replaced using existing setbacks provided that: the replacement is within one year of demolition; the Zoning Department has verified the location and size of the existing or demolished garage; and **no dimension of the replacement garage is greater than the existing or demolished garage.**

**28.04(5)(b)5. Rear Yard--Garage Additions.** A detached garage located in a rear yard may be enlarged or replaced within one year of demolition and enlarged using existing setbacks provided that: neither the length nor width of the enlarged structure exceeds twenty-four (24) feet; neither the width or length is increased by more than two (2) feet; **the height is not increased;** and no side of the enlarged structure is moved closer to any lot line with which there is a non-conforming setback relationship.

**28.131(2)(e) Side and Rear Yard Garage Replacement.** A detached garage located in a side or rear yard may be replaced within the existing setbacks provided that:

1. The garage is replaced within one (1) year of demolition;
  2. The location and size of the existing or demolished garage shall be verified by the Zoning Administrator;
  3. The replaced garage shall not exceed twenty-four (24) feet in length or width;
  4. **Neither the length, width, or height of the replaced garage shall be more than two (2) feet greater than the length, width, or height of the demolished garage;**
  5. No side of the enlarged structure is moved closer to any lot line with which there is a non-conforming setback.
  6. The replaced garage shall not exceed the maximum size allowed under Sub. (2)(b) above.
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The existing code specifies a **maximum size for shared garages** of 576 square feet on each lot. The new code does not specifically state a maximum size for shared garages.

**28.04(5)(b)7. Size of Accessory Buildings.** An accessory building in an R1 District that exceeds four (4) automobile stalls or 800 square feet of floor area shall first obtain a conditional use permit. In an R1-R District, a detached garage that replaces a detached garage existing on January 1, 1989, and up to eight hundred (800) square feet in floor area, but no greater than the size of the principal building on the lot, shall first obtain a conditional use permit. An accessory building in an R2 District that exceeds five hundred seventy six (576) square feet in floor area shall first obtain a conditional use permit, **except for a shared garage where no more than five hundred seventy six (576) square feet of floor area is located on any lot.**

**28.131(2) (a) Maximum area per lot:** Total area of accessory buildings measured at ground floor: ten percent (10%) of lot area but no more than one thousand (1,000) square feet. A larger total building area may be allowed by conditional use approval.

(b) Maximum size of accessory building: No individual structure shall exceed five hundred seventy-six (576) square feet in TR districts and eight hundred (800) square feet in other districts at ground level except by conditional use approval. Accessory buildings shall not exceed the size of the principal building.

(d) Shared garages. A detached garage may be constructed across a lot line by abutting property owners, anywhere a garage is permitted within three (3) feet of the lot line, if: 1) there is a joint driveway leading to it; and 2) the property owners have a joint access and maintenance agreement approved and recorded by the Director, relating to the shared garage.

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Following is a list of **permitted obstructions into required yards**. Some permitted obstructions are found in the new code but not the existing code, in the existing code but not the new code, or have different requirements in the new code verses the existing code.

#### **28.04(6)(e) Permitted Obstruction in Required Yards**

##### **28.132 Encroachments into Setback Areas**

- Basement storm doors providing access to below-grade stairs (rear yard)
- One story bay window (front and rear yards)  
Bay windows, max. one story in height (front, rear and side yards)
- Egress windows (all yards)
- Laundry drying equipment (rear and side yards)  
Laundry drying equipment (all yards)
- Solar energy systems or devices (all yards)
- Steps not over 3 feet above the ground level which are necessary for access to a permitted building or for access to a zoning lot from a street or alley (all yards)  
Platforms, uncovered, needed for building access (all yards, 4 feet)  
Steps (all yards, minimum egress required in the side yard)
- Steps, below-grade, needed for access to basement entrances (side and rear yards)

- Open off-street vehicle parking spaces when approved by the Plan Commission as provided in Section 28.11(3)(g) (front yard in Planned Residential Developments)
- Attached accessory greenhouses and covered swimming pools when approved as a conditional use per Section 28.12(11) (rear yard)  
(Attached accessory greenhouses and covered swimming pools are not listed conditional uses and are not listed encroachments in the new code.)

The following section regarding **floor area ratio in particular cases** is found in the existing code but not in the new code.

**28.04(6)(f) Floor Area Ratio Application In Particular Cases.** In all cases where two (2) or more contiguous zoning lots are in common ownership and there was, on the adoption date of this ordinance, an existing building lawfully existing on one of such lots with more than the permitted maximum floor area ratio, any addition to such existing building to be constructed on an adjoining lot shall be entitled to the maximum floor area ratio permitted in the district in which it is located.

Differences between existing code **28.04(10) Access to Improved Public Street** and new code **28.135 Lot Division, Creation and Access. Section 28.04(10)(a) and (b)1 are not in the new code section 28.135.**

**28.04(10) Access To Improved Public Street.**

(a) Statement Of Purpose. This subsection is established to regulate building development through requirement of certain minimum improvements to promote the public health, safety and general welfare of the community, and to prescribe a minimum street frontage requirement for residential lots.

(b) General Regulations.

1. No building permit for a principal building shall be issued unless the zoning lot on which the principal building is to be erected fronts on an improved public street having a width of at least sixty (60) feet, nor shall such building permit be issued for any building on a corner lot where an accessory garage is served from the side street unless said side street is improved. Provided, however, this prohibition shall apply neither to improved streets of lesser width than sixty (60) feet where such streets have been established by recorded plat or official map, nor to platted lots created prior to the effective date of this ordinance fronting on land dedicated by the platter for a public street and so improved, provided the lot is within the plat in which the area is dedicated for street purposes, and provided the area so dedicated for street purposes is at least thirty (30) feet in width. Lots in an approved recorded Planned Development District or Planned Commercial Site shall have frontage and access to a public street by means and under conditions included in the recorded specific implementation plan, a recorded reciprocal land use agreement or a cross access easement agreement. For the purpose of this paragraph, an “improved public street” shall be defined as that which is established from time to time by the Board of Public Works and certified to the Common Council, and may include street surfacing and the installation of water, sanitary sewer and storm sewer facilities, and may specify different standards for different degrees of development.

2. No zoning lot shall contain any building used as a residence unless such lot abuts for at least thirty (30) feet on an improved public street. **Provided, however, this prohibition shall not apply to a zoning lot legally created prior to the effective date of this ordinance which abuts for at least twenty (20) feet on a street, nor to a zoning lot legally created prior to the effective date of this ordinance which complies with the provisions of Sec. 28.04(11)(b)2. hereafter, nor to lots in a Planned Development District for which an approved specific implementation plan has been recorded and which have access to a public street by easement or other means acceptable to the City.**

**28.135(2) Access to Public Street.**

Every zoning lot shall front on an improved public street, with a minimum of thirty (30) feet of street frontage, with the exception of lots in approved planned multi-use sites or planned development districts.

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Differences between existing code **28.04(11) Development of Deep Residential Lots** and new code **28.135(3) Development of Deep Residential Lots.**

**28.04(11) Development Of Deep Residential Lots.**

(b) General Regulations.

1. The Plan Commission may allow, after consideration of the standards set forth in Section 28.12(11)(g), the development of a deep residential zoning lot into not more than four (4) zoning lots, provided that the front lot shall have a lot width not less than that required in the district in which it is located, and further provided that the rear lot shall have an access to an improved public street through an unobstructed strip of land not less than thirty (30) feet in width. Such strip of land shall be a part of the rear lot and shall not be used to satisfy any area, yard or usable open space requirement. **The requirement that the thirty-foot strip be part of the rear lot may be waived by the Director of Planning and Community and Economic Development for one deep lot provided:**

- a. There is an approved recordable access easement and maintenance agreement over the thirty-foot ownership strip for a deep lot to the rear and the driveway access to the lots are within such thirty-foot strip; and**
- b. The lots are in a previously platted subdivision; and**
- c. The rear lots are larger than 1.5 acres; and**
- d. The lots are used for single-family occupancy; and**
- e. A maximum of three lots may take access to the street from any one such thirty-foot strip which shall be designated and signed as a fire lane; and**
- f. The house numbers for all the lots taking access from the access strip shall be on a sign visible from the street at the street end of the access strip.**

2. A building permit for residential construction shall be issued for any zoning lot legally created prior to the effective date of this ordinance **provided that such zoning lot shall have an exclusive unobstructed easement of access of right-of-way at least fifteen (15) feet wide to a street, and further provided that there shall not be more than one building for each easement, except that a common private easement of access at least forty (40) feet wide may be provided for not more than three (3) such buildings.**

**28.135(3) Development of Deep Residential Lots.**

(b) General regulations. The Plan Commission may allow, after a public hearing and notice as set forth in Section 28.183 and consideration of the standards set forth in Section 28.183(6), the development of a deep residential zoning lot into not more than four (4) zoning lots, provided that the following criteria are met:

- 1. The front lot(s) shall have a lot width not less than that required in the district in which it is located;
- 2. The rear lot shall have frontage onto an improved public street for a width not less than thirty (30) feet;
- 3. The strip of land of land between the improved public street and the remainder of the rear lot shall not contain any buildings or structures and said strip of land shall not be used to satisfy any area, yard or usable open space requirement for the rear lot;
- 4. All of the lots proposed provide the minimum required lot area;
- 5. The house numbers for all lots shall be on a sign visible from the public street.

(c) A building permit for residential construction shall be issued for any zoning lot legally created, pursuant to this section, prior to the effective date of this ordinance.

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There is a **distance requirement for Automobile Laundries** in the existing code but not in the new code.

**28.04(16)(a) Automobile Laundries.** The following provisions shall apply to automobile laundries:

1. A buffer area at least six (6) feet in width and initially landscaped with four (4) feet tall evergreen shrubs to ultimately form a continuous hedge not less than five (5) feet nor more than six (6) feet in height, shall be established and maintained at any rear or side lot line abutting a residence district. A solid wall or fence providing a visual screen and of decorative design may be substituted for the evergreen hedge.
2. **Any exterior lighting to illuminate the premises shall be arranged so as not to reflect rays of light into adjacent lots nor shine rays of light directly into the streets.**
3. **A building permit for an automobile laundry shall not be issued on any zoning lot which is within three-eighths (3/8) mile (1,980 feet) distance of three (3) or more automobile service stations or automobile laundries, including any proposed automobile service station or automobile laundry for which a valid permit has been issued; such distance to be measured along the center lines of streets. For the purpose of this regulation, any automobile service station or automobile laundry located outside of the corporate limits of the City of Madison but within the three-eighths (3/8) mile distance shall be counted. This regulation shall not apply in the case of a renovation or reconstruction of any existing automobile service station or automobile laundry which does not comply with the above requirement. This regulation shall not apply to automobile service stations or automobile laundries constructed and operated as part of a unified regional shopping center site, provided the regional shopping center site is not less than sixty (60) acres and the building development thereon is not less than five hundred thousand (500,000) square feet of retail floor area.**
4. **The provisions set forth in Sec. 10.08(6)(d) of the Madison General Ordinances shall apply.**

**28.161(2) Car wash.**

- (a) The car wash shall be completely enclosed when not in operation.
- (b) Any access drive shall be located at least thirty feet from any public street intersection, measured from the interior curb line commencing at the intersection of the street.
- (c) Any car wash line exit shall be at least thirty feet from any street line.
- (d) The car wash shall be screened along all property lines with a minimum six-foot high (6') masonry or decorative wood fence. Along any property line that abuts a residential zoning district, an additional planted area shall be provided, with a minimum width of eight feet and planted with a minimum of one shade tree per fifty (50) linear feet and one shrub per four (4) linear feet.
- (e) Sound from any speakers used on the premises shall not be audible at the boundary of any surrounding residential district or on any residential property.
- (f) Water from the carwash shall not drain across any sidewalk or into a public right-of-way.

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There is a **distance requirement for Automobile Service Stations** in the existing code and a provision that the Zoning Board of Appeals can grant an exception to this requirement. There is a distance requirement for Convenience Stores in the new code.

**28.04(16)(b) Automobile Service Stations.** The following provisions shall apply to automobile service stations:

1. The provisions set forth in paragraphs 1 and 2 of (a) above shall apply.
2. A building permit for an automobile service station shall not be issued on any zoning lot which is within three-eighths (3/8) mile (1,980 feet) distance of three (3) or more automobile service stations, including any proposed automobile service station for which a valid permit has been issued; such distance to be measured along the center lines of streets. For the purpose of this regulation, any automobile service station located outside of the corporate limits of the City of Madison but within the three-eighths (3/8)

mile distance shall be counted. This regulation shall not apply in the case of a renovation or reconstruction of any existing automobile service station which does not comply with the above requirement. This regulation shall not apply to automobile service stations constructed and operated as part of a unified regional shopping center site, provided the regional shopping center site is not less than sixty (60) acres and the building development thereon is not less than five hundred thousand (500,000) square feet of retail floor area.

3. Special exception to paragraph 2 above may be granted by the Zoning Board of Appeals after recommendations by the Department of Planning and Community and Economic Development and the Traffic Engineer. In determining whether the special exception is in conformance with the comprehensive plan and the purposes of Wis. Stat. § 62.23(7)(e), the Zoning Board of Appeals should consider the following factors:
  - a. Traffic patterns and congestion.
  - b. Proximity of places of public assemblage.
  - c. Public convenience.
  - d. Conservation of property values.
  - e. Location of residential areas.
  - f. Aesthetics.
  - g. Any other matter which may adversely affect the general welfare of the public.

**28.161(1) Auto body shop, automobile sales, automobile service station, convenience store.**

- (a) All automobile servicing and repair activities must either:
    1. be carried on within an enclosed building; or
    2. be screened along any property line that abuts a residential zoning district with:
      - a. a minimum of six-foot high masonry or decorative wood fence; and
      - b. a planted area with a minimum width of eight feet and planted with a minimum of one shade tree per fifty (50) linear feet and one shrub per four (4) linear feet.
  - (b) Automobile repair bays shall not face a local, collector or arterial street, but may face an alley or rear lot line.
  - (c) **A convenience store shall not be located within three-eighths (3/8) mile (1,980 feet) distance of three (3) or more existing convenience stores, as measured along the center lines of streets.**
  - (d) The following activities and equipment are permitted only in the rear yard and at least fifty (50) feet from a residential zoning district:
    1. Storage of vehicle parts and refuse;
    2. Temporary storage of vehicles while during repair and pending delivery to the customer;
    3. Vacuuming and cleaning.
  - (e) The following activities and equipment are permitted only within an enclosed building:
    1. Lubrication equipment;
    2. Motor vehicle washing equipment;
    3. Hydraulic hoists and pits;
    4. Body work and painting;
    5. Storage of motor vehicles not in safe operating condition.
  - (f) Outside storage or parking of any disabled, wrecked, or partially dismantled vehicle is not permitted for a period exceeding ten (10) days during any thirty (30) day period.
  - (g) No building, structure, canopy, gasoline pump, or storage tank shall be located within twenty-five (25) feet of a residential zoning district.
  - (h) Additional standards and conditions in NMX and TSS Districts: The principal building shall comply with the dimensional and design standards and design guidelines applicable to these districts, except that the maximum setback requirement may be modified by the plan commission so that pump islands may be placed in front of the building if this arrangement is considered preferable for circulation, aesthetics or buffering of neighboring uses.
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The following section in the existing code on **Habitable Rooms Below Grade** is not in the new code.

**28.04(16)(c) Habitable Rooms Below Grade.** The following provisions shall apply to habitable rooms below grade, where said rooms are part of a dwelling unit or lodging room:

1. No certificate of occupancy for use of a habitable room below grade shall be issued unless a minimum distance of five (5) feet exists between any building wall containing windows opening into said room or rooms and any parking stall of any off-street parking facilities. Approved wheel stops or bumper guards shall be installed to prevent encroachment into said unobstructed five-foot space.

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There is a sentence in the existing code that the Zoning Administrator can approve the **location of telephone booths and bus shelters**. This is not in the new code.

**28.04(18) Exemptions.**

(a) The following public utility uses, which are essential in most districts, shall be permitted in any zoning district: poles, towers, wires, cables, conduits, vaults, pipelines, laterals or any other similar distributing equipment for a public utility. However, where such public utility uses are proposed to be located across unplatted lands, such uses may be allowed subject to the issuance of conditional use permits in accordance with the provisions of Section 28.12(11). **Telephone booths (outside) and bus stop shelters may be permitted in any zoning district only after the location is approved by the Zoning Administrator.**

**28.134(5) Public Utility Exemptions.**

(a) The following public utility uses, which are essential in most districts, shall be permitted in any zoning district: poles, towers, wires, cables, conduits, vaults, pipelines, laterals or any other similar distributing equipment for a public utility. However, where such public utility uses are proposed to be located across unplatted lands, conditional use approval is required in accordance with Section 28.183.

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The following section regarding **approval of recycling containers** is in the existing code but not in the new code.

**28.04(18)(d) Recycling containers**, such as those used for deposit of used clothing and other household goods and those used for metal cans, glass and plastic, may be permitted in commercial or manufacturing districts provided the location shall first be approved by the Traffic Engineer and the Zoning Administrator.

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The following section in the existing code on the **review of solar and wind energy systems** is not included in the new code.

**28.04(18)(e) 1. Solar and wind energy systems** are permitted accessory uses in all districts provided that the Director of the Department of Planning and Community and Economic Development has approved a placement plan showing the location of the solar or wind energy system on the lot and the design of the solar or wind energy system. The placement plan also shall include the location of improvements on adjoining lots as well as landscaping on the lot and adjoining lots that impacts the location of the solar or wind energy system. Additional materials may be required as determined by the Director of the Department of Planning and Community and Economic Development. Any conditions or restrictions imposed by the Director of the Department of Planning and Community and Economic Development shall be limited to those that serve to preserve or protect the public health and safety, or do not significantly increase the cost of the system or significantly decrease its efficiency, or allow for an alternative system of comparable cost and efficiency. Some development that includes solar or wind energy systems may also require approval under other ordinances, including but not limited to Planned Unit Development approval by the Plan Commission, Urban Design Commission, and Common Council; some

construction in Urban Design Districts; and Certificate of Appropriateness Approval by the Landmarks Commission.

- a. A wind energy system shall be located at a distance no less than its total height from:
    - i. any public right of way, unless written permission is granted by the government entity with jurisdiction over the public right of way;**
    - ii. any overhead utility lines, unless written permission is granted by the affected utility; and all property lines, unless an easement is granted from the affected land owner.****
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For **Development Adjacent to Public Parks**, the existing code defines “new development” while the new code does not. The existing code also regulates signs greater than 32 square feet in area within 200 feet of a park while the new code does not.

**28.04(21) Development Adjacent to Public Parks.**

(a) Statement of Purpose. This subsection is established to protect and enhance the City’s investment in City-owned public park land and to preserve the integrity of Madison’s parks by providing a review procedure for development adjacent to public parks. (b) General Regulations. The following regulations shall apply to all new development except a Civic Auditorium Complex. No building permit shall be issued for any new development within two hundred (200) feet of the boundary of a City-owned public park, a proposed park shown on the adopted City “Official Map”, or on lands directly across a street and within one hundred fifty (150) feet of the across the street line of such parks without first obtaining approval as a Conditional Use if such new development is not located in a Special District or a R1, R2, R3, R4A or R4 Residence District. **For purposes of this section, new development shall be a new principal building, an addition in excess of five thousand (5,000) square feet of floor area to an existing building, an accessory building in excess of five thousand (5,000) square feet of floor area, an addition of parking spaces or driveway on the park side of an existing development or a sign in excess of thirty-two (32) square feet in area.** The Conditional Use shall be pursuant to the procedure set forth in Section 28.12(11) of this ordinance. In addition to the review standards set forth in Subsection (g) therein, development subject to review hereunder shall be subject to the following standards:

- 1. Upon the filing of an application for a Conditional Use permit, the development plan shall show a complete inventory of vegetation in any area proposed for building, filling, grading or excavating within one hundred (100) feet of the park. In addition, the development plan shall indicate those trees and shrubbery which will be removed as a result of the proposed development. The cutting of trees and shrubbery shall be limited in the strip thirty-five (35) feet from the park or from the right-of-way line directly across a street to those approved for removal.
- 2. Signs in excess of thirty-two (32) square feet may be permitted within two hundred (200) feet of the park where they will not interfere with the view of or from the park.**
- 3. Grading and drainage within thirty-five (35) feet of the park shall be reviewed for its effect on the park and on trees, shrubbery and ground cover.
- 4. That projected pedestrian traffic to and from the park will not be unduly hampered by the traffic pattern and volumes. The Plan Commission shall consider the recommendations of the Traffic Engineer before acting.**

**28.139 DEVELOPMENT ADJACENT TO PUBLIC PARKS.**

(1) Nonresidential development within two hundred (200) feet of the boundary of a City-owned public park shall be reviewed as a conditional use. The purpose of this requirement is to assess the impact of proposed development on natural resources, drainage patterns, pedestrian traffic and recreational uses of the park. Conditional use applications shall include the following:

- (a) A complete inventory of vegetation in any area proposed for development within one hundred (100) feet of the park boundary.

- (b) Any proposed cutting of trees or removal of vegetation within one hundred (100) feet of the park boundary. Removal of vegetation may be limited within thirty-five (35) feet of the park boundary.
  - (c) Grading and drainage within thirty-five (35) feet of the park shall be reviewed for its effect on drainage patterns and vegetation within the park.
- 

The new code section on **Planned Multi-Use Sites** includes a section on site plan submittal that is not in the existing code, but approval is still required, which will be mechanized through site plan review.

**28.04(23) Planned Commercial Site.**

- (a) **Statement of Purpose:** This subsection is established to provide a regulatory framework designed to encourage and promote a more efficient and economical design allowing for greater flexibility in the development of commercial lands while ensuring substantial compliance with the basic intent of the Zoning Code and the general plan for community development. To this extent, it allows diversification and variation in the relationship of uses, structures, vehicular and pedestrian circulation systems, property ownership and design of developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relation to public services, and to encourage and facilitate preservation of open land.
- (b) **General Regulations:** A planned commercial site created after October 6, 1998 shall have a plan and reciprocal land use agreement approved by the Traffic Engineer, City Engineer and Director of Planning and Community and Economic Development recorded in the office of the Dane County Register of Deeds. An existing planned commercial site may not be changed without approval by the Traffic Engineer, City Engineer and Director of Planning and Community and Economic Development, or approval of the Plan Commission. Every planned commercial site shall front on a public street. A planned commercial site containing more than forty thousand (40,000) square feet of gross floor area and where twenty-five thousand (25,000) square feet of gross floor area is designed or intended for retail use or for hotel or motel use, shall be subject to the procedure for approving a conditional use in Sec. 28.12(11). All new retail establishments with a total gross floor area (GFA) of forty thousand (40,000) square feet or more that are part of a planned commercial site are subject to the provisions of Sec. 33.25(4)(f).

**28.137 ZONING LOTS AND PLANNED MULTI-USE SITES.**

**(2) Planned Multi-Use Sites.**

The purpose of this subsection is to allow efficient and economical design and greater coordination and flexibility in the development of nonresidential and mixed use properties, while ensuring substantial compliance with the basic intent of the Zoning Code and Subdivision Regulations.

- (a) A planned multi-use site, as defined, shall have a plan and reciprocal land use agreement approved by the Traffic Engineer, City Engineer and Director of Planning and Community and Economic Development recorded in the office of the Dane County Register of Deeds.
- (b) An existing planned multi-use site may not be changed without approval by the Traffic Engineer, City Engineer and Director of Planning and Community and Economic Development, or approval of the Plan Commission.
- (c) **The uses allowed within a planned multi-use site are limited to those uses that are allowed within the zoning district(s) in which the site is located.**
  - 1. Residential units within planned multi-use sites are allowed only within mixed-use buildings, except that within the Mixed-Use Center District, a detached residential building may be included as part of a planned multi-use site.**
- (d) Every planned multi-use site shall front on a public street.

(e) A planned multi-use site containing more than forty thousand (40,000) square feet of gross floor area and where twenty-five thousand (25,000) square feet of gross floor area is designed or intended for retail use or for hotel or motel use, shall be subject to the procedure for approving a conditional use in Sec. 28.183 and subject to review by the Urban Design Commission under the provisions of Sec. 33.25(4)(f).

(f) All new retail establishments with a total gross floor area (GFA) of forty thousand (40,000) square feet or more that are part of a planned multi-use site are subject to review by the Urban Design Commission under the provisions of Sec. 33.25(4)(f).

**(g) Where multiple nonresidential uses will be located in a planned multi-use site, a plan for building placement, shared parking and access and any easement documents necessary to facilitate those plans shall be submitted. Plans shall show the following:**

- 1. The arrangement of buildings, parking facilities, internal circulation of pedestrians and vehicles, access to individual development sites from public streets and internal drives, and the location of storm drainage facilities, open spaces and any ground-mounted signage.**
- 2. Identification of uses within the site and the gross square footage of building sites, either for the overall development or for the individual sites within the planned multi-use site.**
- 3. The general arrangement of individual lots, outlots, tracts, easements, and all dedications to the public resulting from the planned development. The planned multi-use site plan may be used as a preliminary subdivision plat if it includes all of the information required for a preliminary plat under Sec. 16.23(7)(a).**

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**Section 28.105(4)(i) Creation of a Neighborhood Conservation Overlay District** of the new code refers to authorizing area exceptions, which are not included in the new code.

**28.105(4)(i) Creation of a Neighborhood Conservation Overlay District.** If a Neighborhood Conservation District is proposed following the completion of the Neighborhood Conservation Study, it shall include the geographic boundaries, the specific requirements to be used in reviewing development proposals, and **may authorize area exceptions for particular requirements**. A Neighborhood Conservation District ordinance shall be considered pursuant to the procedures in Sec. 28.182.

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## **Residential Districts: General Requirements**

The following sections are in the existing code **Residence Districts General Requirements section 28.08**, but are not in the **new code section 28.031**.

### **28.08(1)(c) Lot Area and Lot Width Requirements.**

**(c) Lot Area And Lot Width Requirements.** Lot areas and lot widths shall be provided in accordance with the regulations herein indicated, provided in the R1 and R2 districts, the lot area and lot width requirements may be modified as set forth in paragraph 1 hereunder for lots located in subdivisions containing qualifying permanent open spaces. In addition, the following regulations as set forth in paragraphs 2, 3, 4, 5, 6 and 7 hereunder shall be complied with.

(There are currently very few subdivisions that have used this provision of Qualifying Permanent Open Space to reduce the minimum lot area and lot width requirements.)

**28.08(1)(c)1. Subdivisions Containing Qualifying Permanent Open Spaces.** In the R1 and R2 districts, where a land owner, developer or subdivider provides qualifying permanent open spaces as a part of a recorded subdivision containing lots for single-family detached dwellings, the lots within such subdivision may have a minimum lot area and minimum lot width twenty percent (20%) less than herein otherwise required for the district

or districts in which subdivision is located. Provided, however, in no case shall the total area of lot area reduction be more than the total area of the qualifying permanent open spaces. Qualifying permanent open space shall be land located within a subdivision at a location, size and shape as specifically approved by the Plan Commission and shall have an area of not less than four (4) acres or ten percent (10%) of the subdivision, exclusive of street and alleys, whichever is the greater. Further, a qualifying permanent open space shall be a private recreation area where the ownership and maintenance responsibilities for such open space shall be assumed by the property owners with the necessary legal authority to discharge said responsibilities and where the use of such area for open space use shall be perpetuated by recorded covenants running with the land for the benefit of the owners within such subdivision.

(There are currently very few subdivisions that have used this provision of Qualifying Permanent Open Space to reduce the minimum lot area and lot width requirements.)

**28.08(1)(c)2.** No use shall be established or hereafter maintained on a lot recorded after the effective date of this ordinance, which is of less area or less width than prescribed herein for such use in the zoning district in which it is to be located. However, in the R5 and R6 districts, where the owner or owners of a zoning lot agree by a recorded covenant in favor of the City that the building coverage on a zoning lot shall not exceed 0.3, the lot area requirements for dwelling units and lodging rooms for the district in which such lot is located may be decreased by twenty percent (20%).

(Staff is not aware of when this provision has been used.)

**28.08(1)(c)3.** In any residence district on a lot of record on the effective date of this ordinance, a single-family dwelling may be constructed or enlarged regardless of the size of the lot, provided that all other requirements of this ordinance are met.

(This section should be retained.)

**28.08(1)(c)4.** For any lot of record which is less than fifty (50) feet in width or less than six thousand (6,000) square feet in area on the effective date of this ordinance and located in the R3, R4, R4A, R4L, R5, R6, and R6H districts, the following lot area requirement, whichever is greater, shall apply:

- a. For each one foot that such lot is less than fifty (50) feet wide, the lot area requirements per dwelling unit and lodging room for the district in which such lot is located shall be increased by five percent (5%).
- b. For each one hundred twenty-five (125) square feet of lot area that such lot is less than six thousand (6,000) square feet, the lot area requirements per dwelling unit and lodging room for the district in which such lot is located shall be increased by five percent (5%).

(Plan Commission discussion item.)

**28.08(1)(c)5.** For any lot of record which is located in the R3, R4, R5 and R6 districts and which takes access to any public street having a right-of-way width of less than fifty (50) feet, the lot area requirements per dwelling unit and lodging room for the district in which such lot is located shall be increased by one hundred percent (100%). Provided, however, this requirement may be waived by the Zoning Board of Appeals making a finding that the proposed density on the lot imposed by the less restrictive lot area requirement in the district will not be detrimental to the public health, safety, convenience and general welfare of the community or other purposes herein cited in the ordinance nor injurious to other property or improvements in the neighborhood, and further provided that such finding shall be made only after receipt of recommendations from the Traffic Engineer and Director of Planning and Community and Economic Development regarding the effect of the proposed development on the public health, safety, convenience and general welfare including without limitation because of

specific enumeration herein the following: adequate light and air, congestion in the street and safety from fire and other hazards.

(Staff is not aware of when this provision has been used.)

**28.08(1)(c)6.** In the R6 district, on any zoning lot with a lot width of less than fifty (50) feet, the number of efficiency units for which the lower lot area requirement may be used shall not exceed the number permitted on fifty percent (50%) of the area of the zoning lot. If additional efficiency units are included in the building, the lot area requirement shall be the same as for a one bedroom dwelling unit.

(Staff is not aware of when this provision has been used.)

**28.08(1)(c)7.** No existing residential building shall be converted so as to conflict with or further conflict with the lot area requirements of the district in which such dwelling is located.

(This section appears redundant.)

**28.08(1)(e) Floor Area Ratio.**

**(e) Floor Area Ratio.** Maximum floor area ratio as set forth in the R5 and R6 districts shall apply to all buildings or structures in such districts. However, in the R5 and R6 districts, where the owner or owners of a zoning lot agree by a recorded covenant in favor of the City that the building coverage shall not exceed 0.3, the floor area ratio for the district in which such lot is located may be increased by twenty percent (20%).

(Staff is not aware of when this provision has been used.)

**28.08(1)(f)Yard Requirements.**

**28.08(1)(f)2.** In the R1 and R2 districts, where a land owner, developer or subdivider provides qualifying permanent open spaces as a part of a recorded subdivision containing lots for single-family detached dwellings as set forth in paragraph 1 of (c) above, the lots within such subdivision may have minimum front, side and rear yards twenty percent (20%) less than herein otherwise required for the district or districts in which such subdivision is located.

(There are currently very few subdivisions that have used this provision of Qualifying Permanent Open Space to reduce the setback requirements.)

**28.08(1)(f)3.** In any residence district, where the length of a building not built with zero side yards, as projected upon any street line, is more than one hundred (100) feet, the required front yard or corner side yard shall be increased by two (2) inches for each one foot that such length exceeds one hundred (100) feet.

(This section can be omitted because it is not needed.)

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The existing code allows the **height of public buildings in Residential Districts** to be increased if the setbacks are also increased. The new code sets a maximum height for non-residential buildings in Residence Districts.

**28.08(1)(d) Height Regulations.** Maximum height regulations as set forth in the R1, R1R, R2, R2S, R3, R4, R4A, R4L and R5 districts shall apply to all buildings or structures in such districts, **except churches, schools, hospitals and sanitariums, and other public buildings. Churches, schools, hospitals and sanitariums, and other public buildings, and other public buildings in such districts, may be erected to a height exceeding**



**two (2) stories or thirtyfive (35) feet, provided the front, side and rear yards required for the highest building permitted in the district in which any such building is to be located are increased an additional foot, in depth or width, for each foot by which the height of such building exceeds the maximum permitted in such district.** Communication towers in all residential districts shall not exceed seventy-five (75) feet in height above grade without first obtaining a variance in accordance with Sec. 28.12(9).

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The **front yard setback average** is calculated differently in the new code verses the existing code.

**28.08(1)(f)1.** The front yard of any building whose maximum height shall not exceed three (3) stories, proposed to be erected or altered on a lot which adjoins another lot fronting on the same street whereon the front yard is less than that prescribed for the district in which it is located, shall not be required to exceed the average of the front yards of the adjoining existing principal buildings, but no front yard shall be less than ten (10) feet in any case. Any such building located in an R2 District shall not be required to exceed the average of the front yards for all existing principal buildings fronting on the same side of the street within two hundred (200) feet of the side lot lines. In no case, shall any front yard be less than ten (10) feet.

**28.031(1) Setback Averaging, Front Setback.**

Where at least fifty percent (50%) of the front footage of any block is built up with principal structures, the minimum front yard setback for new structures shall be the average setback of the existing principal structures on the block face or the normal setback requirement in the district whichever is less, but no less than ten (10) feet. Setback averaging on lakefront lots is as specified in Sec. 28.138. For the purpose of calculating the average setback:

- (a) If the setback of an existing structure is greater than the required setback, the required setback shall be used.
  - (b) Setback averaging uses only front yard setbacks; side yards and reverse corner side yards on corner lots shall not be included.
  - (c) Projection into setbacks shall not be included.
  - (d) Setback reductions approved by variance or special exception shall not be included.
  - (e) If a block face is at least seventy-five percent (75%) built, a vacant lot on the block face shall not be included.
- 

There are differences in the requirements for **Usable Open Space (UOS)** in the new code verses the existing code. In the new code, the minimum dimension for the area of UOS is less than the existing code. A greater percentage of balcony and rooftop space can be counted toward UOS in the new code. In both codes, landscaped areas can be utilized in lieu of UOS requirements. However, in the existing code, requirements for these landscaped areas are more detailed. The new code does not describe the differences between Central Area Zone 1 and Zone 2.

**28.08(1)(g) Usable Open Space Requirements.** Usable open space shall be provided on each lot devoted in whole or in part to any residential use as set forth in each zoning district. Such usable open space provided on the ground level shall be in a compact area of not less than two hundred (200) square feet and **having no dimension less than ten (10) feet** and having no slope grade greater than ten percent (10%). In calculating this usable open space for multi-family dwellings (including apartment hotels), lodging houses and fraternity and sorority houses **in the R5 and R6 Districts there may be credited up to a maximum of fifty percent (50%) of the required open space area the area of any balconies having a minimum dimension of four (4) feet six (6) inches and on the roof any open space area having a minimum dimension of fifteen (15) feet and being free of any obstructions and improved and available for safe and convenient use to all occupants of the building. In**

any residence district in the Central Area, where parking is provided at the rear of the principal structure, the following landscaped areas shall be provided in lieu of the usable open space requirements: (1) a landscaped area along the rear lot line and also along one side lot line in the rear yard, such area to be sodded or to include plant materials and to be no less than five (5) feet in width along the rear lot line and no less than four (4) feet in width along the side lot line and which shall be separated from the parking area by a continuous curb consisting of asphalt, cement, pressure treated timbers or other suitable permanent material; (2) a landscaped area located in the rear yard adjacent to and contiguous with the principal residential building and extending not less than twelve (12) feet there from and extending from any driveway or side lot line to the opposite side lot line. However, in the Central Area Zone 1, a canopy shade tree with a diameter size of not less than two and one-half (2 1/2) inches caliper or a raised planting bed may be substituted for such landscaped area, provided such planting bed shall be located in the rear yard adjacent to and contiguous with the principal residential building, which shall include plant materials, be at least six (6) inches high, no less than four (4) feet in width and shall extend the entire length of the principal residential building; (3) the landscaped area and the raised planting bed shall be protected by a continuous curb consisting of asphalt, cement, pressure treated timbers or other suitable permanent material; and (4) one canopy shade tree with a diameter size of not less than 2 1/2 inches caliper for every 2 1/2 stalls or six hundred fifty (650) square feet of paved or gravel area. Existing trees on the zoning lot of at least 2 1/2 inch caliper and at least within ten (10) feet of the parking surface may be substituted for this requirement.

#### **28.140 USABLE OPEN SPACE.**

(1) Usable open space shall be provided on each lot used in whole or in part for residential purposes, except where specifically exempted.

(a) Usable open space at ground level shall be in a compact area of not less than two hundred (200) square feet, **with no dimension less than eight (8) feet** and no slope grade greater than ten percent (10%).

1. Where lot width is less than forty (40) feet, the minimum dimension of usable open space may be reduced to six (6) feet.

(b) Usable open space shall not include areas occupied by buildings, driveways, drive aisles, off-street parking, paving and sidewalks, except that paved paths no wider than five (5) feet, and pervious pavement designed for outdoor recreation only may be included in usable open space.

**(c) Within the Central Area, as defined, where usable open space requirements cannot be met due to limited existing lot area, or building/parking placement, required landscaped areas may be used to meet the usable open space requirement, provided that said landscaped areas are a minimum of five (5) feet in width.**

(d) Within the TR-U1 and TR-U2 Districts and within all Mixed-Use, Employment, Downtown and Urban Districts, **roof decks and balconies may be used to meet up to seventy five percent (75%) of the minimum open space requirements**, provided that they meet the following standards:

1. Balconies shall have a minimum dimension of four and one-half (4½) feet.

2. Roof decks shall have a minimum dimension of fifteen (15) feet and shall be free of any obstructions, improved and available for safe and convenient access to all occupants of the building.

**Central Area.** The central area shall mean all lands located in that area bounded by Blair Street to the northeast; the shoreline of Lake Monona to the southeast; Proudfit Street and Regent Street to the south; Park Street, University Avenue and Lake Street to the west; and the shoreline of Lake Mendota to the northwest (also known as Capitol Square and W-1 Plan Districts).

**Central Area Zone 1.** All the lands located in that part of the Central Area bounded by Lake Mendota, the northern prolongation of Butler Street, Gilman Street, Broom Street, Dayton Street, Park Street, University Avenue, and Lake Street Channel.

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In both the existing and the new codes, there is a requirement for a **sidewall offset (depth penalty)**. In the existing code, the calculation for sidewall offset varies depending on the zoning district, width of the lot, and depth of the sidewall. In the new code there is one calculation for sidewall offset for all residence districts (with exceptions for the TR-P and TR-C4 districts).

**28.08(2)(f)2.c. R1 and R2 Districts.** For each foot by which the side wall of a building exceeds forty (40) feet (as projected at right angles to the side lot line), the required side yard on that side shall be increased by two (2) inches. For the purposes of this calculation, only that portion of the side wall of a single-family residence beyond eighteen (18) feet of the side lot line shall be excluded. Such increased width shall apply to the entire length of that side yard.

**28.08(4)(f)2.c. R3 District.** For each foot by which the side walls of a building exceed forty (40) feet (measured parallel to the adjoining side lot line), the required side yard width shall be increased one and one-half (1 1/2) inches. For the purposes of this calculation, only that portion of the side wall of a single family or two-unit building beyond eighteen (18) feet of the side lot line shall be excluded from this side yard penalty.

**28.08(5)(f)2.d. R4, R4L, and R4A Districts.** On any zoning lot with a **lot width of less than fifty (50) feet**, for each foot by which the side walls of a building exceed forty (40) feet (as projected at right angles to the side lot line), the required side yard width shall be increased one and one-half (1-1/2) inches. For the purposes of this calculation, only that portion of the side wall of a single-family, two unit or multi-family building beyond eighteen (18) feet of the side lot line shall be excluded from this side yard penalty.

**28.08(5)(f)2.e. R4, R4L, and R4A Districts.** On any zoning lot with a **lot width of fifty (50) feet or more**, for each foot by which the side walls of a building exceed fifty (50) feet (as projected at right angles to the side lot line), the required side yard width shall be increased one and one-half (1-1/2) inches. For the purposes of this calculation, only that portion of the side wall of a single-family, two unit or multi-family building beyond eighteen (18) feet of the side lot line shall be excluded from this side yard penalty.

#### **28.031(2) Sidewall Offset.**

In order to avoid the monotonous appearance of long unbroken building facades from streets or abutting properties, any portion of a building side wall located within eighteen (18) feet of the side lot line that exceeds forty (40) feet in depth shall be set back an additional two (2) inches from the side lot line for every foot over forty (40) feet in depth. This requirement applies to all new construction with the following exceptions:

- (a) Within the TR-P and TR-C4 districts, alley-loaded residential buildings are exempt from this requirement as it applies to building side walls within interior side yards.
- (b) For nonresidential buildings within residential districts, any portion of a building side wall that exceeds forty (40) feet in depth shall be set back an addition two inches (2") from the side lot line for every foot over forty (40) feet in depth.
- (c) This requirement applies to above-ground structures. In cases where buildings are connected by an underground space, the buildings are considered detached.

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In the existing code, there are **garage design standards** for the R2S and R2T districts. In the new code, there is a requirement for an attached garage setback for all residence districts for all new buildings constructed after the effective date of the code.

**28.08(13)(h)4. and 28.08(15)(h)2. R2S and R2T Districts.** Garages shall be sited in several ways:  
a. In the rear yard, either attached or detached, accessed from a public street or an alley.

- b. Accessed from a public street with the garage doors facing the public street provided however that the garage shall occupy no more than fifty percent (50%) of the front façade of the house in width and be set back a minimum of two (2) feet from the front façade of the building.

### 28.031(3) Attached Garage Setback.

In new buildings constructed after the effective date of this code, in order to avoid the monotonous and pedestrian-unfriendly appearance of facades dominated by garage doors, any street-facing wall that contains an attached garage door may occupy no more than fifty percent (50%) of the width of that building façade, measured at grade. That portion of the façade that contains the garage door must be recessed at least two feet (2') behind the remainder of the façade. The Plan Commission may reduce or eliminate this requirement as part of the conditional use process in the case of lakefront lots where physical constraints make compliance infeasible.

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The following sections on **parking location for residential and nonresidential buildings** in residence districts are in the new code and not in the existing code.

**28.031(4) Parking Location: Residential Buildings.** For new, Single-Family Attached, Small Multi-Family, Large Multi-Family, and Courtyard Multi-Family Building Forms, or additions that exceed the original building's gross floor area by more than one hundred percent (100%), parking shall be located behind or beside each building, below the building, or in a common parking court in the interior of a block. If located on the side of the building within the side yard, surface or structured parking shall occupy no more than twenty-five percent (25%) of the frontage along the primary abutting street.

### 28.031(5) Parking Location: Nonresidential Buildings.

For new nonresidential buildings in residential districts or additions that exceed the original building's gross floor area by more than one hundred percent (100%), that are constructed after the effective date of this zoning code, surface parking shall not be permitted between the front facade of the building and the abutting street.

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## Residential Districts: Yard and Setback Requirements

There are several differences between the **yard and setback requirements for residence districts** in the existing code versus the new code.

- The existing code does not provide separate yard and setback requirements for **nonresidential buildings in the residential districts**, while the new code does provide separate requirements.

### Front Yard Setback

- In the existing code, there is not a **maximum front yard setback** in the residential districts. In the Traditional Residential districts in the new code, there is a maximum as well as a minimum front yard setback.

**28.041 Maximum Front Yard Setback:** no more than 20% greater than block average, up to 30 max.

### Side Yard Setback

- The existing code provides an exception to **decrease the side yard setback** for a one-story home in the R1, R2, R3, and R4 districts. This provision has been omitted from the new code.

**28.08(2)(f)2.a. and 28.08(3)(g)2.a.** One story buildings--a least side yard of six (6) feet, except where the side yard abuts the rear yard of the adjacent property and when said adjacent property is not non-complying as to rear yard, in which case such a structure or addition shall not be less than four (4) feet to the side lot line.

**28.08(4)(f)2.a. and 28.08(5)(f)2.a.** One story buildings--a least side yard of five (5) feet except where the side yard abuts the rear yard of the adjacent property and when said adjacent property is not non-complying as to rear yard, in which case such a structure or addition shall not be less than four (4) feet to the side lot line

(Staff is not aware of when this provision has been used)

- In the existing code, in the R4, R4L, and R4A districts, the **side yards must be increased** for buildings containing more than two dwelling units.

**28.08(5)(f)2.c.** For buildings containing more than two (2) dwelling units, one (1) foot shall be added to each side yard for each dwelling unit in excess of two(2) dwelling units, but in no case shall a least side yard of more than thirteen and one-half (13-1/2) feet and a combined total of both side yards of thirty (30) feet be required for one story buildings, nor a least side yard of more than fifteen (15) feet and a combined total of both side yards of thirty-four and one-half (34-1/2) feet be required for two story buildings.

- In the new code, the side yard setbacks for single-family detached dwellings in the **Traditional Residence districts are reduced to 10% of the lot width for lots that are less than 40 feet in width.** The side yard setbacks are also reduced for buildings with two or more dwelling units that are existing on the effective date of this ordinance on lots that are less than 40 feet in width.

### **Rear Yard Setback**

- The **rear yard setback** for the R1, R2 and R3 districts in the existing code is a minimum of 40 feet. In the new code, it has been reduced in the SR-C1, SR-C2, and SR-C3 districts to 30% of the lot depth but at least 35 feet.
- In the R1 and R2 districts in the existing code, there is a provision that **attached garages** may project into the **rear yard setback**. The new code does not have this provision.

**28.08(2)(f)3. and 28.08(3)(g)3.** Rear yard--forty (40) feet. A one story projection for garage purposes only may project thirty percent (30%) of the least depth into a required rear yard, provided the balance of the rear yard shall remain unoccupied and unobstructed from the ground upward.

### **Other Residential Yard Requirements**

- In the existing code, in the R4, R5, R6, and OR residence districts, the **lot area requirements** are per dwelling unit and per bedroom. In the R5, R6, and OR districts, the **usable open space requirement** is listed per bedroom. In the new code, the lot area and usable open space requirements are per dwelling unit only.
- There are no requirements for **maximum lot coverage and maximum building coverage** requirements in the existing code. The new code introduces maximum lot coverage and maximum building coverage requirements.
- In the **R4L district** in the existing code, the rear yard is required to be maintained as usable open space.

**28.08(9)(f)3. Rear Yard.** The rear yard in the R4L district is to be usable open space. It is intended that when development of any block or portion thereof has been completed according to the provisions of this section, the central part of the block should be considered by owners and tenants to be unimpeded common space. Responsibility for maintenance of this space shall rest with the individual owner unless otherwise agreed to by abutting property owners. The following requirements shall apply to rear yards created under the provisions of this ordinance:

- a. The rear yard shall be no less than thirty-five (35) feet deep at its least depth.
- b. No portion of any rear yard may be paved for use as a driveway or parking area and no motor vehicle of any kind, except emergency, may be parked or driven in any rear yard.
- c. Any fence erected along or in any rear yard shall be provided with as many gates as are required to permit fire access from all side lot lines and rear lot lines.

(There are currently two R4L zoned properties. The R4L district has not been carried over to the new code.)

- The following provision is in the **R1-R section** of the existing code, but is not in the TR-R district in the new code.

**28.08(12)(h)** If a lot abuts a city park on its front lot line for at least ninety (90) feet, and another side of the lot further abuts a greenway, parkway or private pedestrian parkway held for the common use of the residents of the subdivision for at least three hundred (300) feet and if the lot contains between five-tenths (5/10) and six-tenths (6/10) of an acre, and if the lot is located on a dead-end public street or cul-de-sac, then the owner of said property shall have a building area which is located no closer than thirty (30) feet nor further than one hundred ten (110) feet from the aforementioned front lot line which abuts on the aforementioned park, eleven (11) feet from the immediately abutting edge of the aforementioned greenway, parkway or private parkway and seven (7) feet from any other side lot line, so long as the building which is constructed within said location complies with all other requirements and restrictions of the R1-R zoning district.

- In the new code, the residence districts SR-C3, SR-V1, and TR-V1 have a requirement for the **dispersion of two or more dwelling units** within the area. The existing code does not have a requirement for the dispersion of dwelling units.

**28.037 SR-C3 District (a) Dispersion of Dwellings.** No two-family twin dwelling shall be constructed or converted within three hundred (300) feet of a zoning lot containing another two-family twin building, as measured from the perimeter of each zoning lot, unless approved by conditional use.

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The new code introduces the concept of **building forms**. **Section 28.033 Residential District Building Forms** lists the building forms permitted in each residential district. **Subchapter 28K Building Form Standards** further defines the various building forms.

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### **Residential Districts: Uses**

Following are **uses** which are listed in the **residential districts** section of the existing code, but are not found in the new code, have modified standards listed in the supplemental regulations in the new code, or may have merged with other uses in the new code.

### **28.08 Residence Districts**

## **28.032 Residential District Uses**

### **28.08(2)(b) R1 Permitted Uses**

8. Accessory uses, including but not limited to the following:
  - a. Athletic fields and playfields, noncommercial, including stadiums or grandstands. (Omitted.)
  - b. Dwelling units and lodging rooms in detached buildings for persons regularly employed on the premises and their immediate families. (Omitted.)

### **28.08(2)(c) R1 Conditional Uses**

2. Cemeteries, including mausoleums, crematoriums and columbariums in conjunction therewith, provided such accessory buildings shall be located not less than three hundred (300) feet from any lot line. (Modified with no supplemental standards.)
11. Accessory greenhouse and swimming pool roofs or domes which infringe on required usable open space. (Omitted.)
20. Business and professional offices in existing buildings owned by Wisconsin Bell, Inc., as of the date of enactment of this ordinance. (Omitted.)
21. Buildings of historical significance or architectural merit and which are open for public inspection. (Omitted.)
26. Conversion of any single-family or multi-family dwelling to any accessory use, provided that in no case shall there be any additional parking permitted on the residential lot. (Omitted.)
28. Farmers markets for the sale of personally prepared food and handcrafted goods, as defined in Sec. 9.13(6)(e), in the parking lots of non-residential uses. (Omitted.)

### **28.08(3)(b) R2 Permitted Uses**

2. Schools for children with emotional disabilities. (Merged with Schools, Public and Private. Modified supplemental standards.)
3. Not-for-profit schools of theater arts for children, on lots not less than tenthousand five hundred (10,500) square feet in area. (Merged with Schools, Public and Private. Modified supplemental standards.)

### **28.08(3)(c) R2 Conditional Uses**

4. Conversion of any single-family or multi-family dwelling to any accessory use, provided that in no case shall there be any additional parking permitted on the residential lot. (Omitted.)

### **28.08(4)(c) R3 Conditional Uses**

3. Educational societies, nonprofit, tax exempt provided:
  - a. The principle use of the building is residential;
  - b. The total floor area used for nonresidential purposes does not exceed five hundred (500) square feet;
  - c. The area used for the society is used exclusively by members of the society;
  - d. The hours of operation be approved by the Plan Commission and strictly adhered to by the applicant. (Omitted.)

### **28.08(5)(b) R4 Permitted Uses**

3. Clubs and lodges, private, provided such buildings shall be located not less than fifty (50) feet from any lot in a residence district. (Omitted. Lodges, Private Clubs, and Reception Halls are permitted uses in all Mixed-Use and Commercial districts.)

5. Hospitals and sanitariums, provided such buildings shall be located not less than fifty (50) feet from any lot in a residence district. (Omitted. Hospitals are conditional uses in some Mixed-Use and Commercial districts.)

### **28.08(5)(c) R4 Conditional Uses**

3. Planned development-hospital facility, provided that the total site area shall be not less than one and one-half (1 1/2) acres and further provided that the site may consist of two (2) or more zoning lots separated only by public rights-of-way where authorized by the Plan Commission. (Omitted. Hospitals are conditional uses in some Mixed-Use and Commercial districts.)

5. The division of and addition to any single-family, two-family or multiple-family dwelling which results in the creation of additional dwelling units therein. (Omitted.)

8. Offices for nonprofit community service organizations located in recreational buildings or community centers. (Modified. Counseling and Community Services are conditional uses in the SR-V2 and TR-V2 districts. Offices for Human Service Programs are conditional uses in all new residence districts.)

14. Restaurants, including catering, in churches provided that:

- a. The lot is owned by the church, which operates the restaurant or leases the space to the restaurant,
- b. The restaurant does not exceed three thousand (3000) square feet in area, and
- c. No advertisement or display shall be visible from outside the building, except an identification sign that complies with the regulations in Chapter 31 of the Madison General Ordinances. (Omitted.)

15. Outdoor vendor and/or catering services by a non-profit organization that provides transitional housing and employment training provided that:

- a. Vending shall occur only on the site where the transitional housing and employment training are located,
- b. Vending shall be from a cart(s), which shall be removed from view when not in use,
- c. Only food may be sold from the vending carts(s); and
- d. No advertisement or display shall be visible from outside the building, except an identification sign that complies with the regulations with Chapter 31 of the Madison General Ordinances. (Omitted.)

### **28.08(6)(b) R5 Permitted Uses**

2. Apartment hotels. (Omitted.)

### **28.08(6)(c) R5 Conditional Uses**

4. Institutions for the aged and for children. (Merged with Assisted Living, Congregate Care, and Skilled Nursing Facilities.)



5. Offices of health, medical and welfare institutions qualifying as nonprofit institutions under the laws of the State of Wisconsin, including, in addition, for profit business and professional offices, provided such business and professional offices shall not exceed forty-nine percent (49%) of the total gross floor areas of all buildings on the zoning lot. (Merged with Mixed-Use building at a corner location with modified supplemental standards.)

7. Any development of a through lot, provided that the use of the parcel is either a permitted or conditional use allowed in the R5 General Residence District. (Omitted.)

11. Language schools. (Merged with Schools, Public and Private.)

#### **28.08(7)(c) R6 Conditional Uses**

3. Any development of a through lot, provided that the use of the parcel is either a permitted or conditional use allowed in the R6 General Residence District. (Omitted.)

4. Outdoor eating areas of restaurants serving only nonalcoholic beverages and food. (Omitted.)

6. Offices, business and professional, and travel bureaus and transportation ticket offices in a building where the principal use is residential, provided that in no case shall the total floor area devoted to such use exceed three thousand (3,000) square feet. (Merged with Mixed-Use building at a corner location with modified supplemental standards.)

7. Retail food shops, beauty shops, barber shops, art galleries, photography shops, book shops, gift shops, tailor shops, shoe repair shops, primarily for walk-in trade, located in a building where the principal use is residential, provided that each business establishment shall not exceed three thousand (3,000) square feet of floor area and each business establishment is permitted a single identification sign, not exceeding two (2) square feet in area for all identification signs on each building and indicating only the name and address of the occupant. (Merged with Mixed-Use building at a corner location with modified supplemental standards.)

8. Restaurants, drugstores and valet shops in a multiple-family dwelling, provided these uses shall be accessible to the public only through a lobby and no advertisement or display shall be visible from outside the building, except an identification sign which complies with the regulations in Chapter 31 of the Madison General Ordinances and is approved by the Plan Commission at the time the use is approved or by the Director of Planning and Community and Economic Development as provided for in Sec. 28.12(11)(h)2. (Merged with Management office, restaurant, limited retail, recreation facilities within multi-family building with modified supplemental standards.)

#### **28.08(9)(b) R4L Permitted Uses**

6. Recreational buildings and community centers, not operated for profit, provided such buildings shall be located not less than fifty (50) feet from any lot in a residence district. (Modified. Recreation, community, and neighborhood centers are conditional uses in all residence districts.)

#### **28.08(9)(c) R4L Conditional Uses**

9. Conversion of any single-family or multi-family dwelling to any accessory use, provided that in no case shall there be any additional parking permitted on the residential lot. (Omitted.)

11. Farmers markets for the sale of personally prepared food and handcrafted goods, as defined in Sec. 9.13(6)(e), in the parking lots of non-residential uses. (Omitted.)

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There are several **parking uses** found in the residential districts in the existing code that have been omitted from the new code or have modified supplemental regulations.

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The following are **new uses** listed in the residential districts in the new code.

### 28.032 Residential District Uses

#### Table 28C-1

Cohousing community

Community garden

Market garden

Mixed-use building at corner location

Portable storage units

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### Commercial and Mixed-Use Districts: General Requirements

There are several differences between the **general commercial requirements** in the existing code and the general commercial and mixed-use requirements found in the new code.

- **Design Standards 28.060(2)** are established in the new code.
- The existing code lists **general lot area requirements for residential uses in commercial districts** and specific lot area requirements for each commercial district. In the new code, within the mixed-use and commercial districts, buildings with exclusively residential uses must meet the lot area, lot width, and side yard setback requirement in the TR-V2 district.

**28.09(1)(c) Lot Area Requirements.** Lot areas shall be provided in accordance with the regulations herein indicated. In addition, the following regulations shall be complied with:

1. No residential use shall be established or hereafter maintained on a lot recorded after the effective date of this ordinance, which is of less area than prescribed herein for such use in the zoning district in which it is to be located.
2. For any lot of record which is less than fifty (50) feet in width or less than six thousand (6,000) square feet in area on the effective date of this ordinance and located in any commercial district, the lot area requirements as established in the R4 district shall apply.
3. No existing residential building shall be converted so as to conflict with or further conflict with the lot area per dwelling unit requirements of the district in which such building is located.

**28.063(3)(b) Exclusive Residential Use.** Buildings with exclusively residential uses shall meet the lot area, lot width, and side yard setback requirements in the TR-V2 District, Sec. 28.047.

- Both the existing and the new codes restrict the **size of buildings** in different commercial districts. In the existing code, the size of buildings in the C1 district is limited to 10,000 sf with some exceptions. In the C2, C3, and C3L districts, any retail use or any hotel/ motel exceeding 50,000 sf in size must be approved as a

conditional use. Also, any new construction of a building or additions to a building which total more than 40,000 sf in floor area with 25,000 sf or more of retail, hotel or motel use is a conditional use.

In the NMX district in the new code, buildings shall not exceed 5,000 sf for individual businesses or 10,000 sf for two or more uses. In the TSS district, buildings shall not exceed 10,000 sf for individual establishments or 25,000 sf for mixed-use or multi-tenant buildings. In the MXC, CC-T, and CC districts buildings shall not exceed 25,000 sf in floor area for an individual establishment or 40,000 sf for a mixed-use or multi-tenant building. Buildings exceeding the size restrictions require conditional use approval.

**28.09(2)(b)5.** C1 District. Business establishments are restricted to a maximum gross floor area of ten thousand (10,000) square feet each, exclusive of any floor area devoted to off-street parking or loading facilities, except that food stores containing two (2) or more uses and any existing office building which was lawfully constructed prior to March 1, 1992, may have a maximum gross floor area of not more than twenty-three thousand (23,000) square feet. In the case of new office additions and office buildings constructed after March 1, 1992, the maximum gross floor area limitation of ten thousand (10,000) square feet shall apply to the total gross floor areas of all office buildings located on a zoning lot

- The existing code states that in commercial districts **all business, servicing or processing shall be conducted within completely enclosed buildings**, with some exceptions. The list of exceptions varies depending on the zoning district requirements. The new code also states that within the **CC-T and CC districts**, all business, servicing or processing shall be conducted within completely enclosed buildings, with some exceptions listed. The new code regulates **vending machines** as permitted accessory uses with supplemental regulations.

**28.09(2)(b)3.** All business, servicing or processing shall be conducted within completely enclosed buildings, except for the following:

- a. Off-street parking and off-street loading;
- b. Display of merchandise such as garden, lawn or recreational supplies and equipment for sale to the public;
- c. Vending machines;
- d. Automobile service stations; and
- e. Outdoor eating areas of restaurants.

**28.066(2)(b) and 28.067(2)(b)** All business, servicing or processing shall be conducted within completely enclosed buildings, except for the following:

1. Off-street parking and off-street loading;
2. Display of merchandise such as garden, lawn or recreational supplies and equipment for sale to the public;
3. Fuel dispensing stations and auto convenience markets;
4. Outdoor eating areas of restaurants.

- In the existing code, **parking and loading** is provided in the commercial districts in accordance with section 28.11. In the new code, the location and configuration of parking facilities is further regulated in each commercial district. In the NMX and TSS districts, parking is not allowed between the front of the building and the abutting street. In the MXC, CC-T, and CC districts, surface parking must be divided into separate smaller modules no greater than 100 spaces in size.

**28.09(1)(i) Off-Street Parking and Loading.** In the C1, C2 and C3 districts, off-street parking and loading facilities shall be provided in accordance with applicable regulations herein set forth in Section 28.11,

provided however, in the central area, there shall be no specific requirements for off-street parking. In the C4 district, there shall be no specific requirements for off-street parking and loading facilities.

- The **size of trucks parked in commercial districts** is limited in the existing code. The new code does not state this regulation for commercial districts.

**28.09(2)(b)6; 28.09(3)(b)3; 28.09(4)(b)3; 28.09(6)(b)3.** Parking of trucks as an accessory use, when used in the conduct of a permitted business listed hereinafter, shall be limited to vehicles of not over one and one half (1-1/2) tons capacity when located within one hundred fifty (150) feet of a residence district boundary line.

- The following restrictions are stated in the general regulations for the **C1 district** of the existing code.

**28.09(2)(b)1.** Business uses are not permitted on any floor above the ground floor except in those buildings where dwelling units and lodging rooms are not established.

**28.09(2)(b)2.** All business establishments shall be retail or service establishments which deal directly with the customers. All goods produced on the premises shall be sold at retail on the premises where produced unless approved as a conditional use.

- The following requirement is found in the general regulations sections for the **C2, C3, and C3L districts for buildings exceeding 50,000 sf in floor area.**

**28.09(3)(b)4.** Any major alteration to the exterior face of retail, hotel and motel buildings over 50,000 square feet, including but not limited to painting of an unpainted exterior face, shall be permitted only after Urban Design Commission review and approval. Any action by the Urban Design Commission may be appealed to the City Plan Commission by the applicant or by the Alderperson of the District in which the use is located.

- Requirements for **outdoor display of merchandise and outdoor storage** are listed in the general regulations sections for the **C3 and C3L districts** in the existing code. In the new code, outdoor display, outdoor storage and vending machines are addressed as either permitted or conditional accessory uses with supplemental regulations.

**28.09(4)(b)2.** Areas adjoining or fronting on Arterial or Collector streets and used for outdoor display of merchandise for sale to the public shall comply with the landscaping requirements of Section 28.04(12)(b)1., 2. and 3.

**28.09(4)(b)4.** All storage within three hundred (300) feet of a residence district, arterial or collector street, except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened with screening not less than six (6) feet nor more than eight (8) feet in height, provided no storage located within fifty (50) feet of such screening shall exceed the maximum height of such screening; further provided, however, the Zoning Administrator may approve alternate landscaping/screening plans meeting the general intent, purpose and guidelines of the revised “New Approach to Parking Lot Landscaping” adopted by Substitute Resolution No. 37,915.

#### **Outdoor Display.**

(a) Outdoor sales and display shall be separated from any adjacent street, sidewalk, or public walkway by development frontage landscaping, as specified in Section 28.142(6).

#### **Outdoor Storage.**

- (a) Outdoor storage shall be located outside of the front yard setback and shall not be placed between the principal building and the abutting street.
- (b) Except in the IG District, outdoor storage shall be completely screened from any adjacent street, sidewalk, public walkway, public park.
- (c) Outdoor storage shall be screened from abutting residential uses with a building wall or solid, commercial-grade fencing, wall, evergreen hedge, or equivalent material. All screening shall be at least six (6) feet in height and no more than seven (7) feet in height. Screening along district boundaries, where present, may provide all or part of the required screening.

**Vending Machines.**

- (a) Outdoor vending machine shall be accessory only to retail uses, schools, athletic facilities, parks and golf courses.
- (b) For retail uses, outdoor vending machines are allowed only for:
  1. Single-occupant buildings with more than twenty-five hundred (2,500) square feet of gross floor area.
  2. Individual tenants with at least thirty (30) lineal feet of storefront in a multi-tenant building.
  3. When the product sold in the vending machine also is sold in the principal retail use.
- (c) No individual outdoor vending machine shall exceed five (5) feet in width, three (3) feet in depth and seven (7) feet in height.
- (d) No more than one (1) outdoor vending machine shall be located per building façade.
- (e) Outdoor vending machines shall be flush against the facade of the principal structure, and shall not project into the public right-of-way.
- (f) Outdoor vending machines shall be placed on an impervious surface, such as concrete or asphalt.
- (g) No outdoor vending machines shall be located so as to impede pedestrian access or circulation, obstruct parking areas or create an unsafe condition. There shall be at least five (5) feet of clear pedestrian access at all times, unless the development is subject to the large retail standards in Sec. 33.24(4)(f), MGO, in which case, eight (8) feet of clearance is required.
- (h) When located at a school, athletic facility, park or golf course, outdoor vending machines shall be a minimum of fifty (50) feet from a property line, unless located behind a solid fence or screening to prevent public use.

**Commercial and Mixed Use Districts: Yard and Setback Requirements**

**Front Yard Setback**

- In the existing code, there is no required **front yard setback** except where the property abuts a residence district. The new code establishes **maximum front yard setbacks, build-to lines, and ranges** which delineate the placement of buildings in relationship to the abutting streets.
 

**28.09(2)(g)1.** A yard shall be provided where the extension of a front or side lot line abutting a street coincides with a front lot line of an adjacent lot located in a residence district. Such yard shall be equal in depth to the minimum front yard required by this ordinance on such adjacent residential lot. Such yard shall be provided along such front or side lot line abutting a street for a distance of at least fifty (50) feet, (25 feet in the C2, C3, and C3L districts) including the width of any intervening alley, from such residential lot.

**28.063(3)(a) NMX District Front Yard Setback.** For buildings and additions exceeding fifty percent (50%) of floor area, the maximum front yard setback shall be twenty-five (25) feet unless designated otherwise on

the zoning map. Front yard setbacks on the zoning map may be designated as a specific location (build to line) or as a range.

### Side Yard Setback

- In the existing code, there are no required **side yard setbacks** except where the property abuts a residence district. In the new code, side yard setbacks are required if the lot abuts a residentially zoned lot at the side lot line or if the proposed buildings or abutting buildings have window openings in the side wall(s) within 6 feet of the lot line.

**28.09(2)(g)2.** A yard shall be provided where a side lot line abuts a residence district. Such yard along such side lot line shall be equal in dimension to the minimum side yard which would be required under this ordinance for any residential use in the adjacent residential district.

### Rear Yard Setback

- In the existing code, the **rear yard setback** depends on the number building stories. The rear yard setback is increased for buildings two stories or more in height. In the new code, the rear yard setback is set at 20% of the lot depth or 20 feet. However, the new code also establishes a **rear yard height transition** to residential districts which steps down the height of buildings abutting residential districts.

**28.062(5)(a) Rear yard height transition to residential districts.** Where the NMX District abuts a residential district at the rear lot line, building height at the rear yard setback line shall not exceed two (2) stories/twenty-five (25) feet. From this point, building height may increase at a ratio of one foot of rise to one foot of horizontal distance away from the property line, (a 45° angle) up to the maximum allowed height. Transitions exceeding this height and/or ratio limitation require conditional use approval.

- **For residential uses in commercial districts** in the existing code, side and rear yard setbacks are required per the R5 district regulations. In the new code, buildings with exclusively residential uses shall meet the lot area, lot width, and side yard setback requirements in the TR-V2 District.

**28.09(2)(g)4.** For residential uses, there shall be provided side and rear yards as established in the R5 district regulations. For residential uses located above the ground floor, such yards shall begin at a level no higher than the level of the finished floor of the lowest residential unit.

### Other Commercial and Mixed Use Yard Requirements

- In the **C1 district** in the existing code, no building shall exceed 3 stories nor 40 feet in **height**. In the **NMX and TSS districts** in the new code, the maximum building height is also 3 stories and 40 feet. The maximum building height in the MXC, CC-T and CC districts is 5 stories and 68 feet. Heights exceeding the maximum may be allowed with conditional use approval.
- The C2, C3, and C3L districts have **floor area ratio** requirements not to exceed 3.0. The commercial districts in the new code do not have floor area ratio requirements. They have **maximum height and maximum lot coverage requirements**.

**28.09(1)(e) Floor Area Ratio.** Maximum floor area ratio as set forth in the C2, C3 and C4 districts shall apply to all buildings or structures in such districts. However, in the C2 and C3 districts located within the central area, the maximum floor area ratio shall be not more than 4.0, or not more than 5.0 when such districts

adjoin the C4 district and are within two hundred (200) feet of such C4 district and are continuous as a commercial district.

- For residential uses in the C1, C2 and C3 districts, the **usable open space** requirement is 160 square feet for each lodging room, efficiency unit or one bedroom unit, plus an additional 160 square feet for each additional bedroom in excess of one in a dwelling unit. The usable open space requirements are reduced in the new code. In the NMX, CC-T, and CC districts, 160 square feet of usable open space (UOS) is required for each lodging room or one bedroom unit, and 320 square feet of UOS is required for units with more than one bedroom. UOS is not required for residential uses in the TSS district, and 160 square feet of UOS per unit is required in the MXC district.
  - In the new code, **Section 28.062 lists the Mixed-Use and Commercial Districts Building Forms.**
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## **Commercial and Mixed Use Districts: Uses**

### **28.09 Commercial Districts**

#### **28.061 Mixed Use and Commercial District Uses**

The existing code lists specific uses in the commercial districts. In the new code, several uses are put into general categories, ie. general retail uses, food and related goods sales, service uses, and limited production uses.

**Food and Related Goods Sales.** An establishment required to be licensed under Wisconsin Statutes §97.30, and all other commercial enterprises, fixed or mobile, where food is processed or sold or offered for sale at retail. It includes retail grocery stores, meat markets, poultry markets, fish markets, delicatessens, bakeries, candy stores, catering establishments, ice cream shops, cheese stores, convenience marts, milk cases, spice and herb shops, temporary retail food establishments and all other establishments where food is processed or sold or offered for sale at retail.

**Retail, General.** General retail sales include the retail sale of products to the general public, sometimes with provision of related services, and produce minimal off-site impacts. For the purpose of this ordinance, general retail sales include but are not limited to the following:

- (a) Antiques and collectibles store;
- (b) Art gallery;
- (c) Bicycle sales and repair;
- (d) Book store, music store;
- (e) Clothing and accessories;
- (f) Drugstore, pharmacy;
- (g) Electronics sales and repair;
- (h) Florist;
- (i) Jewelry store;
- (j) Hardware store;
- (k) News stand, magazine sales;
- (l) Office supplies;
- (m) Pet store;
- (n) Photographic equipment, film developing;
- (o) Stationery store;
- (p) Picture framing; and
- (q) Video store.

**Service Business.** Business that provide services to the general public that produce minimal off-site impacts. Service businesses include but are not limited to the following:

- (a) Barber and beauty shops;
- (b) Dry-cleaning pick-up station;
- (c) Interior decorating/upholstery;
- (d) Locksmith;
- (e) Mailing and packaging services;
- (f) Photocopying, document reproduction services;
- (g) Consumer electronics and repair;
- (h) Shoe repair;
- (i) Tailor shop; and
- (j) Watch repair, other small goods repair.

The following are listed as **permitted uses in the C1 District**, but are not found in the new code, have modified standards listed in the supplemental regulations in the new code, or may have merged with other uses in the new code. Many of the uses permitted in the C1 district have limits on square footage size and number of employees that are not found in the new code.

#### **28.09(2)(c) C1 Permitted Uses**

5. Bedding sales but not including furniture stores, provided that the zoning lot shall either be located on a heavy traffic route system or on a collector street with a right-of-way width not less than eighty (80) feet, and further provided that in no case shall the total floor area exceed three thousand (3,000) square feet. (Omitted.)

12. Dry cleaning and laundry establishments employing not more than eight (8) persons, including drive-up service windows if the zoning lot has direct vehicular access to either the heavy traffic system or a collector street via a driveway approach where the Traffic Engineer has determined that this site will properly accommodate such an operation and that traffic problems will not be created in the street. (Omitted.)

13. Dwelling units and lodging rooms located above the ground floor not to exceed four (4) dwelling units and not exceeding fifty percent (50%) of the total building floor area. (Omitted, merged with Mixed-Uses.)

15. Florist shops and conservatories employing not more than five (5) persons. (Merged with Retail, General uses, modified supplemental standards.)

16. Food stores--grocery stores, meat stores, fish markets, bakeries employing not more than eight (8) persons, and delicatessens. (Use merged with Food and Related Goods Sales use.)

20. Libraries, municipally owned and operated. (Modified supplemental standards.)

25. Outpatient housing facilities. (Omitted.)

26. Paint and wallpaper store, provided it is located in a shopping center containing eight (8) or more retail businesses. (Omitted.)

28. Pet shops, including boarding of dogs, cats and other household pets when conducted as an incidental use and in an enclosed building. (Merged with Retail, General uses.)

31. Recreational buildings and community centers, not operated for profit. (Omitted.)



45. Sporting goods stores, including the sale of live bait, provided that in no case shall the total floor area exceed three thousand (3,000) square feet, and further provided that hours of operation be limited to the hours between 7:00 a.m. and 9:00 p.m. unless approved as a conditional use. (Modified supplemental standards.)

46. Small home appliances, sales and service, not including stoves, refrigerators, freezers, washers or dryers, provided that the zoning lot shall either be located on a heavy traffic route system or on a collector street with a right-of-way width not less than eighty (80) feet, and further provided that in no case shall the total floor area exceed three thousand (3,000) square feet. (Omitted.)

52. Adult day care facilities. (Merged with Day Care use.)

55. Physical culture and health services and reducing salons. (Omitted.)

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The following are listed as **conditional uses in the C1 District**, but are not found in the new code, have modified standards listed in the supplemental regulations in the new code, or may have merged with other uses in the new code. Many of the conditional uses in the C1 district have limits on square footage size and number of employees that are not found in the new code.

### **28.09(2)(d) C1 Conditional Uses**

3. Buildings in which there are five (5) or more dwelling units and/or lodging rooms or where dwelling units and/or lodging rooms occupy more than fifty percent (50%) of the total building floor area. (Merged with Mixed-Uses.)

4. Greenhouses and nurseries, provided that such establishments shall be located on a major highway and further provided that adequate screening shall be provided on the premises. (Modified supplemental standards.)

5. Hotels and motels, provided that the zoning lot shall be not less than one (1) acre. (Modified supplemental standards.)

11. Printing and publishing establishments, including newspaper, letter press, business cards, mimeographing and other similar job printing service, provided that there shall be not more than five (5) employees, and further provided that the hours of operation shall be limited to the hours between 7:00 a.m. and 9:00 p.m. (Modified supplemental standards, merged with Service Business uses.)

14. Radio and television studios and stations, provided that the zoning lot shall be not less than one and one-half (1-1/2) acres. (Omitted.)

16. Undertaking establishments and funeral parlors, provided that the zoning lot shall be not less than one (1) acre and further provided that where such zoning lot abuts a church site, the combined areas of both zoning lots shall be not less than one and one-half (1-1/2) acres regardless of the zoning district of the church site. (Modified supplemental standards, renamed Mortuary, Funeral Home.)

21. Upholstery and interior decorating shops, provided that the zoning lot shall be located on an arterial highway or collector street and further provided that in no case shall the total floor area exceed five thousand (5,000) square feet. (Modified supplemental standards, merged with Service Business uses.)

23. Live bait stores, where hours of operation exceed those permitted under Section

28.09(2)(c). (Merged with Sporting goods store, bait shop. Permitted in all mixed-use and commercial districts.)

25. Walk-up Service Openings within ten (10) feet of a public right-of-way.  
(Modified supplemental standards.)

30. Non-accessory uses associated with events taking place within Camp Randall Stadium limited to the sale of food and beverages to the public, and including the offering of live or amplified music. The Plan Commission shall have the right to waive or modify the off-street parking requirements for the principal use on the zoning lot and for the non-accessory use. (Non-accessory temporary outdoor events with modified supplemental standards.)

32. Private ambulance service. (Omitted.)

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In the existing code, there are several retail and service uses that are not listed permitted or conditional uses in the C1 District that are permitted or conditional uses in the C2 district. These uses are not specified in the new code but fall under the more general categories of general retail uses, food and related goods sales, and service business uses which are permitted in **all** mixed-use and commercial districts. An example of this is “Locksmith Shop” which is a permitted use in the C2 but not in the C1 district. “Locksmith Shop” would fall under the “service business” use category in the new code and would be permitted in all mixed-use and commercial districts.

The following are listed as **permitted uses in the C2 District**, but are not found in the new code, have modified standards listed in the supplemental regulations, or may have merged with other uses. I have **not** listed the uses that would fall under the general retail uses, food and related goods sales, and service business uses categories in the new code.

### 28.09(3)(c) C2 Permitted Uses

3. Amusement establishments, including archery ranges, bowling centers, golf driving ranges, gymnasiums, pool halls, swimming pools, skating rinks and other similar indoor amusement facilities, but excluding amusement arcades. (Renamed Indoor Recreation facilities.)

17. Convalescent homes and nursing homes, provided that the zoning lot shall be not less than one-half (1/2) acre and further provided that the side and rear yards as established in the R5 district are provided. Provided also that the intended use abuts on one side either:

- a. A residential zoning district; or
- b. A substantially permanent residential building in the commercial district

(Renamed Assisted Living, Congregate Care, Nursing Home. Modified supplemental standards.)

23. Florist shops and conservatories with no limitation on number of employees. (Omitted.)

30. Interior decorating shops, including upholstering and making of draperies, slipcovers and other similar articles when conducted as part of the retail operation and secondary to the principal use. (Merged with Service Business uses.)

47. Radio and television studios and stations. (Omitted.)

48. Recording studios. (Omitted.)

66. Wholesale magazine distribution agencies, provided the hours of operation are limited to 7:00 a.m. to 7:00 p.m., and further provided that none of the magazines handled by such agencies fall within the definition of

materials handled by an adult book store as defined in Sec. 28.03(2). (Modified supplemental standards, considered a Wholesale Establishment.)

68. Newspaper distribution agencies for home delivery and retail sale provided the property is not adjacent to a residential lot. (Omitted.)

70. Display and sale of merchandise in City-owned public parking lots under the control of the Parking Utility wherein such sale is controlled by a lease between the City of Madison and the party or parties displaying and selling the merchandise. (Omitted.)

80. Swimming pool, hot tub and spa stores, provided there is no outside storage or display on the premises and no installation or repair services are offered. (Omitted.)

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The following are listed as **conditional uses in the C2 District**, but are not found in the new code, have modified standards listed in the supplemental regulations, or may have merged with other uses. I have **not** listed the uses that would fall under the general retail uses, food and related goods sales, and service business uses categories in the new code.

**28.09(3)(d) C2 Conditional Uses**

4. Boat showrooms, including accessory sales, and repairs of boats, motors, parts and equipment, provided that the Plan Commission shall find:

- a. That adequate off-street parking exists on the site.
- b. That all repair of boats, motors, parts and equipment, and all sales and storage of boats, motors, parts and equipment, shall be conducted and displayed within completely enclosed buildings.
- c. That any such use shall be located not less than one hundred twenty (120) feet from any residence district boundary line. (Modified supplemental standards, merged with Automobile Sales.)

6. Garages for repair and servicing of motor vehicles of not over one and one-half (1-1/2) tons capacity, including accessory towing and wrecker service, but not including body repairs, painting or motor rebuilding, providing that the Plan Commission shall find:

- a. That adequate off-street parking exists on the site for vehicles awaiting repairs, servicing or pickup.
- b. That all other business and servicing shall be conducted within completely enclosed buildings.
- c. That no permanent or temporary storage of wrecked vehicles or rental vehicles shall occur on the premises unless completely screened from view or within an enclosed building. (Modified supplemental standards.)

7. Storage and warehousing establishments, provided such gross floor area shall not exceed ten thousand (10,000) square feet, and further provided that the Plan Commission shall first obtain a report and recommendations from the Traffic Engineer on traffic matters. (Modified supplemental standards, merged with Warehousing and Storage.)

8. Planned development-hospital facility, provided that the total site area shall be not less than one and one-half (1-1/2) acres and further provided that the site may consist of two (2) or more zoning lots separated only by a public right-of-way where authorized by the Plan Commission. (Modified supplemental standards.)

9. Drive-in establishments. (Omitted.)

11. Small machine shop, provided that no individual machine used in the shop exceeds one thousand two hundred (1,200) pounds, that no welding, forging or casting is conducted on site, that there shall be not more than five (5) shop employees, that the hours of operation shall be limited to the hours between 7:00 a.m. and 9:00 p.m., and that finished products shall not exceed twenty-five (25) pounds in weight. (Modified supplemental standards, merged with Limited Production and Processing.)
13. Trailer rental, for use with private passenger motor vehicles. (Merged with Automobile Sales and Rental.)
14. Automobile rental agencies provided direct vehicular access is to the heavy traffic route system. (Merged with Automobile Sales and Rental.)
15. Sales of motorcycles, provided that the Plan Commission shall find:
- That adequate off-street parking exists for motorcycles and automobiles.
  - That all sales and service be conducted within completely enclosed buildings.
  - That screening, landscaping, lighting and signs are appropriate to the location. (Merged with Automobile Sales.)
16. Automobile sales establishments in abandoned automobile service station sites provided that the Plan Commission shall find:
- That there is adequate screening and landscaping, including between the site and residential uses.
  - That no permanent or temporary storage of vehicles in disrepair shall occur on the premises unless within a completely enclosed building.
  - That the site fronts on either a street designated as an arterial street or on a frontage road adjacent to a designated arterial street.
  - That illumination of the site does not adversely affect adjacent properties.
  - That signs shall conform to the size limitation of the R5 residential district if the site is opposite or adjoining residential property.
  - That the hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. (Omitted.)
19. Bakeries with more than eight (8) employees or selling at other than retail provided:
- That adequate off-street parking and loading exists on the site.
  - That the hours of operation shall be established after consideration of the occupants of adjacent properties. (Modified supplemental standards, renamed Bakery, Wholesale.)
20. Model homes or garage displays. (Omitted.)
21. Public baths, subject to the following conditions:
- The identity, including officers and agent of any corporation and all partners in a partnership, of the owner of the building and any lessee of the portion of the building so used shall be filed with the Zoning Administrator. A copy of any lease involved shall be filed with the Zoning Administrator. Changes in any of the above information shall be reported within ten (10) days of the change to the Zoning Administrator.
  - The person seeking the conditional use permit shall provide, in writing, a full and detailed description of the proposed business as part of the application and shall update such description as changes occur.
  - The intimate parts, as that term is defined in Sec. 939.22(19), Wis. Stats., of employees shall be covered with opaque material at all times.
  - No employee shall be present with any patron in any hot tub, sauna, steam room or whirlpool except in an emergency. The occupant shall permit inspection of facilities by the City Health Department during regular business hours.
  - The occupant shall not permit the violation of any law relating to commercial sexual activity.

f. Failure of compliance with any of these conditions or operation of the business in a manner other than as most recently described may be grounds for revocation of the conditional use permit. (Omitted.)

22. Jail facilities. (This is listed as a CU in the Employment Campus district.)

24. Any new construction of a building or buildings on a zoning lot or an addition to an existing building or buildings which results in the total square footage of all buildings on the zoning lot exceeding forty thousand (40,000) square feet in gross floor area and where twenty-five thousand (25,000) square feet or more of the gross floor area is designed or intended for retail use or for a hotel or motel use. This conditional use and the one hereafter are established to allow consideration of the potential impacts of the proposed conditional use on the transportation system and on the policy objectives for transportation and land use, including noise, air quality and appearance. In addition to the requirements of Section 28.12(11), "Conditional Uses," the applicant shall provide an analysis in accordance with the guidelines established by the City Department of Transportation of the proposed development's impacts on the transportation system and associated recommended solutions to the Plan Commission. The Urban Design Commission shall review the design and appearance of the proposed conditional use and provide recommendations to the Plan Commission. If a new retail establishment under this section has a gross floor area (GFA) of forty thousand (40,000) square feet or more, the requirements in Sec. 33.25(4)(f) shall apply. (Omitted.)

25. Any change of use to a retail use or a hotel or motel in a building in which more than fifty thousand (50,000) square feet of gross floor area of such building is devoted to a retail use or to a hotel or motel. For the purpose of this paragraph, a change in use shall mean a change from any other use to a retail use or to a hotel or motel (Omitted.)

30. Amusement arcades. (Omitted.)

33. Dredging, excavating, filling and quarrying of lands, and removal of topsoil, as a temporary use not to exceed two years or as otherwise specified by the Plan Commission, subject to the provisions of Sec. 28.04(13). (Omitted.)

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In the existing code, **automobile, boat, motorcycle, and trailer sales and rental** are listed as separate uses. In the new code, automobile, motorcycle, truck, trailer, boat, and outdoor recreational vehicle sales are combined under the definition of **automobile sales**. Moped/ Scooter sales is not defined or listed in the new code.

**Definition of Automobile Sales.** An establishment providing wholesale and retail sales or leasing of new or used **automobiles, motorcycles, trucks, trailers, boats, or outdoor recreational vehicles**, including outdoor sales area, incidental storage and maintenance and warranty repair work, or other repair service conducted as an accessory use.

Automobile, boat, and trailer sales and rental are conditional uses in the C2 district and permitted uses in the C3 and C3L districts. Motorcycle sales is a conditional use in the C2, C3, and C3L districts. In the new code, **Auto sales and rental** is a conditional use in the CC-T and CC districts. In the existing code, trailer sales and rental and truck sales and rental are permitted in the M1 district, and automobile and motorcycle sales and rental are conditional uses in the M1. These uses are not listed as either permitted or conditional uses in the employment districts in the new code.

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In the C3 and C3L districts in the existing code, several **limited production and processing** types of uses are listed permitted uses while others are conditional uses. In the new code, limited production and processing uses

are conditional uses in the CC-T and CC districts. Some limited production and processing uses in the C3 and C3L districts have distance requirements that are not found in the new code.

**Limited Production and Processing.** Uses that produce minimal off-site impacts due to their limited nature and scale, are compatible with office, retail and service uses, and may include wholesale and off-premises sales.

Limited production and processing includes, but is not limited to, the following:

- (a) Apparel and other finished products made from fabrics;
- (b) Blueprinting;
- (c) C. Computers and accessories, including circuit boards and software;
- (d) Electronic components, assemblies, and accessories;
- (e) Film, video and audio production;
- (f) Food and beverage products, except no live slaughter, grain milling, cereal, vegetable oil or vinegar processing;
- (g) Jewelry, watches and clocks;
- (h) Milk, ice cream, and confections;
- (i) Musical instruments;
- (j) Novelty items, pens, pencils, and buttons;
- (k) Precision dental, medical and optical goods;
- (l) Signs, including electric and neon signs and advertising displays;
- (m) Toys;
- (n) Wood crafting and carving; and
- (o) Wood furniture and upholstery.

The following **limited production and processing uses** are listed as **permitted uses in the C3 and C3L districts**.

#### **28.09(4)(c) C3 and C3L Permitted Uses**

4. Any production, processing, cleaning, servicing, testing or repair of materials, goods or products, limited to the following uses or products:

- a. Advertising products, such as signs and billboards.
- b. Awnings, venetian blinds and window shades.
- c. Bottling or distribution plants, milk or soft drinks.
- d. Ceramic products, such as pottery, figurines and small glazed tiles.
- e. Cooperage works.
- f. Film developing and processing.
- g. Furniture refinishing.
- h. Jewelry.
- i. Medical, dental and optical supplies.
- j. Milk and ice cream processing.
- k. Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious stones, rubber, shell, wood (but not including a planing mill), and yarn.
- l. Scientific and precision instruments.
- m. Soldering and welding.
- n. Bakery, candy, dairy and other food products but not including fish and meat products.

34. Any production, processing, cleaning, servicing, testing or repair of materials, goods or products limited to the following uses or products **when located not less than 150 feet from a Residence District**:

- a. Cameras and other photographic equipment.

- b. Electrical appliances.
- c. Electrical equipment assembly.
- d. Electrical supplies, manufacture and assembly.
- e. Musical instruments.
- f. Orthopedic and medical appliances.
- g. Silverware, plate and sterling.
- h. Sporting goods.
- i. Textiles.
- j. Tools and hardware.

The following **limited production and processing uses are conditional uses in the C3 and C3L districts:**

**28.09(4)(d) C3 and C3L Conditional Uses**

- 2. Any production, processing, cleaning, servicing, testing or repair of materials, goods or products, limited to the following uses or products:
  - a. Machine shops and fabrication of metals.
  - b. Boat-building of small craft.
  - c. Metal finishing, plating, grinding, sharpening, polishing, cleaning, rustproofing, and heat treatment.
  - d. Metal stamping and extrusion of small products.
  - e. Soap and detergents.
  - f. Cosmetics and toiletries, drugs, perfumes and perfumed soaps and pharmaceutical products.
  
- 6. Any production, processing, cleaning, servicing, testing or repair of materials, goods or products, limited to the following uses or products **when located less than 150 feet from a Residence District:**
  - a. Cameras and other photographic equipment.
  - b. Cosmetics and toiletries, drugs, perfumes and perfumed soaps and pharmaceutical products.
  - c. Electrical appliances.
  - d. Electrical equipment assembly.
  - e. Electrical supplies, manufacture and assembly.
  - f. Musical instruments.
  - g. Orthopedic and medical appliances.
  - h. Silverware, plate and sterling.
  - i. Sporting goods.
  - j. Textiles.
  - k. Tools and hardware.

The following are listed as **permitted uses in the C3 District**, but are not found in the new code, have modified standards listed in the supplemental regulations, or may have merged with other uses. Some of the following uses are found in the Employment Districts and not in the Mixed-Use and Commercial Districts in the new code.

**28.09(4)(c) C3 Permitted Uses**

- 7. **Building material sales establishments.** (Modified supplemental standards, Conditional Use in Employment Districts.)
  
- 10. **Feed and seed stores.** (Omitted.)

- 12. Garages for repair and servicing of motor vehicles, including body repair, painting or motor rebuilding, and accessory towing and wrecker service. (Modified supplemental standards.)
  - 16. Machinery and equipment sales and service establishments. (Omitted.)
  - 18. Meeting halls, convention halls and exhibition halls. (Merged with Lodge, Private Club, Reception Hall or Theater, Assembly Hall, Concert Hall.)
  - 19. Mobile home sales and service establishments. (Omitted.)
  - 20. Model homes or garage displays. (Omitted.)
  - 21. Monument sales. (Omitted.)
  - 23. Newspaper distribution agencies for home delivery and retail sale. (Omitted.)
  - 29. Bus garages and bus parking lots. (Omitted.)
  - 33. Metal or glass recycling business conducted within a completely enclosed building, provided such building is located no less than 150 feet from a residential building. (Permitted or Conditional Use in Employment Districts)
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The following are listed as **conditional uses in the C3 District**, but are not found in the new code, have modified standards listed in the supplemental regulations, or may have merged with other uses.

**28.09(4)(d) C3 Conditional Uses**

- 3. Cartage establishments, but not including motor freight terminals. (Omitted.)
  - 7. Outdoor remote control tracks for electric vehicles. (Merged with Outdoor Recreation uses.)
- 

**Existing single-family and two-family dwellings in the Commercial Districts** are considered conditional uses in the existing code. In the new code, existing single and two-family dwellings will be considered permitted uses. New single and two-family dwellings will be conditional uses in the NMX, TSS and CC-T districts.

**28.09(2)(d)3. C1 Conditional Uses.** Buildings in which there are five (5) or more dwelling units and/or lodging rooms or where dwelling units and/or lodging rooms occupy more than fifty percent (50%) of the total building floor area.

**Single-Family Detached Dwelling.** In the NMX, TSS, and CC-T Districts, single family detached dwellings constructed after the effective date of this ordinance require conditional use approval.

**Two-Family Dwelling -Two-Unit.** In the NMX, TSS, and CC-T Districts, two-unit dwellings constructed after the effective date of this ordinance require conditional use approval.

**Two-Family Dwelling - Twin.** (g) In the NMX, TSS, and CC-T Districts, Two Family Dwellings – Twin constructed after the effective date of this ordinance require conditional use approval.

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The following are **new uses** introduced in the new code and listed in the mixed-use and commercial districts.

## 28.061 Mixed-Use and Commercial Districts Uses

### Table 28D-2

Animal day care

Animal grooming

Cohousing community

Community garden

Market garden

Portable storage units (Accessory Uses and Structures)

Composting (Accessory Uses and Structures)

Outdoor display (Accessory Uses and Structures)

Outdoor storage (Accessory Uses and Structures)

Temporary outdoor events (Accessory Uses and Structures)

Vending machines (Accessory Uses and Structures)

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**The C4 Central Commercial District and new Downtown Districts are not being reviewed as part of this document.**

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### **Office, Manufacturing, and Employment Districts: General Requirements**

There are several differences between the **general requirements** found in the Office and Manufacturing districts in the existing code and the general requirements found in the Employment districts in the new code.

- In the existing code, there are **development standards** for building design, landscaping, and off-street parking and loading for the O3, O4, RPSM, SM, and RDC districts. Generally, a parking lot cannot be located in any front yard or street side yards on a corner lot, but may be located in a required rear yard, in an interior side yard, or within the building envelope.

In the new code, all the Employment districts limit the placement of parking between the front facade of the building and the abutting street. Buildings constructed within the SEC and EC districts must be reviewed and approved by an architectural review committee.

- The existing code states that in office and manufacturing districts **all business, servicing or processing shall be conducted within completely enclosed buildings**, with some exceptions. This provision is included in the EC district in the new code.

**28.085(2)(b)1.** All business, servicing or processing, except for off-street parking, off-street loading and drive-up service windows for banks and financial institutions, shall be conducted within completely enclosed buildings.

**28.087(5)(a)** All activities shall be conducted within completely enclosed buildings, except for the following:

1. Off-street parking and loading;
2. Automatic teller machines;
3. Vehicle access sales and service windows for banks and financial institutions, as regulated.

- In the O1 district under the existing code, the **maximum size of any business or office building** is limited to 20,000 square feet gross floor area, unless approved by the Plan Commission as conditional use. In the O2 district, the maximum size of any business or office building is limited to 50,000 square feet gross floor area, unless approved by the Plan Commission as a conditional use. The new code limits the size of retail and service uses within larger buildings, but does not limit the overall size of buildings. In the TE and SE districts, retail and service uses cannot exceed a maximum of 5,000 square feet in floor area.

**28.085(2)(b)2.** Any business or office building shall be restricted to a maximum gross floor area of twenty thousand (20,000) square feet, unless approved by the Plan Commission subject to the conditional use provisions of Section 28.12(11).

**28.085(3)(b)2.** Any business or office building shall be restricted to a maximum gross floor area of fifty thousand (50,000) square feet, unless approved by the Plan Commission subject to the conditional use provisions of Section 28.12(11).

## Subchapter 28J Supplemental Regulations

### General Retail.

(a) Except as allowed in (b), in the TE and SE Districts, general retail uses shall not exceed five thousand (5,000) square feet in floor area.

(b) Within employment districts, general retail uses shall not exceed ten thousand (10,000) square feet in floor area, unless such uses are part of a planned multi-use site.

- The **size of trucks parked in office and some manufacturing districts** is limited in the existing code. The parking of trucks as an accessory use is limited in the O1, O2, O3, O4, RPSM, and RDC districts. The new code lists parking of trucks and heavy equipment accessory to an allowed use as a permitted or conditional accessory use in the employment districts.

**28.085(2)(b)4.** Parking of trucks as an accessory use, when used in the conduct of a permitted business listed hereinafter, shall be limited to vehicles of not over one and one half (1-1/2) tons capacity when located within one hundred fifty (150) feet of a residence district boundary line.

- Requirements for **outdoor storage** are listed in the general regulations or development standards sections of the **M1, M2, RPSM, RDC, and SM** districts in the existing code. In the new code, outdoor display and outdoor storage are addressed as either permitted or conditional accessory uses with supplemental regulations within the employment districts.

**28.10(2)(h)4. Storage Areas.** All storage, except for licensed motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened with screening not less than six (6) feet nor more than eight (8) feet in height, and no storage shall exceed the height of such screening. All outside storage

areas shall be located to the rear of buildings and shall be limited to not more than five (5) percent of the total lot area.

**28.10(b)3.** All storage within one hundred (100) feet of a residence district, arterial or collector street, except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened with screening not less than six (6) feet nor more than eight (8) feet in height, provided no storage located within fifty (50) feet of such screening shall exceed the maximum height of such screening; further provided, however, the Zoning Administrator may approve alternate landscaping/screening plans meeting the general intent, purpose and guidelines of the revised “New Approach to Parking Lot Landscaping” adopted by Substitute Resolution No. 37,915.

**Outdoor Display.**

(a) Outdoor sales and display shall be separated from any adjacent street, sidewalk, or public walkway by development frontage landscaping, as specified in Section 28.142(6).

**Outdoor Storage.**

- (a) Outdoor storage shall be located outside of the front yard setback and shall not be placed between the principal building and the abutting street.
  - (b) Except in the IG District, outdoor storage shall be completely screened from any adjacent street, sidewalk, public walkway, public park.
  - (c) Outdoor storage shall be screened from abutting residential uses with a building wall or solid, commercial-grade fencing, wall, evergreen hedge, or equivalent material. All screening shall be at least six (6) feet in height and no more than seven (7) feet in height. Screening along district boundaries, where present, may provide all or part of the required screening.
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**Office, Manufacturing, and Employment Districts: Yard and Setback Requirements**

**Front Yard Setback**

- The office and manufacturing districts in the existing code have **front yard setback requirements**. The new code establishes **frontage requirements** which delineate the placement of buildings in relationship to the abutting streets in the TE, SE, EC and IL districts. The SEC district has a 25 foot front yard setback. The IG district does not have a front yard setback or frontage requirement.

**Side Yard Setback**

- The **side yard setback** can vary according to the building height in both the existing and the new code. In the O1 and O2 districts, there is an increased street side yard setback for reversed corner lots. The new code does not have this provision. In the O3, O4, and RPSM districts, on corner lots, the side yard adjoining an arterial highway is 50 feet. This requirement is not in the new code for employment districts. In the M1 district, there is no side yard setback except when the lot abuts a residence district. In the new code, except for the TE district, the side yard setback is 15 feet or 20% of the building height (whichever is greater). In the TE district, the side yard setbacks depend on whether the lot abuts a residence district and on the number of building stories. Buildings with exclusively residential uses in the TE, SE, and EC districts, shall meet the lot area, lot width, and side yard setback requirements in the TR-V2 district.

**28.085(2)(g)2. and 28.085(3)(g)2. Side yards** - each side ten (10) feet, and in addition, two (2) feet for every story exceeding one story. **For reversed corner lot, fifteen (15) feet for side yard adjoining street.**

**28.085(4)(g)2. and 28.085(5)(g) Side yard** - Each side fifteen (15) feet or twenty percent (20%) of the building height, whichever is greater. **On corner lots, fifty (50) feet for side yard adjoining an arterial highway and twenty-five (25) feet for side yard adjoining other streets.**

**28.10(4)(f)2. M1 A yard shall be provided where a side lot line abuts a residence district.** Such yard along such side lot line shall be equal in dimension to the minimum side yard which would be required under this ordinance for any residential use in the adjacent residential district.

### **Rear Yard Setback**

- In the existing code, the **rear yard setback** may vary with the building height. The rear yard setback is 30 feet or 45% of the building height (whichever is greater) for the O3, O4, and RPSM, districts. In the M1 district the rear yard setback is 10 feet for a one story building and 30 feet for two or more stories. A rear yard is not required along a railroad right-of-way line. In the M2 district, there are no yard requirements unless a building or structure is located within 300 feet of a residence district. In the new code, the rear yard setback for the SE, SEC, EC, IL and IG districts is 30 feet (20 foot rear yard setback in the TE district). The new code also establishes a **rear yard height transition** to residential districts which steps down the height of buildings abutting residential districts.

**28.10(4)(f)3.** A yard shall be provided where a rear lot line coincides with an alley right-of-way line or a side lot line or rear lot line of an adjacent parcel. Such yard along such rear lot line shall be ten (10) feet in depth for buildings less than two stories in height, and thirty (30) feet for buildings two (2) stories or more in height. **However, where a rear lot line coincides with a railroad right-of-way line, a yard shall not be required along such rear lot line.**

**28.10(5)(f) Yard Requirements.** In the M2 district, the minimum yard requirements shall not be less than those specified as follows: In the M2 district, no building, structure or other obstruction or portion thereof, shall be located within three hundred (300) feet of the boundary of a residence district, unless such building, structure or other obstruction, or portion thereof, within three hundred (300) feet of the boundary of the residence district, is used for, or is accessory to, a use which would qualify under the terms of this ordinance for location in an M1 district as a permitted use, in which case the regulations for yards in the M1 district shall apply within three hundred (300) feet of such residence district boundary.

### **Other Yard Requirements**

- The existing code lists **lot area requirements for residential uses** in O1 and O2 office districts. 2,000 square feet of lot area is required per dwelling unit and 1,000 square feet per lodging room. In the new code, buildings with exclusively residential uses in the TE, SE, and EC districts, shall meet the lot area, lot width, and side yard setback requirements in the TR-V2 district.

**28.085(2)(e) Lot Area and Lot Width Requirements.** In the O-1 District, there shall be provided a lot area of not less than eight thousand (8,000) square feet and a lot width of not less than sixty-five (65) feet. **Where residences are established, there shall be provided a lot area of not less than two thousand (2,000) square feet per dwelling unit and one thousand (1,000) square feet per lodging room.**

**28.085(3)(e) Lot Area and Lot Width Requirements.** In the O-2 District, there shall be provided a lot area of not less than twenty thousand (20,000) square feet and a lot width of not less than one hundred (100) feet.

**Where residences are established, there shall be provided a lot area of not less than two thousand (2,000) square feet per dwelling unit and one thousand (1,000) square feet per lodging room.**

- In the O1 district, the maximum height shall not exceed 3 stories nor 45 feet in height. There are no **height requirements** in the other office and manufacturing districts in the existing code. In the new code, there are minimum and maximum height requirements. In the TE, SE, and SEC districts there is a minimum height of 22 feet measured to the building cornice and a minimum height of 2 stories in the EC district. In the TE district, the maximum height is 5 stories/68 feet. In the SE district, the maximum height for commercial uses is 5 stories/68 feet and is 4 stories/55 feet for residential uses. Building heights exceeding the maximum may be allowed with conditional use approval.
- In the existing code, the office districts and the RPSM district have **maximum building coverage** requirements while in the new code, only the SEC district has a building coverage requirement.
- The existing code does not have **lot coverage requirements** while all the Employment districts in the new code have lot coverage requirements.
- Except for the O1 district, the office and manufacturing districts under the existing code have **floor area ratio requirements**. The new code does not have floor area requirements except for the EC and SEC districts. The EC district has a minimum floor area ratio, and the SEC district has a maximum floor area ratio.
- In the existing code, residential uses in the O1 and O2 districts have a **usable open space requirement** of 300 square feet per unit and 150 square feet per lodging room. In the new code, the useable open space requirement for residential uses in the TE district is 160 s.f. per unit, and in the SE district, the useable open space requirement is 400 s.f. per unit.

**28.085(2)(h) and 28.085(3)(h) Usable Open Space Requirements.** In the O-1 District, there shall be provided a usable open space of not less than three hundred (300) square feet per dwelling unit and one hundred fifty (150) square feet per lodging room.

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## **Office, Manufacturing and Employment Districts: Uses**

### **28.085 Office Districts**

### **28.10 Manufacturing Districts**

### **28.082 Employment District Uses**

### **28.085(2)(c)&(d) and 28.085(3)(c)&(d) O1 and O2 Permitted and Conditional Uses**

#### **28.085(2)(d)1. Drive-up service windows for banks and financial institutions.**

(Drive-up service windows for banks and financial institutions are conditional uses in the O1 and O2 districts. In the employment districts in the new code, vehicle access sales and service windows are permitted uses with supplemental standards in the SE, SEC, IL and IG districts and a conditional use in the TE district.)

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The following are listed as **permitted uses in the O3 district**, but are not found in the new code, have modified standards listed in the supplemental regulations, or may have merged with other uses.

**28.085(4)(c) O3 Permitted Uses**

- 1. Administrative offices, provided such offices shall not be opened to or visited by the general public for the purpose of receiving or disbursing goods and services. Visits by service personnel, business calls, deliveries, and other activities normal to an administrative function are allowed. (Merged with Professional Office use.)
- 2. Data processing centers. (Omitted.)
- 4. Accessory uses, including, but not limited to the following:
  - a. Agricultural uses when integrated as a part of an overall development plan and maintained as a land management practice.
  - b. Dwelling units for security personnel and their families located on the premises where they are employed.
  - c. Educational or training centers.
  - d. Lodging facilities for employees on the site and for business visitors and guests.
  - e. Day care centers for children of employees on the site.
  - f. Outdoor recreational, cultural or public service uses.
  - g. Physical fitness and other similar type recreational facilities for employees and their guests.
  - h. Restaurants, drugstores and valet shops for employees and their guests, and for business visitors and guests, provided such uses shall be accessible only through a lobby and no advertisement or display shall be visible from outside the building, except outside identification and directional signs would be allowed as provided in Chapter 31, Sign Control Ordinance.
  - i. Reproduction processes, including printing, blueprinting, photostating, lithographing, engraving, stereotyping, publishing, and bookbinding.

(Omitted. Several accessory uses are permitted in the O3 district. Some of these uses are conditional uses in employment districts, such as lodging facilities, retail, and restaurant uses.)

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The following are listed as **permitted uses in the RPSM district**, but are not found in the new code, have modified standards listed in the supplemental regulations, or may have merged with other uses. Some uses which are currently permitted in the RPSM district will become conditional uses in the employment districts.

**28.10(2)(c) RPSM Permitted Uses**

- 5. Pilot plants or other facilities for the testing of manufacturing, processing or fabrication methods, or for the testing of products or materials. (Merged with Limited Production and Processing uses.)
- 7. Accessory uses, including, but not limited to the following:
  - a. Educational or training centers or institutions.
  - b. Nursery schools or day care centers for children of employees on the site.
  - c. Restaurants or structurally integrated lodging facilities which are open only to persons employed on the site and to business visitors and guests.
  - d. Temporary buildings for construction purposes, for a period not to exceed the duration of such construction.
  - e. Reproduction processes related to a primary function including printing, blueprinting, photostating, lithographing, engraving, stereotyping, publishing and bookbinding.
  - f. Wholesaling of goods and merchandise manufactured or produced on the premises. (Omitted. The new code does not specifically list permitted accessory uses in the Employment Districts.)
- 9. Health Club in an RPSM District exceeding 300 acres in area if located:
  - a. Within the central 150 acres of the RPSM District, or

b. Contiguous to or in conjunction with a hotel meeting facility of at least 250 motel/hotel rooms and a gross floor area of at least 200,000 square feet. (Omitted.)

13. Restaurants, subject to the following: the establishment of any restaurant shall be within an enclosed building, shall be limited in size to no more than twenty-five percent (25%) of the gross floor area of the building and shall not contain any drive-up service. (Restaurants are listed as conditional uses in all Employment Districts.)

14. Retail uses, provided that such retail uses in aggregate (i) are located on the ground floor; (ii) do not exceed the smaller of 15,000 gross square feet or 25% of the gross area in any single building; and (iii) no individual retail store shall exceed 2,500 gross square feet. Such retail uses shall include:

- a. Barber shops.
- b. Beauty parlors.
- c. Book, magazine and stationery stores.
- d. Candy, ice cream, yogurt and custard stores.
- e. Dry cleaning and laundry establishments.
- f. Florist shops.
- g. Food stores, grocery stores, meat stores, fish markets.
- h. Gift shops and card shops.
- i. Camera and photographic supply and film processing stores.
- j. Video rental establishments.
- k. Tailor shops.
- l. Blue printing, photostating establishments and copy shops.
- m. Travel bureaus and transportation ticket offices.
- n. Telephone, cellular, pager stores.
- o. Tobacco stores.
- p. Bakery stores.
- q. Delicatessens.
- r. Office supply stores

(General retail uses are conditional uses in all Employment Districts.)

15. Colleges and universities. (Colleges and universities are conditional uses in Employment Districts- TE, SE, EC, and SEC.)

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The following are listed as **permitted or conditional uses in the SM district**, but are not found in the new code, have modified standards listed in the supplemental regulations, or may have merged with other uses.

**28.10(3)(c) and (d) SM Permitted or Conditional Uses**

8. Municipal maintenance shops and yards. (Omitted.)

14. The servicing, wholesaling, and distribution of products associated with medical devices, medical instruments, computers, telecommunications, information technology, and audio-video equipment, including a retail sales area not to exceed five percent (5%) of the Gross Floor Area of the building or buildings. (Omitted.)

28.10(3)(d)1. Cartage establishments. (Omitted.)

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The existing code lists specific uses in the manufacturing districts, while in the new code many uses are put into more general categories of limited production and processing, light manufacturing, and general manufacturing.

**Limited Production and Processing.** Uses that produce minimal off-site impacts due to their limited nature and scale, are compatible with office, retail and service uses, and may include wholesale and off-premises sales. Limited production and processing includes, but is not limited to, the following:

- (a) Apparel and other finished products made from fabrics;
- (b) Blueprinting;
- (c) C. Computers and accessories, including circuit boards and software;
- (d) Electronic components, assemblies, and accessories;
- (e) Film, video and audio production;
- (f) Food and beverage products, except no live slaughter, grain milling, cereal, vegetable oil or vinegar processing;
- (g) Jewelry, watches and clocks;
- (h) Milk, ice cream, and confections;
- (i) Musical instruments;
- (j) Novelty items, pens, pencils, and buttons;
- (k) Precision dental, medical and optical goods;
- (l) Signs, including electric and neon signs and advertising displays;
- (m) Toys;
- (n) Wood crafting and carving; and
- (o) Wood furniture and upholstery.

**Manufacturing, General.** An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its property line. Some activities may occur outside of enclosed buildings. This term includes, but is not limited to:

- (a) Animal, poultry slaughter or processing facility. Processing of byproducts from industrial operations
- (b) Processing and packaging of alcohol beverages.
- (c) Chemical manufacturing.
- (d) Stonework or concrete product manufacturing.
- (e) Fabrication of metal products.
- (f) Manufacturing of agricultural, construction or mining machinery.
- (g) Motor vehicle manufacturing.
- (h) Lumber milling.
- (i) Paper manufacture.

**Manufacturing, Light.** An establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services. This term includes, but is not limited to, a business engaged in the processing, fabrication, assembly, treatment or packaging of food (not including meat and fish products), beverages, textile, leather, wood, paper, chemical, plastic or metal products, but does not include basic industrial processing from raw materials.

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Many of the uses currently permitted in the M1 and M2 districts under the existing code will become conditional uses in the Industrial-Limited (IL) and Industrial-General (IG) districts in the new code or will not be allowed in the IL or IG districts.



The following are listed as **permitted uses in the M1 district**, but are not found in the new code, have modified standards listed in the supplemental regulations, may have merged with other uses, or are listed as conditional uses in the new code.

### **28.10(4)(c) M1 Permitted Uses**

3. Amusement establishments, including archery ranges, bowling centers, dance halls, golf driving ranges, gymnasiums, pool halls, swimming pools, skating rinks and other similar indoor amusement facilities, but excluding amusement arcades. (Merged with Indoor Recreation. Indoor Recreation is not allowed in the IL or IG districts and is a conditional use in other Employment districts.)
4. Animal hospitals and kennels including outdoor dog runs or exercise pens when located not less than two hundred (200) feet from the residence district. (Merged into Animal Boarding Facility, Kennel, Day Care. Conditional use in IL and IG districts.)
6. Automobile service stations for the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories and supplies, including installation and minor services customarily incidental thereto, and facilities for chassis and gear lubrication and for washing of motor vehicles, only if enclosed in a building, and accessory towing and wrecker service. (Merged into Auto Service Station, Convenience Market and Auto Repair Station. Conditional use in TE and SE districts only.)
8. Building material sales establishments. (Split into Building Material Sales and Lumberyard. Conditional use in IL and IG districts.)
11. Drugstores. (Omitted. General retail is a conditional use in all Employment districts.)
16. Fuel and ice sales establishments. (Merged into Auto Service Station, Convenience Market.)
17. Furniture and floor covering storage and sales. (Merged with Furniture and Household Goods Sales. Permitted as an accessory use with standards in TE and IL districts.)
20. Highway maintenance shops and yards. (Omitted.)
22. Machinery and equipment sales and service establishments. (Omitted.)
24. Meeting halls, convention halls and exhibition halls. (Merged with Indoor Recreation and Lodge, Private Club, Reception Hall.)
25. Mobile home sales and service establishments. (Omitted.)
26. Model homes or garage displays. (Omitted.)
27. Offices, business and professional. (Conditional use in IL and IG districts.)
34. Restaurants, including catering services. (Restaurants are conditional uses in all Employment districts. Catering is listed as a separate use and is permitted in all Employment districts.)
35. Schools, trade. (Permitted use in SE and EC districts, conditional use in other Employment districts.)
36. Stadiums, auditoriums and arenas, open or enclosed. (Omitted.)

37. Storage and warehousing establishments. (Conditional use in TE, SE, and IL districts. Permitted use in IG.)
38. Storage yards, but not including junkyards. (Conditional use in IL and IG districts.)
39. Taverns. (Conditional use in all Employment districts.)
40. Trailer sales and rental, for use with private passenger motor vehicles. (Merged into Automobile Sales. Not allowed in Employment districts.)
41. Weighing stations. (Omitted.)
43. Day care centers. (Conditional use in IL and IG districts. Permitted use in other Employment districts.)
44. Truck sales and rental. (Merged into Automobile Sales. Not allowed in Employment districts.)
45. Taxicab business. (Conditional use in IL district. Permitted use in IG district.)
47. Motor vehicle salvage business conducted entirely within an enclosed building. All vehicles on premises for the purpose of repair or dismantling and all parts from vehicles shall be stored inside an enclosed building. (Conditional use in IG district only.)
48. Mission houses. (Omitted.)
49. Restaurant/theater. (Restaurant and Theater are split into separate uses. Conditional use in all Employment districts.)
51. Exterminating shops. (Omitted.)
52. Publicly owned and operated collection, temporary storage and transfer of hazardous household waste. (Conditional use in IG district only.)
53. Medical, dental and optical clinics. (Not allowed in IL or IG districts.)
55. Massage therapy. (Merged with physical, occupational or massage therapy.)
57. Recording studios. (Omitted.)
58. Cartage establishment, provided no vehicle shall have a hauling/moving compartment in excess of twenty-four (24) lineal feet nor shall the establishment maintain or operate more than five (5) business vehicles from said establishment. (Omitted.)
60. Brewpubs. (Conditional use in Employment districts.)
61. Newspaper distribution agencies for home delivery and retail sale. (Omitted.)
63. Cemeteries. (Omitted.)
65. Canoe and kayak sales. (Omitted.)

66. Recreational buildings and community centers, not operated for profit. (Omitted.)

67. Adult day care facilities. (Merged with Day Care Center. Conditional use in IL and IG districts.)

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Several of the **conditional uses listed in the M1 district** of the existing code are no longer allowed in the IL or IG districts under the new code. The more intensive industrial uses are no longer allowed in the M1 district, but are permitted or conditional uses in the IG district under the new code. The following are listed as **conditional uses in the M1 district**, but are not found in the new code, have modified standards listed in the supplemental regulations, or may have merged with other uses.

#### 28.10(4)(d) M1 Conditional Uses

1. Airports or aircraft landing fields and heliports. (Airport district in new code.)

2. Amusement establishments, including fairgrounds, permanent carnivals, kiddie parks and other similar outdoor amusement facilities. (Merged with Outdoor Recreation. Outdoor Recreation not allowed in Employment districts.)

4. Automobile laundries. (Renamed Car Wash. Not allowed in IL and IG or districts.)

14. Secondhand stores and rummage shops. (Omitted.)

18. Theaters, automobile drive-in. (Automobile Drive-In has been omitted. A Theater is not allowed in IL or IG districts and is a conditional use in the other Employment districts.)

20. Automobile and motorcycle sales and rental establishments. (Merged with Auto Sales. Auto Sales and rental not allowed in Employment districts.)

22. Automobile accessory stores including installation. (Merged with Auto Service Station or Auto Repair Station.)

24. Amusement arcades. (Omitted.)

27. Specialized educational school facilities limited to grades 7-12, operated by a Madison Area School District for a period not to exceed two years. (Omitted.)

30. Private ambulance services. (Omitted.)

32. Boat, motor, trailer and marine equipment sales and service.) (Merged with Auto Sales. Not allowed in Employment districts.)

33. Hotels on lots not less than two (2) acres in area and abutting limited access state or federal highways. (Hotels not allowed in IL or IG districts.)

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The following are listed as **permitted or conditional uses in the M2 district**, but are not found in the new code, have modified standards listed in the supplemental regulations, or may have merged with other uses.

#### 28.10(5)(c) and (d) M2 Permitted or Conditional Uses

28.10(5)(c)9. Storage of petroleum products, wholesale. (Omitted.)

28.10(5)(d)2. Dumping or disposal of garbage, refuse or trash. (Merged with Hazardous Waste Collection, Storage or Transfer.)

28.10(5)(d)4. Fertilizer manufacture. (Omitted.)

28.10(5)(d)5. Sewage treatment plants. (Omitted.)

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The following are listed as **permitted uses in the RDC district**, but are not found in the new code, have modified standards listed in the supplemental regulations, or may have merged with other uses.

**Sec. 28.10(6)(c)**

5. Pilot plants or other facilities for the testing of manufacturing, processing or fabrication methods, or for the testing of products or materials. (Merged with Limited Production and Processing.)

7. Accessory uses, including, but not limited to the following:

- a. Educational or training centers or institutions.
- b. Nursery schools or day care centers for children of employees on the site.
- c. Restaurants or structurally integrated lodging facilities which are open only to persons employed on the site and to business visitors and guests.
- d. Temporary buildings for construction purposes, for a period not to exceed the duration of such construction.
- e. Reproduction processes related to a primary function including printing, blueprinting, photostating, lithographing, engraving, stereotyping, publishing and bookbinding.
- f. Wholesaling of goods and merchandise manufactured or produced on the premises. (Omitted. Specific accessory uses are not listed for the Employment districts.)

11. Restaurants, subject to the following: the establishment of any restaurant shall be within an enclosed building, shall be limited in size to no more than twenty-five percent (25%) of the gross floor area of the building and shall not contain any drive-up service. (Modified supplemental standards. Conditional uses in all Employment districts.)

12. Retail uses, provided that such retail uses in aggregate (i) are located on the ground floor; (ii) do not exceed the smaller of 15,000 gross square feet or 25% of the gross area in any single building; and (iii) no individual retail store shall exceed 2,500 gross square feet. Such retail uses shall include:

- a. Barber shops.
- b. Beauty parlors.
- c. Book, magazine and stationery stores.
- d. Candy, ice cream, yogurt and custard stores.
- e. Dry cleaning and laundry establishments.
- f. Florist shops.
- g. Food stores, grocery stores, meat stores, fish markets.
- h. Gift shops and card shops.
- i. Camera and photographic supply and film processing stores.
- j. Video rental establishments.
- k. Tailor shops.

- l. Blue printing, photostating establishments and copy shops.
- m. Travel bureaus and transportation ticket offices.
- n. Telephone, cellular, pager stores.
- o. Tobacco stores.
- p. Bakery stores.
- q. Delicatessens.
- r. Office supply stores.

(Omitted. General retail uses are conditional uses in all Employment districts.)

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Following are uses that are listed in the Employment Districts in the new code but are not in the existing code.

Storage, indoor personal facility

Animal day care

Coffee shop, tea house

Community garden

Market garden

Composting (Accessory Use)

Outdoor display (Accessory Use)

Outdoor sales events (Accessory Use)

Outdoor storage (Accessory Use)

Portable storage units (Accessory Use)

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## **28.11 Off-Street Parking and Loading Facilities**

### **28.141 Parking and Loading Standards**

In the new code, several uses listed under the Residential, Mixed-Use and Commercial, Employment and Special Districts are not listed in Table 28J-3 Off-Street Parking Requirements. The following uses are listed in the Residential, Mixed-Use and Commercial, Employment, and Special Districts, but are not found in Table 28J-3 Off-Street Parking Requirements.

#### Civic and Institutional Uses

- Adaptive reuse of former public school or municipal buildings
- Community garden
- Counseling, community services organization
- Daycare home, family
- Daycare center in school or religious institution
- Market garden

#### Civic and Institutional Uses (Special Districts)

- Civic auditorium complex

- Community center
- Land and water preserves
- Correctional and medical institutions, government-owned

Office Uses

- Home occupation

Retail Sales and Services

- Animal grooming
- Auction rooms
- Business equipment sales and services
- Photocopying
- Sporting goods store, bait shop
- Tattoo shop
- Tobacco shop

Retail, Service, Recreation and Other Uses (Residential Districts and Special Districts)

- Golf course, public or private
- Swimming and tennis clubs, private
- Limited retail use of landmark site or building
- Management office, restaurant, limited retail, recreation facilities within multi-family building
- Any structure with floor area exceeding 10,000 sq. ft.
- Lakefront development

Limited Production, Processing and Storage

- Junkyard
- Telecommunication center
- Warehousing and storage
- Wholesale establishment

Agricultural and Resource Uses

- Selective cutting
- Clear cutting

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The existing code provides that **residential parking lots in the Central Area under 2,000 square feet in area** may be gravel rather than paved. The new code does not have this provision. The existing code also makes exceptions for parking stall size and access for parking areas in the Central Area under 2,000 square feet in size.

**28.11(3)(h)2.a. Surfacing.** All open off-street parking areas, except a parking space accessory to a single-family dwelling and accessory parking areas under two thousand (2000) square feet on residentially zoned lots in the Central Area, shall be improved with a bituminous or Portland cement concrete pavement or paving brick surface in accordance with City of Madison standards and specifications. Such parking areas shall be so graded and drained as to dispose of all surface water. Such parking areas shall also be so arranged and marked to provide for orderly and safe parking and storage of vehicles, and shall be so improved with wheel stops or bumper guards to prevent encroachment into adjacent lots or public ways. Accessory parking areas under two thousand (2000) square feet on residentially zoned lots in the Central Area shall be at a minimum improved with 3/4" to 1 1/4" grade gravel, which shall be at least six inches in depth. Said gravel lots shall be provided with erosion control and a continuous anchored curb, a minimum of five inches in height, and consisting of asphalt, concrete, pressure treated timbers, or other suitable permanent material.

**28.11(3)(e) Size.** Off-street parking spaces shall comply with the minimum width, length and access requirements as specified in Sec. 10.08, Madison General Ordinances, except an off-street vehicle parking facility located in a residence district within the Central Area. In the Central Area, a parking area excluding the driveway totaling two thousand (2000) square feet or less, without an accessible parking stall, or twenty-two hundred (2200) square feet or less, with an accessible parking stall, shall be subject to review and approval by the Zoning Administrator. Required bicycle parking spaces shall be at least 2 feet by 6 feet. An access aisle of at least 5 feet shall be provided in each bicycle parking facility. Such space shall have a vertical clearance of at least 6 feet.

**28.11(3)(f)(f) Access.** Each required off-street parking space shall open directly upon an aisle or driveway of such width and design so as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley as provided in Section 10.08, Madison General Ordinances, except that in the Central Area, a parking area excluding the driveway, totaling two thousand (2000) square feet or less, without an accessible parking stall, or twenty-two hundred (2200) square feet or less, with an accessible parking stall, shall have a drive aisle eight feet or wider, except existing drive aisles in the Central Area can remain.

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The following section on **parking lot lighting** is in the existing code, but not in the new code.

**28.11(3)(h)4. Lighting.** Illumination of an off-street parking area shall be arranged so as not to reflect direct rays of light into adjacent residence districts and streets. Intensity of illumination of parking areas shall conform to standards designated by the Traffic Engineer. All lighting for business uses shall be extinguished or reduced in intensity, as approved by the Traffic Engineer, no later than thirty (30) minutes after the close of business of the use being served.

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The following section on **parking lot location** is in the existing code, but not in the new code.

**28.11(3)(i) Location.** All parking spaces required by this ordinance shall be located on the same zoning lot as the use served except that parking facilities may be located on land other than the zoning lot on which the building or use served is located, provided:

1. Such parking facilities are located within one thousand (1,000) feet walking distance of a main entrance to the use served and are subject to the provisions of the district within which such parking is located; and
  2. Such parking facilities for nonresidential uses are provided:
    - a. For property under either (c) Permissive Parking or (d) Collective Provisions above; or
    - b. For property nonconforming as to parking; or
    - c. For property which, after the effective date of this ordinance, is subsequently altered or enlarged so as to require the provision of accessory parking spaces under this ordinance.
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The existing code provides that for residential properties, **areas in excess of 40% of front and street side yards can be paved if permanent physical barriers are erected.** The new code does not have this provision.

**28.11(3)(g)2.** In the front yard, street side yard, including the portion of the rear yard that is an extension of a street side yard to the rear lot line, vehicles must be parked entirely on a paved driveway. Paving may be asphalt, cement, brick, or other impervious surface. A maximum of forty percent (40%) of each yard may be paved and used for driveway and parking purposes. **Areas in excess of forty percent (40%) of the front yard or street side yard, including the portion of the rear yard that is an extension of the street side yard to the rear lot line may be paved, provided that permanent physical barriers are erected to prevent vehicle encroachment**

**onto those paved areas that are in excess of forty percent (40%) of these yards allowed for driveway/parking purposes.**

**28.141(8)(c)5** A maximum of forty percent (40%) of the front and rear yard setbacks may be paved and used for driveway and parking purposes provided lot coverage requirements are not exceeded.

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In the existing code, the **minimum size of a bike parking stall** is 2 feet by 6 feet with a minimum vertical clearance of six (6) feet. In the new code, the minimum size of a bike parking stall is 2 1/2 feet by 6 feet, and there is no minimum vertical clearance listed for bicycle parking.

**28.11(3)(e) Size.** Off-street parking spaces shall comply with the minimum width, length and access requirements as specified in Sec. 10.08, Madison General Ordinances, except an off-street vehicle parking facility located in a residence district within the Central Area. In the Central Area, a parking area excluding the driveway totaling two thousand (2000) square feet or less, without an accessible parking stall, or twenty-two hundred (2200) square feet or less, with an accessible parking stall, shall be subject to review and approval by the Zoning Administrator. **Required bicycle parking spaces shall be at least 2 feet by 6 feet. An access aisle of at least 5 feet shall be provided in each bicycle parking facility. Such space shall have a vertical clearance of at least 6 feet.**

**28.141(11)(e) Bicycle parking spaces** shall be a minimum of two and one-half (2 ½) by six (6) feet in size, unless a rack is not the modular standard, in which case, space shall be two (2) feet by six (6) feet. There shall be an access aisle a minimum of five (5) feet in width. Each required bicycle parking space must be accessible without moving another bicycle and its placement shall not result in a bicycle obstructing a required walkway. Bicycle racks shall be installed to the manufacturer’s specifications, including the minimum recommended distance from other structures.

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The following sections under 28.11(4) **Off-Street Loading Facilities** are in the existing code but not found in the new code.

**28.11(4)(a) 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. An off-street loading berth shall be available for its designated purpose when needed.

**28.11(4)(f)5.** For uses other than those prescribed above, loading berths adequate in number and size to serve such uses as determined by the Zoning Administrator, shall be provided.

**28.11(4)(f)6.** Uses for which off-street loading facilities are required herein but which are located in buildings of less floor area than the minimum prescribed for such required facilities, shall be provided with adequate receiving facilities off any adjacent alley, service drive or open space on the same zoning lot which is accessible by motor vehicles.

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