

# CITY OF MADISON STANDARDS FOR REVIEW OF CERTAIN TYPES OF DEVELOPMENT PROPOSALS

The following Standards are used to review development proposals

## **Excerpts\* From The Following Sections Of Madison General Ordinances:**

Sec. 28.12(1)	Zoning Map & Text Amendments
Sec. 28.12(11)	Conditional Uses
Sec. 28.12(12)	Demolition and Removal
Sec. 28.07(6)	Planned Unit Development District (PUD)
Sec. 28.04(19)	Waterfront Development
Sec. 28.12(11)(k)	Planned Residential Development (PRD)
Sec. 28.12(9)	Variances (Zoning Board of Appeals)

\*This packet includes portions of each of the sections noted above and does not contain the entire section. The reader is encouraged to refer to the ordinance for all of the requirements and process for each of these approvals.

*Prepared by: Planning Division, November 2010*

## ZONING MAP & TEXT AMENDMENTS

The Zoning Code Sec. 28.12(10) includes the following provisions regarding zoning map & text amendments:

- (a) Authority of Common Council. For the purpose of promoting the public health, safety, morals, comfort, prosperity and general welfare throughout the City and lessening or avoiding congestion in the public streets and highways, the Common Council may, from time to time, in the manner set forth in applicable Wisconsin Statutes, amend the regulations imposed in the districts created by this ordinance, provided that due allowance shall be made for existing conditions, the conservation of property values, the directions of building development to the best advantages of the entire City and environs, the uses to which property is devoted at the time of the adoption of such amendatory ordinance, and in the case of map amendments, the cost of providing municipal services to the property and the uses accommodated by the map amendment. In the case of map amendments to the flood plain zoning district, actions which require an amendment shall include but not be limited to the following:
1. Any change to the official floodplain zoning map, including any change in the floodway lines or boundary of the floodplain area.
  2. Correction of discrepancies between the water surface profiles and floodplain zoning maps.
  3. Any fill to the floodplain which will result in raising the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
  4. Any fill or floodplain encroachment that will obstruct flow, causing an increase of 0.01 foot or more in regional flood height.
  5. Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
  6. All channel relocations and changes to maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a flood insurance rate map requires prior approval by FEMA.
- (f) Recommendation by the City Plan Commission. After the public hearing on an amendment, the City Plan Commission shall submit its recommendation to the Common Council prior to the public hearing before such Council. The City Plan Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant, and further shall not recommend a proposed amendment without due recognition of the master plan of the City of Madison. In addition, the City Plan Commission may recommend to the Common Council:
1. The adoption of a map amendment changing the zoning classification of the property in question to any classification higher than that proposed by the applicant. For this purpose, the conservancy district shall be deemed to be the highest classification and the M2 district shall be deemed to be the lowest classification.
  2. The amendment of a zoning text provision of this chapter when the repeal of such provision is proposed.

3. The minor modification of a proposed zoning text amendment, including the deletion of portions thereof.
4. 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.
5. That a rezoning may be subject to any of the following conditions:
  - a. The ordinance shall take effect immediately upon passage and publication as provided by law;
  - b. The rezoning shall occur when the conditions in this ordinance are met;
  - c. That a building permit be obtained within eighteen (18) months of the effective date of this ordinance under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted;
  - d. In the event any of these conditions are not met within twenty-four (24) months of the effective date of this ordinance, the ordinance shall be null and void and the property shall retain the original zoning;
  - e. That the intended use of the property be designated;
  - f. The rezoning shall occur when a conditional use is approved by the Plan Commission;
  - g. In case of map amendments obstructing flow, or increasing regional flood height .01 foot or more, that flooding easements or other appropriate legal arrangements are obtained from all adversely affected property owners and that local units of government are notified;
  - h. Other conditions as the Plan Commission feels necessary to protect the public interest.

### **CONDITIONAL USES**

The Zoning Code Sec. 28.12(11) includes the following provisions regarding conditional uses:

- (a) Statement of Purpose. The development and execution of this ordinance is based upon the division of the City into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use at a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development, and operation of such uses. Such uses are classified as conditional uses and fall into two (2) categories:
  1. Uses publicly operated or traditionally affected with a public interest.
  2. Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

The following provisions are thus established to regulate these conditional uses which require special consideration.

- (g) Standards. No application for a conditional use shall be granted by the City Plan Commission unless such Commission shall find all of the following conditions are present:
1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.
  2. That the City be able to provide municipal services to the property where the conditional use is proposed, given due consideration of the cost of providing such services.
  3. That the uses, values and enjoyment of other property in the neighborhood for purposes already established shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
  4. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  5. That 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.
  6. That 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.
  7. That the conditional use shall conform to all applicable regulations of the district in which it is located.
  8. That when applying the above standards to an application by a community living arrangement the City Plan Commission shall:
    - a. Bear in mind the City's general intent to accommodate community living arrangements.
    - b. Exercise care to avoid an over-concentration of community living arrangements which could create an institutional setting and seriously strain the existing social structure of a community. Considerations relevant for this determination are:
      - i. The distance separating the proposed community living arrangement from other such facilities.
      - ii. The capacity of the community living arrangement and the percent the facility will increase the population of the community.
      - iii. The total capacity of all the community living arrangements in the community.
      - iv. The impact on the community of other community living arrangements.
      - v. The success or failure of integration into communities of other community living arrangements operated by the individual or group seeking the conditional use permit.

- vi. The ability of the community to meet the special needs, if any, of the applicant facility.
9. That when applying the above standards to any new construction of a building or an addition to an existing building, the City Plan Commission:
    - a. Shall bear in mind the statement of purpose for the zoning district, such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district; and
    - b. May require the applicant to submit plans to the Urban Design Commission for comments and recommendations; and
    - c. May consider the use of the proposed building as it relates to the City's Land Use Plan.
  10. That when applying the above standards to an application for a reduction of off-street parking requirements, the City Plan Commission shall consider and give decisive weight to all relevant facts, including but not limited to the following factors: availability and accessibility of alternative parking; impact on adjacent residential neighborhoods; existing or potential shared parking arrangements; number of residential parking permits issued for the area; proximity to transit routes and/or bicycle paths and provision of bicycle racks; the proportion of the total parking required that is represented by the requested reduction; the proportion of the total parking required that is decreased by Sec. 38.11(2)3; the characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off-street parking that will be provided; and whether the proposed use is new or a small addition to an existing use.
  11. That when applying the above standards to telecommunication facilities, the City Plan Commission shall consider the review of the application by a professional engineer required by Sec. 38.04(23)(c)7.

When a Conditional Use application is denied, the Plan Commission shall furnish the applicant in writing those standards that are not met and enumerate reasons the Commission has used in determining that each standard was not met.

(h) Conditions and Guarantees. The following conditions shall apply to all conditional uses:

1. Prior to the granting of any conditional use, the City Plan Commission may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in (11)(g) above. In all cases in which conditional uses are granted, the commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.
2. No alteration of a conditional use shall be permitted unless approved by the City Plan Commission provided, however, 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 (11)(g) above.
3. Where the City Plan Commission has approved or conditionally approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the

date of the Plan Commission's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. 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 according to Section 28.12(11)(h)2. for up to twenty-four (24) months from the expiration date.

4. The Plan Commission shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this code. Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in Subdivision (g) above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Subsection (f) above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in Subdivision (g) or conditions previously imposed by the Plan Commission, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards 1 and 2 in Subdivision (g) will be met, the Plan Commission may revoke the subject conditional approval and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Plan Commission shall be furnished the current owner of the conditional use in writing stating the reasons therefore. An appeal from a decision of the Plan Commission under this paragraph may be taken to the Common Council as provided by Subdivision (i) hereunder. (Cr. by 6732, 8-30-79)

### **DEMOLITION AND REMOVAL**

The Zoning Code Sec. 28.12 (12) includes the following provisions regarding approval of the Demolition (Razing, Wrecking) and Removal of buildings:

- (a) **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.

(b) Application for Permit.

1. 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. Applications for demolition or removal permits shall be submitted to the Director of the Building Inspection Division. 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. An application for a permit also shall include a site plan for any proposed future use, the length of the current ownership, and photographs of the building(s). If the proposed demolition is to be accomplished by fire, the application shall designate the proposed method of demolition. (Am. by Ord. 12,760, 2-27-01; Ord. 13,713, 10-26-04; ORD-08-001909, 10-7-08)
2. Except for applications submitted pursuant to (d), below, at least thirty (30) days prior to submitting an application for a demolition or removal permit, the applicant shall notify the Alderperson of the district where the demolition or removal is proposed. The applicant also shall notify any neighborhood association registered within the City that serves the area where the demolition or removal is proposed, any business association that serves the area and is listed by the City, and any person registered with the Department of Planning and Community and Economic Development to receive notice of proposed demolitions or removals. The above notice shall be provided sixty (60) days prior to submitting an application for demolition or removal for buildings constructed prior to 1940. Notification shall be by mail, or electronic mail, with a copy to the Director of the Department of Planning and Community and Economic Development. Failure to provide such notification shall not invalidate any action on the application taken by the Plan Commission or Common Council but may delay consideration of the application. The notice requirement for all but the registered persons may be waived, if approved by the Alderperson, President of the Neighborhood Association, and Director of the Department of Planning and Community and Economic Development. For registered persons, the notice period may be reduced to fourteen (14) days, if approved by the Alderperson, President of the Neighborhood Association, and Director of the Department of Planning and Community and Economic Development. (Am. by ORD-09-00074, 5-21-09)

(c) Standards. Applications for demolition or removal permits shall not be approved, except as provided in Section 28.04(22)(d) of the Madison General Ordinances, unless the following standards are met:

1. Applications With a Proposed Future Use.

- a. 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, Chapter 28, Madison General Ordinances.
  - i. 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 follow the procedures provided by the Zoning Code to apply for a map or text amendment pursuant to Section 28.12(10) of the Madison General Ordinances or for a conditional use permit pursuant to Section 28.12(11) for the proposed use. All of the provisions of Sections 28.12(10) and 28.12(11) shall apply to said applications, except that the time limit for commencement of the conditional use, pursuant to Section 28.12(11)(b)3., shall be eighteen (18) months instead of twelve (12) months.

- ii. If after the procedures provided in Paragraph 1. are followed, the proposed use of the property would be in compliance with the provisions of the Zoning Code, the Zoning Administrator shall grant a zoning certificate for the proposed use, pursuant to Madison General Ordinance Section 28.12(5)(a).
  - b. 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 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, the reasonableness of efforts to relocate the building, including but not limited to the costs of relocation, the structural soundness of the building, and the limits that the location of the building would place on efforts to relocate it, and the availability of affordable housing. (Am. by Ord. 12,279, 12-14-98; Ord. 13,248, 2-11-03; Ord. 13,713, 10-26-04)
  - c. 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.
  - d. 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.
  - e. 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.
2. Application With No Proposed Use. In addition to the above standards in (c)1.c-e:
  - a. The Plan Commission finds that, based on evidence from the Madison Fire Department, Police Department, and/or Neighborhood Preservation and 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



- b. 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.
- (e) Every person who is required to submit a reuse and recycling plan pursuant to (c)5. above shall submit documents showing compliance with the plan within sixty (60) days of completion of demolition.

### **PLANNED UNIT DEVELOPMENT DISTRICT (PUD)**

The Zoning Code Sec. 28.07(6) includes the following provisions regarding Planned Unit Developments:

- (a) Statement of Purpose. The Planned Unit Development District is established to provide a voluntary regulatory framework designed to encourage and promote improved environmental and aesthetic design in the City of Madison by allowing for greater freedom, imagination and flexibility in the development of land while insuring substantial compliance to the basic intent of the zoning code and the general plan for community development. To this intent, it allows diversification and variation in the bulk and relationship of uses, structures and spaces in developments conceived as comprehensive and cohesive unified plans and projects. It is further intended to encourage developments consistent with coordinated area site planning.
- (f) Criteria for Approval. As a basis for determining the acceptability of a Planned Unit Development District application, the following criteria shall be applied with specific consideration as to whether or not it is consistent with the spirit and intent of this ordinance and has the potential for producing significant community benefits in terms of environmental and aesthetic design. For Planned Unit Development Districts with Residential Components in Downtown Design Zones, the Design Criteria adopted by the Common Council shall be used as guidelines for determining whether the following criteria are met.
  - 1. Character and Intensity of Land Use. In a Planned Unit Development District, the uses and their intensity, appearance and arrangement shall be of a visual and operational character which:
    - a. Are compatible with the physical nature of the site or area.
    - b. Would produce an attractive environment of sustained aesthetic desirability, economic stability and functional practicality compatible with the general development plan.
    - c. Would not adversely affect the anticipated provision for school or other municipal service unless jointly resolved.
    - d. Would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it unless jointly resolved. A traffic demand management plan and participation in a transportation management association may provide a basis for addressing traffic and parking demand concerns.
  - 2. Economic Impact. Planned Unit Development District shall not adversely affect the economic prosperity of the City or the area of the City where the Planned Unit Development is proposed including the cost of providing municipal services.

3. Preservation and Maintenance of Open Space. In a Planned Unit Development District, adequate provision for the improvement and continuing preservation and maintenance of attractive open space shall be made.
4. Implementation Schedule. A Planned Unit Development District shall include suitable assurances that each phase could be completed in a manner which would not result in an adverse effect upon the community as a result of termination at that point.

### **WATERFRONT DEVELOPMENT**

**In addition to the conditional use standards,** Zoning Code Sec. 28.04(19) includes the following provisions applicable to waterfront development:

- (a) Statement of Purpose. This subsection is established to further the maintenance of safe and healthful conditions, prevent and control water pollution, protect spawning grounds, fish and aquatic life by controlling building sites, the placement of structures and land users and reserving shore cover and natural beauty for all waterfront and shoreland development.
- (b) General Regulations. The following regulations shall apply to all new development except a Civic Auditorium Complex. No building permit shall be issued for any new development of a waterfront or shoreland zoning lot without first obtaining a conditional use permit therefore. For purposes of this section, new development shall be a new principal building, an addition or additions to an existing principal building totaling in excess of five hundred (500) square feet of floor area during any ten (10) year period, or an accessory building. The conditional use permit shall be issued pursuant to the procedure set forth in Section 28.12(11) of this ordinance. In addition to the review standards set forth in Subdivision (g) therein all waterfront development shall be subject to the following standards.
  1. The principal building setback from the water shall be:
    - a. For all zoning lots where the principal use is residential, where the zoning lot is vacant, or where proposed development consists of the construction of a new principal building, the setback from the water shall be not less than the average setback of the five (5) developed zoning lots to each side of the proposed zoning lot.
    - b. For all other zoning lots, the applicant shall choose, for the location of any additions, alterations, or expansions of an existing principal building, a setback from the water that is not less than seventy-five (75) feet the setback calculated in (a) or the setback of the existing building that is being added to, altered, or expanded.
  2. Upon the filing of an application for a conditional use permit, the development plan shall show a complete inventory of shoreline vegetation in any area proposed for building, filling, grading, or excavating. In addition, the development plan shall indicate those trees and shrubbery which will be removed as a result of the proposed development. The cutting of trees and shrubbery shall be limited in the strip thirty-five (35) feet inland from the normal waterline. On any zoning lot not more than thirty percent (30%) of the frontage shall be cleared of trees and shrubbery. Within the waterfront setback requirements tree and shrub cutting shall be limited by consideration of the effect on water quality, protection and scenic beauty, erosion control and reduction of the effluents and nutrients from the shoreland.

3. Any building development for habitation shall be served with public sanitary sewer.
4. Filling, grading, and excavation of the zoning lot may be permitted only where protection against erosion, sedimentation, and impairment of fish and aquatic life has been assured.
5. Where the City's adopted Master Plan includes a pedestrian walkway or bike path along the shoreline, the proposed development shall not interfere with its proposed location.
6. Construction of marine retaining walls or bulkhead may be permitted providing such construction does not protrude beyond the established shoreline of the adjacent properties. Said retaining walls and bulkheads will be permitted only for the purpose of preventing shoreline recession. The filling and grading of the shoreline shall occur only in the construction of such retaining walls or bulkheads.
6. In addition to complying with the above standards, boathouses shall not be constructed for human habitation.

(c) Waterfront Development Less than 500 Square Feet. All development less than 500 square feet in floor area on lots where the principal use is residential use on the water side of an existing building, including additions, alterations or expansions to an existing building, shall conform to the setback requirements in Sec. 28.04(19)(b)1.a. above. (Am. by ORD-10-00024, 2-23-2010)

### **PLANNED RESIDENTIAL DEVELOPMENTS (PRD)**

The Zoning Code Sec. 28.12(11)(k) includes the following provisions regarding Planned Residential Developments:

1. Planned Residential Development-Dwellings.
  - a. Standards. In the case of the above-mentioned planned development, no application for a conditional use shall be granted by the City Plan Commission unless such commission shall find the following:
    - i. That such development shall provide adequate recreation areas to serve the needs of the anticipated population;
    - ii. That such development shall provided adequate off-street parking facilities, and adequate screening and landscaping;
    - iii. That such development shall constitute environment of sustained desirability and stability;
    - iv. That such exception for any side yard other than a street side yard shall not result in an average yard less than that required in the district in which the property is located and shall not result in a minimum yard at any point in such yard less than that required for a building, the side wall of which, as projected at right angles to the side lot line, is less than forty (40) feet in the R1, R2 and R3 districts, less than fifty (50) feet in the R4 district and less than sixty-six (66) feet in the R5 and R6 districts; and
    - v. That such development shall result in an intensity of land utilization no higher than, and standards of open spaces at least as high as, permitted or otherwise specified in this ordinance in the district in which such development is to be located. Where the

site is in two (2) or more districts, an average intensity of land utilization, based on the respective land areas in each district, is permitted on the site regardless of the location of the district boundaries.

**VARIANCES**  
**(Considered by the Zoning Board of Appeals)**

The Zoning Code Sec. 28.12(9) includes the following provisions regarding variances:

- (a) **Authority.** The Zoning Board of Appeals, after a public hearing, may determine and vary the regulations of this ordinance in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the board makes a finding of fact based upon the standards hereinafter prescribed, that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the regulations of this ordinance.
- (b) **Application for Variance and Notice of Hearing.** An application for a variance shall be filed with the Zoning Board of Appeals. The application shall contain such information as the Zoning Board of Appeals may, from time to time, by rule provide. After the filing of such application, a public hearing shall be held on such application. Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 Notice, pursuant to Ch. 985, Wis. State., in a newspaper of general circulation in the City, said notice to be published at least one week prior to the date of the hearing. Notice of the time, place and purpose of such hearing shall also be sent to the applicant, the Zoning Administrator, the Director of Planning and Community and Economic Development, the Alderperson of the district in which the property affected is located, and the owners of record, as listed in the office of the City Assessor, who are owners of property, in whole or in part, situated within two hundred (200) feet of the property affected, said notice to be sent at least five (5) days prior to the date of such public hearing. In the case of variances to the floodplain or wetland regulations, such notice shall also be sent to the appropriate District Office of the Wisconsin Department of Natural Resources at least 10 days prior to the hearing. (Am. by Ord. 11,953, 10-31-97).
- (c) **Standards for Variances.** The Zoning Board of Appeals shall not vary the regulations of this ordinance as authorized in (8)(a) above unless it shall make findings based upon the evidence presented to it in each specific case that all of the following conditions are present:
  - 1. Compliance with the strict letter of the ordinance would result in unnecessary hardship for the owner.
  - 2. The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification.
  - 3. The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner.
  - 4. The alleged difficulty or hardship is caused by the ordinance and has not been created by any person presently having an interest in the property.
  - 5. The granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the neighborhood in which the property is located, or inconsistent with the purpose of the ordinance.

6. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
7. 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.
8. 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.
9. In floodplain areas, variances shall not increase costs for rescue and relief efforts.

The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the above standards to reduce or minimize the injurious effect of such variance upon other property standards to reduce or minimize the injurious effect of such variance upon other property in the neighborhood, and to better carry out the general intent of this ordinance. 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. (Am. by ORD-06-00122, 9-21-06)