

SUBCHAPTER 28M: PROCEDURES

28.181 IN GENERAL.

(1) Statement of Purpose.

This Section describes how land development decisions and projects are approved and permitted in Madison. It describes how an application is submitted, who processes the application, the types of procedures that are followed, and what the permit allows the applicant to do. Refer to Appendix C for detailed application submittal requirements.

(2) Common Elements.

Many of the application requirements outlined in this Section have the following common elements:

Table 28M-1. Common Elements of Zoning Applications.

Element	Description
Applicability and Initiation	<p>This describes the situations, building types, development types, uses, or contexts where the procedure applies, and who may file an application.</p> <p>Eligible Applicant: Unless otherwise specified, any person, firm, corporation or organization that has any of the following interests that are specifically enforceable in the land that is subject to the application may file an application:</p> <ul style="list-style-type: none"> • a freehold interest • a possessory interest entitled to exclusive possession • a contractual interest which may become a freehold possessory interest • any exclusive possessory interest • any unit of government which issues a relocation order or adopts a resolution of necessity of taking describing the land for which the application is sought
Initiation	This describes how the application is filed, and who receives the application.
Completeness Review	Application materials must be submitted as specified in each Section and in Appendix C. Incomplete applications will not be accepted.
Notice	This describes how notice, where required, is provided. This includes the type of notice and when it must be provided. See subsection (5), below, for general notice requirements.
Decision	This describes the procedures for review by appropriate staff, agencies and boards and for reaching a decision as to whether the permit is approved, denied, or approved with conditions.
Standards	This lists standards or criteria for approval. These standards or criteria supplement any other standards or criteria required by this Chapter for approval of the application.
Subsequent Applications	This provides a waiting period for some applications in order to avoid consuming staff resources to process of repetitive applications.
Alterations	This describes how the applicant can make changes to the approval. Some applications have separate procedures for major and minor changes.
Scope of Approval	This establishes and limits the rights that an Applicant obtains from approval or conditional approval of an application, what actions the permit authorizes, and the

	<p>time period for exercising rights under the order or permit. Before granting any application, the approving official or agency may attach conditions and restrictions to secure compliance with the standards in this Chapter. The official or agency may require such evidence and guarantees as proof that the applicant will comply with the conditions.</p>
<p>Finalization of Approval</p>	<p>This section describes how the decision on the application is finalized or recorded in the public records.</p>

(3) Pre-Application Meeting.

Before an application is filed, the applicant is strongly encouraged to attend a pre-application meeting with Zoning and Planning staff. The purpose of the pre-application meeting is to discuss, in general, the procedures and requirements for an Application.

(4) Completeness Review.

These procedures apply to any Application unless a different procedure is established for the Application elsewhere in this Chapter.

- (a) No Application is complete unless all of the information required by Appendix C is included, and all application fees required by Appendix B have been paid. The Zoning Administrator may refuse to accept an incomplete application.
- (b) The Zoning Administrator will make current application materials available in the offices of the Department of Planning and Community and Economic Development.
- (c) The Zoning Administrator may establish a schedule for filing any Application that requires action by the Plan Commission, Zoning Board of Appeals, Urban Design Commission, or the Common Council. Completed applications shall be filed according to any posted schedule of the Zoning Administrator.

(5) Notice.

The type of notice required for certain applications is established in Table 28M-2 below.

Table 28M-2. Notice Requirements.

Type of Notice (Responsible Party)	Requirements	Map Amendment	Text Amendment	Conditional Use	Variance	Demolition
Prior to filing application (Applicant)	Applicant must notify the following at least 30 days before filing an application by mail or electronic mail with a copy to the Department Director and the Zoning Administrator –					
	<ul style="list-style-type: none"> neighborhood association registered with City that serves the area where the property is located 	X	X	X		X
	<ul style="list-style-type: none"> business association listed with City that serves the area where the property is located 	X	X	X		X
	<ul style="list-style-type: none"> any person registered with the Department of Department of Planning and Community and Economic Development to receive such notice 					X
	<ul style="list-style-type: none"> the alderperson of the district in which the property is located. <p>Failure to provide the mailed pre-application notice does not invalidate any action taken on the application by the Plan Commission or Common Council. The neighborhood notice requirement may be waived, if approved by the Alderperson, President of the Neighborhood Association, and Director of Planning and Community and Economic Development.</p>	X	X	X		X
Publication (City)	Class 1 notice (see ch. 985 WSA) in the official city paper.				X	
	Class 2 notice (see ch. 985 WSA) in the official city paper.	X	X	X		X
First class mail (City)	Recipients:					
	<ul style="list-style-type: none"> the applicant 			X	X	X
	<ul style="list-style-type: none"> the zoning file 	X		X	X	X
	<ul style="list-style-type: none"> the alderperson of the district in which the property affected is located. 	X		X	X	X
	<ul style="list-style-type: none"> the owners of record, as listed in the office of the City Assessor, and occupants of multi-tenant buildings, of property in whole or in part situated within two hundred (200) feet of the boundaries of the properties affected. 	X		X		X
<ul style="list-style-type: none"> the owners of record, as listed in the office of the City Assessor, and occupants, of adjoining property. 				X		

Signage (Applicant)	Obtain the sign from the Department of Planning and Community and Economic Development, on the property that is the subject of the application. The sign must list the times and locations of all public hearing(s) to consider the application. The sign shall be posted at least fourteen (14) days prior to the public hearing and shall be located in a position on the property so that it can be read from the sidewalk or other public right-of-way. If a property abuts more than one (1) public right-of-way, a sign shall be placed facing each public right-of-way. The sign shall be removed within seven (7) days of the last hearing listed on the sign.	X		X		X
---------------------	--	---	--	---	--	---

28.182 TEXT AND MAP AMENDMENTS

(1) Purpose.

This section allows the Common Council to amend the text of this Chapter or the zoning districts in order to promote public health, safety, and welfare throughout the City, giving due consideration to existing conditions, conservation of property values, building development providing best advantage to the City, the current use of property, and in the case of map amendments, the cost of providing municipal services to the property and uses accommodated by the map amendment.

(2) Applicability.

- (a) The Common Council may amend this Chapter at any time as provided in this section.
- (b) There are two classes of amendments: text amendments and map amendments. These are defined below:

Text amendments	Amendments to the text of this chapter.
Map amendment	A change to the zoning map . The change may either expand or contract the boundaries of a zoning district, or change the district classification of an area or property.

(3) Initiation.

- (a) Text amendments may be initiated by the Common Council and any alderperson.
- (b) Map amendments may be initiated the Common Council or an Eligible Applicant as specified in Table 28M-1.
- (c) Filing. The applicant shall file the application with the Zoning Administrator.

(4) Completeness Review.

- (a) The application must include the information prescribed in Appendix C.
- (b) For a map amendment, the Zoning Administrator will review the application for completeness as provided in Section 28.181(4).
- (c) If the application is incomplete, the Zoning Administrator may return the application with a summary of the deficiencies.

(5) Notice.

- (a) Generally. The following notice is required for any map amendment (see Section 28.181(5) above):

- Pre-application
 - Publication
 - Mail (see subsection B, below)
 - Signage
- (b) Mailed Notice.
1. Mailed notice must be sent at least ten (10) days before the date of each public hearing.
 2. The applicant may choose to make the required mailing and may use labels purchased from the City, or the applicant may pay the City to do the mailing.
- (6) Decision.
- (a) Recommendation by the City Plan Commission.
1. The Plan Commission shall hold a public hearing on each application for an amendment at a time and place as shall be established by the commission. The procedures for conducting the hearing and recording the proceedings are prescribed in the “Basic Policy and Procedures Manual” adopted by the Plan Commission.
 2. After the public hearing on an amendment, the City Plan Commission shall submit its recommendation to the Common Council prior to the Council’s public hearing.
 3. The Plan Commission may recommend conditions that are consistent with the intent of this ordinance and will protect the public interest.
 4. The Plan Commission may recommend the following modifications:
 - a. The adoption of a map amendment changing the zoning classification of the property in question to any classification that is more restricted than that proposed by the applicant. For this purpose, the Conservancy district is the most restrictive classification and the Industrial - General (IG) district is the least restricted classification.
 - b. That a proposed map amendment take effect within an area smaller than the area as originally proposed and which is entirely included within the originally proposed area.
- (b) Action by Common Council. The Common Council shall not act upon a text amendment or map amendment until it has received a recommendation from the City Plan Commission as provided above.
- (c) Protest Petition.
1. A written protest against a map amendment may be filed after the application is filed or modified. If a valid protest petition is filed, the map amendment shall not become effective except by the favorable vote of three-fourths (3/4) of the members of the Common Council voting on the proposed change.
 2. The protest must be filed with the City Clerk.
 3. The protest must be duly signed and acknowledged by:
 - a. the owners of twenty percent (20%) or more of the area of land included in the proposed map amendment or modification, or
 - b. twenty percent (20%) of the registered electors residing in the areas of the land included in the proposed map amendment or modification, or

- c. the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet from the subject property, or
- d. the owners of twenty percent (20%) or more of the land directly opposite from the subject property and extending one hundred (100) feet from the street frontage of the opposite land, or
- e. twenty percent (20%) of the registered electors residing within all buildings any part of which is on land immediately adjacent extending one hundred (100) feet from the subject property, or
- f. twenty percent (20%) of the registered electors residing within all buildings any part of which is on land directly opposite the subject property and extending one hundred (100) feet from the street frontage of the opposite land.

4. Protest Petition Procedure.

- a. If a protest is commenced under this Subdivision, the following procedure must be used in order for the protest petition to be accepted as valid by the City.
- b. Each protest petitioner must date and acknowledge his signature in compliance with Sec. 706.07, Wis. Stats., Uniform Acknowledgment Act. The protest petitioner shall either sign in the presence of a notary public or other officer as specified in WSA § 706.07(2) or shall personally appear before the notary public or other officer and acknowledge his or her prior signing.
- c. Protest petitions shall be delivered to the City Clerk by noon on the Thursday before final Common Council consideration.
- d. If action on the proposed map amendment is not taken at the initial meeting of the Common Council, additional protest petitions may be again filed with the City Clerk until noon on the Thursday before the meeting at which the Common Council again proposes to act upon the map amendment.
- e. The same day the petitions are received, the City Clerk shall make copies of the petitions and forward these copies to the Department of Planning and Community and Economic Development.
- f. The Department of Planning and Community and Economic Development shall compute the protest petitions and inform the Common Council concerning the percentage of protesters prior to a vote by the Common Council.
- g. Although protesters may exercise their rights to subsequently withdraw their names from a protest petition, the withdrawal must be signed, dated and acknowledged and the form of the acknowledgement must also comply with Sec. 706.07, Wis. Stats. Withdrawals must be submitted to the City Clerk by noon on the Friday before final Common Council consideration. If action on the proposed map amendment is not taken at the initial meeting of the Common Council, additional withdrawals may be again filed with the City Clerk until noon on the Friday before the Common Council again proposes to act upon the map amendment.

(7) Standards for Map Amendments or Text Amendments.

Text amendments or map amendments are legislative decisions of the Common Council that shall be based on public health, safety and welfare, shall be consistent with the Comprehensive Plan, and shall comply with Wisconsin and federal law.

(8) Subsequent Applications.

An application for a map amendment that is denied by the Common Council cannot be resubmitted within one (1) year from the date of the denial, unless:

- (a) the Council specifically determines that the denial is without prejudice, or
- (b) the application is substantially different from the application that was denied.

(9) Amendments to Floodplain Regulations or Maps.

No amendment to floodplain regulations, either text or map, shall become effective until approved by the Wisconsin Department of Natural Resources.

(10) Recording.

A text amendment is codified by the City Attorney as provided in § 3.07 MGO. A map amendment becomes part of the “Zoning District Maps” on file in the office of the Zoning Administrator.

28.183 CONDITIONAL USES.

(1) Statement of Purpose.

This Chapter divides the City into districts where the design, use, bulk and location of buildings and structures are compatible and substantially uniform. However, some uses have unique characteristics, and therefore cannot be properly allowed as unrestricted permitted uses. The City require consideration, in each case, of their impact on neighboring land or public facilities, and of the public need for the particular use at a particular location. These uses may be necessary or desirable in a particular district if sufficient consideration is given to their location, development and operation.

(2) Applicability and Initiation.

This section applies to those uses that are enumerated as conditional uses in the zoning district regulations (Subchapters 28C through 28I).

Any Eligible Applicant (see Section 28.181(2)) may file an application for a conditional use permit with the Zoning Administrator.

(3) Completeness Review.

See Section 28-181(4).

(4) Notice.

A conditional use permit application requires the following type of notice (see Section 28.181(5)):

- Preapplication
- Mail – by City or applicant, sent at least ten (10) days before the public hearing
- Publication - by City, at least seven (7) days before the public hearing

(5) Decision.

(a) City Plan Commission.

1. On receipt of a complete application for a conditional use permit, the Plan Commission shall hold a public hearing. The hearing shall be conducted and recorded in accordance with the Plan Commission’s Policies and Procedures Manual.

2. The Plan Commission shall approve, approve with conditions, or deny any application for a conditional use permit.
3. The Plan Commission shall render its decision within a reasonable time.
4. The concurring vote of a majority of quorum of the Plan Commission is required to grant a conditional use permit.
5. The decision of the Plan Commission shall include findings of fact. When a conditional use application is denied, the findings of fact must list the standards that are not met and the reasons the Commission used to determine that each standard was not met.
6. When reviewing a conditional use application that involves any new construction of a building or an addition to an existing building, the Plan Commission may require the applicant to submit plans to the Urban Design Commission for comments and recommendations.
7. Final action may be either initial action on a conditional use or action following reconsideration of the said initial action under the Plan Commission's Policies and Procedures Manual. However, reconsideration requires written notification of intent to reconsider by a Commission member to the Commission Secretary no later than ten (10) days after said initial action. The notice requirements of subsection D, above, apply to reconsideration, except that the notice by publication shall be a Class 1 Notice. The taking of an appeal before the third day after the initial action does not preclude or invalidate reconsideration by the Commission.

(b) Appeal From Action by Plan Commission.

1. The Plan Commission's decision is appealable to the Common Council.
2. The appeal may be filed by:
 - the applicant, or
 - the Alderperson of the district in which the use is located, or
 - twenty percent (20%) or more of the property owners notified who object to the establishment of the conditional use.
3. The appeal shall specify the grounds with specific reference to the findings of the Plan Commission.
4. The appeal shall be filed with the Secretary of the Plan Commission within ten (10) days of the final action of the Plan Commission.
5. The Secretary of the Plan Commission or his/her designee shall transmit the appeal to the City Clerk, who shall file the appeal with the Common Council.
6. The Common Council shall fix a reasonable time for hearing the appeal, and decide the appeal within a reasonable time.
7. The Common Council shall give public notice and due notice to the parties in interest.
8. The action of the Plan Commission shall be upheld unless it is reversed or modified by a favorable vote of two-thirds (2/3) of the members of the Common Council.
9. Any person aggrieved by the decision of the Common Council or any alderperson, officer, department, board or bureau of the City, may, within thirty (30) days after the decision is filed in the office of the City Clerk, commence an action seeking the remedy available by certiorari.

(6) Approval Standards.

- (a) The City Plan Commission shall not approve a conditional use without due consideration of the City of Madison Comprehensive Plan. No application for a conditional use shall be granted by the Plan Commission unless it finds that all of the following conditions are present:
1. The proposed use and development is consistent with the Comprehensive Plan and the adopted neighborhood plan, if any.
 2. The proposed conditional use is consistent with the purposes and objectives of the zoning district.
 3. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.
 4. The City is able to provide municipal services to the property where the conditional use is proposed, given due consideration of the cost of providing those services.
 5. The uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner.
 6. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 7. Adequate utilities, access roads, drainage, parking supply, internal circulation improvements, including but not limited to vehicular, pedestrian, bicycle, public transit and other necessary site improvements have been or are being provided.
 8. Measures, which may include transportation demand management (TDM) and participation in a transportation management association have been or will be taken to provide adequate ingress and egress, including all off-site improvements, so designed as to minimize traffic congestion and to ensure public safety and adequate traffic flow, both on-site and on the public streets.
 9. The conditional use conforms to all applicable regulations of the district in which it is located.
- (b) Conditions.
1. Before granting a conditional use, the Plan Commission may stipulate conditions and restrictions on the establishment, location, construction, maintenance and operation of the conditional use.
 2. The commission shall require evidence and guarantees of compliance with the conditions.
 3. For property in the Wetland Overlay District, the Plan Commission shall attach conditions that will further the purposes of the Wetland Overlay District.
 - a. Such conditions may include but are not limited to: type of shore cover; erosion control measures; increased setbacks; specific sewage disposal and water supply facilities; wetland restoration; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction.

- b. The Plan Commission may require additional information as needed to determine if the proposed use is consistent with the purposes of the Wetland Overlay District.
 4. For residential development allowed as a conditional use, the Plan Commission shall require dedication of land for park and recreation purposes or a fee in lieu of land dedication in accordance with the current standards for plat, land divisions and planned developments in Sec. 16.23(8)(f) MGO and Parkland Impact Fees in Sec. 20.08(6) MGO. Credit shall be given for any prior dedication or fee paid under those Sections.
- (7) Subsequent Applications.
- No application for a conditional use that is denied wholly or in part by the Plan Commission (or, on appeal, by the Common Council) shall be resubmitted for a period of one (1) year from the date of the final decision, unless:
- (a) the decision expressly states that it is placed on file without prejudice, and
 - (b) the applicant provides substantial new evidence or proof of a change of conditions that would support approval or conditional approval of the application.
- (8) Alterations.
- (a) Any alteration in a property with an approved conditional use is processed in the same manner as the original application, except for minor alterations as provided below.
 - (b) The Zoning Administrator may approve minor alterations or additions which are approved by the Director of Planning and Community and Economic Development and are compatible with the concept approved by the City Plan Commission and the standards in subsection (6), above.
- (9) Scope of Approval.
- (a) An order granting a conditional use is valid for one (1) year from the date of the approval. During this time, the applicant must either lawfully commence the use or obtain a building permit and begin erecting or altering the building. If the applicant obtains a valid building permit, construction must commence within six (6) months of the date of issuance. The building permit shall not be renewed unless construction has commenced and is being diligently prosecuted.
 - (b) Where the plans have not been altered from the Plan Commission's approval, and the conditional use has expired, the Director of Planning and Community and Economic Development may, after consultation with the Alderperson of the District, approve an extension for up to twenty-four (24) months from the expiration date.
- (c) Continuing Jurisdiction.
1. The Plan Commission retains continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. This is in addition to the Zoning Administrator's authority under Section 28.202.
 2. Any citizen, the Zoning Administrator, or other official may file a written complaint with the Plan Commission that one or more conditions of a conditional use permit have not been completed, or are being violated.
 3. The Plan Commission shall initially determine whether the complaint indicates a reasonable probability that the subject conditional use is in violation of a condition of approval. If the Plan Commission determines there is a reasonable probability of a

violation, it shall conduct a hearing after giving notice as provided in Subsection (4), above.

4. The Plan Commission may, in order to bring the subject conditional use into compliance with the conditions previously imposed by the Plan Commission, modify the existing conditions and impose additional reasonable conditions. If no reasonable modification of the conditional use can be made that are consistent with the standards in subsection F, above, the Plan Commission may revoke the conditional use permit and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use.
5. An appeal from a decision of the Plan Commission under this paragraph may be taken to the Common Council as provided by subsection (5)B, above.

(10) Changes in Use.

- (a) On any zoning lot where a conditional use is established, any alteration, expansion or establishment of any other use(s), including permitted uses, except structures and buildings serving as synagogues, mosques, temples, churches, parish houses, rectories, and other places of worship, shall be subject to conditional use approval.
- (b) However, within existing buildings, a change in use from one permitted use to another permitted use without any addition in square footage shall be exempted from this provision; provided that any exterior alterations to existing structures or the lot shall require approval as a conditional use.

28.184 VARIANCES.

(1) Applicability and Initiation.

This section applies to any application to the Zoning Board of Appeals for a variance from the terms of this Chapter.

Any Eligible Applicant (see Section 28.181(2)) may file an application for a variance with the Zoning Administrator.

(2) Completeness Review.

See Section 28.181(4).

(3) Notice.

A variance application requires the following type of notice (see Section 28.181(5)):

- Mail – sent at least five (5) days before the first public hearing
- Publication - at least seven (7) days before the first public hearing

In the case of variances to the floodplain or wetland regulations, such notice shall also be sent to the Southern District Office of the Wisconsin Department of Natural Resources at least ten (10) days prior to the hearing.

(4) Decision.

- (a) The Zoning Board of Appeals may approve, conditionally approve, or deny a variance after a public hearing. The Zoning Board of Appeals shall conduct the public hearing after it receives a complete application.
- (b) The concurring vote of four (4) members of the Zoning Board of Appeals is required to grant a variance.

- (c) The decision of the Zoning Board of Appeals shall include findings of fact.
 - (d) The Zoning Board of Appeals may impose conditions on the use, development or activities subject to the variance. The Zoning Board of Appeals may require the conditions in order to comply with the standards in this section, to mitigate the effect of the variance on other property in the neighborhood, and to better carry out the general intent of this ordinance.
 - (e) When a floodplain variance is granted, the Zoning Board of Appeals shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property.
- (5) Approval Standards.
- (a) The Zoning Board of Appeals shall not grant a variance unless it finds that the following conditions are present:
 - 1. The variance is not contrary to the public interest.
 - 2. Compliance with the strict letter of this Chapter governing use will result in no reasonable use of the property.
 - 3. Compliance with the strict letter of this Chapter governing area, setback, height, bulk, density or other bulk requirement, would unreasonably prevent use of the property for a permitted purpose or would render conformity with this Chapter unnecessarily burdensome.
 - 4. The Zoning Board of Appeals shall not grant a variance if the alleged difficulty or hardship is created by a person who has a present interest in the property, rather than the terms of this Chapter.
 - 5. The Zoning Board of Appeals shall not grant a variance if the hardship is based on conditions personal to the property owner rather than those unique to the property.
 - 6. The proposed variance does not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values in the neighborhood.
 - 7. The proposed variance will not impede the normal and orderly development of the surrounding property and neighborhood for uses permitted in the district.
 - 8. The proposed variance is not contrary to the purpose of the zoning requirement.
 - 9. In the case of floodplain areas, the granting of the variance may not cause any increase in the regional flood elevations or profiles, permit a lower degree of flood protection in the floodplain than the flood elevation, allow any floor, basement or crawlway below the regional flood elevation, allow actions without the required amendments nor have the effect of allowing or expanding a use or building which is prohibited in the zoning district.
 - 10. In floodplain areas, variances can be granted only for lots that are less than one-half (1/2) acre and are contiguous to existing structures constructed below the regional flood elevation.
 - 11. In floodplain areas, variances shall not increase costs for rescue and relief efforts.
- (7) Scope of Approval.

- (a) An order granting a variance is valid for one (1) year from the date of the order. During this time, the applicant must either lawfully commence the use or obtain a building permit and begin erecting or altering the building.
- (b) Where the plans have not been altered from those approved by the Zoning Board of Appeals, and the variance has expired, the Zoning Administrator may, after consulting with the Alderperson of the District, approve an extension up to twenty-four (24) months from the expiration date.

28.185 APPROVAL OF DEMOLITION (RAZING, WRECKING) AND REMOVAL.

(1) Statement of Purpose.

It is hereby declared a matter of public policy that the good maintenance and rehabilitation of existing buildings, the preservation of safe and sanitary housing available at reasonable prices, and the careful consideration and planning of changes in the urban landscape are a public necessity and are required in the interest of the health, prosperity, safety, and welfare of the people. The purpose of this section is to aid in the implementation of adopted City plans, protect neighborhood character, preserve historic buildings, encourage the reuse and/or relocation of existing buildings, discourage buildings falling into a state of severe disrepair from lack of maintenance by the owner, encourage compliance with building and minimum housing codes, and allow the property owner to have a decision on approval or disapproval of the proposed use of the property before he or she takes the irrevocable step of demolishing or moving his or her existing building or buildings.

(2) Applicability and Initiation.

No building as defined in Section 29.03 of the Madison General Ordinances shall be demolished or removed without a permit from the Building Inspection Division of the Department of Planning and Community and Economic Development.

Any Eligible Applicant (see Section 28.181(2)) may submit an application for a demolition or removal permits to the Director of the Building Inspection Division.

- (a) An application for a demolition or removal permit shall contain a clear, detailed and complete statement of the present or most recent use and any use proposed to be made of the property if the demolition or removal permit is approved.
- (b) An application for a permit also shall include plans for any proposed future use, including site, grading and landscaping plans, floorplans, building elevations and materials, the length of the current ownership, and photographs of the interior and exterior of the building(s). A written report of a licensed architect or engineer describing the condition of the building(s) may be submitted to substantiate the request.
- (c) If the proposed demolition is to be accomplished by fire, the application shall designate the proposed method of demolition.

(3) Completeness Review.

See Section 28.181(4).

(4) Notice.

A demolition request, except for the applications submitted under (6) below, requires the following types of notice (see Section 28.181(5)):

- Preapplication – sent at least thirty (30) days before the application is submitted; sixty (60) days for buildings built before 1940

- Mail – sent at least ten (10) days before the first public hearing
- Publication – at least seven (7) days before the first public hearing
- A demolition or removal permit application considered with a zoning map amendment shall meet the public hearing requirements for zoning map amendments (see Section 28.181(5))
- A demolition or removal permit considered with a conditional use permit shall meet the public hearing requirements for conditional uses (see Section 28.181(5))

(5) Decision.

- (a) City Plan Commission. The Plan Commission shall approve, approve with conditions, or deny a demolition or removal permit.
- (b) Appeal from Action by Plan Commission.
1. The Plan Commission's decision may be appealed to the Common Council.
 2. The appeal may be filed by:
 - a. the applicant, or
 - b. the Alderperson of the district in which the building proposed by be demolished or removed is located.
 3. The appeal shall specify the grounds with specific reference to the findings of the Plan Commission.
 4. The appeal shall be filed with the Zoning Administrator within ten (10) days of the final action of the Plan Commission.
 5. The Zoning Administrator shall transmit the appeal to the City Clerk, who shall file the appeal with the Common Council.
 6. The Common Council shall fix a reasonable time for hearing the appeal, and shall decide the appeal within a reasonable time.
 7. The Common Council shall give public notice and due notice to the parties in interest.
 8. The action of the Plan Commission shall be upheld unless it is reversed or modified by a favorable vote of two-thirds (2/3) of the members of the Common Council.
 9. If the applicant for a demolition or removal permit also requested a zoning map amendment pursuant to Section 28.182 or a conditional use permit pursuant to Section 28.183, the determination shall be appealed with the appeal of the conditional use or map amendment.

(6) Exemptions.

Demolition or removal permits may be issued without the approval required in Subdivision (5) above whenever any one (1) of the following conditions is present, provided that: the subject building has not been used at any time as a single-family or multiple-family dwelling in whole or in part, is not a landmark, and is not located in an Historic District or Neighborhood Conservation District:

- (a) The Director of the Building Inspection Division finds that the building proposed to be demolished or removed is structurally unsound, subject to an appeal as provided in Section 29.18 of the Madison General Ordinances. The applicant may support the request with the report of a licensed architect or engineer certifying and providing reasons that the building is structurally unsound.

- (b) The Director of the Building Inspection Division determines that the building proposed to be demolished or removed is an accessory building as defined in Section 28.1402.

Demolition or removal permits that are exempt from Plan Commission approval, as required in Subdivision (5) above shall be issued, denied or deemed denied by failure to issue within seven (7) business days of the date of application.

(7) Approval Standards.

Applications for demolition or removal permits shall not be approved, except as provided in (6) above, unless the following standards are met:

(a) Applications With a Proposed Future Use.

1. The Zoning Administrator issues a zoning certificate for the proposed use of the property. For the purpose of this subdivision, a zoning certificate shall mean a certification in writing that the proposed use of the property would be in compliance with the provisions of the Zoning Code.
 - a. If the Zoning Administrator finds that the proposed use of the property is not in compliance with the provisions of the Zoning Code, the applicant for a demolition or removal permit may apply for a map or text amendment pursuant to Section 28.182 or for a conditional use permit pursuant to Section 28.183 for the proposed use. All of the provisions of Sections 28.182 and 28.183 shall apply to said applications, except that the time limit for commencement of the conditional use, pursuant to Section 28.183(9), shall be eighteen (18) months instead of twelve (12) months.
 - b. If after the procedures provided in Paragraph 1.a. are followed, the proposed use of the property would be in compliance with the provisions of the Zoning Code, the Zoning Administrator shall grant zoning approval for the proposed use, pursuant to Section 28.202(3).
2. The Plan Commission finds that both the requested demolition or removal and the proposed use are compatible with the purpose of this section and the intent and purpose expressed in the Zoning Code for the zoning district in which the property is located. Furthermore, the proposed use should be consistent with adopted neighborhood plans, the Comprehensive Plan or with any applicable neighborhood conservation district requirements. When making this finding the Commission shall consider and may give decisive weight to any relevant facts, including but not limited to:
 - a. the effects the proposed demolition or removal and proposed use of the subject property would have on the normal and orderly development and improvement of surrounding properties;
 - b. the reasonableness of efforts to relocate the building, including but not limited to the costs of relocation, the structural soundness of the building; and
 - c. the limits that the location of the building would place on efforts to relocate it, and the availability of affordable housing.
3. In the case of landmarks or improvements located in a local Historic District, consideration and approval of demolition or removal permits by the Plan Commission shall be contingent upon the prior issuance of a certificate of appropriateness by the Landmarks Commission pursuant to Section 33.01(5)(c) of the Madison General Ordinances.

4. The Plan Commission shall consider the report of the City's historic preservation planner regarding the historic value of the property as well as any report submitted by the Landmarks Commission.
 5. If a demolition or removal permit is approved, it shall not be issued until the reuse and recycling plan is approved by the Recycling Coordinator.
- (b) Application With No Proposed Use. In addition to the above standards in Subsection (7)A. (3-5),
1. The Plan Commission finds that, based on evidence from the Madison Fire Department, Police Department, and/or Building Inspection Division, a potential fire hazard, potential unlawful use of the property, potential public nuisance, or other public health and safety concern supports demolition or removal before a future use is proposed, or
 2. For a non-residential building, the Plan Commission finds that the use, bulk, and design requirements of the existing zoning district designation are adequate to ensure that development will conform to existing adopted City plans.

(8) Conditions and Guarantees.

The following conditions shall apply to all demolition or removal permits:

- (a) Before granting a demolition or removal permit, the Plan Commission may stipulate conditions and restrictions upon the proposed alternative use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in (7) above.

Conditions may include a requirement that a property owner obtain approval from the Plan Commission, pursuant to (7) above, for an alternative use that is not known at the time of application, and/or that the owner provide proof of financial capability and an executed contract with a construction firm, in a form acceptable to the Director of the Department of Planning and Community & Economic Development, prior to any permits being issued.

- (b) Any alteration in plans for a proposed alternative use shall require Plan Commission approval under (5) above, except for minor alterations as provided below.
- (c) The Zoning Administrator may issue permits for minor alterations or additions which are approved by the Director of Planning and Community and Economic Development and are compatible with the concept approved by the City Plan Commission and the standards in (7) above.
- (d) Following issuance of a Certificate of Occupancy, future additions or alterations to the proposed alternative use of the property shall not be subject to review under this section.

(9) Scope of Approval.

- (a) A demolition or removal permit is valid for one (1) year from the date of the Plan Com. During this time, the applicant must either lawfully commence the use or obtain a building permit and begin erecting the building. If the applicant obtains a valid building permit, construction must commence within six (6) months of the date of issuance. The building permit shall not be renewed unless construction has commenced and is being diligently prosecuted.
- (b) Where the plans have not been altered since issuance of the demolition or removal permit and the permit has expired, the Director of Planning and Community and Economic

Development may, after consultation with the Alderperson of the District, approve an extension for up to twenty-four (24) months from the expiration date.

(10) Reuse and Recycling Plan.

Every person who is required to submit a reuse and recycling plan pursuant to Section 28.185(7)A.5. above shall submit documents showing compliance with the plan within sixty (60) days of completion of demolition.

(11) Demolition by Fire.

Demolition by Fire is prohibited unless the burn is conducted by the Madison Fire Department (MFD) in conjunction with an MFD training event and limited to no more than three (3) demolitions by fire events per year. For any permit approved for demolition by fire, the applicant shall provide written notice of the date of the proposed demolition to the alderperson of the district where the demolition is proposed and to all owners and residents of properties within one thousand (1,000) feet of the boundaries of the property on which the demolition will occur. Such notice shall be provided at least five (5) days prior to the date of the proposed demolition.

28.186 SITE AND BUILDING PLAN REVIEW.

(1) Purpose.

Site plan review is designed to:

- (a) promote development that is compatible with this Chapter, and
- (b) ensure that development is consistent with adopted neighborhood plans and the Comprehensive Plan, and
- (c) establish procedures for the review of uses, building types, or development situations that require site plan review where designated by this Chapter.

A site plan may be reviewed on its own or as part of another application (for example, a map amendment).

(2) Applicability.

The following buildings and uses are subject to site plan review:

- (a) Any new principal or accessory building.
- (b) Site alterations, including but not limited to alterations of parking lots and landscaped areas.
- (c) Exterior alterations to buildings.
- (d) Changes in use.
- (e) Alterations to approved site plans.

(3) Decision.

The site and building plans shall be reviewed by the Zoning Administrator for conformity with this chapter. The Zoning Administrator shall transit a copy of submitted plans to appropriate City agencies for review and comment within their jurisdiction.

The Zoning Administrator shall approve, approve with conditions or deny a site plan. No public hearing is required. The applicant may appeal the Zoning Administrator's decision to the Zoning Board of Appeals. On appeal, the ZBA shall consider the administrative site plan at a public hearing.

SUBCHAPTER 28N: NONCONFORMITIES

28.190 STATEMENT OF PURPOSE.

Within the Zoning Districts established by this ordinance, there may exist uses, buildings, structures, and lots that do not conform to the provisions of this ordinance. The purpose of this Section is to specify those circumstances and conditions under which these nonconforming uses, buildings, structures, and lots shall be permitted to continue.

28.191 NONCONFORMING USES.

- (1) The lawful nonconforming use of a building, structure, or land existing on the effective date of this ordinance may be continued although it does not conform to the provisions of this ordinance, provided that:
 - (a) Structural repairs or structural alterations to the building or structure shall not exceed fifty percent (50%) of the total assessed value of the building or structure.
 - (b) The nonconforming use shall not be extended or expanded.
 - (c) The building or structure does not become and remain vacant for a continuous period of twelve (12) months.
 - (d) The nonconforming use of the land does not cease for a continuous period of twelve (12) months.

28.192 NONCONFORMING BUILDINGS OR STRUCTURES.

A lawful nonconforming building or structure existing on the effective date of this ordinance may be continued although it does not conform to the provisions of this ordinance with respect to bulk characteristics including, but not limited to, setback, open space, floor area ratio, height, density, parking facilities, amount of parking, and style, provided that any additions or enlargements shall conform to the provisions of the ordinance.

28.193 NONCONFORMING LOTS.

- (1) A lawful nonconforming lot existing on the effective date of this ordinance may be continued although it does not conform to the provision of this ordinance, provided that the size and shape of the lot shall not be changed in any way to increase the nonconformity.
 - (a) Lots of record. In any district where residential uses are allowed, a single-family dwelling may be established on a lot of record existing on the effective date of this ordinance, regardless of the size of the lot, provided that all other requirements of the applicable zoning district are complied with.

28.194 RESTORATION OF A NONCONFORMING BUILDING OR STRUCTURE.

- (1) A lawful nonconforming building or structure existing on the effective date of this ordinance that has been damaged or destroyed may be restored to the size, location, and use that it had immediately before the damage or destruction occurred provided that:
 - (a) The nonconforming building or structure was damaged or destroyed on or after March 2, 2006, and

- (b) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
- (2) The size of the restored building or structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure or building to comply with applicable state or federal requirements.

28.195 CERTIFICATE OF OCCUPANCY FOR NONCONFORMING USE.

Any person having a legal or equitable ownership interest of record in a property that is nonconforming as to use shall obtain a certificate of occupancy from the office of the Zoning Administrator. Such person shall present documentary evidence that said use was a lawful permitted or conditional use at the time it originated and was made nonconforming by the adoption of this ordinance or any amendment thereto or was made nonconforming by the zoning ordinance in effect at the time this ordinance was adopted. Documentary evidence may include leases, affidavits, lawfully issued permits, certificates of occupancy, and other legal documents, subject to verification of authenticity and accuracy.

SUBCHAPTER 280: ADMINISTRATION AND ENFORCEMENT

28.201 GENERAL PROVISIONS.

(1) Administration.

The administration of this ordinance is vested the following three (3) offices of the City of Madison:

- (a) Zoning Administrator
- (b) Zoning Board of Appeals
- (c) City Plan Commission

28.202 ZONING ADMINISTRATOR.

(1) Establishment.

- (a) This section establishes the office of the Zoning Administrator of the Department of Planning and Community and Economic Development.
- (b) The Zoning Administrator is responsible to the Director of the Neighborhood Preservation and Inspection Division or her/his designee.
- (c) The Director of the Neighborhood Preservation and Inspection Division is assigned the same powers as the Zoning Administrator.

(2) Duties.

The Zoning Administrator shall enforce this ordinance, and shall exercise the duties listed below to determine compliance with this Chapter and to support its enforcement or administrative functions:

- (a) Issue all zoning certificates (see (3) below).
- (b) Issue all certificates of occupancy.
- (c) Approve all site plans.
- (d) Inspect uses, land, buildings, or structures.
- (e) Maintain permanent and current records of this ordinance, including but not limited to all maps, amendments, conditional uses, variances, appeals, zoning certificates, certificates of occupancy, and applications for approval.
- (f) Provide and maintain public records relative to all matters arising out of this ordinance.
- (g) Receive, file and forward to the City Clerk all applications for amendments to this ordinance.
- (h) Receive, file and forward to the City Plan Commission all applications for conditional uses.
- (i) Receive, file and forward to the Zoning Board of Appeals all applications for appeals, variances or other matters on which the Zoning Board of Appeals is required to act under this ordinance.
- (j) Initiate, direct and review, from time to time, a study of this Chapter.
- (k) Make recommendations to the City Plan Commission about revisions to this Chapter.

- (l) Refer violations of this Chapter to the City Attorney for prosecution. Copies of the violation report on floodplain regulations shall be sent to the Southern District office of the Wisconsin Department of Natural Resources.
 - (m) Review and interpret deed restrictions which were initiated at the request of a City agency in order to relate the restrictions to uses of land authorized in this Zoning Code.
 - (n) Provide substantial damage assessment for floodplain structures.
 - (o) Maintain floodplain records, including floodplain maps, all water surface profiles, and substantial damage assessment reports.
 - (p) Submit copies of applications for amendments, variances and appeals to the floodplain regulations and floodplain maps to the appropriate Regional Office of the Wisconsin Department of Natural Resources, and the Federal Emergency Management Agency.
 - (q) Submit copies of any adopted amendments, any decisions by the Zoning Board of Appeals on appeals and variances to the floodplain regulations and floodplain maps within ten (10) days of the decision, any case-by-case analyses of proposals in floodplain areas, an annual summary report of the number and types of zoning actions taken and substantial damage assessment reports to the appropriate District Office of the Wisconsin Department of Natural Resources.
 - (r) Take other actions that are assigned under other provisions of this Chapter.
- (3) Issuance of Zoning Certificates.
- (a) A zoning certificate is required before any permit relating to the use of land, buildings or structures is issued by any officer, department or employee of the City.
 - (b) Any permit or certificate of occupancy issued in conflict with this Section is null and void.
 - (c) This section does not apply to:
 - 1. lots without buildings or structures; and
 - 2. lots used for public recreation purposes.
 - (d) The Zoning Administrator will approve or deny the zoning certificate application. Approval indicates that the proposed use of land, buildings or structures and any future proposed buildings or structures comply with all of the provisions of this Chapter.
- (4) Appeals to Decisions of the Zoning Administrator.
- Any decision of the office of the Zoning Administrator may be appealed to the Zoning Board of Appeals, as specified in Section 28.205(5) below.

28.203 COMMON COUNCIL.

The Common Council is the governing body of the City of Madison. The Common Council is the final decision maker for text or map amendments to this Chapter. Refer to MGO Chapter 2 for the Standing Rules for the Government of the Common Council.

28.204 PLAN COMMISSION.

- (1) Establishment.

The City Plan Commission is created by Chapter 16 of the City Code.
- (2) Jurisdiction.

The City Plan Commission has the following jurisdiction and authority:

- (a) To hear and act upon all applications for conditional uses.
- (b) To hear and make recommendations about applications for amendments to this Chapter to the Common Council.
- (c) To hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (d) To hear and act upon all other matters referred to it upon which it is required to act under this Chapter.

28.205 BOARD OF ZONING APPEALS.

(1) Establishment.

This section establishes the Zoning Board of Appeals as authorized by W.S. § 62.23(7)(e).

(2) Membership and Administration.

- (a) The Zoning Board of Appeals has five (5) members appointed by the Mayor subject to confirmation by the Common Council.
- (b) Each member of the Zoning Board of Appeals serves for a staggered term of three (3) years.
- (c) The members of the board are removable by the Mayor for cause upon written charges and after public hearing.
- (d) The Mayor shall designate one of the members as chairman.
- (e) The board may employ a secretary and other employees.
- (f) Vacancies shall be filled for the unexpired terms of members whose terms become vacant.
- (g) The Mayor shall appoint, for staggered terms of three years, two alternate members in addition to the five standing members. Annually, the Mayor shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of such board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to the alternates.

(3) Jurisdiction.

The Zoning Board of Appeals has the following jurisdiction and authority:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Chapter.
- (b) To hear and act upon applications for variances from the terms provided in this Chapter (refer to Section 28.185 for procedures and standards).
- (c) To hear and decide appeals where it is alleged there is error in a determination made by the Director of the Department of Planning and Community and Economic Development.
- (d) To hear and act upon all other matters referred to it upon which it is required to act under this Chapter.

(4) Meetings and Rules.

- (a) Meetings of the Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the Board may determine.
- (b) The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.
- (c) All meetings of said board, including all deliberations on any appeal prior to reaching a decision thereon, shall be open to the public.
- (d) The board shall keep minutes of its proceedings, showing the vote for each member upon each question or, if absent or failing to vote, indicating such fact. The board shall also keep records of its examinations and other official actions. All of the Board's minutes and records shall be immediately filed in the office of the Board and shall be a public record.
- (e) Any person may appear and testify at a hearing, either in person or by duly authorized agent or attorney.
- (f) The board shall adopt its own rules of procedure not in conflict with this ordinance or with the applicable Wisconsin Statutes.
- (g) The Board may select or appoint any officer that it deems necessary.

(5) Appeals to Decisions of the Zoning Administrator.

Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by any officer, department, board or bureau of the City affected, by any decision of the Zoning Administrator.

- (a) An appeal shall be taken within a reasonable time, as provided by the rules of the Zoning Board of Appeals.
- (b) The applicant shall file a notice of appeal with the Zoning Board of Appeals. The notice of appeal must specify the grounds for the appeal, including a specific reference to the terms of this Chapter, state or federal law, or the state or federal constitution that the applicant believes were incorrectly applied.
- (c) The Zoning Administrator shall transmit all the papers constituting the record upon which the action appealed from was taken to the Zoning Board of Appeals.
- (d) Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would in her/his opinion cause imminent peril to life or property. In that case, proceedings shall not be stayed unless the Zoning Board of Appeals or a court of record grants a restraining order on application. A restraining order requires the applicant to show due cause and to notify the Zoning Administrator.
- (e) Notice. An appeal requires the following types of notice (see Section 28.181(5)):
 - Mail – sent at least 10 days before the first public hearing
 - Publication - at least 7 days before the first public hearing
- (f) Scheduling. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal.
- (g) Rendering the Decision. The Zoning Board of Appeals, upon its findings, shall render a decision on the appeal within a reasonable time. The Board, upon the concurring vote of a

majority of quorum, may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from.

- (h) Approval Criteria. The Zoning Board of Appeals may reverse or modify the decision appealed from if it determines that it is error based on the terms of this Chapter, a lawful condition of approval established under this Chapter, or a provision of a federal or statute or constitution.
 - 1. For appeals concerning increases in regional flood elevation the Board shall:
 - a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
 - 2. For disputes concerning floodplain district boundaries:
 - a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the map scale, and the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Zoning Board of Appeals.
 - c. If the boundary is incorrectly mapped, the Zoning Board of Appeals should inform the person contesting the boundary location to petition the Common Council for a map amendment.

(6) Finality of Decisions of the Zoning Board of Appeals.

All decisions and findings of the Zoning Board of Appeals are considered final administrative determinations, and are subject to judicial review as provided by law.

28.206 FEES.

The following fees are required for applications under this Chapter. All fees shall be payable to the City Treasurer except where specified below.

Type of Action	Fee
Zoning map amendment, except for Planned Developments	\$800 plus \$100 for each acre of land in excess of one acre or fraction thereof, included in the proposed rezoning, up to a maximum of 20 acres or \$2,700
Zoning map amendment for Planned Development: General Development Plan or Specific Implementation Plan	\$1200 plus \$200 for each acre of land in excess of one acre or fraction thereof, included in the proposed rezoning, up to a maximum of twenty acres or \$5,000
Conditional use application for telecommunication facilities and antennas under Section 28.143	\$1,750

Type of Action	Fee
Conditional use application for: <ul style="list-style-type: none"> • multifamily complex • school • new construction or addition to existing building(s) that results in total square footage greater than 50,000 square feet in gross floor area and 25,000 or more square feet of gross floor area designed or intended for retail, hotel or motel use • new construction of a building, addition to any existing building or major alteration to the exterior face of a building in a [C4] [equivalent downtown] district 	\$800 plus one \$100 for each acre of land in excess of one acre or fraction thereof, up to a maximum of 20 acres or \$2,700
Other conditional use applications	\$500 plus \$100 for each acre of land in excess of one acre or fraction thereof, up to a maximum of 20 acres or \$2,400
Application for a demolition or removal permit	\$500, unless permit is issued in conjunction with a conditional use approval, in which case the fee for that application applies
Applications filed by the Common Council, the City Plan Commission, the Zoning Board of Appeals or pursuant to Sec. 13.48, Wis. Stats., the State of Wisconsin	No fee
Conditional use application filed by any nonprofit, nongovernmental organization registered with the Department of Financial Institutions or by any neighborhood organization registered with the City Department of Planning and Community and Economic Development. When a question arises as to whether an organization is nonprofit, nongovernmental the City Attorney shall investigate and make a determination.	No fee
Conditional use application for the following conditional uses: <ul style="list-style-type: none"> • Day care centers [includes adult day care] • Adaptive reuse of former public school or municipal buildings • Accessory greenhouses and swimming pool roofs or domes which infringe on required usable open space • Community service organizations; day treatment facilities • Development of parcels adjacent to landmarks, landmark sites or historic districts designated by the Landmarks Commission, provided that the use of the parcel is either a permitted or conditional use allowed in the zoning district in which the property is located 	No fee
Application for an extension to the time period for obtaining a building permit for a Planned Development under Sec. 28.097(6)	\$500
Request for a zoning certificate, excluding a Floodplain Statement or a Certificate of Occupancy	\$50
Request for a zoning letter, i.e., written documentation, by the custodian of the records, as to property zoning, permitted and conditional uses of the property and property status, or the existence of any outstanding orders on the property	\$10 for each item requested
Application for an appeal filed by, or on behalf of, the owner or owners of the property affected	\$200
Application for a variance filed by, or on behalf of, the owner or owners of the property affected	\$300
Building and site plan review fee. This fee is assessed by the Zoning Unit and	\$.02 per square foot, minimum fee of

Type of Action	Fee
collected by the Building Inspection Division of the Department of Planning and Community and Economic Development for the examination and approval of building plans and site plans of all new buildings and structures, additions and alternations, and for all other services authorized by the Common Council.	\$25.00. The fee for building square footage is determined based on floor area measurements taken from outside of the building at each floor level, including the basement.

28.207 PENALTIES.

(1) In General.

Any person who violates any provisions of this chapter or fails to comply with any of its requirements shall upon conviction thereof be subject to a forfeiture of not less than one dollar (\$1.00) and not more than one thousand dollars (\$1,000). Each day or portion thereof such violation continues shall be considered a separate offense.

(2) Penalty for Failure to Provide Notice.

Failure to comply with the notice requirements for posting of signs (see Section 28.181(5)) shall subject the applicant to a forfeiture of at least fifty dollars (\$50) and no more than one hundred dollars (\$100). Failure to post or mail these notices does not affect the validity of the action taken.

(3) Penalty for Failure to Comply With Demolition Standards.

(a) Any person who fails to submit documentation of compliance with an approved reuse and recycling plan shall, upon conviction thereof, be subject to a forfeiture of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000). Each day or portion thereof such violation continues shall be considered a separate offense.

(b) Any person who fails to obtain a demolition or removal permit prior to the demolition or removal shall, upon conviction thereof, be subject to a forfeiture of not less than one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000). Each day or portion thereof such violation continues shall be considered a separate offense.

SUBCHAPTER 28P: RULES OF CONSTRUCTION AND DEFINITIONS

28.211 RULES OF CONSTRUCTION AND DEFINITIONS.

- (1) Rules of Construction. In the construction of this ordinance, the following rules shall be observed and applied, except where the context clearly indicates otherwise:
 - (a) Words used in the present tense shall include the future.
 - (b) Words used in the singular number shall include the plural number, and the plural the singular.
 - (c) The words “shall,” “must,” and “will,” are mandatory and not discretionary.
 - (d) The word “may” is permissive.
 - (e) The words “Director of the Department of Planning and Community and Economic Development”, “Director of the Neighborhood Preservation and Inspection Division”, “Director of the Planning Division” and “Zoning Administrator” shall include any designee of those persons.
 - (f) All words not defined shall have their common meaning.
 - (g) If there is any ambiguity between the text of this ordinance and any caption or illustration, the text shall control.
- (2) Definitions.

A Zones. A Zones are those areas shown on the flood plain zoning maps which would be inundated by the “base flood” or “regional flood” as defined herein. Such areas may be numbered as AO, A1 to A30, A99 or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

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.

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.

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.”)

Accessory use. See “Use, Accessory.”

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.

Adult family home. A place where up to five (5) adults who are not related to the operator 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 Wisconsin Statutes, Section 50.01(1).

Adult-Oriented Uses:

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.
 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 Section 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 Venue or 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. 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.

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.

Airport. Any area of land which is used or intended for the landing and takeoff of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including taxiways, aircraft storage and tiedown areas, hangars and other related building and open spaces.

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 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.

Antenna. Any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Art Gallery. A building used for the display or sale of works of art or craftsmanship, including but not limited to drawing, vocal or instrumental music, painting, photography, sculpture and writing, with no goods produced on the premises.

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. Housing complexes primarily for the elderly or chronically ill, in which assistance with daily activities, congregate dining, and limited health care may be provided.

Auto Body Shop. A shop in the business of making substantial repairs to the shell or body of any automobile, and of major or substantial painting of the shell or body, and where the following services may also be carried out: general auto repair; engine rebuilding; rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting and undercoating.

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 Service Station. A place where gasoline or any other automobile engine fuel (stored only in underground tanks), kerosene, motor oil, lubricants, grease (for operation of motor vehicles), or minor accessories are retailed directly to the public on the premises and/or where the servicing or minor repair of automobiles may occur.

Auto Title Loan Business. Any person licensed pursuant to Wis. Stat. sec. 139.09, who makes a loan that is secured by an interest, other than a purchase money security interest, in the borrower's motor vehicle.

Awning. A rooflike cover, temporary in nature, which projects from the wall of a building and is fully supported by said wall.

B

Base Flood. A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Elevation. The base flood elevation is that which reflects the height of the base flood as defined above.

Basement. That portion of a building which is included between the surface of a floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it and the floor of which is wholly or partly below ground level.

Bathroom. A room with lavatory, water closet and tub or shower.

Bed and Breakfast Establishment. A private residence that rents rooms as temporary lodging and which is the principal residence of the operator.

Bedroom. Any room of a dwelling unit in excess of kitchens, bathrooms and one (1) living room, which meets the standards for habitability according to the Uniform Dwelling Code, Chapters ILHR 20-25, Wisconsin Administrative Code, or the Uniform Multifamily Dwelling Code, Chapter ILHR 66, Wisconsin Administrative Code.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, bulkhead lines or shorelines of waterways. A block may be located in part beyond the boundary lines of the corporate limits of the City.

Boathouse. As defined in Section 30.121(1)(a), Wis. Stats., boathouse means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.

Brewery. A facility used for the manufacture of more than five thousand (5,000) barrels per year of fermented malt beverages or a fermented malt beverage manufacturer with a mechanized bottling capability.

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.

Building. A structure with a permanent location on the land, having a roof that may provide shelter, support, protection or enclosure of persons, animals or property of any kind.

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

Building, Completely Enclosed. A building separated on all sides from the adjacent open space, or from other buildings or structures by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

Building Coverage. The proportion of the lot area expressed as a percent, that is covered by the maximum horizontal cross-section of a building or buildings.

Building, Detached. A building surrounded on all sides by open space on the same lot.

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 Height. The vertical dimension measured from the average elevation of the approved grade at the front of the building to the highest point of the roof in the case of a flat roof, to the deck line of a mansard roof, and to the midpoint of the ridge of a gable, hip or gambrel roof. (For purposes of this definition, the average height shall be calculated by using the highest ridge and its attendant eave. The eave point used shall be where the roof line crosses the side wall.)

- (a) In the case of alterations, additions or replacement of existing buildings, height shall be measured from the natural grade prior to construction.

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, Principal. A building in which is conducted the principal use of the lot on which it is located.

Building, Residential. A building which is arranged, designed, used or intended to be used for residential occupancy by one or more families or lodgers, and which includes, but is not limited to, the following types:

- (a) Single-family detached dwellings;
- (b) Two-family detached dwellings;
- (c) Single-family attached dwellings;
- (d) Multiple-family dwellings;

- (e) Lodging houses;
- (f) Fraternity and sorority houses.

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:

- (a) Business equipment and furniture sales or rental.
- (b) Copy center, excluding offset printing and publishing.
- (c) Commercial photography studio.
- (d) Mailing and packaging service.
- (e) Building maintenance, janitorial.

Bulk. Bulk is the term used to indicate the size and setbacks of buildings or structures and the location of such buildings or structures with respect to one another, and includes the following:

- (a) Size and height of buildings;
- (b) Location of exterior walls at all levels in relation to lot lines, streets or to other buildings;
- (c) Gross floor area of buildings in relation to lot area (floor area ratio);
- (d) All open spaces allocated to buildings; and
- (e) Amount of lot area provided per dwelling unit or lodging room.

Bulkhead Line. A geographic line along a reach of a navigable stream that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11, Wisconsin Statutes and which allows complete filling on the landward side, except where floodway regulations of this ordinance would prohibit such filling.

C

Capacity in Persons. The maximum number of persons that can avail themselves of the services or goods of an establishment or use at any one time, as determined by the required floor space per person as established in the Building Code.

Car Wash. An establishment where washing, drying, polishing, or vacuuming of an automobile or other motor vehicle is done by service personnel, the driver, or by automated machinery.

Cartage Establishment. A business engaged in the hauling and moving of goods.

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.

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.

Change of Use. A change in the use of a property from one land use category to another, or the addition of a new use category to an existing use.

Channel. A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of the defined channel.

City. The City of Madison, Wisconsin.

Clinic, Medical, Dental or Optical. 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.

Civic Auditorium Complex. A site consisting of a parcel of land under the ownership or control of the City of Madison, for one or more civic auditoriums, theatres, art centers, music halls, convention or community centers and assembly halls including, without limitation, parking and dining facilities and other related or accessory buildings, facilities and uses. Such site may include lake bed and air rights over contiguous property.

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.

Co-location. The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.

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 Living Arrangement. Community living arrangement land uses include all facilities provided for in Wisconsin Statutes 46.03(22), including child welfare agencies, group homes for children, foster homes, treatment foster homes, adult family homes, and community based residential facilities. Community living arrangements do not include day care centers (see separate listing); nursing homes (an institutional residential land use); general hospitals, special hospitals, prisons, or jails (all indoor institutional land uses). Community living arrangement facilities are regulated depending upon their capacity as provided for in Wisconsin Statutes 62.23(7)(i), provided any such regulations do not violate federal or state housing or anti-discrimination laws.

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.

Composting. The purposeful biodegradation of organic matter, such as yard and food waste.

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.

Conforming Building or Structure. Any building or structure which:

- (a) Complies with all the regulations of this ordinance governing the bulk of the zoning district in which such building or structure is located; or
- (b) Is designed or intended for a conforming use.

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.

Convent, Monastery or Similar Religious Group. A place of residence for members of a religious order who carry on religious, medical, educational or charitable work within related or unrelated institutions.

Copy Shop. A business that provides duplicating services using photocopying, blueprint, offset, or electronic means, and may include the collating and binding of booklets and reports.

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

Curb Level. The level of the established curb in front of any building measured at the center of the building's front. Where no curb elevation has been established, the City Engineer shall establish such curb elevation.

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.

D

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.

Day Care Center. A facility, with the exception of a dwelling, in which qualified persons, other than a relative or guardian, provide care and supervision of nine (9) or more children, adolescents and/or adults for less than twenty-four (24) hours a day. Such land uses may be operated in conjunction with another allowed use such as a place of worship or non-profit organization.

Dependency Living Arrangement. A living arrangement which permits a person with a physical or mental disability to live in a temporary separate living area within a single-family dwelling unit or permits a relative or paid attendant of a person with such a disability to live in a temporary separate living area within a single-family dwelling unit. Such living area may include a separate bath and separate kitchen

facilities which permit a degree of independence. Ingress and egress for such a living area is from within the principal dwelling unit.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

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

Dormer. A window set vertically in a structure that projects through a sloping roof or a structure that contains such a window.

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.

Drainage System. One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

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.

Dwelling. A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels or other accommodations for the transient public, lodging houses, housing cooperative or other group living arrangements.

Dwelling Types (See also Section 28.172, “Residential Building Forms.”)

- (a) Dwelling, single-family detached. A building designed exclusively for and occupied exclusively by one (1) family in one (1) dwelling unit, with yards on all sides.
- (b) Dwelling, two-family – Two-flat. A building containing two dwelling units that are vertically stacked one above the other, with a separate entrance to each unit and with yards on all sides.
- (c) Dwelling, two-family – Twin. A single-family dwelling which is attached on one side to another single-family dwelling with a common side wall, each of which is located on an individual lot.
- (d) Dwelling, three-family, or “Three-flat.” A building containing three (3) dwelling units that are vertically stacked one above the other, with a separate entrance to each unit and with yards on all sides.
- (e) Dwelling, single-family attached. A one-family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having totally exposed front and rear walls to be used for access, light and ventilation.
- (f) Dwelling, multi-family. A building, or portion of a building, designed exclusively for occupancy by three (3) or more families living independently of each other in individual dwelling units. (See also “Multi-family Complex).

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.

E

Elderly Housing, Senior Housing. A residential complex containing multifamily dwellings designed for and principally occupied by senior citizens. Such facilities may include a congregate meals program in a common dining area, but exclude institutional care such as medical or nursing care and are distinguished from assisted living or nursing homes.

Electrical Substation. An assemblage of equipment 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 powered by internal combustion engines which are fueled by gaseous fuels, gasoline or distillate fuel oil whose purpose is to provide electricity if normal electrical service is interrupted.

Encroachment. Any fill, building, structure or use (including an accessory use) in the floodway.

Encroachment/Floodway Lines. Encroachment/floodway lines are limits of obstruction to flood flows. These lines are on both sides of and generally parallel to the stream. The lines are established by assuming that the area landward (outside) of the encroachment lines will be ultimately developed in such a way that they will not be available to convey flood flows.

Entrance, Main. The building entrance which faces the front lot or is closest to the front lot line and which entrance provides direct access to the principal use.

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.

Equal Degree of Hydraulic Encroachment. The effect of any encroachment into the floodway must be computed by assuming an equal degree of hydraulic encroachment on the other side of a river or stream for a significant hydraulic reach. This computation assures that property owners up, down or across the river or stream will have the same rights of hydraulic encroachment. Encroachments are analyzed on the basis of the effect upon hydraulic conveyance, not upon the distance the encroachment extends into the floodway.

Equipment Building, Shelter or Cabinet. A cabinet or building used to house equipment used by telecommunication providers.

Establishment, Business. A place of business carrying on operations which are physically separate and distinct from those of any other place located on the same zoning lot.

F

Family.

- (a) A family is an individual, or two (2) or more persons related by blood, marriage, domestic partnership, or legal adoption, living together as a single housekeeping unit in a dwelling unit, including foster children, and up to four (4) roomers, with the following exceptions:

1. Within the SR-C1, SR-C2, SR-C3, TR-C1, TR-C2, TR-C3, TR-C4, TR-R and TR-P residential districts, dwellings that are not owner-occupied are limited to one (1) roomer.
 2. In any residence district, a family may consist of two (2) unrelated adults and the minor children of each. Such a family may not include any roomers except where the dwelling unit is owner-occupied. For the purpose of this section, “children” means natural children, grandchildren, legally adopted children, stepchildren, foster children, or a ward as determined in a legal guardianship proceeding.
- (b) For the purpose of this definition, an owner-occupied dwelling unit shall mean any dwelling unit where an individual or two or more persons who reside in such unit constitute one hundred percent (100%) of the owners of either the entire fee simple interest or the entire land contract vendee’s interest in said dwelling unit.

Provided, however, dwelling units occupied by owner-occupants holding less than one hundred percent (100%) interest in the fee simple shall nonetheless be considered owner-occupied for the purposes of this definition where the remainder of said interest is held by an investor pursuant to a shared equity purchase arrangement and the owner-occupant has continuously resided in said dwelling unit for at least four (4) years;

- (c) Absence of any owner from the dwelling unit for health reasons or by virtue of a marital separation or divorce or any temporary absences of any owner from the dwelling unit shall not constitute a reduction in the number of owners who reside in such unit for the purpose of determining whether such unit continues to be owner-occupied.

Farmers Market. An indoor or outdoor establishment involving sale of farm products, personally prepared food and handcrafted goods. May include concurrent special events, including cooking demonstrations, activities for children, unamplified music, and small scale theatrical, musical and educational presentations.

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.

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.

Fissile Material. Any material fissionable by thermal (slow) neutrons. The five primarily fissile materials are uranium-233, uranium-235, plutonium-238, plutonium-239 and plutonium-241.

Fissionable Non-Fissile Material. Any material that can be fissioned by fast neutrons or lacking uranium-233, uranium-235, plutonium-238, plutonium-239 or plutonium-241.

Fixed Houseboat. As defined in Section 30.121(1), Wis. Stats, a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

Flood. A temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.

Flood Fringe. That portion of the floodplain between the regional flood limits and the floodway.

Flood Hazard Boundary Map. A map prepared by the Federal Insurance Administration of the U. S. Federal Emergency Management Agency, designating areas of special flood hazard within a given community. Flood hazard areas are designated as A Zones. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.

Flood Plain. The land adjacent to a body of water which has been or may be hereafter covered by flood water including but not limited to the regional flood; it includes the floodway and flood fringe.

Flood Profile. A graph showing the relationship of the water surface elevation of a flood event to a location along a river that generally is expressed as a distance upstream from a designated point on a stream or river.

Floodproofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

Flood Protection Elevation. The flood protection elevation shall correspond to a point two (2) feet of freeboard above the water surface profile associated with the regional flood and the official floodway lines.

Flood Storage. Flood storage means those floodplain areas where storage of floodwaters has been taken into account in reducing the regional flood discharge.

Floodway. The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.

Floor Area (for determining floor area ratio). For the purpose of determining the floor area ratio, the floor area of a building is 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. The floor area of a building shall include:

- (a) Basement floor area when more than one-half the basement height is above the established curb level or above the finished lot grade level where curb level has not been established;
- (b) Elevator shafts and stairwells at each floor;
- (c) Floor space used for mechanical equipment, except equipment, open or enclosed, located on the roof;
- (d) Penthouses, attic space used for human occupancy, interior balconies and mezzanines;
- (e) Enclosed porches; and
- (f) Floor area devoted to accessory uses.
- (g) The floor area of structures devoted to bulk storage of materials, including, but not limited to, grain elevators and petroleum storage tanks, shall also be included in “floor area” and shall be determined on the basis of height of such structures; that is, ten (10) feet in height shall equal one floor.

However, any space devoted to off-street parking or loading shall not be included in “floor area”.

Floor Area (for determining off-street parking requirements). Floor area when prescribed as the basis of measurement for off-street parking spaces and loading berths for any use, shall mean the sum of the gross horizontal areas of the several floors of the buildings devoted to such use, measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, with the common areas divided proportionately according to the usage of said buildings.

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.

Floor Area Ratio (F.A.R.). The floor area of the building or buildings on a zoning lot divided by the area of the zoning lot. Maximum floor area ratio, where specified in this ordinance, limits the total floor area of both principal and accessory buildings in direct ratio to the area of the zoning lot.

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.

Freeboard. Freeboard is a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of the river or stream bed.

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.

G

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.

H

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.

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.

Hostel. A place where transient guests may stay for a limited duration, for compensation, as recognized by the Hostelling International organization. Typically includes shared cooking facilities and dormitory-style accommodations.

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.

Housing Cooperative. A dwelling unit where one-hundred percent (100%) of the ownership is held by a Cooperative Corporation organized under Chapter 185, Wisconsin Statutes, 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.

J

Junkyard. A junkyard is an open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, bottles and unlicensed or inoperable motor vehicles and parts thereof.. A junkyard includes an automobile wrecking or dismantling yard, but does not include uses established entirely within enclosed buildings.

K

Kennel. See “Animal Boarding Facility, Kennel, Animal Shelter.”

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.

L

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.

Laboratory Scale. Work with substances in which the containers used for reactions, transfers, and other handling of substances are designed to be easily and safely manipulated by one person and in containers, in quantities no greater than their original shipment quantities. Laboratory scale excludes those workplaces whose function is to produce commercial quantities of materials.

Lattice Tower. A self-supporting structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment.

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.

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

Lodge or Club, Private. A nonprofit association of persons who are bona fide members paying annual dues, which owns, hires or leases a building, or space within a building, which is restricted to members and their guests. The affairs and management of such private club or lodge are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting.

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. 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. 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 Area. The area of a horizontal plane bounded by the front, side and rear lot lines.

Lot, Corner. A lot of which at least two (2) adjacent sides abut for their full lengths upon a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at its point of beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than one hundred thirty-five (135) degrees.

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.

Lot Depth. The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries

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. That lot line which is opposite and most distant from the front lot line.

Lot Line, Side. Any lot line that is not a front lot line or a rear lot line.

Lot, Reversed Corner. A corner lot the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

Lot, Through. A lot having a pair of opposite lot lines along, and access to, two (2) more or less parallel public streets, and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

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.

Lot, Zoning. A planned multi-use site or a lot or lots that comprise a single tract of land located within a single block which, at the time of filing for a building permit, is to be used, developed or built upon as a unit. Therefore, a zoning lot or lots may or may not coincide with a lot of record.

M

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.

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

Massage Therapy. A profession in which the practitioner applies massage techniques, and may apply adjunctive therapies, with the intention of positively affecting the health and well-being of the client. Massage therapy does not include diagnosis, except to the extent of determining whether massage therapy is indicated. Further, “massage” is manual manipulation of the human body, including holding, positioning, causing movement, and applying touch and pressure to the body; “therapy” is action aimed at achieving or increasing health and wellness; “adjunctive therapies” may include (1) application of heat, cold, water, mild abrasives, topical preparations not classified as prescription drugs, (2) the use of

mechanical devices and tools which mimic or enhance manual actions and (3) instructed self care and stress management.

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.

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.”

Monopole. A monopolar structure, erected on the ground to support wireless communication antennas and connecting appurtenances.

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 Freight Terminal. A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate or interstate shipment by motor truck.

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.

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.

N

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.

Navigable Waters. All natural inland lakes, and all streams, ponds, sloughs, flowages and other waters which are navigable under the laws of this state. Under Wis. Stats. §144.26(2)(d), notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stats. §62.231, and chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

- (a) Such lands are not adjacent to a natural navigable stream or river;
- (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (c) Such lands are maintained in nonstructural agricultural use.

New Construction. For the purpose of floodplain regulation only, means structures for which the start of construction commenced on or after the effective date of the floodplain zoning maps adopted and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later and includes any subsequent improvements to such structures.

Nonconforming Building. Any building which:

- (a) Does not comply with all of the regulations of this ordinance or any amendment hereto governing bulk for the zoning district in which such building is located; or
- (b) Is designed or intended for a nonconforming use.

Nonconforming Use. Any principal use of land or buildings which does not comply with all the regulations of this ordinance or of any amendment hereto governing use for the zoning district in which such use is located.

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.

O

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.

Official Letter of Map Amendment. A notification from the Federal Insurance Administration of the U. S. Federal Emergency Management Agency that a Flood Hazard Boundary Map or Flood Insurance Study Map has been amended.

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

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.”

P

Parking Facility. An area used for parking vehicles and includes parking lots and parking structures.

Parking Lot. A one-level, surfaced, open-to-the-air area used for parking vehicles.

Parking Structure. A multi-level parking area, wherein one or more levels are supported above the lowest level, and is commonly called a parking garage or parking ramp.

Payday Loan Business. Any person licensed pursuant to Wisconsin Statutes §218.05, or a person licensed pursuant to Wis. Stats. §138.09, who accepts a check, holds the check for a period of time before negotiating or presenting the check for payment, and pays to the issuer an agreed-upon amount of cash, or who refinances or consolidates such a transaction.

Personal Wireless Services. Commercial mobile services, unlicensed wireless services and common carrier wireless exchange services as now defined in 47 U.S.C. 332 § (7)(C), as the same may be amended from time to time.

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

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

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.

Planned Multi-Use Site. A specified area of land comprising one or more contiguous ownership parcels or building sites for multiple uses and which area is limited by a reciprocal land use agreement or plan of building placement, a reciprocal use off-street parking system, a cross access easement or a reciprocal use ingress and egress system for buildings, loading and parking.

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.

Public Way. Any sidewalk, street, alley, highway or other public thoroughfare.

R

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.

Recreational Equipment. Equipment used by residents of a principal building for on-premises games and sports, including but not limited to swings, slides, climbers, teeter-totters, basketball baskets and backboards, badminton nets and similar equipment, but not including recreational devices normally utilized off the premises, including but not limited to boats, boat trailers, campers, travel trailers and snowmobiles.

Recreational Equipment, Major. Major recreational equipment includes boats, canoes and snowmobiles not on vehicles, and camping and luggage carrying devices designed or intended to be mounted on a vehicle.

Recurrence Interval. The average interval of time, based on a statistical analysis of actual or representative stream flow records, which can be expected to elapse between floods equal to or greater than a specified stage or discharge. Recurrence interval is generally expressed in years.

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.

Regional Flood. A flood determined or approved by the Department which is representative of large floods known to have generally occurred in Wisconsin and which is a flood with a one percent (1%) chance of being equaled or exceeded in any given year, and, if depicted on the Flood Insurance Rate Map, the regional flood elevation is equivalent to the base flood elevation.

Reasonably Safe from Flooding. For the purpose of floodplain regulation only, means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed building.

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.

Restaurant-Tavern. Any establishment in which meals are provided and fermented malt beverages or intoxicating liquors are sold for consumption upon the premises, where meals account for over fifty percent (50%) of the gross receipts.

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.

Roadside Stand, Farm Stand. An open air stand for the seasonal sale of agricultural produce produced on the same property.

Room. A partitioned part of the inside of a building. For the purpose of this definition, partition shall mean something that divides interior space, especially an interior dividing wall. A wall is one of the sides of a room or building connecting floor and ceiling and may also include anything which encloses or separates space. A partition or wall which intrudes into the space by more than one-third (1/3) of the least dimension of an existing room may be regarded as creating an additional separate room. The partitioned space shall be considered as a room if privacy is implied; light and ventilation are affected; or a bedroom through a bedroom, bathroom through a bedroom or bedroom through a bathroom situation is created.

Roomer. A roomer is a person living in a dwelling unit who is other than part of the family because of blood, marriage or legal adoption, and is other than a foster child.

Rowhouse. A dwelling not more than three (3) stories in height, arranged to accommodate two (2) or more attached row dwelling units in which each dwelling unit is separated from the adjoining unit by a wall extending the full height of the building. Also known as “single-family attached.”

S

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.

Screening. A hedge, wall or fence to provide a visual separator and physical barrier not less than four (4) feet nor more than six (6) feet in height, unless otherwise provided for in this ordinance.

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:

- (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.

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.

Shorelands. Lands within the following distances from the ordinary high-water mark of navigable waters: one thousand (1,000) feet from a lake, pond or flowage; three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

Sign. An emblem, name, identification, description or illustration which is affixed to or appears directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business. Neither official court or public notices, nor the flag, emblem or insignia of a nation, political unit, school or religious group, shall be considered a sign under this ordinance.

Specified Anatomical Areas:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola.
- (b) Human male genitals in a discernible turgid state, even if opaquely covered.

Specified Sexual Activities, simulated or actual:

- (a) Showing of human genitals in a state of sexual stimulation or arousal.
- (b) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus.
- (c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

Split Two-Family Dwelling. See “Dwelling, Two-Family - Twin.”

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.

Start of Construction. For the purpose of floodplain regulation only, means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as

garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Storage Capacity of a Flood Plain. The storage capacity of a flood plain is the volume of space above an area of flood plain land that can be occupied by flood water of a given stage at a given time, regardless of whether the water is moving.

Story. A story is that portion of a building, other than a basement or mezzanine, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

- (a) For the purposes of this ordinance, there shall be only one basement which shall be counted as a story when the front exterior wall of the basement level is exposed more than fifty percent (50%)
- (b) Any part of a building that is above the second story and between the eaves and the ridge line of pitched roofs with a slope of 8:12 (33.7 degrees) or greater, is not a story, but may be occupied as long as the requirements for human occupancy are met.

Street. A public right-of-way which affords traffic circulation and a principal means of access to abutting property. For the purpose of this ordinance, an alley shall not be considered a street.

Structural Alteration. Any change other than incidental repairs which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

Structure. A structure is anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground, and in the case of flood plain areas, in the stream bed or lake bed.

Substantial Damage. For the purpose of floodplain management only, means damage of any original sustained by a structure, whereby the costs of restoring the structure to its predamaged condition would equal or exceed fifty percent (50%) of the equivalent assessed value of the structure before the damage occurred.

Substantially Underway. Substantially underway means that a use is commenced or construction is begun and diligently prosecuted toward completion.

T

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.

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.

Telecommunication Facilities. Any plant or equipment used to carry wireless commercial telecommunications services by radio signal or other electromagnetic waves, including towers, antennas, equipment buildings, parking area and other accessory development.

Telecommunications Tower. A mast, pole, monopole, guyed tower, lattice tower, free-standing tower, or other structure designed and primarily used to support antennas. A ground or building mounted mast greater than fifteen (15) feet tall and six (6) inches in diameter supporting one or more antennas, dishes, or arrays shall be considered a telecommunications tower.

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.

Towing and Wrecker Service Business. A service that includes pulling, pushing or hauling motor vehicles to automobile service station for immediate service, to a garage or body shop for repairs or to a motor vehicle storage or salvage yard.

Trailer. Any structure which is or may be mounted upon wheels for moving about, and is propelled by its own power or drawn by other motive power, and which is used as a dwelling or as an accessory building or structure in the conduct of a business, trade or occupation, or is used for hauling purposes.

Transportation Demand Management (TDM). Measures, including but not limited to carpooling, vanpooling, public transit bicycling, walking, telecommuting, and compressed or deviated work schedules, that reduce individual vehicle trips and promote alternatives to single occupant vehicle use especially at peak commuting times.

Transportation Management Association. A membership group of owners and/or tenants of places of employment within close proximity that provides support and administration for a Transportation Demand Management program operated for the benefit of its members.

U

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.

Use. The use of property is the purpose or activity for which the land or building thereon is occupied or maintained.

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.

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. A special exception to the height, area or bulk standards of this ordinance may also be allowed as a conditional use, where specified. After due consideration, as provided for in this ordinance, of the impact of such use or exception upon neighboring land and of the public need for the particular use at a particular location, the conditional use may or may not be granted.

Use, Permitted. A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations of the district in which such use is located.

Use, Principal. A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use.

V

Vehicle. Any device in, upon or by which any person or property is or may be transported or drawn upon a highway.

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.

W

Walk-Up Service Opening. A window or door in a commercial establishment which is used for the sale of food or drinks to pedestrians.

Wetland Alteration. Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

Wetlands. Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

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.

Y

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

Yard, Front. A yard extending along the full length of the front lot line between the side lot lines.

Yard, Rear. A yard extending along the full length of the rear lot line between the side lot lines.

Yard, Required. See "Setback."

Yard, Side. A yard extending along a side lot line from the front yard to the rear yard.

Yard Sale. Any lawn sale, garage sale, attic sale, rummage sale, moving sale or other similar sale involving the display and/or sale of new and/or used goods on a zoning lot where the principal use is residential.

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