

4.30.95

DANE COUNTY CODE OF ORDINANCES



1995

Chapter 10
ZONING **ORD. REVISED**

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10.01 DEFINITIONS. For the purposes of this chapter certain terms used herein are defined as set forth in this section. Words and phrases not defined in this section or elsewhere in the ordinance shall be construed by resort to the following, in order of preference: Wisconsin

Statutes; Wisconsin zoning case law; other states' zoning case law; the dictionary; and common usage.

(1) *Accessory building.* A subordinate or supplemental building, the use of which is incidental to that of the main building on the same lot or the use of the premises on which it is located.

(2) *Accessory use.* A use customarily incidental and accessory to the principal use of a lot or parcel, or building or structure on the same lot or parcel as the principal use.

(2a) *Agricultural Uses.* Beekeeping, dairying, egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, berries, sod farming and vegetable raising.

(2m) *Adult book store* is an establishment which is used for selling or renting, for monetary consideration, the following materials, when such activity constitutes a significant part of the business conducted therein:

(a) Any picture, photograph, drawing, motion picture film or similar visual representation or image of a person or portion of human body which depicts sexual conduct, sadomasochistic conduct or nudity in the context of sexual activity, whether or not the same is intended to be viewed on or off the premises; or

(b) Any book, pamphlet, magazine, printed matter, however reproduced, or any sound recording which contains any matter enumerated in para. (a) above or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse.

(c) As used in paragraphs (a) and (b), *sexual conduct* has the meaning set forth in s. 944.21 (2)(e), Wis. Stats., and as used in this subsection, *significant part of the business* means dedication or use of more than 10% of the available floor space to the sale or rental of the subject matter referenced herein, including space devoted to viewing of videotapes or films.

(d) 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 store.

(3) *Animal unit.* One animal unit shall be defined as being the equivalent of 1 cow, 4 hogs,

10 sheep, 10 goats, 100 poultry, 1 horse, 1 pony, 1 mule or 100 rabbits or an equivalent combination thereof.

(4) *Apartment house.* A building containing accommodations for more than two (2) families living independently of each other.

(5) *Apartment house complex.* A group of apartment houses, located on a single parcel of land with certain facilities, such as driveways, parking spaces and the like, common to the buildings in the complex.

(5m) *Beekeeping.* Keeping of more than 1 hive for each 10,000 square feet of lot or parcel area.

(6) *Boarding house.* A building or premises where meals are served by prearrangement for definite periods of time for compensation for five (5) or more persons, but not exceeding 20 persons, not open to transients, in contradiction to hotels and restaurants open to transients.

(6a) *Boathouse.* A building for the storage of boats, canoes and other water craft and their accessories.

(6m) *Boat slip* means a mooring accommodation for the in-water storage of a boat or other water craft which is owned by other than a resident or owner of the premises.

(7) *Building.* Any structure having a roof supported by posts, columns or walls and its appendages including, but not limited to balconies, porches, decks, stoops, fireplaces and chimneys. Also included for permit and locational purposes are swimming pools both above and below ground, towers for microwave antennas, community television antennas and towers for cellular phone reception and transmission. Not included within the definition, for permit purposes or otherwise, are towers and posts for lines carrying telephone messages or electricity and recreational structures, of open construction and without walls, such as swing sets, slides, yard gyms, climbers, sand boxes and teeter totters.

(8) *Building height.* The vertical distance, measured from the mean elevation of the finished grade along the front of the building to the highest point on the roof for flat roofs; to the mean height level between the eaves and the ridge for gable and hip roofs; to the deck line for mansard roofs.

(9) *Building line.* The building line shall be the point at which the building wall or any appendage of the building such as steps, chimneys, decks, porches or covered patios meet the ground. For earth sheltered homes, the building line is a line where the exterior walls of the building if extended vertically would be located on the lot.

(10) Building setback line. Is a line that is parallel to the front or street lot line and is located at a distance from either the center line of the adjacent highway or the front lot line as provided for in section 10.17 of this ordinance. For triangular or gored lots that do not have the required lot width at the required building setback line, the building setback line shall be a line that is parallel to the front lot line or if the front lot line is a curve it shall be parallel to the chord of the arc of the curve of the front lot line and located at the point on the lot where the length of the line meets the lot width requirements of the zoning district in which it is located. (See also *Lot Width*.)

(11) Campground. A parcel or tract of land, maintained, intended or used for the purpose of supplying temporary or overnight living accommodations to the public by providing designated areas for the placement of trailers, tents, buses, automobiles or sleeping bags, and may include buildings to provide services to the patrons such as restrooms, bathing, laundry and commissary facilities. A primitive campground shall be any area or site designated for camping purposes which is accessible only by hiking, boating or canoeing.

(11a) Cemetery. Shall include but not be limited to cemeteries, mausoleums, columbarians, crematoriums and burial chapels. Shall be subject to section 157.06 of the Wisconsin Statutes.

(11m) Clear area means an area adjacent to and completely surrounding each and every physical structure comprising part or all of an historic site. No building or structure of any kind, whether or not a permit therefor is required under this chapter, shall be erected in the clear area and no obstacle of any kind, whether attached to an allowed structure or not, shall be placed in the airspace above the clear area, and no soil disturbance shall occur in the clear area.

(12) Clinic. An office or building in which dental, veterinary, medical or paramedical services are provided on an outpatient basis. Such services as laboratory, X-ray and first aid services may be provided.

(13) Club. An association for some common purpose, but not including a group organized for or which is actually engaged in rendering a service which is customarily carried on as a business.

(14) Colony house. A building for the breeding and raising of experimental and

laboratory animals, such as white mice and rats, guinea pigs and the like, and for the storage of feed and accessory materials.

(15) Committee. The Agricultural, Environment and Land Records Committee of the Dane County Board of Supervisors or any other committee of the Dane County Board of Supervisors delegated with the responsibility for zoning matters under sections 59.97, 59.971, 87.30 and 144.26 of the Wisconsin Statutes.

(16) Community living arrangements. Community living arrangement means any of the following facilities licensed or operated, or permitted under the authority of the Wisconsin Department of Health and Social Services: child welfare agencies under section 48.60, Wis. Stats., group foster homes for children under section 48.02(7)(m), Wis. Stats., and community based residential facilities under section 50.01, Wis. Stats., but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails.

(17) Condominium. Individual ownership of a structure or a unit in a multi-unit structure located on a commonly held parcel of land organized under Chapter 703, Wisconsin Statutes. Buildings in a condominium shall meet the density and locational requirements of the zoning district in which they are located.

(18) Construction equipment shall include but not be limited to tractors, both wheeled and crawler types, graders, end loaders, scrapers, bulldozers, cranes, back hoes, drag lines, trucks, including dump, stake body or semi-trailer lo-boys of more than two and one-half (2-½) ton capacity, "cherry picker" vehicles and air compressors. Any of the aforementioned equipment that is used in connection with a farm operation and is not leased or contracted for use on any other property shall not be considered construction equipment.

(18a) Contiguous. Lots or parcels shall be considered as contiguous for the purpose of this ordinance if they share a common boundary for a distance of at least 66 feet.

(19) Day care centers. A place or home which provides care for four (4) or more children under the age of seven (7) years for less than 24 hours a day and is licensed as provided for in section 48.65 of the Wisconsin Statutes.

(19a) Dependency living arrangement means a physical arrangement of a dwelling unit in such a fashion that separate living spaces are created within a dwelling unit for the sole purpose of allowing a dependent person to live in the

secondary living area while the owner and his or her family reside in the principle living area. The secondary living area may contain a bath and limited kitchen facilities which permit a degree of independence.

(19b) Dependent as pertains to dependency living arrangements, is an individual who requires some assistance in the activities of the daily living such as eating, dressing, bathing or ambulation.

(20) Drive-in establishment. An establishment of the *drive-in* type is one which accommodates motor vehicles from which the occupants may obtain or receive the service or obtain a product which may be used or consumed in the vehicle on the same premises or is one which accommodates motor vehicles for the purpose of fueling or providing minor services for such vehicle. However, any restaurant or food establishment in which facilities are provided for patrons to consume the products therefrom in a motor vehicle while on the premise of any such establishment which is primarily designed to allow patrons to consume the product therefrom in a motor vehicle on the premises shall be considered a drive-in establishment. All such establishments shall operate pursuant to a conditional use permit secured from the committee.

(21) Dwelling. (a) Single family dwelling. A building designed for and occupied exclusively as a residence for one (1) family.

(b) Multiple family dwelling. A building designed or intended to be used by more than two (2) families living independently of each other.

(c) Duplex family dwelling. A building designed to be occupied by two families living independently of each other.

(22) Extended care facilities. A nursing home which is certified by the State of Wisconsin under the Federal Social Security Act to care for patients under the Medicare Program.

(23) Family. Any number of individuals related by blood or marriage, or not to exceed five (5) persons not so related, living together on the premises as a single housekeeping unit, including any domestic servants.

(23f) Farm means a tract of land utilized for the purpose of agricultural production, a tract of land devoted to the raising and breeding of domestic livestock, an area of water devoted to the raising and breeding of aquatic animals.

(23g) Farm accessory building means an accessory building or buildings which are used in the operation of a farm.

(23h) Governmental uses. Shall include but not be limited to parks, playgrounds, schools, hospitals, police and fire stations, solid waste disposal sites and recreational areas.

(23m) Gross income means Wisconsin adjusted gross income as defined in s. 71.01(13), Wis. Stats., 1989-90.

(24) Gross vehicle weight shall mean the weight of any truck or road tractor and its semi-trailer plus the load that the vehicle is rated to haul.

(24m) Historic site means any burial site designated as an historic site by the County Board of Supervisors. A burial site has the definition set forth in s. 157.70(1)(b), 1987 Wis. Stats. Any action of the County Board designating an historic site shall constitute a zoning map change and shall be subject to town approval and the protest rights of landowners under s. 59.97, Wis. Stats. No person shall enter any property to survey the land for historic sites without the written permission of the property owner.

(25) Home occupation. A home occupation is any occupation carried on by a member of the immediate family residing on the premises, which meets all of the following conditions:

(a) That the occupation is conducted within a dwelling and not in an accessory building;

(b) That only members of the immediate family residing on the premises may be employed;

(c) That no stock-in-trade is kept or commodities sold, other than those made on the premises;

(d) That samples may be kept but not sold on the premises;

(e) That no mechanical equipment is used except such as may be used for purely domestic or household purposes;

(f) That such occupation shall not require internal or external alterations, or involve construction features not customary in a dwelling;

(g) That not more than 25 percent (25%) of the floor area of one (1) story of the dwelling is devoted to such home occupation;

(h) That the entrance to the space devoted to such occupation is from within the building;

(i) That there is no evidence, other than the sign referred to in subsection (j) below, that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; and

(j) That one (1) sign shall be permitted, which sign shall be attached to the building, shall not exceed two (2) square feet in area and shall not be lighted at night.

(26) *Hospital.* An institution providing health services, primarily for in-patients, and medical and surgical care of the sick and injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

(27) *Hotel.* A building in which board and lodging are provided to the transient public for compensation.

(28) *Junk.* Garbage, waste, refuse, trash, any used motor vehicle upon which no current license plate is displayed, any inoperable motor vehicle, any used tire or used motor vehicle part, and any scrap material such as metal, paper, rags, cans or bottles.

(29) *Salvage recycling center.* A salvage recycling center is an area where waste or scrap materials are bought, sold, exchanged, stored, recycled, baled, packed, disassembled or handled, including, but not limited to, motor vehicles, farm equipment, scrap iron and other metals, paper, rags, rubber tires and bottles. A salvage recycling center includes a motor vehicle wrecking or dismantling yard, but does not include a solid waste recycling center as defined in s. 10.01(50).

(30) *Kennel.* A kennel is any premise, or portion thereof, where dogs, cats or other household pets are maintained, boarded, bred or cared for, in return for remuneration, or are kept for the purpose of sale.

(30a) *Livestock.* Livestock shall include but is not limited to cows, sheep, goats, hogs, draft horses, pleasure horses and ponies, mules and poultry. For purposes of this ordinance 100 or more rabbits shall be considered livestock and subject to the regulations pertaining to the keeping of livestock.

(31) *Lodging house.* A building in which lodging accommodations are provided by previous arrangements for definite periods of time to four (4) or more but not to exceed twelve (12) individuals not members of the family.

(32) *Lot.* A parcel of land occupied or intended to be occupied by one (1) building and its accessory building and uses, except as otherwise provided herein. A lot may be a parcel designated in a plat or described in a conveyance recorded in the office of the register

of deeds. No land included in any street, highway or railroad right-of-way shall be included when computing area.

(33) *Lot depth.* The lot depth is the mean horizontal distance between the front lot line and the rear lot line measured within the lot boundaries.

(34) *Lot width.* Is the distance between the side lot lines measured along a line that is parallel to the front lot line at the required building setback line. On triangular or gored lots the lot width shall be measured along a line that is parallel to the chord of the arc of the front lot line at the required building setback line, the lot width at this point shall not be less than that required by the zoning district in which the lot is located. (See also *building setback line*)

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

(36) *Major repairs to motor vehicles.* Repairs and overhauling of motor or engine parts, drive train assemblies, braking systems, body and frame repairs and replacements, refinishing and painting, and wheel alignment.

(36a) *Lot, zoning.* A parcel of land under single ownership occupied or intended to be occupied by one main building, and buildings and uses customarily accessory or incidental thereto, including such open spaces as are provided or are intended to be used in connection therewith or are required by the ordinance. A zoning lot may or may not coincide with a lot of record.

(36g) *Majority* means more than one half of the pertinent total.

(36m) *Mineral Extraction.* Quarrying or excavation of sand, gravel, limestone, earth, soil or other mineral resources. This definition includes (when done in connection with mineral extraction) accessory uses such as washing, crushing and other processing of the materials, the erection of structures and the installation or storage, or both, of the necessary machinery and equipment used in the mineral extraction operation. Production of asphalt or concrete is not to be considered part of a mineral extraction operation.

(a) The following uses are not part of a mineral extraction operation: site preparation for residential or commercial plats, construction or landscaping projects, soil conservation practices, stream, lake or shoreline protection, agricultural land leveling projects if materials are not removed from the property and similar uses.

(36n) Mineral Extraction. Quarrying or excavation of sand, gravel, limestone, earth, soil or other mineral resources. This definition includes (when done in connection with mineral extraction) accessory uses such as washing, crushing and other processing of the materials, the erection of structures and the installation or storage, or both, of the necessary machinery and equipment used in the mineral extraction operation. Production of asphalt or concrete is not to be considered part of a mineral extraction operation.

(a) The following uses are not part of a mineral extraction operation: site preparation for residential or commercial plats, construction or landscaping projects, soil conservation practices, stream, lake or shoreline protection, agricultural land leveling projects if materials are not removed from the property and similar uses.

(36r) Mini-warehouse is a storage building comprised of separate compartments each of which is intended for separate rental and each of which has its own separate access.

(37) Minor repairs to motor vehicles. Replacing or repairing of electrical components, tires, changing or replacing coolants, and lubricants, cleaning and polishing, and wheel tire balancing.

(38) Mobile homes park. Any plot or plots of ground upon which two (2) or more units, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for an accommodation. Is subject to the requirements of section 66.058 of the Wisconsin Statutes.

(39) Motel. A building containing sleeping rooms for the temporary accommodation of tourists and not for permanent occupancy except by the owner or resident operator.

(40) Motor vehicle. Cars, trucks, buses, semi-tractors and semi-trailers which may be used to transport goods, materials freight or passengers.

(40a) Native wildlife rehabilitator. A person who has permits from the United States Department of Interior, Fish and Wildlife Service and/or the Wisconsin Department of Natural

Resources to rehabilitate injured or sick native wildlife as defined in the Wisconsin Administrative Code.

(41) Nonconforming use. A lawful use that existed prior to adoption of an ordinance which restricted or prohibits said use. [See section 10.21]

(42) Nursing home. A home for the aged, chronically ill or incurable person in which three (3) or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

(43) Park, amusement. An area, publicly or privately owned, containing amusement and recreational facilities and devices, whether operated for profit or not.

(44) Park, public. An area owned by the county or a municipality within the county, operated for the convenience and recreation of the public, and containing such facilities as the owning municipality shall see fit.

(45) Parking lot. An area or premises on which automobiles may be parked, and may include parking spaces for the accommodation of cars in connection with a business establishment, apartment building, office building or the like. Such lot shall be located in the same zoning district as the building or facility it is intended to serve.

(46) Person. Except where otherwise indicated by the context, the word person shall include the plural, or a company, firm, corporation or partnership.

(47) Pleasure horses. All horses and ponies which are kept or raised for purposes of riding by residents of the property or their guests but not including horses or ponies kept or raised for the purpose of commercial breeding, sale of as beasts of burden or draft animals and also not including horses or ponies which are kept on the property for another for a boarding fee or horses or ponies which are offered to the public for riding purposes upon payment of a fee.

(48) Professional office. A building in which is provided space for professional offices such as doctors, practitioners, dentists, realtors, engineers, lawyers, authors, architects, musicians and other recognized professional occupations.

(49) Refuse. Refuse means combustible and noncombustible rubbish, including but not limited to paper, wood, metal, glass, cloth and products thereof, litter and street rubbish, ashes and lumber, concrete and other debris resulting from the construction or demolition of structures.

(49m) Seed Business. A business that sells seed on a retail or wholesale basis. A farm operation that includes sale of seed to other farmers on an occasional basis is not considered to be a seed business unless a salesperson or salespersons is or are employed; sales of other products such as fertilizer or pesticides are made; the operation includes wholesale distribution to other dealers; or new buildings are constructed or existing buildings are improved to accommodate the sales of seed.

(50) Solid waste recycling center. A solid waste recycling center is a solid waste disposal operation at which temporary storage and processes such as baling of paper, grinding of glass and flattening of cans, are conducted on segregated solid waste to facilitate reuse of the segregated solid waste as raw material. Also see salvage yard, section 10.20(1)(a).

(51) Recreational equipment. Shall include boats, canoes, snowmobiles or camping and luggage carrying trailers intended to be towed by an automobile or truck or a camper unit to be mounted on a truck. Any motor driven camper or motor home shall be considered as recreational equipment.

(51a) Religious uses. Shall include but not be limited to churches, church related schools, convents, and monasteries.

(52) Rendering plant. A plant for the reduction of dead animals or slaughtered animals not suitable for human consumption, to by products, such as hide, skin, grease, bones, glue and soap, and for the storage of such by products.

(53) Roadside stand. A structure having a ground area of not over 200 square feet, not permanent by being attached to the ground, readily removable in its entirety and to be used solely for the sale of farm and garden products produced on the premises. Such structures may be located within the setback lines of roads, but shall not interfere with visibility along the highway.

(54) Rooming house. Same as lodging house.

(55) Sanitary landfill. Sanitary landfill is a type of land disposal operation involving the disposal of solid waste on land.

(56) Setback. The minimum horizontal distance from the front line or from the center of the highway, measured parallel to the highway or front lot line, to the front of the building.

[Subsections (57) through (65), inclusive, reserved for future use.]

(66) Slaughterhouse. Any building or premises used commercially for the killing or dressing of cattle, sheep, swine, goats or horses, for human consumption and the storage, freezing and curing of meat and the preparation of meat products.

(67) Solid waste. Solid waste means garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, operations, and other domestic use and public service activities, but does not include solids or dissolved material in waste water effluents or other common water pollutants.

(68) Solid waste disposal operation. A solid waste disposal operation is the operation or maintenance of a solid waste disposal site or facility, for the collection, storage, utilization, processing or final disposal of solid waste, including, but not limited to, land disposal, incinerator, transfer, air curtain destruction, composting reduction, shredding, compression, processing and salvage. In-house re-use of the imperfect finished products to make a merchantable finished product is not a solid waste disposal operation.

(69) Story. The vertical distance of a building included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling, provided that a basement shall not be considered a story.

(70) Story, half. A story under a gable, hip or mansard roof, the wall plates of which on at least two (2) sides are not more than two (2) feet above the floor of that story.

(71) Street. A public or private thoroughfare which affords primary means of access to abutting property is a street to that property for the purposes of this ordinance, except driveways to buildings.

(72) Street line. The dividing line between the street and the lot.

(73) Structure has the meaning set forth in s. 11.21(1)(ff).

(74) Structural alteration. Any change in the dimensions of a structure or in the interior layout or floor plan of a structure.

(74m) Substandard lot means a lot the dimensions of which, although fully conforming when created, are now in whole or in part, less than existing requirements for the zoning district in which located.

(75) Tavern. A building or part of a building open to the public, where fermented malt beverages and/or intoxicating liquors are sold at retail for consumption on the premises. The

following shall not be considered a tavern: a restaurant where such beverages are sold only at tables and only in conjunction with meals; a club not open to the public where such beverages are sold in conjunction with the operation of the club; premises where malt beverages are sold by established organizations in conjunction with the operation of a picnic, fair or other amusement enterprise.

(76) *Terminal, bus.* A building or facility where passengers may board or leave intercity buses, also facilities for baggage handling, bus package services and ticket sales.

(77) *Terminal, truck.* Buildings or land which is used for the storage or distribution of freight or goods by a common carrier.

(78) *Temporary or portable building.* A building or structure that is not attached to the ground by anchors, bolts, footings, foundation piers, pilings, posts or other means of attaching permanently to the ground. Lawn and yard buildings not attached, anchored or affixed to the ground shall not exceed 32 square feet of floor area on a lot in a residential district.

(79) *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 such district in which such use is located.

(80) *Use, principal.* A principal use is the main use of land or buildings as distinguished from a subordinate or accessory use.

(81) *Utility services.* Transmission and distribution lines both above and below ground which carry electricity, petroleum products, natural or manufactured gas, water, sewer or telephone messages, included are buildings, necessary to operate transmission and distribution lines such as substations, transformer installations, repeater stations, pumping stations but not including offices, garages, manually operated exchanges, terminal distribution facilities, electric generating plants and sewage disposal plants.

(82) *Vision clearance triangle.* Shall be the area in each quadrant of an intersection which is bounded by the right-of-way lines of the highways or streets and a vision clearance setback line connecting points on each right-of-way line which are located a distance back from the intersection equal to the setback required on the road or highway.

(83) *Yard.* A yard is an open space on a zoning lot which is unoccupied or unobstructed

from its lowest level to the sky, except as otherwise provided herein. For the purpose of this ordinance, a "yard" extends along a lot line to a depth or width specified in the yard regulations for the zoning district in which such zoning lot is located.

(84) *Yard, front.* A front yard is a yard paralleling along the full length of the front lot line between the side lot lines.

(85) *Yard, rear.* A rear yard is a yard paralleling along the full length of the rear lot line between the side lot lines.

(86) *Yard, side.* A side yard is a yard paralleling along a side lot line from the front yard to the rear yard.

[History: (Intro.) am., O.A. 17, 1992-93, pub. 10/09/92; (2m) cr., O.A. 16, 1993-94, pub. 12/27/93; (3) am., Sub. 3 to O.A. 36, 1987-88, pub. 08/02/88; (3) am., OA 9, 1993-94, pub. 04/20/94; (5m) cr., Sub 3 to O.A. 36, 1987-88, pub. 08/02/88; (5m) cr. O.A. 9, 1993-94, pub. 04/20/94; (6m) cr., Sub. 2 to O.A. 25, 1987-88, pub. 02/29/88; (7) am., O.A. 33, 1991-92, pub. 04/22/92; (11m) cr., Sub. 2 to O.A. 12, 1989-90, pub. 11/13/89; (23a) renum. as (23h), (23f), (23g) and (23m) cr., O.A. 17, 1992-93, pub. 10/09/92; (24m) cr., Sub. 2 to O.A. 12, 1989-90, pub. 11/13/89; (29) am., Sub. 2 to O.A. 11, 1991-92, pub. 12/18/91; 10.01(30a) am., Sub 3 of O.A. 36, 1987-88, pub. 08/02/88; (30a) cr. O.A. 9, 1993-94, pub. 04/20/94; (36g) cr., O.A. 17, 1992-93, pub. 10/09/92; (36m) cr., Sub. 2 to O.A. 25, 1987-88, pub. 02/29/88; (36m) am., Sub. 3 to O.A. 36, 1987-88, pub. 08/02/88; (36m) cr. O.A. 9, 1993-94, pub. 04/20/94; (41) am., Sub 3 of O.A. 36, 1987-88, pub. 08/02/88; (41) am. O.A. 9, 1993-94, pub. 04/20/94; (49m) am., Sub 3 of O.A. 36, 1987-88, pub. 08/02/88; (49m) cr. O.A. 9, 1993-94, pub. 04/20/94; (57) through (65), inclusively, rep., Sub. 2, O.A. 6, 1989-90, pub. 09/21/90; (73) am., Sub. 2 to O.A. 12 1989-90, pub. 11/13/89; (74) am., Sub. 1 to O.A. 31, 1991-92, pub. 04/22/92; (74m) cr., Sub. 2 to O.A. 12, 1989-90, pub. 11/13/89; (36r) cr., O.A. 1, 1994-95, pub. 09/02/94.]

10.02 DISTRICTS. The following districts are established. The number, shape and area are best suited to carry out the purposes of this ordinance:

R-1	Residence District.
R-2	Residence District.
R-3	Residence District.
R-3A	Residence District.
R-4	Residence District.

RH-1	Rural Homes District.
RH-3	Rural Homes District.
RE-1	Recreational District.
B-1	Local Business District.
A-1	Agriculture District.
A-1	Agriculture District (Exclusive).
A-B	Agriculture-Business District.
A-2	Agriculture District.
A-3	Agriculture District.
C-1	Commercial District.
C-2	Commercial District.
LC-1	Limited Commercial District.
M-1	Industrial District.
CO-1	Conservancy District.

10.03 ZONING DISTRICT MAPS. (1) The location and boundaries of the zoning districts other than the A-1 Agriculture District and the flood prone areas (regional flood) are hereby established as shown on maps entitled "Zoning District Maps" on file in the office of the zoning administrator. The A-1 Agricultural District shall consist of all areas not otherwise designated on the "Zoning District Maps." The zoning administrator shall periodically update the "Zoning District Maps" to show any changes in the zoning district boundary lines resulting from amendments to the zoning ordinance, annexations and changes resulting from city or village extraterritorial zoning provisions. The "Zoning District Maps", together with all information shown thereon and all amendments thereto, shall be as much a part of this ordinance as if fully set forth and described herein.

(2) *Location of district boundaries.* The following rules shall apply with respect to the boundaries of the zoning districts as shown on the zoning district maps:

(a) Where zoning district boundary lines are indicated as following streets, highways, roads or alleys or extensions thereof, such boundary lines shall be construed to be the centerlines of said streets or alleys or extensions thereof unless clearly shown to the contrary.

(b) Where a dimensioned boundary line coincides approximately but not exactly with a lot line which existed on the effective date of incorporation of such boundary line into the zoning map, the said boundary line shall be construed to be the said lot line at that location.

(c) Streets, highways, roads or alleys which are shown on the zoning district maps and which heretofore have been vacated, or which may be vacated hereafter, shall be in the same zoning

district as the lots, pieces, or parcels abutting both sides of the street, highway, road or alley involved. If the lots, pieces or parcels abutting each side of the street, highway, road or alley were located in different zoning districts before the said street or alley was vacated, the centerline of the said vacated street or alley shall be the boundary line of the respective zoning districts.

(d) Where any uncertainty exists as to the exact location of zoning district boundary lines, the board of adjustment, upon written application, shall determine the location of such boundary lines.

10.04 RESTRICTIONS UPON LANDS, BUILDINGS AND STRUCTURES. Except as otherwise herein provided:

(1) There shall not be more than one (1) principal building on a lot except for lots in the commercial, industrial and business districts. In those districts, more than one (1) building is permitted for any single business or commercial enterprise. In a residence district, more than one (1) accessory building is permitted, however, the total floor area of the accessory building or buildings shall not exceed 50 percent (50%) of the floor area of the residence. On lots in the A-1 Agriculture District where the principal use is residential, more than one (1) accessory building is permitted, however, the total floor area of the accessory building or buildings shall not exceed that of the residence on the lot. On land in the A-1 Agriculture District used for agricultural purposes, agricultural accessory buildings are permitted but are limited to barns, sheds, silos and the like that are necessary to an agricultural use.

(2) *Height.* No building or structure shall be erected, nor shall any existing building or structure be removed, reconditioned, added to or structurally altered to exceed in height the limit established by this ordinance for the district in which that building or structure is located.

(3) *Percentage of lot occupancy.* No building or structure shall hereafter be erected, nor shall any existing building be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, nor shall a greater percentage of lot be occupied, except in conformity to the building site requirements and the area and yard regulations established by this ordinance, for the district in which such building is located.

(4) *Density of population.* No building, structure or premises shall be erected, occupied or used so as to provide a greater density of population than is allowed by the terms of this ordinance for the district in which such building, structure or premises is located.

(5) *Open space limitations.* No yard or other open space provided about any building or structure for the purpose of complying with the regulations of this ordinance shall be considered as providing yard or open space for any other building or structure. No lot area shall be so reduced or diminished that the yard or other space shall be smaller than prescribed by this chapter.

10.045 NCO NOISE CONTROL OVERLAY DISTRICT.

(1) *Statement of Purpose.* The purpose of the Noise Control Overlay District is to effect and accomplish the protection and enhancement of the quality of residential life in Dane County by restricting residential development adjacent to noise producing areas.

(2) *Authority.* This section is enacted under s. 59.97, Wis. Stats., and section TRANS 405.05(2), Wis. Admin. Code.

(3) *Designation.* All lands subject to this ordinance lying within 200 feet of a divided highway as defined in s. 340.01(15), Wis. Stats., are hereby designated as subject to this section. The county board may add other lands from time to time. Lands subject to this section shall be designated by attaching the suffix "NCO" to the zoning district in which the lands are located.

(4) *Protection.* No residential dwelling shall hereafter be erected in any area designated as part of the Noise Control Overlay District. The designation "Noise Control Overlay District" shall not otherwise affect the uses to which such lands may be put by the underlying zoning district.

(5) *Exceptions.* (a) The designation "Noise Control Overlay District" shall not apply to lands zoned for residential use prior to May 1, 1992.

(b) The Noise Control Overlay District shall not apply to lands on which noise control barriers have reduced the noise level from traffic to 67 decibels or less.

(6) *Variances.* The board of adjustment is empowered to remove the "Noise Control Overlay District" from lands to which it applies whenever the Wisconsin Department of Transportation consents to such variance and the board of adjustment otherwise finds that the

protections afforded by such overlay district are no longer necessary for the purposes set forth herein.

(7) *Compensation.* Where the designation of a particular parcel of land as subject to this section results in a property owner being deprived of all, or substantially all, of the beneficial use of the property, compensation shall be paid as provided for by law.

[**History:** 10.045 cr., Sub. 1 to O.A. 35, 1991-92, pub. 04/22/92.]

10.05 R-1 RESIDENCE DISTRICT. (1) *Permitted uses.* (a) Single family detached dwellings.

(b) Utility services.

(c) Home occupations, as defined in section 10.01(25).

(d) Uses and buildings, clearly incidental and necessary to permit use on the premises.

(e) Community living arrangements for less than nine (9) persons.

(f) Foster homes for less than five (5) children licensed under section 48.62, Wis. Stats.

(2) *Conditional uses permitted in the R-1 Residence District.* (a) Daycare centers.

(b) Community living arrangements for nine (9) or more persons.

(c) Cemeteries.

(d) Governmental uses.

(e) Private club houses and fraternity houses except when service is provided to the general public.

(f) Religious uses.

(g) Dependency living arrangements.

(3) *Building Height Limit.* (a) For residential dwelling two and one-half (2-½) stories or 35 feet.

(b) Accessory buildings shall not exceed 12 feet in height.

(4) *Lot Width And Area.* (a) Unsewered lots shall be not less than 100 feet in width at the building setback line and have an area of not less than 20,000 square feet.

(b) Sewered lots shall be not less than 100 feet in width at the building setback line and have an area of not less than 15,000 square feet.

(5) *Lot Coverage.* No building together with its accessory buildings shall occupy in excess of 30 percent (30%) of the area of an interior lot or 35 percent (35%) of the area of a corner lot.

(6) *Setback requirements.* Setback from front lot line or highway right-of-way lines shall conform to the requirements of section 10.17.

(7) *Side yard requirements.* There shall be total side yards of not less than 25 feet and no single side yard shall be less than 10 feet.

(8) *Rear yard requirements.* The minimum depth of any rear yard shall be 50 feet.

10.051 R-1A RESIDENCE DISTRICT. (1) All uses permitted in the R-1 Residence District..

(2) *Conditional Uses.* All conditional uses permitted in the R-1 Residence District.

(3) *Building Height Limit.* Shall be the same as the R-1 Residence District.

(4) *Lot Width And Area.* Lots shall be not less than 100 feet in width at the building setback line and have an area of not less than one (1) acre.

(5) *Lot Coverage.* No building together with its accessory buildings shall occupy in excess of 20 percent (20%) of an interior lot or 25 percent (25%) of the area of a corner lot.

(6) *Setback Requirements.* Setback from the front lot line or highway right-of-way lines shall conform to the requirements of section 10.17.

(7) *Side Yard Requirements.* Shall be the same as for the R-1 Residence District.

(8) *Rear Yard Requirements.* Shall be the same as for the R-1 Residence District.

10.06 R-2 RESIDENCE DISTRICT. (1) *Permitted uses.* All uses permitted in the R-1 Residence District.

(2) *Conditional uses permitted in the R-1 Residence District.* All conditional uses permitted in the R-1 Residence District.

(3) *Building height limit.* (a) Residential dwelling, two and one-half (2-½) stories or 35 feet.

(b) Accessory buildings shall not exceed 12 feet in height.

(4) *Lot width area.* (a) Unsewered lots shall be not less than 100 feet in width at the building setback line and have an area of not less than 20,000 square feet.

(b) Sewered lots shall be not less than 75 feet in width at the building setback line and have an area of not less than 10,000 square feet.

(5) *Lot Coverage.* No building together with its accessory buildings shall occupy in excess of 35 percent (35%) of the area of an interior lot or 40 percent (40%) of the area of a corner lot.

(6) *Setback requirements.* Setback from front lot line or highway right-of-way lines shall conform to the requirements of section 10.17.

(7) *Side yard requirements.* The minimum width of any side yard shall be 10 feet.

(8) *Rear yard requirements.* The minimum depth of any rear yard shall be 35 feet.

10.07 R-3 RESIDENCE DISTRICT. (1) *Permitted uses.* All uses permitted in the R-1 Residence District.

(2) *Conditional uses permitted in the R-3 Residence District.* All conditional uses permitted in the R-1 Resident District.

(3) *Building height limit.* (a) For residential dwelling two and one-half (2-½) stories or 35 feet.

(b) Accessory buildings shall not exceed 12 feet in height.

(4) *Lot Width And Area.* (a) Unsewered lots shall be not less than 100 feet in width at the building setback line and have an area of not less than 20,000 square feet.

(b) Sewered lots shall be not less than 60 feet in width at the building setback line and have an area of not less than 8,000 square feet.

(5) *Lot Coverage.* No building together with its accessory buildings shall occupy in excess of 35 percent (35%) of the area of an interior lot or 40 percent (40%) of the area of a corner lot.

(6) *Setback requirements.* Setback from front lot line or highway right-of-way lines shall conform to the provisions of section 10.17.

(7) *Side yard requirements.* The minimum width of any side yard shall be 10 feet.

(8) *Rear yard requirements.* The minimum depth of any rear yard shall be 25 feet.

10.071 R-3A RESIDENCE DISTRICT. (1) *Permitted uses.* (a) All uses permitted in the R-1 Residence District.

(b) Duplexes.

(2) *Conditional uses permitted in the R-3A Residence District.* All conditional uses permitted in the R-1 Residence District.

(3) *Building height limit.* (a) Residential dwellings, two and one-half (2-½) stories or 35 feet.

(b) Accessory buildings shall not exceed 12 feet in height.

(4) *Lot Width And Area.* (a) Unsewered lots for both single family and duplex dwellings shall be not less than 100 feet in width at the building setback line and have an area of not less than 20,000 square feet.

(b) Sewered lots for single family dwellings shall be not less than 60 feet in width at the building setback line and have an area of not less than 8,000 square feet.

(c) Sewered lots for duplex dwellings shall be not less than 75 feet in width at the building

setback line and have an area of not less 10,000 square feet.

(5) *Lot Coverage.* No building together with its accessory buildings shall occupy in excess of 30 percent (30%) of the area of an interior lot or 35 percent (35%) of the area of a corner lot.

(6) *Setback requirements.* Setback from front lot line or highway right-of-way line shall conform to the requirements of section 10.17.

(7) *Side yard requirements.* The minimum width of any side yard shall be 10 feet.

(8) *Rear yard requirements.* (a) For single family dwellings, the minimum depth of any rear yard shall be 25 feet.

(b) For duplex dwellings, the minimum depth of any rear yard shall be 35 feet.

(9) *Off-street Parking.* For duplex dwelling units, off-street parking shall be provided as required in section 10.18.

10.08 R-4 RESIDENCE DISTRICT. (1)

Permitted uses. (a) All uses permitted in the R-3A Residence District.

(b) Multiple family dwellings, condominiums.

(c) Community living arrangements for from nine (9) to fifteen (15) persons.

(2) *Conditional uses permitted in the R-4 Residence District.* (a) All conditional uses permitted in the R-1 Residence District, except community living arrangements for from nine (9) to fifteen (15) persons.

(b) Nursing homes, extended care facilities, hospitals, medical clinics, veterinary clinics, professional offices, community living arrangements for more than fifteen (15) persons.

(c) Mobile home parks subject to special conditions as provided for in 10.08(10).

(3) *Building height limit.* (a) Single family and duplex dwellings, two and one-half (2-½) stories or 35 feet.

(b) Multiple family dwellings, 4 stories.

(c) Accessory buildings shall not exceed twelve (12) feet in height.

(4) *Lot Width And Area.* (a) Unsewered lots for single family, duplex dwellings and multiple family dwellings shall be not less than 100 feet in width at the building setback line and have an area of not less than 20,000 square feet.

(b) Sewered lots.

1. Lots for single family and duplex dwelling units shall be the same as the R-3A Residence District.

2. Lots for multiple family dwellings shall be not less than 60 feet in width at the building

setback line and have an area of not less than 8,000 square feet.

(5) *Lot area and coverage.* (a) For single family and duplex dwellings the lot coverage shall be the same as for R-3A Residence District.

(b) Unsewered lots for multiple family dwellings shall provide a minimum of 5,000 square feet of lot area for each dwelling unit.

(c) Sewered lots for multiple family dwellings shall provide a minimum of 2,000 square feet of lot area for each efficiency, one bedroom, and two bedroom dwelling unit and a minimum of 2,250 square feet of lot area for each three bedroom or more dwelling units. If a building contains a mixture of efficiency, one and two bedroom and three or more bedroom dwelling units the lot area requirements shall be pro-rated. In computing lot areas for multiple family dwelling complexes, private roads, driveways, parking areas, recreational areas common to all of the buildings in the complex shall be considered as part of the total area of the complex.

(6) *Setback and Front Yard Requirements.* (a) Setback from both the front lot line and any road right-of-way lines shall conform to the requirements of section 10.17 of this ordinance.

(b) Private roads or driveways within a multiple family dwelling complex shall not be considered a road for determining setback.

(c) Multiple family dwelling buildings located in the interior of a complex shall provide a front yard of not less than 15 feet, each building shall be provided with its own front yard area irrespective of the yards required for other buildings.

(7) *Side Yard Requirements.* (a) For single family and duplex buildings the side yards shall be a minimum of 10 feet on each side.

(b) Multiple family dwelling buildings shall adhere to the following requirements:

1. Buildings which are 2 stories or less in height shall have a minimum 10 foot side yard on each side of the building.

2. Buildings which are more than 2 stories in height shall have side yards as follows:

a. If the side of a building does not include any windows for apartment dwellings a minimum side yard of 10 feet on that side is required.

b. If the side of a building does include windows for apartment dwellings an additional 5 feet of side yard for each story over 2 stories is required on that side.

3. Buildings located within a complex shall each be provided with their own side yard areas

irrespective of the yards required for other buildings.

(8) **Rear Yard.** (a) For single family dwellings and duplex buildings the rear yards shall be a minimum of 25 feet.

(b) For multiple family dwellings not exceeding 2 stories the rear yard shall be not less than 25 feet. For buildings exceeding 2 stories, the rear yard shall be increased by 5 feet for each story over 2 stories.

(9) **Off-street parking.** Off-street parking shall be provided as required in section 10.18.

(10) **Mobile home parks.** (a) Mobile home parks are also subject to the provisions of Chapter H-77 of the Wis. Admin. Code and the more restrictive regulations shall apply.

(b) Each space or lot for the accommodation of a single mobile home shall contain not less than 3,000 square feet of area.

(c) There shall be at least 30 feet of spacing between mobile homes and no mobile home shall be less than 30 feet from any building in a park.

(d) Mobile homes shall not be located closer to a public road than provided for in section 10.17 of this ordinance.

(e) Each space or lot shall provide not less than two (2) off-street parking spaces.

(f) Each lot shall be landscaped with at least one fast growing tree of at least two (2) inches in diameter at ground level and two bushes or shrubs of at least three (3) feet in height. This requirement may be waived by the committee, if at the time of the application for a Conditional Use Permit, a landscaping plan is submitted that utilizes topography, plantings of trees or shrubs and/or decorative fencing to provide a degree of privacy between lots.

(g) Each mobile home park shall provide a park and recreation area of at least ½ acre for each 50 or fraction of 50 lots in the park. The park and recreation area shall be located to provide easy access for all residents in the park. Additionally, the area shall be well drained to provide a clean and safe area for children to play and shall be equipped with a sufficient amount of playground equipment to accommodate the children living in the park.

(h) All interior roads and streets of a mobile home park shall conform to the standards for platted roads and streets as provided for in Chapter 28 of the Dane County Land Division and Subdivision ordinance and shall be paved in

accordance with the paving standards of the township in which the park is located.

(i) Coincidental with an application for a Conditional Use Permit for a mobile home park, a preliminary map of the park shall be submitted, showing the proposed lot delineations, location of streets, access points to public roads, location of proposed buildings, park and recreational areas. A landscaping plan may also be submitted as provided for in 10.08(10)(f).

(j) Upon the approval and before the issuance of a Conditional Use Permit for a mobile home park, the owner shall furnish to Dane County six (6) copies of a map drawn to scale of the park showing the location of all interior roads, adjacent or abutting roads and points of access. Lots shall be clearly delineated and numbers assigned to each lot in sequence beginning with number 1.

[**History:** Subs. (6), (7) and (8) am., O.A. 30, 1991-92, pub. 04/22/92.]

10.09 RH-1 RURAL HOMES DISTRICT. (1)

Permitted uses. (a) All uses permitted in the R-1 Residence District.

(b) Agricultural uses, the number of livestock kept on a zoning lot in the RH-1 District shall not exceed one animal unit for each full acre.

(c) Home occupations, as defined in section 10.01(25).

(d) Utility services.

(e) Uses and buildings, clearly incidental and necessary to a permitted use on the premises.

(2) **Conditional uses permitted in the RH-1 Rural Homes District.** (a) Day care centers.

(b) Community living arrangements for nine (9) or more persons.

(c) Governmental uses.

(d) Religious uses.

(e) Dependency living arrangements.

(3) **Building Height Limit.** Residential buildings shall not exceed two and one-half (2½) stories or 35 feet.

(4) **Lot Width And Area.** The minimum lot width shall be 150 feet to be measured at the front building line of a residence, also at the location of any accessory building for the housing of livestock. The minimum lot area shall be not less than 2 acres.

(5) **Lot Coverage.** No residential building together with its accessory buildings shall cover in excess of 10% of the lot area.

(6) **Setback requirements.** Setback from front lot line or highway right-of-way lines shall conform to the requirements of section 10.17.

(7) *Side yard requirements.* (a) For residential buildings there shall be a total of 25 feet of side yards and no single side yard shall be less than 10 feet.

(b) Accessory buildings for the housing of livestock shall be located not less than 50 feet from any side lot line.

(c) Other accessory buildings shall be located not less than 10 feet from any side lot line.

(8) *Rear yard requirements.* (a) For residential buildings, the minimum rear yards shall be not less than 50 feet.

(b) Accessory buildings for the housing of livestock shall be located not less than 50 feet from any rear lot line.

(c) Other accessory buildings shall be located not less than 10 feet from any rear lot line.

10.091 RH-2 RURAL HOMES DISTRICT. (1) Permitted uses. All uses permitted in the RH-1 Rural Homes District.

(2) *Conditional uses.* All conditional uses permitted in the RH-1 Rural Homes District.

(3) *Building Height Limit.* Shall be the same as the RH-1 Rural Homes District.

(4) *Lot Width And Area.* The minimum lot width shall be 150 feet to be measured at the front building line of a residence, also at the location of any accessory building for the housing of livestock. The minimum lot area shall be not less than 4 acres.

(5) *Lot Coverage, setback, side yard and rear yard requirements.* Shall be the same as for the RH-1 Rural Homes District.

10.092 RH-3 RURAL HOMES DISTRICT. (1) Permitted uses. (a) All uses permitted in the RH-1 Rural Homes District.

(2) *Conditional uses.* (a) All conditional uses permitted in the RH-1 Rural Homes District.

(3) *Building Height Limit.* (a) Shall be the same as the RH-1 Rural Homes District.

(4) *Lot Width And Area.* (a) The minimum lot width shall be 150 feet to be measured at the front building line of a residence, also at the location of any accessory building for the housing of livestock. The minimum lot area shall be not less than 8 acres.

(5) *Lot Coverage, setback requirements, side yard requirements and rear yard requirements* shall be the same as the RH-1 Rural Homes District.

10.093 RH-4 RURAL HOMES DISTRICT. (1) Permitted uses. All uses permitted in the RH-1 Rural Homes District.

(2) *Conditional uses.* All conditional uses permitted in the RH-1 Rural Homes District.

(3) *Building Height Limit.* Shall be the same as the RH-1 Rural Homes District.

(4) *Lot Width And Area.* The minimum lot width shall be 150 feet to be measured at the front building line of a residence, also at the location of any accessory building for the housing of livestock. The minimum lot area shall be not less than 16 acres.

(5) *Lot Coverage, setback, side yard and rear yard requirements* shall be the same as for the RH-1 Rural Homes District.

10.10 RE-1 RECREATIONAL DISTRICT. (1)

Permitted uses. (a) Recreational facilities including but not limited to golf courses, golf driving ranges, tennis courts, archery ranges, and baseball diamonds, provided that if located outside of a building they shall not be lighted to operate during the hours of darkness.

(b) Boat, canoe and snowmobile rental services.

(c) Sale of bait for fishing.

(d) Ski slopes and jumps, toboggan slides.

(e) Residences for an owner or caretaker of a permitted use in the RE-1 District.

(f) Uses incidental to the operation of any permitted use.

(g) Utility services.

(2) *Conditional uses permitted in the RE-1 Recreational District.* (a) Recreational camps, campgrounds and camping resorts along with the services and facilities necessary to serve the premises. All such camps shall comply with the standards established in Wis. Admin. Code, chapters H 75 and H 78, or as amended.

(b) Recreational facilities, including but not limited to, golf courses, golf driving ranges, tennis courts, archery ranges and baseball diamonds, that are located outside of a building and are lighted to operate during the hours of darkness.

(c) Rental of residential buildings to someone other than an employee or caretaker on the premises.

(d) Sale of alcoholic beverages by the drink.

(e) Skeet, trap, rifle and pistol ranges.

(f) Private hunting and shooting preserves.

(g) Governmental uses.

(3) *Building Height Limit.* (a) For residential dwelling two and one-half (2-½) stories or 35 feet.

(b) For other buildings and structures, four (4) stories or 50 feet.

(4) *Lot Width And Area.* A lot shall be not less than 100 feet in width at the building setback line and have an area of not less than 20,000 square feet.

(5) *Building setback requirements.* Setback from front lot line or highway right-of-way line shall conform to the requirements of section 10.17.

(6) *Side yards.* (a) For single family residences for an owner or caretaker of a permitted or conditional use on the premises, the minimum side yard shall be not less than 10 feet.

(b) For buildings used for other permitted or conditional uses, the minimum side yard shall not be less than 10 feet except if the adjacent or abutting land is in a residence district, then the minimum side yard shall be not less than 50 feet.

(7) *Rear Yards.* (a) For single family residences for an owner or caretaker of a permitted or conditional use on the premises, the minimum rear yard shall be not less than 25 feet.

(b) For buildings used for other permitted or conditional uses, the minimum rear yard shall be not less than 25 feet except if the adjacent or abutting land is in a residence district, the minimum rear yard shall be not less than 50 feet.

(8) *Off-street parking.* Off-street parking shall be provided as required by section 10.18.

(9) *Screening provisions.* On lots adjacent to or abutting land in a residence district, the screening provisions of section 10.16(8) shall be complied with prior to the issuance of a Certificate of Compliance.

10.11 B-1 LOCAL BUSINESS DISTRICT. (1)

Intent and Purpose. The B-1 District is to provide a zoning district for retail businesses and services that do not include manufacturing or major assembly of items or product. Residential use is intended to be limited, outside storage of items is restricted and landscaping of properties is required.

(2) *Permitted Uses.* The following are permitted uses in the B-1 District: (a) Retail sales or retail service businesses including related services but not including sales, servicing or repair of motor vehicles or any business or service for which the items offered for sale or which require service are stored, parked or displayed outside of a building except as provided by this ordinance.

(b) Outdoor sales events limited to two (2) events per year. For purposes of this paragraph,

a single event is one which is held on consecutive days of not more than ten (10) days in duration.

(c) Storage of items or materials incidental to an established retail or service use on the premises but not to serve any other business or location. Said storage shall be in an enclosed building or enclosed area as provided by section 10.16 of this ordinance. Mini-warehouses are considered to be warehousing and are not permitted in the B-1 District.

(d) Medical, dental and veterinary clinics.

(e) Banks, offices and office buildings.

(f) Utility services.

(g) Schools and educational facilities except truck driving or construction equipment operator schools.

(h) Recreational facilities affiliated with a permitted B-1 use and which are not lighted for night operation.

(i) Rental or lease of boat slips.

(j) Private clubs or organizations.

(k) Theaters and auditoriums.

(3) *Conditional Uses Permitted In The B-1 Local Business District.* (a) Residential uses limited to apartments for an owner or manager of a permitted use in the B-1 District, multi-family dwellings, and rooming or boarding houses.

(b) Buildings which have more than four (4) stories.

(c) Motels and hotels.

(d) Hospitals, nursing homes, convalescent centers, extended care facilities.

(e) Mobile home parks, subject to special conditions as provided for in section 10.08(10).

(f) Conference and convention centers.

(g) Governmental uses.

(h) Recreational facilities affiliated with a permitted B-1 use and lighted to operate at night.

(i) Outdoor sales events, other than as permitted by s. 10.11(2)(b), and which are limited to a specific duration.

(j) Buildings proposed to be more than four (4) stories in height.

(k) Adult book stores, subject to the standards set forth in s. 10.193.

(4) *Building Height Limit.* Building height shall be limited to the lesser of six (6) stories or 75 feet. A conditional use permit is required for buildings proposed to be over 4 stories in height.

(5) *Area, Frontage and Population Density Regulations.* (a) For parcels or sites to be used exclusively for business purposes, there is no minimum parcel width and no area limitations.

Buildings shall not occupy in excess of 60 percent (60%) of the area of a parcel.

(b) Parcels or sites which will be used for multi-family residential purposes or for combined business and apartment uses shall not be less than 60 feet in width at the building setback line and shall provide parcel areas as follows:

1. On parcels not serviced by public sewer a minimum of 5,000 square feet of parcel area shall be provided for each apartment.

2. On parcels serviced by public sewer a minimum parcel area shall be provided as follows:

a. For each efficiency apartment and apartments which have one or two bedrooms a parcel area of 2,000 square feet shall be provided.

b. For each apartment containing three or more bedrooms a minimum of 2,250 square feet of parcel area shall be provided.

3. The setback, side yard, rear yard and parking space areas may be used to satisfy the required parcel area for apartments.

(6) *Setback From Road And Front Property Line And Front Yard Requirements.* (a) Setback requirements for urban or rural areas differ as follows:

1. **RURAL AREA:** Buildings shall be set back from both the front lot line and any road right-of-way as provided by section 10.17 of this ordinance.

2. **URBAN AREA:** A. Buildings which are used strictly for commercial uses shall be set back from both the front lot line and any road right-of-way a minimum distance of 5 feet.

B. Buildings which are used for residential uses or a combination of commercial and residential uses shall be set back from the front property line and any road right-of-way as provided by section 10.17 of this ordinance.

(b) Private roads or driveways within a multiple family dwelling or business building complex shall not be considered a road for determining setback.

(c) Buildings located in the interior of a complex shall provide a front yard of not less than 15 feet. Each building shall be provided with its own front yard area irrespective of the yards required for other buildings.

(7) *Side Yard Requirements.* (a) Buildings which are 2 stories or less in height shall have a minimum 10 foot side yard on each side of the building.

(b) Buildings which are more than 2 stories in height shall have side yards as follows:

1. If the side of a building does not include any windows for apartment dwellings or offices a minimum side yard of 10 feet on that side is required.

2. If the side of a building does include windows for apartment dwellings or offices an additional 5 feet of side yard for each story over 2 stories is required on that side.

(c) Buildings located within a complex shall each be provided with their own side yard areas irrespective of the yards required for other buildings.

(8) *Rear Yard Area Requirements.*

(a) Buildings which are 2 stories or less in height shall have a minimum rear yard of 10 feet.

(b) Buildings which are more than 2 stories in height shall have rear yards as follows:

1. If the rear of a building does not include any windows for apartment dwellings or offices a minimum rear yard of 10 feet is required.

2. If the rear of a building does include windows for apartment dwellings or offices an additional 5 feet of rear yard for each story over 2 stories is required.

(c) Buildings located within a complex shall each be provided with their own rear yard areas irrespective of the yards required for other buildings.

(9) *Off-street Parking.* Off-street parking space shall be provided in accordance with the provisions of section 10.18.

(10) *Screening Provisions.* On lots adjacent to or abutting land in a residence district, screening shall be provided in accordance with the provisions of section 10.16(8).

(11) *Landscaping.* All properties on which new construction or expansion of use is proposed shall provide landscaping in accordance with section 10.16(8) of this ordinance.

(12) *Truck Parking.* Truck parking is subject to section 10.16(1)(c)2. of this ordinance.

[History: Sub. (2)(i) cr., Zoning O.A. #3227, adopted 06/07/84; Sub. (2)(j) cr., Sub. 2 to O.A. 25, 1987-88, pub. 02/29/88; Sub. (3)(i) cr., Zoning O.A. #3227, adopted 06/07/84; Sub. (3)(k) cr., O.A. 16, 1993-94, pub. 12/27/93; 10.11 am., Sub. 2 to O.A. 29, 1991-92, pub. 04/22/92.]

10.12 A-1 AGRICULTURE DISTRICT. This district, section 10.12 is in effect in the following towns: Bristol, Burke, Middleton, Oregon, Springdale, Windsor.

(1)(a) The A-1 Agriculture District is generally for agricultural production and related uses. Residences and a variety of other non-farm uses are permitted. The district does not qualify for Farmland Preservation Credit.

(b) *Applicability.* This section shall apply to all towns within Dane County, except those which have elected to come under the provisions of section 10.123 of the Dane County Code of Ordinances, according to the procedure set forth therein.

(2) *Permitted uses.* (a) Single family detached dwelling units.

(b) Agricultural uses.

(c) Utility services.

(d) Home occupations, as defined in section 10.01(25).

(e) Day care for not more than 8 children.

(f) Accessory buildings.

1. Such buildings shall not be used for residential purposes or for the storage of goods or merchandise considered to be a dealer's inventory or for storage of machinery or equipment used off of the premises for other than agricultural purposes.

2. An accessory building may be built in the A-1 Agriculture District without the necessity of there being a residence on the property.

(g) The seasonal storage of recreational equipment and motor vehicles owned by private individuals other than those residing on the premises is permitted. Such storage shall be in existing accessory farm buildings. The storage of a dealer's inventory or the construction of any new buildings for storage shall be considered a commercial use and subject to the provisions of this ordinance.

(3) *Conditional uses permitted in the A-1 Agriculture District.* (a) Mineral extraction operations, asphalt plants, ready mix concrete plants.

1. Mineral extraction operations require a description of the operation, a site plan and a reclamation plan and are otherwise subject to s. 10.19.

(b) Radio, television transmitting towers, microwave towers, community television antenna installations including the buildings or structures necessary for their operation but not including buildings for offices, studios or the like.

(c) Buildings for private clubs, fraternities and associations, provided such facilities are open to members only and do not provide a service

which would normally be provided as a business and that such buildings be located not less than 100 feet from any lot in a residence district.

(d) Dumping grounds, sanitary landfill sites, demolition material disposal sites and incinerator sites. These shall also comply with section 60.72 of the Wis. Stats. and shall meet the minimum standards as adopted by the State Department of Natural Resources pursuant to sections 144.43 and 144.44 of the Wis. Stats.

(e) Cemeteries.

(f) Airports, landing strips or landing fields together with accessory structures.

(g) Veterinary clinics and hospitals provided that such buildings be located not less than 100 feet from any lot in a residence district.

(h) Religious uses.

(i) Salvage recycling centers.

(j) Solid waste disposal operations.

(k) Governmental uses.

(l) Native wildlife rehabilitation facility.

(m) Dependency living arrangements.

(n) Private schools.

(o) Horse boarding stables, riding stables, hay and sleigh rides, horse shows and similar events.

(p) Limited family businesses subject to s. 10.192.

(q) Kennels.

(r) Sale of agricultural and dairy products not produced on the premises and incidental sale of pop and candy.

(s) The seasonal storage of recreational equipment and motor vehicles owned by private individuals other than those residing on the premises is permitted. Such storage shall be in existing accessory farm buildings. The storage of a dealer's inventory or the construction of any new buildings for storage shall be considered a commercial use and subject to the provisions of this ordinance.

(t) Retail sales of bridles, saddles, grooming supplies and related items at a horse boarding or riding stable facility. Said use shall be limited to a maximum of 150 sq. ft. of floor space.

(u) Retail sales of pet food, pet supplies and related items at a kennel facility. Said use shall be limited to a maximum of 100 square feet of floor space.

(v) Training of dogs at a dog kennel or training of horses at a horse boarding facility.

(4) *Building height limits.* (a) Residential dwellings shall not exceed 2-1/2 stories or 35 feet in height.

(b) Residential accessory buildings shall not exceed 16 feet in height.

(c) Agricultural accessory buildings are not restricted as to height.

(5) *Area, frontage and population density regulations.* (a) For agricultural uses the area shall be not less than five (5) acres and the minimum width shall be two hundred fifty (250) feet, the width to be measured at the location of accessory farm buildings.

(b) For residential uses the lot width and area shall be the same as for the R-1 Residence District.

(c) For other permitted uses, no minimum width or area except for those uses for which special setback and side yards have been established.

(6) *Setback requirements.* No building, including barns and other farm buildings of any description whatsoever, shall be erected, moved or structurally altered so as to be nearer a highway than is prescribed by section 10.17.

(7) *Side yard requirements.* (a) Side yards for residential dwellings and residential accessory buildings shall be the same as for the R-1 Residence District.

(b) Accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from an R-1, R-2, R-3, R-3A or R-4 Residence District.

(8) *Rear yard requirements.* (a) Rear yards for residential dwellings and residential accessory buildings shall be the same as for the R-1 Residence District.

(b) Accessory buildings, cages, hives, kennels and runs for housing of animals or insects shall be located at least 100 feet from a R-1, R-2, R-3, R-3A or R-4 Residence District.

(9) *Off-street Parking.* Off-street parking shall be provided as required by section 10.18.

[**History:** (3)(i) and (j) am., Sub. 2 to O.A. 11, 1991-92, pub. 12/18/91; (2)(g) renum. as (3)(s), O.A. 17, 1992-93, pub. 10/09/92; (7)(b) am., Sub. 1 to O.A. 31, 1992-93, pub. 04/14/93; 10.12 (entire) am., Sub 3 to O.A. 36, 1987-88, pub. 08/02/88; 10.12 (entire) am. O.A. 9, 1993-94, pub. 04/20/94; (3)(t) am., O.A. 8, 1994-95, pub. 09/02/94; (3)(u) cr., O.A. 9, 1994-95, pub. 09/02/94; (3)(v) cr., O.A. 10, 1994-95, pub. 09/02/94.]

10.121 A-B AGRICULTURE BUSINESS DISTRICT. (1) The A-B Agriculture-Business District is designed to provide for those uses

which are commercial in nature; are associated with local agricultural production; require a rural location due to extensive land area needs or proximity of resources; and do not require urban services.

(2) *Permitted uses.* (a) Sales, service and repair of machinery and equipment used in farming.

(b) Sales distribution, mixing, blending and storage of feeds, seeds and fertilizer.

(c) Livestock and farm commodity trucking services.

(d) Processing and preserving of natural agricultural products, fruits and vegetables.

(e) Sales, service and repair of lawn and garden equipment.

(f) Sales and distribution of nursery stock and plants.

(g) Residential use for an owner of the business.

(h) Sales and service of small scale methane generating equipment and alcohol distilling equipment that is designed for use in a farm operation.

(i) Sales and service of wind driven electrical generating equipment.

(3) *Conditional uses.* (a) Plant genetic laboratories, agricultural related experimental laboratories;

(b) Dead stock hauling services;

(c) Sales or storage of agricultural byproducts;

(d) Stock yards, livestock auction facilities.

(4) *Building Height Limit.* (a) For buildings containing offices, sales rooms and service areas, residential buildings, the maximum height shall be two and one-half (2-½) stories or 35 feet

(b) For all other buildings such as silos, bins and feed and seed storage facilities, no maximum height.

(5) *Area and lot width.* A lot shall be not less than 100 feet in width at the building setback line and have an area of at least 20,000 square feet.

(6) *Density.* Buildings shall not occupy more than sixty percent (60%) of the area of an interior or corner lot.

(7) *Setback requirements.* Buildings that are erected, altered or moved shall be set back not less than is prescribed in section 10.17.

(8) *Side yard requirements.* Ten (10) feet.

(9) *Rear yard requirements.* Ten 10 feet.

(10) *Off-street parking.* Off-street parking shall be provided as required by section 10.18.

[**History:** (1) cr., Sub 3 to O.A. 36, 1987-88, pub. 08/02/88; (3)(d) cr., Sub. 3 to O.A. 36, 1987-88, pub. 08/02/88; 10.121 (entire) am. O.A. 9, 1993-94, pub. 04/20/94.]

10.123 A-1 AGRICULTURE DISTRICT

(Exclusive). This district, section 10.123 is in effect in the following towns: Albion, Berry, Black Earth, Blooming Grove, Blue Mounds, Christiana, Cottage Grove, Cross Plains, Dane, Deerfield, Dunkirk, Dunn, Madison, Mazomanie, Medina, Montrose, Perry, Pleasant Springs, Primrose, Roxbury, Rutland, Springfield, Sun Prairie, Vermont, Verona, Vienna, Westport, York.

(1)(a) Statement Of Purpose. The purposes of the A-1 Exclusive Agriculture are to: preserve productive agricultural land for food and fiber production; preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs; maintain a viable agricultural base to support agricultural processing and service industries; prevent conflicts between incompatible uses; reduce costs for providing services to scattered nonfarm uses; pace and shape urban growth; implement the provisions of the county agricultural plan when adopted and periodically revised; and comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under section 71.09(11) of the Wisconsin Statutes.

(b) Lands to be included within the A-1 Exclusive Agriculture. This district is generally intended to apply to lands in productive farm operations including: lands historically exhibiting good crop yields or capable of such yields; lands which have been demonstrated to be productive for dairying, livestock raising and grazing; other lands which are integral parts of such farm operations; land used for the production of specialty crops such as mint, sod, fruits and vegetables; and lands which are capable of productive use through economically feasible improvements such as irrigation.

(c) Applicability. This section shall apply only to those towns which have filed a resolution with the county clerk indicating the election of the town to come under provisions of this district. Towns which have filed resolutions indicating acceptance of the exclusive agriculture district prior to the date of this amendment shall continue to be under the provision of this section.

(2) Permitted uses. (a) Agricultural uses.

(b) Residence for farm owner/operator. Substantial income must be derived from the farm operation.

(c) Secondary farm residences which are occupied by a person who, or a family at least one member of which, earns a substantial part of his or her livelihood from farm operations on the farm.

(d) Rental of existing or secondary residences no longer utilized in the operation of the farm.

(e) Day care for not more than 8 children.

(f) Utility services as defined in section 10.01(81) and small scale electric generating stations not requiring approval under section 196.941 of the Wis. Stats.

(g) Road side stands.

(h) Structures and improvements that are consistent with agricultural uses.

(i) Home occupations as defined in section 10.01(25) of this ordinance.

(3) Conditional uses in the A-1 Exclusive Agriculture District. **(a)** Standards applicable to conditional uses in the A-1 Exclusive Agriculture District. The Department of Agriculture, Trade and Consumer Protection shall be notified of the approval of any conditional use permit. In passing applications for conditional use permits the committee shall consider the following relevant factors:

1. Standards applicable to conditional uses in the A-1 Agriculture District (Exclusive). Consumer Protection shall be notified of the approval of any conditional use permit. In passing applications for conditional use permits the committee shall consider the following relevant factors:

A. The statement of purposes of the zoning ordinance and the A-1 District.

B. The potential for conflict with agricultural use.

C. The need of the proposed use for a location in an agricultural area.

D. The availability of alternative locations.

E. Compatibility with existing or permitted use on adjacent lands.

F. The productivity of the lands involved.

G. The location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted.

H. The need for public services created by the proposed use.

I. The availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.

J. The effect of the proposed use on water or air pollution, soil erosion and rare or irreplaceable natural resources.

(b) Single family dwellings or mobile homes occupied by parents or children of the farm operator, and including dependency living arrangements. Said residences shall be subject to the requirements specified in s. 10.123 (2)(b).

(c) Governmental uses.

(d) Religious uses.

(e) Separation of farm dwellings and related structures which existed prior to the effective date of this ordinance and which remain after farm consolidation.

(f) Limited family businesses subject to s. 10.192.

(g) Private schools.

(h) Horse boarding stables, riding stables, hay and sleigh rides.

(i) Mineral extraction operations. Mineral extraction operations require a description of the operation, a site plan and a reclamation plan and are otherwise subject to section 10.191.

(j) Sale of agricultural and dairy products not produced on the premises and incidental sale of pop and candy.

(k) Asphalt plants or ready-mix concrete plants for production of material to be used in construction or maintenance of public roads, to be limited in time to project duration.

(L) Farm Family Business for retail sales of bridles, saddles, grooming supplies and related items at a horse boarding or riding stable facility. Said use shall be limited to a maximum of 150 sq. ft. of floor space.

(m) The seasonal storage of recreational equipment and motor vehicles owned by private individuals other than those residing on the premises, such storage to be in existing accessory farm buildings. The storage of a dealer's inventory or the construction of any new buildings for storage shall be considered a commercial use and subject to the provisions of this ordinance.

(4) Building height limits. **(a)** Residential dwellings shall not exceed 2 1/2 stories or 35 feet in height.

(b) Residential accessory buildings shall not exceed 16 feet in height.

(c) For agricultural accessory buildings there is no limitation on height.

(5) Area, frontage and population density regulations. **(a)** The minimum lot size to establish or maintain a farm operation is 35 acres.

(b) The minimum lot size for residential uses shall be the same as for the R-1 Residence District.

(6) Setback requirements. No building, including barns and other farm buildings of any description whatsoever, shall be erected, moved or structurally altered so as to be nearer the highway than is prescribed by section 10.17.

(7) Side yard requirements. **(a)** Side yards for residential dwellings and residential accessory buildings shall be the same as for the R-1 Residence District.

(b) Accessory buildings, cages or hives for housing of animals or insects shall be located at least 100 feet from an R-1, R-2, R-3, R-3A or R-4 Residence District.

(8) Rear yard requirements. **(a)** Rear yards for residential dwellings and residential accessory buildings shall be the same as for the R-1 Residence District.

(b) Accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from an R-1, R-2, R-3, R-3A or R-4 Residence District.

(9) General provisions applicable to the A-1 Exclusive Agriculture District. In addition to the conditions provided for in sections 10.16(1) through (6a) the following additional conditions shall apply:

(a) Any lot or parcel shown in a preliminary subdivision plat or a certified survey map which was received for review by the agency prior to the effective date of A-1 Exclusive Agriculture zoning, was approved and recorded, shall have the same status as pre-existing lots as defined in section 10.16(3)(a).

(b) Substandard parcels in the A-1 Exclusive Agriculture District which do not comply with the minimum parcel size standards of section 10.12(6)(a) shall comply with the standards of section 10.05(4). R-1 Residential District buildings shall comply with the locational requirements of the R-1 Residence District.

(c) Substandard parcels in the A-1 Exclusive Agriculture District which do not comply with the standards of section 10.123(6)(a) and which have an area of less than 5 acres do not permit the keeping or raising of livestock.

(d) Any residential building or its accessory building that is located on a substandard parcel as defined herein and which is destroyed by fire, explosion, act of God or act of public enemy may

be rebuilt provided the locational requirements of the R-1 Residence District are complied with:

(e) The provisions of section 10.16(1)(b)1. pertaining to real estate offices do not apply to lands in this district.

[History: 10.123 am. O.A. 9, 1993-94, pub. 04/20/94; (3)(L) cr., O.A. 8, 1994-95, pub. 09/02/94; 09/02/94.]

10.126 A-2 AGRICULTURE DISTRICT. (1)

Statement Of Purpose. The purpose of the A-2 Agriculture District is to provide for low density land uses compatible with agricultural and other rural uses and to accommodate agricultural uses on parcels of less than 35 acres.

(2) *Permitted uses.* (a) Agricultural uses.

(b) Single family detached residences.

(c) Utility services.

(d) Home occupations as defined in s. 10.01(25).

(e) Accessory Buildings.

1. Accessory buildings include private garages and buildings clearly incidental to a permitted use of the premises. Such buildings shall not be used for residential purposes. The building shall not be used for the storage of goods or merchandise considered to be a dealer's inventory or for storage of machinery or equipment used off of the premises for other than agricultural purposes.

2. Accessory buildings may be built on parcels of land in the A-2 Agriculture District without the necessity of there being a residence on the property.

(3) *Conditional uses permitted in the A-2 Agriculture District.*

(a) Mineral extraction operations, asphalt plants, ready mix concrete plants.

1. Applications for mineral extraction operations require a description of the operation, a site plan and a reclamation plan, as provided for under section 10.19.

(b) Radio, television transmitting towers, microwave towers, community television antenna installations including the buildings or structures necessary for their operation but not including buildings for offices, studios or the like.

(c) Dumping grounds, sanitary landfill sites, demolition material disposal sites and incinerator sites shall also comply with section 60.72 of the Wis. Stats. and shall meet the minimum standards as adopted by the State Department of Natural Resources.

(d) Cemeteries.

(e) Airports, landing strips or landing fields together with accessory structures.

(f) Religious uses.

(g) Salvage recycling centers.

(h) Solid waste recycling center.

(i) Dependency living arrangement.

(j) Governmental uses.

(k) Native wildlife rehabilitation facility.

(L) Parking or storage of not more than two trucks, semi-tractors or semi-trailers which have a gross vehicle weight of over 12,000 lbs.

(m) Limited family businesses subject to s. 10.192.

(n) Private Schools.

(o) Kennels, horse boarding stables, riding stables, hay and sleigh rides, horse shows and similar events.

(p) Unlimited livestock on 3 to 16 acres.

(q) Sale of agricultural and dairy products not produced on the premises and incidental sale of pop and candy.

(r) The seasonal storage of recreational equipment and motor vehicles owned by private individuals other than those resident on the premises, this storage to be in existing accessory farm buildings. The storage of a dealer's inventory or the construction of any new buildings for storage shall be considered a commercial use and subject to the provisions of this chapter.

(s) Retail sales of bridles, saddles, grooming supplies and related items at a horse boarding or riding stable facility. Said use shall be limited to a maximum of 150 sq. ft. of floor space.

(t) Retail sales of pet food, pet supplies and related items at a kennel facility. Said use shall be limited to a maximum of 100 square feet of floor space.

(u) Training of dogs at a dog kennel or training of horses at a horse boarding facility.

(4) *Building height limits.*

(a) Residential dwellings shall not exceed 2½ stories or 35 feet in height.

(b) Residential accessory buildings shall not exceed 16 feet in height.

(c) For agricultural accessory buildings there is no limitation on height.

(5) *Area, frontage and population density regulations.*

(a) A-2 (1) = Minimum 1 acre.

A-2 (2) = Minimum 2 acres.

A-2 (4) = Minimum 4 acres.

A-2 (8) = Minimum 8 acres.

A-2 = Minimum 16 acres.

(b) Keeping of Livestock:

1. On parcels of less than 2 acres the keeping of livestock is not permitted.
2. On parcels of less than 3 acres through 16 acres livestock shall be limited to 1 animal unit per each full acre.
3. On parcels of more than 16 acres, no limit to the number of livestock.

(c) Salvage recycling centers: Minimum area is three acres.

(d) For residential uses the lot width and area shall be the same as for the R-1 Residence District.

(e) For other permitted uses, there shall be no minimum width or area except for those uses for which special setback and sideyard requirements have been established.

(6) Setback requirements. No building, including barns and other farm buildings of any description whatsoever, shall be erected, moved or structurally altered so as to be nearer the highway than is prescribed by section 10.17.

(7) Side yard requirements. **(a)** Side yards for residential dwellings and residential accessory buildings shall be the same as for the R-1 Residence District.

(b) Accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from an R-1, R-2, R-3, R-3A or R-4 Residence District.

(8) Rear yard requirements. **(a)** Rear yards for residential dwellings and residential accessory buildings shall be the same as for the R-1 Residence District.

(b) Accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from an R-1, R-2, R-3, R-3A or R-4 Residence District.

(9) Off-street parking. Off-street parking space shall be provided in accordance with the provision of section 10.18.

[History: (2)(b) and (c) am. and (2)(j) renum. as (3)(m) by O.A. 17, 1992-93, pub. 10/09/92; (3)(k) cr., O.A. 29, 1988-89, pub. 03/29/89.; (3)(i) am., O.A. 20, 1989-90, pub. 02/27/90.; (3)(b), (f) and (i) am. and (2)(j) renum. as (3)(m), O.A. 17, 1992-93, pub. 10/09/92; (8)(b) am., Sub 1. to O.A. 31, 1992-93, pub. 04/14/93; (3)(b), (c) and (i) am., subs. (m) through (q) created, by Sub. 3, O.A. 36, 1987-88, pub. 08/02/88; (3)(g) am., Sub. 2 to O.A. 11, 1991-92, pub. 12/18/91; (2)(f) renum. as (3)(r) by O.A. 17, 1992-93, pub. 10/09/92; (4) am., Sub. 3 to O.A. 36, 1987-88, pub. 08/02/88; (5)(b) am., Sub. 3 to O.A. 36,

1987-88, pub. 08/02/88; (5)(c) am., Sub. 2 to O.A. 11, 1991-92, pub. 12/18/91; (7) (b) am., Sub. 1 to O.A. 31, 1992-93, pub. 04/14/93; am., Sub. 3 to O.A. 36, 1987-88, pub. 08/02/88; 10.126 (entire) am. O.A. 9, 1993-94, pub. 04/20/94; (3)(s) cr., O.A. 8, 1994-95, pub. 09/02/94; (3)(t) cr., O.A. 9, 1994-95, pub. 09/02/94; (3)(u) cr., O.A. 10, 1994-95, pub. 09/02/94.]

10.127 A-3 AGRICULTURE DISTRICT. (1)

Statement Of Purpose. The purpose of the A-3 Agriculture District is to preserve, for an unspecified time period in agricultural and related open-space land uses, those lands generally located in proximity to developed areas within Dane County where urban expansion is inevitable and broadly in keeping with long time plans for development. It is intended that urban development be deferred in such areas until the appropriate authorities concerned determine that it is economically and financially feasible to provide public services and facilities for uses other than those permitted in the district. It is also intended that the status of all areas in this district be reviewed by the appropriate authorities periodically in order to determine whether, in light of current land development trends, there should be a transfer of all or any part of those areas to some other appropriate use district. Any such review will consider developments in keeping with the local and regional land use plans pursuant to section 10.255(1)(d).

(2) Permitted uses. All uses permitted in the A-1 Exclusive Agriculture.

(3) Conditional uses permitted in the A-3 Agriculture District. All conditional uses permitted in the A-1 Exclusive Agriculture.

(4) Building Height Limit. Building height shall be the same as for the A-1 Exclusive Agriculture.

(5) Area, frontage and population density regulations. As per the A-1 Exclusive Agriculture.

(6) Setback requirements. Setback requirements shall be the same as for the A-1 Exclusive Agriculture.

(7) Side yard requirements. Side yard requirements shall be the same as for the A-1 Exclusive Agriculture.

(8) Rear yard requirements. The minimum rear yard shall be the same as for the A-1 Exclusive Agriculture District.

(9) General provisions applicable to the A-3 Agriculture District shall be the same as for the A-1 Exclusive Agriculture District.

10-17-99

SPEC.
- Charge Comm'l fee even
for residential uses in
Comm'l dist.

Sub

GEN'L

Zoning Dist. determines fee

e.g. R vs. C.

10 - 23

O.A. 36,
n. O.A. 9,

T. (1)

vice uses

including but not limited to grocery stores, drugstores, hardware stores, appliance and furniture stores, barbershops and beauty shops without limitation as to size.

(b) Self service laundries and dry cleaning establishments.

(c) Warehousing and storage incidental to a permitted use on the premises. Mini-warehouses are excluded from use in this (C-1) district.

(d) Medical, dental and veterinary clinics.

(e) Banks, offices, office buildings and condominium office buildings devoting not more than two (2) floors to office space.

(f) Utility services.

(g) Rooming and boarding houses.

(h) Bakeries, printing plants, laundries, dry cleaning plants.

(i) Distribution centers and wholesale businesses.

(j) Woodworking shops, machine shops, manufacturing and assembly plants.

(k) Bicycle sales and service.

(l) Rental businesses, except for motor vehicles and construction machinery and equipment.

(m) Experimental laboratories not to exceed 5,000 square feet of floor area.

(o) Sales and repair of lawn and garden equipment.

(p) Games such as horseshoes, volleyball or similar activities not lighted for night operation.

(q) Marinas.

(2) *Conditional uses permitted in the C-1 Commercial District.*

(a) Single family residences, duplexes, multi-family residences.

(b) Banks, offices, office buildings and condominium office buildings devoting more than two (2) floors to office space.

(c) Motels, hotels, taverns, funeral homes and drive-in establishments. In addition to the standards established in 10.25(4)(g) the additional standards in 10.11(2)1. shall apply to drive-in establishments.

(d) Hospitals, veterinary hospitals, nursing homes, convalescent centers, extended care facilities.

(e) Mobile home parks, subject to special conditions as provided for in 10.08(10).

(f) Outdoor amusement parks or other entertainment activity that is open to the public on either a permanent or temporary basis.

(g) Indoor or outdoor movie theater.

(h) Automobile laundries, car wash facilities.

(i) Dog and cat boarding kennels, grooming and training facilities.

(j) Radio, television transmitting towers, microwave towers, community television antenna including the buildings or structures necessary for their operation but not including buildings for offices, studios or the like. The committee may grant the permit if it finds that the tower, if it falls, will not fall on a public road right-of-way or an adjacent property.

(k) Storage of motor vehicles awaiting disposition either as abandoned vehicles or for the settlement of an insurance claim.

(m) Governmental uses.

(n) Agricultural uses.

(o) Games such as horseshoes, volleyball or similar activities lighted to operate at night.

(3) *Building Height Limit.* (a) For business buildings, including offices, the maximum building height shall be four (4) stories, provided, however, that any building that provides more than two (2) stories devoted to office space, a conditional use permit shall be required.

(b) Lots or buildings sites for residential purposes or for combined business and residential uses shall comply with the requirements of the R-4 Residence District.

(4) *Area, frontage and population density regulations.* Area, frontage and population density regulations shall be the same as for the B-1 Local Business District.

(5) *Setback requirements.* Setback from front lot line or highway right-of-way shall comply with the provisions of section 10.17.

(6) *Side yard requirements.* Side yard requirements shall be the same as for the B-1 Local Business District.

(7) *Rear yard requirements.* (a) For buildings to be used exclusively for business purposes the minimum depth of any rear yard shall be 10 feet.

(b) For residential buildings, or buildings combining residential and business uses, the minimum depth of any rear yard shall be 25 feet.

(8) *Off-street parking.* Off-street parking space shall be provided in accordance with the provisions of section 10.08.

(9) *Screening provisions.* On lots adjacent to or abutting land in a residence district, the screening provisions of section 10.16(8) shall be complied with prior to the issuance of a Certificate of Compliance.

[**History:** (1)(q) cr., sub. 2 to O.A. 25, 1987-88, pub. 02/29/88; (1)(c) am., O.A. 1, 1994-95, pub. 09/02/94.]

10.14 C-2 COMMERCIAL DISTRICT. (1)

Permitted uses. (a) All uses permitted in the C-1 commercial district without limitations as to size.

- (b) Major repairs to motor vehicles.
 - (c) Sales of new and used motor vehicles.
 - (d) Sales of new and used mobile homes, recreational equipment rental, sales and service.
 - (e) Sales of new and used contractor's machinery and equipment.
 - (f) Repairs, storage and service of contractor's machinery and equipment.
 - (g) Rental and leasing of motor vehicles, contractor's machinery and equipment.
 - (h) Bulk fuel storage, sales and storage of lumber and building material.
 - (i) Truck and bus terminals.
 - (j) Auxiliary or supplemental electric generating stations.
 - (k) Fertilizer mixing or blending plants.
 - (L) Slaughterhouses, meat processing plants.
 - (m) Bottling plants.
 - (n) Utility services.
 - (o) Storage, repair and maintenance of carnival, concession and circus machinery and equipment.
 - (p) Automobile and truck driver training schools and construction equipment operator training schools that are privately owned and operated for profit.
 - (q) Parking or storing of motor vehicles.
 - (r) Storage or processing of scrap or waste materials, conducted entirely within a building.
 - (s) Warehouses.
 - (t) Games such as horseshoes, volleyball or similar activities not lighted for night operation.
 - (u) Mini-warehouses.
- (2) Conditional uses permitted in the C-2 Commercial District.
- (a) Outdoor amusement parks or other entertainment activity whether on a permanent or temporary basis that is open to the general public.
 - (b) Movie theaters, outdoor theaters.
 - (c) Drive-in establishments in addition to the standards established in 10.25(4)(g). The

additional standards in 10.11(2)(c) shall apply to drive-in establishments.

(d) Automobile race tracks, motorcycle race tracks including moto-cross and hill climbing courses.

(e) Mineral extraction subject to the special conditions of section 10.12(2)(a).

(f) Solid waste disposal operations, sanitary landfill sites.

(g) Auto laundries, car washes.

(h) Taverns.

(i) Residence for a watchman or caretaker.

(j) Radio, television transmitting towers, microwave towers, community television antenna including the buildings or structures necessary for their operation but not including buildings for offices, studios or the like. The Dane County Zoning Committee may grant the permit if it finds that the tower, if it falls, will not fall on a public road right-of-way or an adjacent property.

(k) Dog and cat boarding kennels, grooming and training facilities.

(L) Governmental uses.

(m) Agricultural Uses.

(n) Games such as horseshoes, volleyball or similar activities lighted to operate at night.

(3) *Building Height Limit.* The maximum height for all buildings shall be fifty (50) feet. Tanks, storage bins, silos and towers shall not be subject to this limitation.

(4) *Area, frontage and population density regulations.*

(a) The area and frontage shall be the same as for the B-1 Local Business District.

(b) Any principal building together with its accessory building shall not cover more than sixty percent (60%) of the lot area.

(5) *Setback requirements.* Setback from front lot line or highway right-of-way shall conform to the provisions of section 10.17.

(6) *Side yard requirements.* Side yard requirements shall be the same as for the B-1 Local Business District.

(7) *Rear yard requirements.* (a) For business and commercial buildings, the minimum depth of any rear yard shall be 10 feet.

(8) *Screening provisions.* On lots adjacent to or abutting land in a residence district, the screening provisions of section 10.16(8) shall be complied with prior to the issuance of a Certificate of Compliance.

[**History:** (1)(u) cr., O.A. 1, 1994-95, pub. 09/02/94.]

10.141 LC-1 LIMITED COMMERCIAL DISTRICT.

(1) *Permitted uses.* (a) General, mechanical and landscape contracting businesses and buildings used in connection with such activity.

(b) Storage of construction equipment necessary for the operation of a general, mechanical or landscape contracting business. There shall be a limit of 12 items of equipment stored on each zoning lot.

(c) School bus and motor coach transportation businesses including offices and parking, storage and maintenance of buses and other vehicles used in the business, such as vans and maintenance tow trucks. Bus terminals for said businesses are not permitted.

(d) Maintenance and repairs to vehicles and construction equipment for school buses stored on the premises and not as a service to other owners.

(e) Outside storage of materials or supplies used by a contractor in fulfilling his or her contracts and not offered for sale to a user or consumer.

(f) Utility services.

(g) A single family residence for an owner of the business or a caretaker.

(2) *Building Height Limit.* Residential buildings shall not exceed 35 feet in height or two and one-half (2-1/2) stories.

(3) *Lot area.* Minimum lot area shall be not less than 100 feet of lot width and 20,000 square feet of lot area.

(4) *Lot area coverage.* The total floor area of commercial buildings, residential and residential accessory buildings shall not exceed 35 percent of the lot area.

(5) *Building setback requirements.* (a) Setback from front lot line to highway right-of-way line shall conform to the requirements of section 10.17.

(b) Construction equipment or material shall not be stored between the building setback line and the front lot line of any lot.

(6) *Side yard requirements.* The minimum width for any side yard shall not be less than 10 feet for any building.

(7) *Side yard requirements.* (a) For buildings used for commercial purposes and residential accessory buildings the minimum rear yard shall be not less than 10 feet.

(b) For residential buildings the minimum rear yard shall be not less than 25 feet.

(8) *Screening requirements.* For lots adjacent to a residence district the screening provisions of section 10.16(8) shall be complied with prior to the establishment of a commercial use.

[**History:** (1)(c) am., petition #4047, pub. 09/14/87.]

10.145 EXP-1 EXPOSITION DISTRICT. (1) The purpose of the EXP-1 Exposition District is to provide for a district in which may be conducted the usual and customary activities associated with fairgrounds and exposition centers, as permitted uses, and to provide for related activities on a discretionary basis, as conditional uses.

(2) The following are permitted uses in the EXP-1 Exposition District:

(a) fairs, carnivals, circuses and similar events;

(b) animal shows, including without limitation because of enumeration, horses, cattle, sheep, swine, poultry, cats, dogs, rabbits, mink and other animals;

(c) sporting events and practices for same;

(d) concerts and other musical events;

(e) commercial expositions and trade shows;

(f) conferences and meetings;

(g) governmental offices;

(h) rental of any permitted facility or facilities to the public;

(i) accommodation of temporary overnight stays by participants in permitted events, whether housed in campers, motorhomes, camping trailers, tents or dormitories;

(j) utility services;

(k) buildings and structures to house any permitted use; and

(l) any 4-H related activity.

(3) The following are conditional uses in the EXP-1 Exposition District:

(a) governmental uses other than governmental offices;

(b) buildings of a height greater than 100 feet;

(4) There shall be a building height limit of 100 feet for permitted uses.

(5) There shall be no minimum area, frontage or density requirements for permitted uses.

(6) Building setback shall be as required in s. 10.17.

(7) Sideyard and rearyard requirements shall each be a minimum of 10 feet.

(8) Off-street parking space shall be provided in accordance with the provisions of s. 10.18.

[**History:** 10.145 cr., Sub. No. 1 to O.A. 10, 1989-90, pub. 11/13/89.]

10.15 M-1 INDUSTRIAL DISTRICT. (1)

Permitted uses. (a) Major repairs to motor vehicles.

- (b) Sales of new and used motor vehicles.
 - (c) Sales of new and used mobile homes.
 - (d) Sales of new and used contractor's machinery and equipment.
 - (e) Repairs and service of contractor's machinery and equipment.
 - (f) Rental and leasing of motor vehicles, contractor's machinery and equipment.
 - (g) Bulk fuel storage, sales and outside storage of lumber and building material.
 - (h) Truck and bus terminals.
 - (i) Auxiliary or supplemental electric generating stations.
 - (j) Fertilizer mixing or blending plants.
 - (k) Slaughter houses, meat processing plants.
 - (l) Bottling plants.
 - (m) Utility services.
 - (n) Foundries and forging plants.
 - (o) Structural steel fabrication plants.
 - (p) Metal pressing, stamping or spinning plants.
 - (q) Manufacturing and assembly plants for automobiles, farm equipment and construction machinery.
 - (r) Mobile home and manufactured housing plants.
 - (s) Parking or storing of motor vehicles.
 - (t) Storage or processing of scrap or waste materials, conducted entirely within a building.
 - (u) All uses permitted in the C-2 Commercial District.
- (2) Conditional uses permitted in the M-1 Industrial District.
- (a) Drive-in establishments in addition to the standards established in 10.25(4)(g) the additional standards in 10.11(2)(c) shall apply to drive-in establishments.
 - (b) Automobile racetracks, motorcycle race tracks including moto-cross and hill climbing courses.
 - (c) Mineral extraction subject to the special conditions of section 10.12(2)(a).
 - (d) Solid waste disposal operations, sanitary landfill sites.
 - (e) Auto laundries, car washes.
 - (f) Taverns.
 - (g) Residence for watchman or caretaker.
 - (h) Salvage recycling centers.
 - (i) Fertilizer manufacturing plants.
 - (j) Explosive and chemical manufacturing plants.

(l) Governmental uses.

(m) Agricultural uses.

(3) *Building Height Limit.* The maximum height for all buildings shall be 50 feet. Tanks, storage bins, silos and towers shall not be subject to this limitation.

(4) *Setback requirements.* Setback from front lot line or highway right-of-way shall comply with the provisions of section 10.17.

(5) *Side yard requirements.* For business or commercial buildings no side yards shall be required for interior lots; provided, however, that if a business or commercial building is built on a lot adjacent to a lot or parcel zoned residential, then that business or commercial building shall provide a side yard equal to that which is required for the building on the adjacent lot.

(6) *Rear yard requirements.* For business and commercial buildings, the minimum depth of any rear yard shall be 10 feet.

(7) *Off-street parking.* Off-street parking space shall be provided in accordance with the provisions of section 10.18.

(8) *Screening provisions.* On lots adjacent to or abutting land in a residence district, the screening provisions of section 10.16(8) shall be complied with prior to the issuance of a Certificate of Compliance.

[**History:** (2)(h) am., Sub. 2 to O.A. 11, 1991-92, pub. 12/18/91.]

10.155 CO-1 CONSERVANCY DISTRICT. (1)

Permitted uses. (a) Hunting, fishing and trapping.

(b) Propagation and raising of game animals, fowl and fish.

(c) Sustained yield forestry.

(d) The harvesting of any wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.

(e) Grazing.

(f) Dams and hydroelectric power stations.

(g) Communication and power transmission lines or towers; other public utility lines or facilities.

(h) If the land is publicly owned, such facilities as the owning or controlling agency shall direct, including without limitation because of enumeration, camping, boat landings, sale of bait, boat and motor rental, sale of gasoline for boats, refreshment facilities and the like.

(i) Nonresidential buildings or structures accessory to any permitted use.

(j) Residential or housing facilities for persons employed on the premises.

(k) Improvement of water courses and bodies of water.

(2) *Conditional uses permitted in the CO-1 Conservancy District.* If the land is privately owned, those uses enumerated in 10.155(1)(h).

(3) *Uses prohibited.* If the land is privately owned, any filling of marsh land, removal of top soil or damming of any water course unless approved by the zoning committee after public hearing.

10.157 HD Historic Overlay District. (1) *Statement Of Purpose.* The purpose of the Historic Overlay District is to effect and accomplish the protection, enhancement and perpetuation of such sites which represent or reflect elements of the county's cultural history, and to safeguard the county's historic and cultural heritage as embodied in such sites, expanding upon such protection as is afforded by chapter 157, 1987 Wis. Stats.

(2) *Designation.* Historic sites may be designated not more frequently than four times per calendar year by petitioning the county board in a single petition grouping within it any sites desired to be designated. No site may be designated which is not cataloged.

(3) *Indication.* Sites which are designated shall be indicated by attaching the suffix "HD" to the zoning district in which the site is located.

(4) *Protection.* No building or structure, whether or not a permit therefore is required under this ordinance, shall be erected on, and no use which involves soils disturbance shall be made of, any historic site except that with consent of the Agriculture, Environment and Land Records Committee, an owner may remove, replace or add vegetation designed to preserve the site. There shall be a clear area extending 25 feet in all directions from any historic site except that on substandard lots where the clear area distance of 25 feet cannot reasonably be maintained, the clear area distance shall be reduced to a distance equal to twice the depth of any excavation intended to be constructed on the lot or 10 feet, whichever is greater, unless a more restrictive minimum distance is imposed by state statute in which case the statutory minimum shall apply.

(a) The Committee is empowered to grant a waiver from the clear zone requirements above for any lot provided that the Committee finds that the owner cannot otherwise make reasonable use of the lot for the zoning

classification it bears and that the site is preserved intact. The Committee shall seek the advice of the Parks Commission when considering any waiver application.

(b) In no event shall a waiver under this section allow a structure to be located closer to an historic site than a distance equal to twice the depth of any excavation intended to be used for that part of the structure closest to the historic site, and in any event not closer than is permitted by statute.

(c) Notwithstanding any language herein to the contrary, replacement private sewage systems, as defined in s. 46.03(14), and existing roads, including repairs thereto, may be located in clear areas.

(d) Where the designation of a particular parcel of land as an historic site under this ordinance results in a property owner being deprived of all, or substantially all, of the beneficial use of the property, compensation shall be paid as provided for by law.

[**History:** 10.157 cr., Sub. No. 2 to O.A. 12, 1989-90, pub. 11/13/89.]

10.16 GENERAL PROVISIONS AND

EXCEPTIONS. (1) *Use.* (a) Any use not listed as a permitted use in a district is prohibited in that district and except as otherwise expressly provided, any use listed as a permitted use in any other district shall be construed as a prohibited use in any other district.

(b) The following uses shall be permitted in the districts specified when these uses do not alter the character of the premises in respect to their use for the purposes permitted in that district:

1. In any district, real estate offices and signs advertising property for sale for a period not to exceed one (1) year.

2. In any district, temporary buildings and the temporary storage of materials and equipment incidental to the construction of buildings on the premises, for a period not to exceed one (1) year.

(c) Storage or parking of motor vehicles.

1. In the R-1, R-2, R-3, R-3A, R-4 and RH-1 Residence Districts and on any lot in the A-2 Agriculture District on which the principal use is residential, motor vehicles used for personal transportation, recreational vehicles and trailers owned by persons who are resident on the premises may be parked or stored provided that the gross vehicle weight does not exceed twelve thousand (12,000) pounds.

2. In the Agriculture-Business district, B-1 local business district and the C-1 commercial district,

motor vehicles that are accessory to a permitted and principal use on any lot can be stored or parked.

3. Any automobile licensed as an antique or special interest vehicle under section 341.266, Wis. Stats., or parts cars therefore, can be stored on a lot in any district provided that those vehicles are stored as required by subsection 341.266(4) of the Wis. Stats.

4. Farm trucks or trailers licensed under sections 341.26(3)(a) or (b), 340.01(73) or section 341.30, Wis. Stats., may be parked in an agriculture district.

5. Trucks, whose gross vehicle weight exceeds twelve thousand (12,000) pounds, semi-tractors and semi-trailers shall be stored or parked only in the C-2 commercial or M-1 industrial districts, except as otherwise provided by this ordinance.

6. Subject to s. 341.266(4), Wis. Stats., a motor vehicle that is inoperable or unlicensed is considered as salvage or junk and can only be stored in a licensed salvage recycling center. A parts car stored as provided for in subparagraph 3 above shall not be subject to this subparagraph.

7. Trucks licensed on a monthly or quarterly basis shall be considered as currently licensed if they have been licensed for at least one (1) period during the previous year.

8. The storage of not more than one (1) motor vehicle of a type commonly known as a "stock car", "hobby car" or the storage of any racing vehicle and parts, therefore shall at all times be stored in an enclosed building, secluded from public view.

9. School buses that are driven by a person who is a resident on the premises, may be parked on a lot or parcel in any zoning district except for the following restriction in the residence districts: in the residence districts the lot area shall be not less than one (1) acre.

(d) Parking of one (1) truck or one (1) road tractor or semi-tractor and its trailer in excess of 12,000 pounds gross vehicle weight is permitted in the residence and agricultural districts, subject to the following conditions:

1. The vehicle shall be owned or operated by a person resident on the premises.
2. In the residence districts the lot area shall be not less than one acre.
3. The vehicle shall not be parked or stored within the required highway or road setback area.

4. The vehicle shall not be parked closer than 300 feet to another residence.

5. No new buildings shall be constructed for the housing of any aforescribed vehicle.

6. Before any truck or semi-tractor or its trailer can be parked or stored subject to the foregoing conditions, a certificate of compliance shall be issued by the zoning administrator.

(e) In the agriculture districts: The production of fuel, using products or byproducts from a farm operation on the premises, is a permitted use incidental to the farm operation. Surplus fuel not needed for the farm operation may be sold as any other farm commodity.

(f) Airports that are listed as "Personal by Owner Only" on an application to the Wisconsin Department of Transportation, Bureau of Aeronautics, for airport site approval are permitted to locate in the Agricultural and Rural Homes Districts. All other airports are subject to the provisions of either ss. 10.12(2)(f) or 10.126(2)(e) of this ordinance.

(2) *Height.* Hospitals, churches, schools, radio transmission towers, water towers, chimneys, spires, penthouses, cupolas, silos, windmills and similar structures may be erected to a height greater than the maximum permitted in the district in which they are located; provided, however, that no part of that structure above the height limit shall be used for residential purposes.

(3) *Area, frontage and population density.* (a) Any lot or parcel shown on a recorded subdivision, plat or assessor's plat, or conveyance recorded in the office of the Register of Deeds for Dane County prior to the adoption of this ordinance, may be used as a building site, or for any use permitted in the zoning district in which the lot is located even though such lot or parcel does not conform to the minimum frontage or area requirements of the district in which it is located; provided, however, that no multiple family dwelling or residential unit in combination with some other use shall be erected, altered or converted in use on lots having a width of less than 50 feet.

(b) When two (2) or more lots or parcels of land each of which lacks adequate area or dimensions prescribed for the zoning districts in which they are located, are contiguous and held in one ownership, they may be used as one lot if they meet the area and dimensional requirements of the district; provided, however, these provisions shall not apply where a principal building or use is established on each of the undersized lots. With such addition such lots or parcels do not reach the

minimum area or frontage required in such district; provided, however, that subsequent to such addition, the side yard, open space and percentage of occupancy provision for lots of the resulting size shall apply; and provided further, that after buildings have been erected on such lots or parcels their area or width shall not thereafter be reduced, except in conformity to the provisions of this ordinance.

(4) *Setback, front yard.* (a) In a district in which service stations are permitted, pumps and pump islands may be located within the setback lines, but not closer to the lot line or highway right-of-way line than 12 feet. On corner lots no pump or pump island shall be closer to either street or highway than 12 feet.

(b) In case of interior lots having frontage on two (2) side streets, no accessory building shall extend into the setback area of either street.

(c) When the side line of an interior lot is formed wholly or in part by the rear line of an abutting corner lot and the street side yard for the main building is less than the setback from the main building facing such street, the setback for the building on such interior lot may be modified so as to be midway between the side yard for the building on the corner lot and the setback from such street.

(d) In platted subdivisions recorded before the adoption of this ordinance where a building line shall have been established by the construction of buildings on 30 percent of the lots in any one (1) block, such established setback line shall be the setback for that block, but in no event shall such setback be less than 20 feet.

(e) No existing building, erected prior to the adoption of this ordinance, which projects into the setback area shall be moved, structurally altered or added to so as to increase that part of the building projecting into the setback area. This provision shall not be construed to prohibit additions or alterations which conform to the setback requirements.

(f) For purposes of entry to a commercial or multi-family building, steps or stoops may be constructed in such a manner that they intrude into the required setback area provided such structures are not more than three (3) feet above ground level and do not extend more than four (4) feet into the required setback area.

(fm) For purposes of entry to single family or duplex residence buildings, steps, stoops or decks may be constructed in such a manner that they intrude into the required front yard setback

area provided that any such steps, stoop or deck does not exceed a maximum height of 5 feet above ground level or exceed a width of 12 feet side to side and provided further any such structure does not extend any further into the required setback area than a distance that would be the lesser of either 10 feet or 50% of the distance from the building to the appropriate lot line. No such structure shall be enclosed. Railings which do not exceed 3 1/2 feet in height and which are of open architecture and not solid in appearance are permitted.

(fn) For single family residences or duplex residence buildings, single story bay windows may be constructed in such a manner that they project three (3) feet or less into the front yard provided that such windows do not occupy, in the aggregate, more than one-third (1/3) of the front wall of the building.

(g) On lake front lots, accessory buildings may be located in front yards subject to the locational requirements of s. 10.16(6)(a)1. provided, however, that the setback requirements are met.

(5) *Sideyards.* (a) Lots of nonconforming width.

1. On lots 50 feet or more in width but less than 60 feet, the minimum aggregate side yards shall be 15 feet and no single side yard shall be less than five (5) feet.

2. On lots less than 50 feet in width the minimum side yard on each side shall be five (5) feet. *Average Width 10-29-93 JEG*

(b) *Corner lots.*

1. When the long side of a corner lot is formed by a class A, B or C highway the side yard on that street shall conform to the setback requirements for such highway.

2. When the long side of a corner lot is formed by a class D or E highway, the setback from the lot line of the long side shall not be less than one-fifth (1/5) of the lot depth measured from the long side except on lots of less than 60 feet, then the setback shall not be less than 12 feet. For buildings with attached garages facing the long side and having access to the long side of the lot, the minimum setback of the garage from the lot line shall be not less than 20 feet.

(6) *Rear yards.* (a) Location of accessory buildings in rear yards.

1. On interior lots 60 feet or more in width no accessory building shall be erected, moved or added to so as to be nearer than four (4) feet to the side lot or rear lot line; provided, however, if the front building line of any accessory building is located closer than 10 feet from the rear building

line of a residence, the same side and rear yards as required for a principal or residential building shall be maintained.

2. On interior lots less than 60 feet in width no accessory building shall be erected, moved or added to so as to be nearer than two and one-half (2-1/2) feet to a side or rear lot line; provided, however, if the front building line of any accessory building is located closer than 10 feet from the rear building line of a residence, the same side and rear yards as required for a principal or residential building shall be maintained.

3. On interior lots abutting on two (2) streets, or corner lots abutting on three (3) streets, no accessory building shall be erected, moved or added to so as to be nearer the rear street than the setback for that street. This provision shall not apply to alleys.

4. On corner lots abutting on two (2) streets, no accessory building shall be erected, moved or added to so as to be nearer to the side street than the distance required for the main building on that street; provided, however, that for garages with entrances facing the side street, the minimum distance from such side street shall be 20 feet. When the rear lot line of the corner lot forms the side line of an adjoining or abutting lot, no accessory building shall be erected, moved or added to so as to be nearer such rear lot line than the side line required for the building on the adjoining lot.

(b) Permitted obstructions in a required rear yard.

1. Steps or stoops to provide access to a building that is not more than three (3) feet above ground level and which do not extend more than four (4) feet into a required rear yard.

2. One story bay windows projecting three (3) feet or less into the yard provided that such windows do not occupy, in the aggregate, more than one-third (1/3) of the rear wall of the building.

3. Uncovered decks and porches that are supported by piers or posts may extend into any required rear yard by not more than twelve (12) feet.

4. Uncovered swimming pools both above and below ground provided that they be located not closer than 10 feet from any lot line.

5. Free standing solar collectors provided that they be located not closer than 3 feet from any lot line and not exceeding 12 feet in height.

(6a) *Provisions applicable to all yards.* (a) No existing building, erected prior to the adoption of this ordinance, which projects into a required yard shall be moved, structurally altered or added to so as to increase that part of the building projections into the required yard. This provision shall not be construed to prohibit additions or alterations which conform to the setback requirements.

(b) Roof overhangs, soffits and awnings that are not supported to the ground may extend into any required yard by not more than three (3) feet.

(7) *Screening.* Screening shall consist of either a planted evergreen screen at least six (6) feet in width and initially landscaped with four (4) foot tall evergreen shrubs to ultimately form a continuous hedge not less than five (5) feet in height and maintained with healthy shrubs, or a decorative wall or fence without signs and impervious to sight not less than six (6) feet nor more than eight (8) feet in height shall be maintained along the interior boundaries of any lot in the B-1, C-1, C-2, LC-1, LC-2 or M-1 Districts that are adjacent to land in the residence district to a point 15 feet from the street right-of-way.

[**History:** (1) (c)6. am., Sub. 2 to O.A. 11, 1991-92, pub. 12/18/91; (4)(f) am. and (fm) and (fn) cr., Sub 2. to O.A. 32, 1991-92, pub. 04/22/92.]

10.17 SETBACK REGULATIONS. For the purpose of determining the distance, buildings and other structures shall be setback from streets and highways, the streets and highways in Dane County are divided into the following classes:

(1) *Class A Highways.* (a) All state and federal highways are hereby classified class A highways.

(b) The setback line for a class A highway shall be 100 feet from the centerline of the highway right-of-way or 42 feet from the right-of-way line, whichever is greater.

(c) Service roads to class A highways a distance of 100 feet from the centerline of said highways shall be considered class C, D or E highways for the purpose of determining the setback along said service roads.

(2) *Class B Highways.* (a) All county trunks except as otherwise provided, are hereby designated class B highways. For the purpose of this ordinance any road will be considered as a county trunk after it has been placed on the county trunk system by the county board and approved by the state highway commission.

(b) The setback from class B highways shall be 75 feet from the centerline of any highway

right-of-way or 42 feet from the right-of-way, whichever is greater.

(3) *Class C Highways.* (a) All town roads not included within the boundaries of a recorded subdivision or plat, are hereby designated class C highways.

(b) The setback from class C highways shall be 63 feet from the centerline of such highway right-of-way or 30 feet from the right-of-way line, whichever is greater; provided, however, that in the case of a service road, contiguous to the right-of-way of a main highway, where buildings can be built on only one (1) side of such service road, the minimum setback shall be 30 feet, regardless of the width of such service road, and provided, further, that if such service road shall be a street in a platted subdivision, then the setback provisions governing such platted street shall apply.

(4) *Class D Highways.* (a) Roads and streets in subdivisions platted prior to the adoption of this ordinance, except those designated class A or class B highways, are hereby designated as class D highways.

(b) For all class D highways setback lines are hereby established, parallel to and distant 20 feet from the right-of-way line or front lot line.

(5) *Class E Highways.* (a) All streets, highways and roads not otherwise classified are hereby designated class E highways.

(b) For all class E highways setback lines are hereby established, parallel to and distant 30 feet from the right-of-way or front lot line.

10.18 OFF-STREET PARKING. (1) An off-street parking space shall be not less than eight (8) feet in width, if parallel to a curb or building, and not less than nine (9) feet in width if angle parking is provided, and in no case shall any space be less than 19 feet in length. (Copies of recommended design standards are available at the Dane County Zoning Department.) Parking spaces may be provided in either an open or enclosed area and shall be provided with adequate ingress or egress from a public street or road.

(2) No building for which off-street parking space is required may be added to, structurally altered or converted in use so as to encroach upon or reduce the parking space below the required minimum.

(3) No parking spaces required under this ordinance may be used for any other purposes; provided, however, that open spaces required by this ordinance for setback and side yards may be

used for such parking spaces and approaches thereto.

(4) *Parking space required.* (a) In the local business, commercial and light manufacturing and industrial districts, in addition to other parking spaces herein required, there shall be provided adequate off-street parking for the loading and unloading of trucks and other commercial vehicles and for the vehicles of employed personnel.

(b) Duplexes shall provide two (2) off-street parking spaces; multiple family dwellings, apartment houses and apartment house complexes shall provide two (2) off-street parking spaces for each dwelling unit.

(c) Establishments offering curb service or services to customers who remain in the vehicle shall provide adequate space to accommodate all vehicles to be so serviced.

(d) Except for banks, office buildings and clinics, retail or local places of business shall provide one (1) parking space for each three hundred (300) square feet of floor space devoted to retail sales. Banks, office buildings and clinics shall provide one such space for each three hundred (300) square feet of floor area.

(e) Buildings combining business and residential uses shall provide one (1) parking space for each 200 square feet of area devoted to business uses, plus two (2) parking spaces for each dwelling unit.

(f) Theaters, churches, auditoriums, lodges or fraternity halls and similar places of public assemblage shall provide one (1) parking space for each seven (7) seats. Outdoor theaters shall provide sufficient off-street parking for overflow parking.

(g) Hotels, lodging houses and dormitories shall provide one (1) parking space for each three (3) guest rooms.

(h) Restaurants, taverns and the like, except curb service establishments, shall provide one (1) parking space for each 50 square feet of space devoted to the use of patrons.

(i) Funeral parlors and mortuaries shall provide one (1) parking space for each 50 square feet of floor space devoted to parlors.

(j) Bowling alleys shall provide five (5) parking spaces for each alley.

(k) Garages and service stations shall provide adequate parking space for vehicles waiting to be serviced or repaired.

(l) Motels shall provide one (1) parking space for each lodging room plus one (1) space for each dwelling unit.

(10.19 Reserved for Future Use.)

10.191 PROCEDURE AND STANDARDS OF OPERATION FOR MINERAL EXTRACTION OPERATIONS.

(1) The purpose and intent of this section is to provide a centralized listing of the procedures and standards of operation for mineral extraction operations which may be permitted in several districts.

(2) The application for the conditional use permit necessary to conduct a mineral extraction operation shall include a written description of the proposed operation including a time schedule of development and termination, a site plan and a topographic reclamation plan.

(3) Excavations below the grade of an abutting public street or highway shall be set back from the street or highway a distance at least equal to the distance that is required for buildings or structures under s. 10.17.

(4) Topsoil from the area of operation shall be saved and stored on site for reclamation of the area.

(5) Reclamation of the area of operations is required as follows:

(a) Final slopes shall not be graded more than 3:1 except in a quarry operation.

(b) The area shall be covered with topsoil and seeded to prevent erosion.

(c) The area shall be cleared of all debris and left in a workmanlike condition subject to the approval of Dane County.

(6) Mineral extraction operations which existed prior to 1969 and were registered with and approved by the Dane County Zoning Administrator shall be considered nonconforming uses in accordance with s. 10.21.

[History: cr., Sub. 3 to O.A. 36, 1987-88, pub. 08/02/88; cr. O.A. 9, 1993-94, pub. 04/20/94.]

10.192 PROCEDURE AND STANDARDS OF OPERATION FOR LIMITED FAMILY BUSINESS.

(1) The purpose and intent of this section is to provide a centralized listing of the procedures and standards of operation for limited family businesses which may be permitted in several districts.

(2) A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning while at the same time protecting the interests of adjacent property owners. Applicants for this conditional use

permit should recognize that rezoning or relocation of the business may be necessary or may become necessary if the business is expanded.

(3) All employees, except one or one full-time equivalent, shall be a member of the family residing on the premises.

(4) Using applicable conditional use permit standards, the Committee shall determine the percentage of the property that may be devoted to the business.

(5) The conditional use permit holder may be restricted to a service oriented business and thus prohibited from manufacturing or assembling products or selling products on the premises or any combination thereof.

(6) The conditional use permit may restrict the number and types of machinery and equipment the permit holder may be allowed to bring on the premises.

(7) Structures used in the business shall be considered to be residential accessory buildings and shall meet all requirements for such buildings. The design and size of the structures is subject to conditions set forth in the conditional use permit.

(8) The conditional use permit shall automatically expire on sale of the property or the business to an unrelated third party.

[History: cr., Sub. 3 to O.A. 36, 1987-88, pub. 08/02/88; cr. O.A. 9, 1993-94, pub. 04/20/94.]

10.193 STANDARDS FOR SITING OF ADULT BOOK STORE.

(1) The County of Dane, relying upon the experience of other local governments in this state and throughout the country, finds that adult book stores have an adverse secondary effect on the surrounding community and that regulations are necessary to minimize this secondary effect. The experience of other cities are summarized in the case of Northend Cinema, Inc. v. Seattle, 585 P. 2d 1153 (1978).

(2) This ordinance does not regulate the content of materials held for sale or rent in adult book stores.

(3) Adult book stores shall be established only by conditional use and shall meet all of the following requirements:

(a) The standards set forth in s. 10.255(2)(h);

(b) Location of any particular adult book store must be not less than 1,000 feet from any church, synagogue, temple, mosque or any other place of worship, any residentially zoned district, park, school, playground, day care center, public library and any other adult book store;

(c) Exterior windows shall not be covered or made opaque in any way;

(d) No material referenced in paragraphs (a), (b) or (c) of s. 10.21(2m) shall be placed in any exterior window, provided that material which is not so referenced may be placed in a window;

(e) The business may have only one (1) nonflashing business sign which sign may only indicate the name of the business and identify it as an adult book store and which shall be not larger than 4 feet by 4 feet; and

(f) A one square foot sign shall be placed on each public entrance which shall state "Admittance to adults only" and may include other pertinent business information;

(g) There shall be no doors on any viewing booths and each booth must be lighted by a source emitting at least 10 candlepower at all times.

(4) Sub. (3)(e) shall not be construed to require a sign or to require any designation of the business as an adult book store, whether or not a sign is erected.

[**History:** 10.193 cr., O.A. 16, 1993-94, pub. 12/27/93.]

10.20 SALVAGE RECYCLING CENTERS. (1)

Use. For purposes of this ordinance, any premises used for the storage, gathering, recycling, or sale of junk, as defined in this chapter, is a salvage recycling center. A salvage recycling center need not have a commercial purpose.

(a) Junk, as defined under this chapter, may be stored on any premises on which a permitted business enterprise is actually conducted, provided, that all such junk is actually used in the conduct of such permitted business enterprise, and that all such junk is at all times stored in an enclosed building on the premises, thereby securing it from public view.

(b) Junk, as defined in this chapter, may be stored on any premises used chiefly for residential purposes, provided that it is stored solely for eventual use on the premises, and that all such junk is at all times stored in an enclosed building thereby securing it from public view.

(2) *Location and boundaries.* No salvage recycling center shall be located within two hundred (200) feet of the boundary of a residential district.

(3) *License.* (a) Before any premises may be used as a privately operated salvage recycling center, it shall be licensed. Application for such

license shall be made to the zoning administrator, setting forth the description of the premises, the nature of the business and the materials to be handled, the type of construction of any building to be used in connection with the business, the applicant's name or names, officers, if any, and address of each. The application shall be referred to the zoning committee, which shall within a reasonable time, hold a public hearing, notice of which shall be given by a class 2 notice under chapter 985, Wis. Stats. If, after such public hearing, the zoning committee finds that the premises are in conformity with the provisions of this ordinance, and that the site is suitable for the conduct of such business, the committee shall grant a license, and such license shall expire on July 1 of each year. Licenses may be renewed from year to year on authorization of the committee when inspection discloses that the business is being conducted in accordance with the provisions of this ordinance.

(b) *Revocation of License.* Upon the complaint of any interested person, or on its own motion or after inspection discloses that the provisions of this ordinance are being violated, the zoning committee may hold a public hearing to determine whether a privately operated salvage recycling center license shall be revoked, notice of such hearing to be given to all interested parties. After public hearing, the zoning committee may order the license revoked.

(c) Should any town elect to license salvage recycling centers by adoption of an ordinance pursuant to the provisions of section 59.07(38) of the Wis. Stats. and file a copy of such ordinance with the zoning department, then the provisions of paragraphs (a) and (b) above shall not apply, but no such license shall be issued by any town for such purpose unless the area is properly zoned and unless the zoning committee, after public hearing, determines that the site is suitable. When a salvage recycling center is licensed by the town, then the responsibility of controlling such salvage recycling center rests with the town.

[**History:** am., Sub. 2 to O.A. 11, 1991-92, pub. 12/18/91.]

10.21 NONCONFORMING USES. (1)(a) The lawful use of a building or premises existing at the time of adoption of this ordinance may be continued as a nonconforming use, but if such nonconforming use shall be discontinued for a period of one (1) year, such nonconforming use will be deemed to have terminated and any future

use shall be in conformity to the provisions of this ordinance except as otherwise provided by this ordinance.

(b) No building or premises used as a nonconforming use shall be added to or structurally altered so as to increase the facilities for such nonconforming use.

(c) Mineral extraction operations which existed prior to 1969 and were registered with and approved by the Dane County Zoning Administrator shall be considered nonconforming uses.

(d) Mineral extraction sites that were registered as nonconforming sites as provided by this ordinance shall not be considered abandoned or discontinued if the site is inactive for more than one year.

(2) Any building lawfully erected prior to the adoption of this ordinance which does not conform to the requirements of this ordinance as to setback, side yards or rear yards, may be continued in use, but any future additions or structural alterations shall conform to the provisions of this ordinance.

(3) Any existing nonconforming use may be changed to another nonconforming use of a similar or more restricted classification or to a conforming use; provided, however, that when a use has been changed to a conforming use or a more restricted nonconforming use it may not again be changed to a less restricted use.

(4) No use which is not the principal use of the land on which it is located shall be considered a valid nonconforming use.

(5) Any nonconforming use, the location of which is changed to another part of the premises, shall be considered abandoned one (1) year after the locational change and, in any event, any nonconforming use at the new location shall be invalid.

[**History:** (1) am., Sub. 3 to O.A. 36, 1987-88, pub. 8/2/88; (1) am., O.A. 9, 1993-94, pub. 04/20/94.]

10.22 INTERPRETATION AND APPLICATION.

In interpreting and applying the provisions of this ordinance they shall be held to be minimum requirements for the promotion of health, safety, convenience, morals, comfort and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants or similar agreements between parties, nor is it intended by this ordinance to repeal, abrogate, annul or in any

way impair or interfere with any existing provisions of law or ordinance, or any rules, regulations or permits previously issued or adopted, or which may be issued or adopted according to law relating to use, occupancy, location or height of the buildings or premises; provided, however, that when this ordinance imposes a greater restriction upon the use, occupancy, location or height of buildings or premises than imposed by such existing provisions of law or ordinance, or by such rules, regulations or permits, the provisions of this ordinance shall control.

10.23 COMPLETION, RESTORATION OR ENLARGEMENT OF EXISTING STRUCTURES.

(1) Nothing herein contained shall require any change in the plans, construction or intended use of a building or premises for which plans have been prepared heretofore, and the construction of which shall have been diligently pursued within three (3) months after the effective date of this ordinance.

(2) Nothing herein contained shall prevent the alteration, restoration or repair of any building occupied by a nonconforming use at the effective date of this ordinance; provided, however, that the cost of such alteration, restoration or repairs shall not during the life of the building exceed fifty (50) percent of the assessed valuation of such structure or building, such valuation being that in effect for the year in which such use became nonconforming.

(3) Nothing herein contained shall prevent the restoration of a nonconforming building or structure destroyed by fire, explosion, act of God or act of public enemy; provided, however, that if such destruction shall exceed fifty (50) percent of the assessed valuation of such structure for the year in which such destruction occurs, the future use, location, height, setback, rear and side yards shall conform to this ordinance.

(4) A building or structure is considered to be demolished and nonexistent if during the course of restoration, enlargement or other improvement, more than 50% of the pre-existing structure is removed or must be replaced to maintain structural integrity. Continuation of the construction or repair shall be subject to the entire structure being in compliance with current zoning regulations based on the parameters for entirely new construction and disregarding any nonconforming status. Any variance that may have been issued for said building or structure shall be null and void and any zoning permits shall be rescinded pending verification of compliance. This section shall

supersede all other pertinent sections of this ordinance including nonconforming ("Grandfathered") use or locational status.

[**History:** (4) cr., Sub. 1 to O.A. 31, 1991-92, pub. 04/22/92.]

10.24 CHANGES AND AMENDMENTS. The Dane County Board of Supervisors may from time to time alter, supplement or change by ordinance the boundaries or classification of districts designated in this ordinance, or any of the provisions of regulations imposed by this ordinance in the manner provided by the law.

10.25 ADMINISTRATION, ENFORCEMENT AND PENALTIES. (1) Zoning Administrator. (a)

The provisions of this ordinance shall be administered by or under the zoning administrator, who in person or by duly authorized deputy or assistant shall have the right to enter upon premises affected by this ordinance at reasonable hours for the purpose of inspection. The zoning administrator shall hold his office under civil service, and vacancies in such office shall be filled by procedures established by civil service ordinance. The county executive shall be the appointing authority for the position of zoning administrator. (b) It shall be the duty of the zoning administrator to receive applications for zoning permits and such other permits and licenses provided in this ordinance, and to issue such permits after applications have been examined and approved; to inspect buildings under construction for compliance with the regulations of this ordinance; to make periodic inspections; to take such action as may be necessary for the enforcement of the regulations provided herein; to attend all meetings of the zoning committee and the board of adjustment; and to perform such other duties as the zoning committee and the board of adjustment may direct.

(2) **Zoning Permits. (a)** No new building shall hereafter be erected, and no existing building shall be added to, structurally altered, moved or changed in use, nor shall any nonconforming building be repaired or restored, in all districts, until a zoning permit has been issued, except as otherwise provided by law or ordinance.

(b) Permits shall not be required for accessory farm buildings such as barns, sheds, silos and the like when those buildings are used in the operation of a farm, provided that the proposed

building will not be located within a mapped flood plain or within a shoreland area and conforms to all of the locational requirements of this ordinance. If the proposed location of an accessory farm building does not meet the locational requirements, a variance and a permit must be requested from the board of adjustment.

(c) The zoning administrator may require the filing of a scale drawing of the premises, showing the dimensions of the lot or parcel, the dimensions of the proposed buildings, the distance in feet from the abutting street or highway and from the side and rear lot lines, the size and location of any existing buildings and such other information as he deems necessary. He may also require evidence of compliance with the Dane County Sanitary Code, the Dane County Land Division and Subdivision Ordinance, Dane County Trunk Highway Access Control Regulations or any other state or township access or culvert permit requirements as a condition precedent to the issuance of a zoning permit. The zoning administrator shall not be responsible for determining the location of lot lines.

(d) Application for a permit must contain the following: name and address of the owner of the property, legal description, size and location of the building to be erected or moved on or onto the property, proposed use of the building or premises, type of construction, estimated cost and any other information as the zoning administrator may require.

(e) This application shall be signed by the owner or his or her duly authorized representative or agent; provided, however, that, if a prospective owner desires a prior ruling on a proposed construction or use before consummation of purchase, he or she may apply for a permit, and, if a permit be denied, he or she may appeal to the board of adjustment.

(f) Coincident with the issuing of a permit the zoning administrator shall prepare a card, certifying that a permit has been issued. This card shall bear the same number as the permit and identify the construction and premises covered by the permit. This card shall be posted in a conspicuous place on the premises during the construction, and no construction shall be begun until this card has been posted. For purposes of this ordinance, start of construction shall be when any earth disturbing activity takes place that will lead to the installation of footings, piers, posts, pilings or foundations. Earth disturbing activity for

the purpose of soil evaluation or testing shall not be considered the start of construction.

(g) Each day a non-permitted structure, building, addition, alteration or activity exists shall constitute a separate violation. A non-permitted structure, building, addition, alteration or activity is one which requires the issuance of a permit under this ordinance but which permit has not been issued by the zoning administrator.

(h) Any permit obtained through material misrepresentation shall be null and void.

(i) A permit issued pursuant to the provisions of this section shall expire one year from the date of issuance if construction is not started within that time and will expire if construction once started does not diligently proceed to completion within two years starting time.

(3) *Inspections of buildings to be made by the zoning administrator.* (a) The owner or his or her agent shall request that the zoning administrator make the following inspections:

1. The first inspection shall be requested when the foundations or basement walls are completed.

2. The second or final inspection shall be made before a certificate of compliance can be issued under section 10.25(4) of this ordinance.

(b) The owner or his or her agent shall have all lot corners visibly staked prior to requesting an inspection. If the zoning administrator is unable to accurately verify the location of a building on its lot, he or she may post a stop work order and require that a survey map be prepared by a registered land surveyor that will show the location of the building on its lot before allowing construction to continue.

(c) *Stop work order.* 1. Whenever the zoning administrator finds that any construction does not comply with the provisions of this ordinance, the zoning administrator shall post, in a conspicuous place on the premises, a stop work order which shall cause all activity to cease until the construction is in compliance with the ordinance.

2. The card shall provide the following information: date of issuance, town and section number, reason for posting and the signature of the inspector posting the card.

3. It shall be a violation of the ordinance for the unauthorized removal of the card from the premises.

(4) *Certificate of compliance.* (a) No building or addition thereto, constructed after the effective

date of this ordinance and no addition to a previously existing building shall be occupied, except accessory buildings used exclusively for farming or agricultural purposes and no land vacant, except that used exclusively for farming or agricultural purposes on the effective day of this ordinance, shall be used for any purposes until a certificate of compliance has been issued by the county zoning administrator. Every certificate of compliance shall state the use and occupancy and the location of the building or buildings and indicate that the use of land complies with all of the provisions of this ordinance.

(b) Every application for a zoning permit shall be an application for a certificate of compliance.

(c) An application for a certificate of compliance for a new use or a change in use of land or a building shall be made directly to the zoning administrator.

(d) No certificate of compliance for a building or addition thereto, constructed after the effective date of this ordinance shall be issued until construction has been substantially completed and the premises inspected and certified by the zoning administrator to be in conformity with the specifications on which the permit was issued. The zoning administrator may establish rules by which a temporary certificate of compliance may be issued for a part of a building.

(e) Any person, firm or corporation having a legal or equitable interest in a property which is nonconforming as to use or building location may request a certificate of compliance. Said applicant shall present documentary proof that said use was a permitted use at the time it originated or that the building has been erected prior to the adoption of this ordinance and was made nonconforming by the adoption of this ordinance or amendment thereto. After certifying that the use of the building or land is in fact nonconforming the zoning administrator shall issue a certificate of compliance stating the use in question or the location of buildings and the zoning of the property.

For a certificate of compliance for new construction, additions, alterations or remodeling for which a Dane County Zoning Permit has been issued since August 20, 1970, there shall be no fee charged. For all other certificates of compliance, there shall be a fee of \$5.00 for each certificate.

(5) *Penalties.* (a) Any person or persons, firm, company or corporation, owner, occupant or other user of the premises, who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this

ordinance shall be subject to a forfeiture of not less than five dollars, nor more than two hundred dollars and costs except that violations of s. 10.157(4) shall be at the rate of not less than \$1,000 nor more than \$5,000 per violation. Each day that a violation is permitted to exist shall constitute a separate offense. Compliance herewith shall be enforced by injunctive order at suit of the County or occupant of real estate within the district affected by the regulations of this ordinance. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

(b) Any person who has the ability to pay any forfeiture entered against him under this ordinance but refuses to do so may be confined in the county jail until such forfeiture is paid, but in no event to exceed thirty (30) days. In determining whether an individual has the ability to pay a forfeiture, all items of income and all assets may be considered regardless of whether or not such income or assets are subject to garnishment, lien or attachment by creditors.

(6) *Officially mapped areas.* (a) No zoning permit shall be issued under this chapter for any lands lying within any officially mapped area of Dane County unless the proper permit from the appropriate city or village shall have been first obtained.

(b) Every applicant for the issuance of any permit required under this chapter shall state in writing that he or she has made diligent inquiry of the applicability of any official map to the applicant's lands; that no such official map is applicable, or if such map is applicable, the approval of the appropriate city or village has been obtained; that the applicant understands the possible adverse consequences of erecting a structure within an officially mapped area without the proper approval of the city or village involved; and that the applicant has not relied upon any statements of county employees in giving such written assurances.

(c) If an applicant seeks a zoning permit for lands located within an official mapped area, a zoning permit may be issued only after a permit from the appropriate city or village has been issued under section 62.23(6)(d) of the Wisconsin Statutes.

(d) Any zoning permit issued under this chapter shall be void if applicable to lands located within an officially mapped area for which the applicant has not obtained the proper permit from the appropriate city or village. In the

event of an error in any application or any misstatement in any application, the zoning administrator shall issue stop work orders if the administrator discovers any official map to be applicable to the lands in question.

[**History:** 10.25(5)(a) am., Sub. 2 to O.A. 12, 1989-90, pub. 11/13/89.]

10.255 ZONING COMMITTEE. (1) Duties.

(a) The Zoning Committee shall be created and constituted by the County Board and have the duties as prescribed by subsection (b) hereof.

(b) It shall be the duty of the Zoning Committee to supervise the administration of the zoning ordinance, to hold hearings on proposed amendments to this ordinance and to make recommendations thereon to the County Board, to approve plats for record in accordance with the provisions of section 236(10)(b) of the Statutes; and to perform such other duties in connection with zoning as may be delegated to it by the County Board.

(c) Effect of denial of a petition to change the zoning district boundaries: no petition for a change in the zoning district boundaries which has been denied by the Dane County Board of Supervisors shall be resubmitted for a period of one year from the date of said denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Zoning Committee.

(d) The Zoning Committee shall use plans and maps developed by individual towns and approved by the County Board as criteria for zoning recommendations to the County Board.

(e) In considering land use issues for areas adjacent to local municipalities, notice shall be sent by certified mail to the affected municipality or municipalities. The notice shall include the location, description of use, requested zoning or permit and the date, time and place of the county public hearing. The notice shall state that it shall be incumbent upon the affected municipality to inform the county zoning agency of any concerns, potential problems or questions relative to the impact of the proposed use on a wellhead protection area.

(2) *Conditional Uses.* (a) *Statement of Purposes.* The development and execution of this ordinance is based upon the division of the county 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 are 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 then established to regulate those conditional uses which require special consideration.

(b) Authority. The zoning committee, after a public hearing, shall within a reasonable time, grant or deny any application for conditional use. Prior to granting or denying a conditional use, the committee shall make findings of fact based on evidence presented, that the standards herein prescribed will either be complied with or not complied with. No permit shall be granted when the committee determines that the standards will not be met, nor shall a permit be denied when the committee determines that the standards will be met.

(c) The town board of the town wherein a conditional use is proposed to be located shall be given notice and opportunity to participate in the conditional use process. The town board may review the conditional use permit application and thereafter may make a finding of consistency or inconsistency with the town land use plan, if any, as well as suggested conditions for any permit which it may recommend granting. If its members so desire, the town board may transmit its findings and recommendations to the Committee. Findings and recommendations should be stated in terms of the standards set forth in s. 10.255(2)(h), as well as relevant policies contained in the town land use plan. The recommendations and findings of the town will be advisory to the Committee.

(d) Initiation of Conditional Use. Any person, firm, corporation or organization having a freehold interest, a possessory interest entitled to exclusive possession, a contractual interest

which may be a freehold interest, or an exclusive possessory interest which is specifically enforceable in the land for which a conditional use is sought, may file an application to use such land for one or more of the conditional uses provided for in this ordinance provided that the conditional use is one which is permitted by the zoning ordinance in the zoning district where the parcel is located.

(e) Application for Conditional Use. An application for a conditional use shall be filed with the zoning administrator on a form prescribed by the zoning administrator. The application shall be accompanied by such plans and other information as may be prescribed by the zoning administrator or the zoning committee, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in subsection (g) hereinafter.

(f) Hearing on application. Upon receipt of the application and statement referred to in subsection (c) above, the zoning committee shall hold a public hearing on each application for conditional use at such time and place as shall be established by such committee. The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the zoning committee shall, by rule, prescribe from time to time.

(g) Notice of public hearing shall be given by publication of a Class 2 notice as provided for in Section 985 of the Wisconsin Statutes. Notice to parties of interest shall be according to policies established by the committee.

(h) Standards. No application for a conditional use shall be granted by the zoning committee unless such committee shall find that 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, comfort, or general welfare.

2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use.

3. 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.

4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets, and

6. That the conditional use shall conform to all applicable regulations of the district in which it is located.

(i) *Conditions and Guarantees.* Prior to the granting of any conditional use, the zoning committee 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 subsection (h) above. In all cases in which conditional uses are granted, the committee 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.

1. In addition to such other conditions as the Committee may impose upon any conditional use, in the case of dependency living arrangements, the committee shall require as a condition of approval that the use shall be discontinued at the time that a dependent person ceases to reside in the secondary living area. In no event shall the space so created be used for general rental purposes. The committee may, if it so desires, require the owner to record deed restrictions implementing these additional restrictions and such deed restrictions may be required to run in favor of the County, the town and adjacent landowners.

(j) *Appeal From action by zoning committee.* Any person aggrieved by the grant or denial of a conditional use permit, or the County Board supervisor of the district in which the affected parcel is located, may appeal the decision of the Zoning Committee to the County Board. Such appeal must specify the grounds thereof in respect to the finding of the Zoning Committee, the reason why the appellant is aggrieved, and must be filed with the office of the Zoning Supervisor within 20 days of the final action of the Zoning Committee. The Zoning Administrator shall transmit such appeal to the County Clerk who shall file such appeal with the County Board. The County Board shall fix a

reasonable time for the hearing of the appeal, and give public notice thereof as well as due notice to the applicant and the appellant(s), and decide the same within a reasonable time. The action of the Zoning Committee shall be deemed just and equitable unless the County Board by a three-fourths vote of supervisors present and voting reverses or modifies the action of the Zoning Committee. An appeal from a decision of the Committee shall be taken to the County Board. No other entity of county government has jurisdiction to hear any such appeal and the avenue of appeal provided for herein is intended to be the sole avenue of appeal from a decision of the Committee.

(k) *Effect of Denial of Application.* No application for a conditional use which has been denied wholly or in part by the zoning committee shall be resubmitted for a period of one year from the date of said denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the zoning committee.

(l) In any case where a conditional use permit, issued under this ordinance, has not been instituted or construction begun within one year of the date of approval, without further action by the committee shall be null and void.

(m) *Revocation of a Conditional Use Permit.* If the zoning committee then finds that the standards in Subsection 10.255(2)(h) and the conditions stipulated therein are not being complied with, the committee after a public hearing as provided in 10.255(2)(f) and (g), may revoke the conditional use permit. Appeals from the action of the Zoning Committee may be as provided in 10.255(2)(j).

(n) *Abandoned Conditional Uses.* Any use, for which a conditional use permit has been issued, upon its cessation or abandonment for a period of one year, will be deemed to have been terminated and any future use shall be in conformity with these ordinances.

(3) *Statement of Purposes.* Conditional rezonings are authorized as provided herein to enable adaptation of zoning to unique circumstances regarding particular sites, uses or neighborhoods when the county has not had sufficient experience with the type of use in question to lead to treatment of the use as conditional use.

(a) *Conditions on rezonings.*

1. The zoning committee may recommend and the county board may adopt an ordinance effecting an amendment of the zoning district map containing the condition that the change in the

map will take effect on such date occurring with () months of the date of county board approval of the amendment with the first on-site inspection for building location is made and approved for the project sought to be established, and in the event such approved inspection has not occurred by the () month time period, the possibility of making effective the rezoning will then be terminated.

2. The zoning committee may recommend and the county board may adopt an ordinance effecting an amendment of the zoning district map containing the condition that the change in map will take effect on such date occurring with () months of the date of county board approval of the amendment when a restrictive covenant has been recorded binding the property to conditions specified in the amending ordinance, and in the event such covenant is not recorded by the end of the () month time period, the possibility of making effective the rezoning will then be terminated.

(a) Conditions specified to be in such required covenants shall be related to the purposes of the ordinance. They may include, as specific cases warrant, limits of permissible uses to less than the full range of uses otherwise allowable in the district into which the land is being placed. Enforcement rights over such covenant controls shall be afforded to the county, the town and owners of property within 300 feet of the site. The covenant controls shall be amendable or repealable upon petition of the owner of the lands subject to the controls, and approval by the county board after a hearing similar to a rezoning hearing. A rezoning of the lands to a different zoning district shall also act to repeal the covenant controls. Except as provided above, the covenants shall run with the land.

(b) Other similar controls appropriate to handling by covenant provisions may also be imposed.

[**History:** (1)(e) cr., Sub. 1 to O.A. 32, 1992-93, pub. 04/14/93.; (2)(c) cr., Sub 3 to O.A. 36, 1987-88, pub. 08/02/88; (2)(c)-(m) renum. and (2)(c), cr. O.A. 9, 1993-94, pub. 04/20/94; (2)(j) am., O.A. 20, 1989-90, pub. 2-27-90; (2)(j) am., O.A. 50, 1987-88, pub. 06/18/88.]

10.26 BOARD OF ADJUSTMENT. (1)

Personnel, term and compensation. The board of adjustment shall consist of five (5) members,

appointed by the county executive with the approval of the county board, each serving for a term of three (3) years, the terms beginning July 1st and being staggered so that the terms of not more than two members shall expire in any year. Members shall reside in the unincorporated areas of the county and no two members shall be from the same town. Compensation of members shall be the same as allowed county board members for attendance at committee meetings.

(2) **Rules, meetings and minutes.** The county board shall adopt rules for the conduct of the business of said board of adjustment, in accordance with the provisions of any ordinance or ordinances adopted pursuant to section 59.97, 59.971 or 87.30. The board of adjustment may adopt further rules as necessary to carry into effect the regulations of the county board. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his or her absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be public record.

(3) **Appeals to the Board.** Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator or other administrative officer; an appeal may also be taken by the Committee. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The Committee may appeal only those matters properly before it prior to the Committee vote and within thirty (30) days of the public hearing on the matter, and only by a 2/3 vote of the Committee's members. The Committee's appeal shall be exempt from fee.

(4) **Stays.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall

certify to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(5) *Hearing appeals.* The board of adjustment shall fix a reasonable time for the hearing of the appeal and publish a Class 2 notice thereof under Ch. 985, as well as give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appeal in person or by agent or attorney.

(6) *Powers of the board of adjustment.* The Board of Adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of sections 59.97, 59.971, 87.30 or of any ordinance adopted pursuant thereto.

(b) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

(c) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(7) *Order on appeal.* In exercising the above-mentioned powers such board may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(8) *Majority rule.* The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such

ordinance, or to effect any variation in such ordinance.

(9) *Expiration of authorization.* When any construction shall have been authorized by the board of adjustment pursuant to the provisions of this section, a permit for such construction shall be taken out within one year from the date of such authorization, otherwise such authorization shall become null and void; provided, that the board of adjustment, upon request may extend such authorization for a specific period without the necessity of another public hearing.

(10) *Effect of the denial of an appeal by the board of adjustment.* An appeal that has been denied by the board of adjustment shall not be resubmitted for a period of one year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the board.

[**History:** (3) am., O.A. 20, 1989-90, pub. 02/27/90.]

10.27 SEVERABILITY OF ORDINANCE PROVISIONS. Should any section, clause or provisions of this ordinance be declared by the courts to be invalid; the same shall not affect the validity of the ordinance as a whole to any part thereof, other than the part so declared to be invalid.

10.28 REPEAL OF CONFLICTING PROVISIONS. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

10.29 EFFECTIVE DATE. This ordinance shall be in full force and effect upon passage and publication.

(10.30 through 10.69, inclusive, reserved)

SUBCHAPTER II

10.70 SUBCHAPTER; PURPOSE. (1) Sections 10.70 through 10.93, inclusive, are hereinafter collectively referred to as "this subchapter".

(2) The purpose of this subchapter is to regulate signs for all properties within the jurisdiction of this ordinance and to ensure the public safety, preservation of scenic beauty and the implementation of the desired overall character of the community and its constituent zoning districts.

[**History:** am., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.71 DEFINITIONS. As used in this subchapter, the following words shall have the definitions indicated:

- (1) *Sign* shall mean any object, device, display, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixture, colors, illumination, or projected images. As used herein *sign* does not include the flag or emblem of any nation, organization of nations, or other governmental or municipal agencies or units; traffic control or other public agency signs; community information signs; displays within the confines of a building; merchandise, pictures or models of products or services incorporated in a window display; works of art which in no way identify a product or service; scoreboards located on athletic fields; "no trespassing" and "no hunting" signs; and signs mounted or painted on commercial vehicles and the same are expressly excepted from regulation under this subchapter.
- (2) *Agriculture sign* shall mean a sign advertising agricultural products which are available at a specific farm or are being produced on the farm on which the sign is located.
- (3) *Apartment complex sign* shall mean a sign that provides identification for an apartment complex on which the sign is located.
- (4) *Appendage sign* shall mean an additional sign mounted above or hung below the primary sign face.
- (5) *Auxiliary sign* shall mean a sign mounted separately and apart from the primary sign and which provides supplemental information such as services, price, hours of operation, directions, warning, etc.
- (6) *Awning sign* shall mean a sign painted or installed on an awning.
- (7) *Back to back sign* shall mean signs that are mounted back to back with the sign faces in opposing directions or on a 'V-shaped' frame with an internal angle of less than 40. 'V-shaped' frame signs with an internal angle larger than 40 shall be considered side by side signs.
- (8) *Billboard* shall mean an off-premise advertising sign with a copy area greater than 96 square feet.
- (9) *Community information sign* shall mean a municipally-owned sign which displays information of interest to the general community regarding public places, events or activities.
- (10) *Construction sign* shall mean a temporary sign which describes or identifies a demolition or construction project taking place on the premises.
- (11) *Crop sign* shall mean a temporary sign which designates a variety, brand, or provides other identification of an agricultural crop, fertilizer, herbicide, pesticide, that is being grown or used at a specific location.
- (12) *Development sign* shall mean a sign which directs attention to a pending development of a property.
- (13) *Directional sign* shall mean an on-premise auxiliary sign which provides directions for pedestrian or vehicular traffic e. g., enter, exit, parking, or location of any place or area on the same premise.
- (14) *Directory sign* shall mean an off-premise advertising sign with a copy area of 96 square feet or less.
- (15) *Double decked sign* shall mean billboards or directory signs which are mounted one above the other.
- (16) *Electronic sign* shall mean an advertising sign whose message may be changed by electronic process.
- (17) *Farm sign* shall mean an on-premise sign identifying a farm by its name or by the farmer's name.
- (18) *Garage sale sign* shall mean an on-premise sign advertising the occasional sale of personal property items. A garage sale sign does not include a sign advertising business products or produce.
- (19) *Graphic sign* shall mean a sign which is an integral part of a building facade. The sign is painted directly on or otherwise permanently embedded in the facade.
- (20) *Ground* shall mean the average elevation of the ground upon which the sign supports are placed, except when the sign supports rest upon a berm or other area elevated above the surrounding ground. In such cases, the average elevation of the base of such berm or other area shall be considered as the ground.
- (21) *Ground sign* shall mean a freestanding sign mounted on supports or uprights and whose bottom edge is less than 8 feet above the ground.
- (22) *Group sign* shall mean a sign displaying the names of a group of businesses which are located

in the same locale such as a city, village, shopping center, office or commercial park, etc.

(23) *Home occupation sign* shall mean a sign which advertises a permitted home occupation.

(24) *Intersection* shall mean the point at which the right-of-way lines meet or, for highway interchanges, the beginning and ending points of the on and off ramps. A "T" intersection shall be considered the same as a four-way intersection in the determination of the required distance of signs from said intersection.

(25) *Limited family business sign* shall mean a sign which advertises a permitted limited family business.

(26) *Logo* shall mean an emblem, symbol or trademark identification placed on signs.

(27) *Marquee sign* shall mean a sign mounted on an overhanging canopy of a theater, auditorium, fairground, museum or other such use.

(28) *Mobile or portable sign* shall mean a sign mounted on a frame or chassis designed to be easily relocated and not permanently affixed to the ground or other structure.

(29) *Off-premise advertising sign* shall mean a sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is displayed.

(30) *On-premise advertising sign* shall mean a sign which directs attention to a business, commodity, service, items, or entertainment, sold, offered or conducted on the same premises that the sign is located.

(31) *Parking lot sign* shall mean an auxiliary sign that lists the rules and regulations for the parking lot.

(32) *Political sign* shall mean a sign whose message relates to a political party, a candidate for public office or a political issue.

(33) *Projecting sign* shall mean an on-premise advertising sign, other than a wall sign which is attached to and projects out from a wall or a building.

(34) *Pylon sign* shall mean a freestanding sign erected upon one or more pylons or posts whose bottom edge is greater than eight feet above ground level.

(35) *Real estate sign* shall mean a sign that provides identification of property that is for lease, rent or sale.

(36) *Road classification* shall refer to the system of classifying roads, according to the following scheme:

Class A All federal and state highways and designated county highways.

Class B All County highways except those designated as class "A".

Class C All town roads.

Class D Roads within sub-divisions which were recorded prior to the adoption of the zoning ordinance.

Class E All other roads.

(37) *Side by side signs* shall mean two or more signs mounted adjacently on the same structure. Signs mounted on a 'V-shaped' frame that has an internal angle larger than 40 shall be considered side by side signs.

(38) *Sign copy area* shall mean the total area of a sign face which may be used for display of advertising, message announcement, etc.

(39) *Sign face* shall mean the total surface of a sign including the trim and copy area.

(40) *Signable wall area* shall mean the designated area of the wall of a building, up to the roof line, which is free of windows and doors or major architectural detail.

(41) *Subdivision sign (Permanent)* shall mean a permanently installed sign located on the subdivision property which identifies the subdivision name, etc.

(42) *Subdivision sign (temporary)* shall mean a sign which advertises the development of a residential or commercial subdivision plat.

(43) *Temporary signs* shall mean signs which are installed for a limited time period for the purpose of advertising a forthcoming event, e. g., retailer's signs temporarily displayed for the purpose of informing the public of a sale or special offer, garage sale signs, church or club event signs, etc. A permanently mounted sign shall not be considered as temporary even though the message displayed is subject to periodic changes.

(44) *Trim* shall mean a separate boarder or framing around the copy area of a sign.

(45) *V shaped frame* shall mean a sign support structure which will accommodate two signs in a back to back position with one end of each sign mounted on a common support with the other sign. The other ends of the signs are mounted on separate, individual supports.

(46) *Vision clearance triangle* shall mean the area in each quadrant of an intersection which is bounded by the right-of-way lines of the roads and a vision clearance setback line connecting points on each right-of-way line which are located a distance back from the intersection equal to the

setback required for each road. See diagram below.

(47) *Wall sign* shall mean a sign mounted on and parallel to a building wall or other vertical building surface. Signs on the sides of a service station pump island roof structure shall be considered wall signs.

[**History:** 10.71 rep., recr., Sub. 2, O.A. 6, 1989-90, pub. 9/21/90.]

10.72 PERMITTED ZONING DISTRICTS FOR SIGNS. (1) Unless expressly permitted under this section, a sign is not permitted in a zoning district.

(2) Agriculture signs are permitted in the following zoning districts: A-1 Agricultural, A-2 Agricultural, A-1 and A-3 Agricultural (Exclusive), C-1 Commercial, C-2 Commercial, M-1 Industrial, CO-1 Conservancy.

(3) Apartment signs are permitted in the following zoning districts: R-4 Residence, B-1 Local Business, C-1 Commercial.

(4) Auxiliary signs are permitted in all zoning districts.

(5) Billboards are permitted in the following zoning districts: C-1 Commercial, C-2 Commercial, M-1 Industrial.

(6) Construction signs are permitted in the following zoning districts: All districts.

(7) Crop signs are permitted in the following zoning districts: A-1 Agricultural, A-2 Agricultural, A-1 and A-3 Agricultural (Exclusive), C-1 Commercial, C-2 Commercial, M-1 Industrial.

(8) Development signs are permitted in all zoning districts.

(8m) Directory signs are permitted in all Agricultural districts and the C-1 Commercial, C-2 Commercial and M-1 Manufacturing districts.

(9) Electronic signs are permitted in the following zoning districts: A-B Agriculture-Business, B-1 Local Business, C-1

Commercial, C-2 Commercial, LC-1 Limited Commercial, M-1 Industrial.

(10) Farm signs are permitted in the following zoning districts: A-1 Agricultural, A-2 Agricultural, A-1 and A-3 Agricultural (Exclusive), C-1 Commercial, C-2 Commercial, M-1 Industrial.

(11) Garage sale signs are permitted in all zoning districts.

(12) Home occupation signs are permitted in the following zoning districts: A-1 Agricultural, A-2 Agricultural, A-1 and A-3 Agricultural (Exclusive), A-B Agriculture-Business, R-1 Residence, R-2 Residence, R-3 Residence, R-4 Residence, RH-1 Rural Homes, RH-3 Rural Homes, RE-1 Recreational, LC-1 Limited Commercial.

(13) Limited family business signs are permitted in the following zoning districts: A-1 Agricultural, A-2 Agricultural, A-1 and A-3 Agricultural (Exclusive).

(14) Marquee signs are permitted in the following zoning districts: B-1 Local Business, C-1 Commercial, C-2 Commercial, M-1 Industrial.

(15) On-premise advertising signs are permitted in the following zoning districts: A-1 Agricultural, A-2 Agricultural, A-1 and A-3 Agricultural (Exclusive), A-B Agriculture-Business, B-1 Local Business, C-1 Commercial, C-2 Commercial, LC-1 Limited Commercial, M-1 Industrial.

(16) Parking lot signs are permitted in the following zoning districts: A-B Agriculture-Business, RE-1 Recreational, B-1 Local Business, C-1 Commercial, C-2 Commercial, LC-1 Limited Commercial, M-1 Industrial.

(17) Projecting signs are permitted in the following zoning districts: A-B Agriculture-Business, RE-1 Recreational, B-1 Local Business, C-1 Commercial, C-2 Commercial, LC-1 Limited Commercial, M-1 Industrial.

(18) Real estate signs are permitted in all zoning districts.

(19) Subdivision signs are permitted in all zoning districts.

(20) Wall signs are permitted in the following zoning districts: A-B Agriculture-Business, B-1 Local Business, C-1 Commercial, C-2 Commercial, LC-1 Limited Commercial, M-1 Industrial.

[**History:** 10.72 rep. & recr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.73 GENERAL SIGN REGULATIONS. (1) The regulations contained in this section shall apply to signs in all zoning districts. The regulations set forth in this section do not supersede the specific requirements set forth in section 10.74.

(2) Apartment complex signs may be installed on-premises for identification of an apartment building or apartment complex. The sign may be either a ground or wall sign.

(3) Auxiliary signs may only provide supplemental information such as services, price, hours of operation, directions, warning, etc., and may not include any other information regarding product lines. The logo or name of the related business may be included.

(4) Awning signs are subject to wall sign regulations.

(5) To qualify as a construction sign, a sign shall identify the project and may include the names of the contractors, engineers or architect, or products being used in the construction of a building but only during the time that construction or development is actively under way. The sign shall be removed within 30 days of the completion of the project.

(6) The total sign copy area of all on-premise signs related to a business shall not exceed the maximum permitted sign copy area. Sign copy area shall be measured in the following manner: The copy area of signs which have a face, border or trim shall consist of the entire surface area of the sign on which copy could be placed. Copy area of a sign whose message is applied to a background which provides no face, border or trim shall be the area of the smallest rectangle which can encompass all words, letters, figures, emblems, and other elements of the sign message. See sub. (10) for sample diagrams.

(7) Copy area for appendage signs shall be measured as provided in sub. (6) above. The square foot total of all appendage sign copy areas shall be included with the sign copy area of the primary sign to provide the overall copy area of the sign.

(8) The supporting structure or bracing of a sign shall not be counted as a part of sign copy area unless such structure or bracing is made a part of the sign's message.

(9) The copy area of back to back on-premise ground or pylon signs shall be computed using the copy area of only one side. The side used shall be the larger of the two sides.

(10) The following illustrations demonstrate how sign copy area shall be determined.

(11) Crop signs are permitted only while the crop is being grown and for no more than 30 days after harvest.

(12) Directional signs are not permitted in residential districts except for use by an apartment building or complex.

(13) Distance measurements shall be measured along the pertinent right-of-way lines when determining separation between signs or distance from intersections.

(14) Double deck signs are not permitted.

(15) Electronic signs may be used only to advertise activities conducted or goods and services available on the property on which the signs are located or to present public service information. Electronic signs may not display a message for less than one-half of a second and may not repeat a message at intervals of less than 2 seconds. A traveling message may not travel slower than 16 light columns per second nor faster than 32 light columns per second.

(16) Farm signs are limited to on-premise signs identifying a farm by its name or by the farmer's name and may contain additional historical information such as date of founding or century farm designation or name or logo of the sign sponsor.

(17) Flashing or rotating lights on signs are not permitted.

(18) A garage sale sign may be displayed 7 days prior to the date of the sale and must be removed no later than the day following the event. The sign must be located on the premises of the garage sale.

(19) Graphic signs are not permitted.

(20) Logos may contain only the emblem or name of the business located on the same property or, on farm and crop signs, the name or emblem of the business sponsoring the signs. Logos may not be larger than 25% of the sign copy area and shall be included within said copy area.

(21) Except for time and temperature signs and electronic signs, no fluttering, undulating, rotating, or other moving signs shall be permitted.

(22) Plantings or structures that exceed 30 inches in height are prohibited beneath ground and pylon signs.

(23) Sign trim is permitted on all signs and may be installed around the outside of the sign copy area. The square foot area of the trim shall not be greater than 25% of the permitted copy area of the sign.

(24) No sign, temporary or otherwise, shall be affixed to a tree or utility pole, fence or fence pole, or be painted on a stone.

[**History:** 10.73 rep., recr., Sub. 2 to, O.A. 6, 1989-90, pub. 09/21/90.]

10.74 SPECIFIC REGULATIONS FOR VARIOUS TYPES OF SIGNS. Signs of various types shall be installed according to the regulations set forth below:

(1) Agriculture signs shall have a maximum size of 32 square feet and be erected to a height not to exceed 8 feet. Such signs shall be located not less than .25 miles from other signs and not more than 1 mile from the site advertised on the sign.

(2) Apartment signs shall have a maximum size of 32 square feet and be erected to a height not to exceed 8 feet. Such signs shall be located on the site advertised on the sign. Not more than one such sign is permitted for an apartment complex.

(3) Auxiliary signs shall have a maximum size of 5 square feet and be erected to a height not to exceed 4 feet, with a total copy area not to exceed 50 square feet. Such signs shall be located on the site advertised on the sign.

(4) Crop signs shall have a maximum size of 3 square feet and be erected to a height not to exceed 10 feet. Such signs shall be located not less than 50 feet from the site advertised on the sign and there shall not be more than one such sign per row of crop.

(5) Ground on-premise signs shall have a maximum size of 32 square feet where the speed limit on the adjacent highway is 35 miles per hour or less, 64 square feet where the maximum permissible speed on the adjacent highway is between 36 and 45 miles per hour, and 96 square feet where the speed limit on the adjacent highway is more than 45 miles per hour. Such a sign may be erected to a height not to exceed 12 feet where the speed limit on the adjacent highway is 35 miles per hour or less, 16 feet where the speed limit on the adjacent highway is between 36 and 45 miles per hour, and 20 feet where the speed limit on the adjacent highway is

more than 45 miles per hour. There shall be no more than one such sign for each road frontage and the sign shall be located not more than 200 feet from the site advertised on the sign, except that signs for residential or commercial plats, Limited Family Business and recreational facilities such as golf courses and camp grounds may be installed at the property entrance locations even though the signs might be more than 200 feet from the site advertised.

(6) Billboards shall have a maximum size of 300 square feet and be erected to a height not to exceed 35 feet above the centerline of the adjacent highway at the location of the sign, with a minimum distance of 300 feet between signs and a total copy area not to exceed 300 square feet per sign.

(7) Construction signs shall have a maximum size of 64 square feet and be erected to a height not to exceed 12 feet. Such signs shall be located on site, with no more than one such sign on the site's road frontage.

(8) Development signs shall have a maximum size of 32 square feet where the speed limit on the adjacent highway is 35 miles per hour or less, 64 square feet where the maximum permissible speed on the adjacent highway is between 36 and 45 miles per hour, and 96 square feet where the speed limit on the adjacent highway is more than 45 miles per hour. Such a sign may be erected to a height not to exceed 10 feet where the speed limit on the adjacent highway is 35 miles per hour or less, 15 feet where the speed limit on the adjacent highway is between 36 and 45 miles per hour, and 20 feet where the speed limit on the adjacent highway is more than 45 miles per hour. Such signs shall be located on the site advertised and not less than .25 miles from other signs.

(9) Directory signs shall have a maximum size of 96 square feet and be erected to a height not to exceed 35 feet above the centerline of the adjacent highway at the location of the sign, with a total copy area not to exceed 96 square feet. Such signs shall be located not less than .25 miles from other signs and not more than 5 miles from the site advertised on the sign.

(10) Electronic signs shall conform to the regulations for the type of installation, whether directory, on-premise ground, pylon or wall sign.

(11) Farm signs shall have a maximum size of 32 square feet and be erected to a height not to exceed 8 feet. Such signs shall be located not less than .25 miles from other signs and not more than 1 mile from the site advertised on the sign.

(12) Group signs shall conform to the regulations for the type of installation, whether directory, on-premise ground, pylon or wall sign.

(13) Home Occupation signs shall have a maximum size of 2 square feet and shall be located on the premises of the business advertised on the sign.

(14) Limited Family Business Signs: A maximum of two on-premise signs are permitted; one, a wall sign limited to a maximum size of 12 square feet erected to a height not to exceed 8 feet. Such sign shall be located on the building in which the business advertised on the sign is located. The second sign may be a driveway entrance sign limited to a maximum size of 16 square feet and a maximum height of 8 feet.

(15) Marquee signs shall have a maximum size of 300 square feet and be erected to a height not to exceed 20 feet, with no more than 3 sides. Such signs shall be located on the building containing the business advertised on the sign.

(16) Mobile signs are not permitted.

(17) Parking Lot signs shall have a maximum size of 32 square feet and be erected to a height not to exceed 6 feet, with no more than 2 signs per parking lot. Such signs shall be located on the parking lot of the business advertised on the sign.

(18) Projecting signs shall have a maximum size of 32 square feet and be erected to a height not to exceed 15 feet. Such signs shall be located on the building containing the business advertised on the sign.

(19) Pylon signs shall have a maximum size of 100 square feet where the speed limit on the adjacent highway is 35 miles per hour or less, 200 square feet where the maximum permissible speed on the adjacent highway is between 36 and 45 miles per hour, and 300 square feet where the speed limit on the adjacent highway is more than 45 miles per hour. Such a sign may be erected to a height not to exceed 20 feet above the centerline of the adjacent highway at the location of the sign, where the speed limit on the adjacent highway is 35 miles per hour or less, 35 feet above the centerline of the adjacent highway at the location of the sign, where the speed limit on the adjacent highway is between 36 and 45 miles per hour, and 50 feet above the centerline of the adjacent highway at the location of the sign, where the speed limit on the adjacent highway is more than 45 miles per hour. There shall be no more than one such sign

per parcel and the sign shall be located not more than 200 feet from the site advertised on the sign.

(20) Real estate signs shall have a maximum size of 32 square feet where the speed limit on the adjacent highway is 35 miles per hour or less, 64 square feet where the maximum permissible speed on the adjacent highway is between 36 and 45 miles per hour, and 96 square feet where the speed limit on the adjacent highway is more than 45 miles per hour. Such a sign may be erected to a height not to exceed 8 feet where the speed limit on the adjacent highway is 35 miles per hour or less, 15 feet where the speed limit on the adjacent highway is between 36 and 45 miles per hour, and 20 feet where the speed limit on the adjacent highway is more than 45 miles per hour. There shall be no more than one such sign for each road frontage and the sign shall be located on the site advertised on the sign.

(21) Subdivision signs shall have a maximum size of 64 square feet and be erected to a height not to exceed 10 feet. Such signs shall be located on the site advertised on the sign, with no more than one such sign per entrance to the site.

(22) Temporary signs shall have a maximum size of 64 square feet and be erected to a height not to exceed 12 feet. There shall be no more than one such sign per parcel and the sign shall be located on the site advertised on the sign.

(23) Wall signs shall have a maximum size of 100 square feet together with a maximum copy area of 200 square feet where the speed limit on the adjacent highway is 35 miles per hour or less, 200 square feet together with a maximum copy area of 400 square feet where the maximum permissible speed on the adjacent highway is between 36 and 45 miles per hour, and 300 square feet together with a maximum copy area of 600 square feet where the speed limit on the adjacent highway is more than 45 miles per hour. Such a sign shall be erected to a height not to exceed 20 feet where the speed limit on the adjacent highway is 35 miles per hour or less, 35 feet where the speed limit on the adjacent highway is between 36 and 45 miles per hour, and 50 feet where the speed limit on the adjacent highway is more than 45 miles per hour. There shall be no more than two such signs per building and each such sign shall be located on the building containing the business advertised on the sign.

[History: rep. & recr., Sub. 2 to O.A. 6, 1989-90, pub. 009/21/90; (5) am., O.A. 5, 1994-95, pub. 09/02/94; (14) am., O.A. 7, 1994-95, pub. 09/02/94.]

10.75 CALCULATION OF HEIGHT REGULATIONS.

(1) Auxiliary signs for service station prices may not be installed higher than 8 feet above ground level.

(2) For billboard signs, the height will be measured from the elevation of the centerline of the adjacent road to the top of the sign.

(3) For directory signs, the height will be measured from the elevation of the centerline of the adjacent road to the top of the sign.

(4) For electronic signs, the height of the sign shall be determined by the manner of installation of the sign, i. e., according to whether the sign is of the ground, wall, projecting or pylon type.

(5) For ground mounted signs, except billboards, directory or pylon signs, the height shall be measured from ground level beneath the sign to the top edge of the sign.

(6) For a projecting sign, the height shall be measured from ground level to the top of sign. The bottom edge of such sign shall be located a minimum of eight feet from ground level directly under the sign.

(7) For a pylon sign, the height will be measured from the elevation of the centerline of the adjacent road to the top of the sign.

(8) For a wall sign, the height shall be measured from the base of the building below the sign to the top of the sign face. The top of the sign may not be higher than the building on which it is mounted.

[**History:** 10.75 rep. & recr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.76 DESIGN REQUIREMENTS.

(1) Illumination of signs must be designed so that the lighting element is shielded from view from any adjacent residence and from vehicular traffic. Neon and fiber-optic lighting and electronic signs are exempt from this regulation.

(2) No sign shall use any word, phrase, symbol, shape, form, or character in such manner as to interfere with moving traffic, including signs which incorporate typical street-type or traffic control-type sign designs and colors. No sign may be installed at any location where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any official traffic control sign, signal or device.

[**History:** 10.76 rep. & recr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.77 LOCATIONAL REGULATIONS.

(1) Billboards may not be located within 300 feet of existing on-premise advertising signs.

(2) Off-premise signs may not be installed within the limits of any curve.

(3) Crop signs shall be located within 50' of the crop identified.

(4) Directory signs may not be located within 300 feet of existing on-premise advertising signs.

(5) No sign may block or interfere with the visibility for ingress or egress of a driveway. All signs, except auxiliary signs, that are adjacent to driveway ingress or egress, shall provide a minimum of 6 feet of clearance between ground level and the bottom edge of the sign.

(6) No sign may be located within a permanently protected green space area.

(7) Home occupation signs shall be mounted on the residence in which the occupation is located.

(8) Limited family business signs shall be mounted on the building in which the business is located.

(9) On premise advertising signs for commercial businesses may not be located farther than 200 feet from the primary building of the business advertised. Each primary building housing a separate unaffiliated business on a parcel is allowed to have the total related signs as permitted by this ordinance, e. g., each building in a condominium plat and each leased or rented building in a complex shall be entitled to the total number of signs. Businesses located in one building must share the total signs allocated to the building.

(10) Projecting signs may not be located directly over a public or private street, drive, or parking area.

(11) Ground and pylon signs may not be located less than 5 feet from a rear lot line.

(12) No sign shall be located within a road right-of-way.

(13) No sign shall be installed on a roof.

[**History:** 10.77 rep. & recr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.78 INTERSECTION REGULATIONS.

(1) A billboard whose bottom edge is less than 8 feet above the centerline elevation of adjacent roads shall maintain a minimum distance from road intersections as follows:

<u>Road Speed</u>	<u>Required Distance</u>
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0-35 MPH	100'
36-45 MPH	200'
over 45 MPH	300'

(2) A billboard whose bottom edge is 8 feet or higher above the centerline elevation of adjacent roads may be located up to the vision triangle line.

(3) A directory sign whose bottom edge is less than 8 feet above the centerline of adjacent roads shall maintain a minimum distance from road intersections as follows:

<u>Road Speed</u>	<u>Required Distance</u>
0-35 MPH	100'
36-45 MPH	200'
over 45 MPH	300'

(4) A directory sign whose bottom edge is 8 feet or higher above the centerline of adjacent roads may be located up to the vision triangle line.

(5) An on-premise ground sign whose top is more than 30 inches above the centerline of the adjacent road or whose bottom edge is less than 6 feet above the centerline of the adjacent road, shall maintain a minimum distance from road intersections as shown:

<u>Road Speed</u>	<u>Required Distance</u>
0-35 MPH	100'
36-45 MPH	200'
over 45 MPH	300'

(6) An on-premise ground sign whose top is less than 30 inches above the centerline of the adjacent road or whose bottom edge is 6 feet or more above the centerline of the adjacent road may be installed up to the vision clearance triangle line.

(7) An on-premise pylon sign whose bottom edge is less than 8 feet above the centerline of the adjacent road shall maintain a minimum distance from road intersections as shown:

<u>Road Speed</u>	<u>Required Distance</u>
0-35 MPH	100'
36-45 MPH	200'
over 45 MPH	300'

(8) An on-premise pylon sign whose bottom edge is 8 feet or more above the centerline of

adjacent roads may be located up to the vision triangle line.

(9) No sign shall be erected or maintained in an intersection vision clearance triangle.

(10) This section shall not be construed to supersede, abridge or amend state and federal regulations which are more restrictive.

[**History:** 10.78 rep. & recr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90; (5) and (6) am., O.A. 6, 1994-95, pub. 09/02/94.]

10.79 SIGN MAINTENANCE REGULATIONS. (1)

All signs within the jurisdiction of this ordinance shall remain in a state of proper maintenance. Proper maintenance shall be the absence of loose materials including peeling paint, paper or other material, prevention of excessive rust, the prevention of excessive vibration or shaking, and the maintenance of the original structural integrity of the sign, frame and other supports, its mounting, and all components thereof.

(2) Signs found to be in violation of the provisions of this section shall be repaired or removed.

[**History:** 10.79 rep. & recr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.80 MARQUEE SIGNS. (1) Marquee signs shall be subject to wall sign regulations except as otherwise provided by this ordinance. Copy displayed on marquee signs shall be limited to names, dates and times of events scheduled on the premises.

[**History:** 10.80 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.81 POLITICAL SIGNS. (1) Political signs installed on underlying structures capable of being classified as specific types of signs, such as billboards, directory signs, awning signs, ground signs and the like, shall comply with all regulations applicable to the underlying sign structure.

(2) Temporary political signs which promote a particular candidate or candidates for a particular election, may be erected and maintained otherwise unrestricted by this ordinance except that all such signs shall conform to the vision triangle requirements, shall not be erected in a highway right of way, shall not exceed 32 square feet in sign area, shall not be erected more than 70 days prior to the election and shall be removed not later than 10 days after the election.

[**History:** 10.81 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.82 REAL ESTATE SIGN REGULATIONS. (1) Real estate signs are permitted on all properties advertised for lease, sale or rent. Signs shall be removed within 30 days of occupancy, lease or sale.

[**History:** 10.82 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.83 SET BACK REGULATIONS. (1) All signs be located a minimum of 5 feet from the road right-of-way except as otherwise provided by this ordinance.

(2) A ground sign located on the premises of an existing business and whose bottom edge is less than 6 feet above ground level shall be set back the greater of the centerline distance or the right of way distance as specified in the following schedule:

<u>TYPE OF ROAD</u>	<u>FEET FROM CENTERLINE</u>	<u>FEET FROM RIGHT OF WAY</u>
Class A	100	42
Class B	75	42
Class C	63	30
Class D	not applicable	20
Class E	not applicable	30

(3) Ground and pylon signs shall be located a minimum of 5 feet from a side lot line.

[**History:** 10.83 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.84 WALL SIGN REGULATIONS. (1) The space on a building wall that is designated to be the wall sign area shall be free of windows and doors or major architectural detail.

(2) Wall signs shall not extend beyond the end of any wall or other surface to which they are mounted, nor shall they project more than 18 inches from its surface.

[**History:** 10.84 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.85 SUBDIVISION SIGN REGULATIONS.

(1) Permanent subdivision identification signs may be installed on the subdivision property at the primary entrances to the subdivision.

(2) A temporary development project identification sign is permitted to be located on site at each primary entrance. Maximum size of

the sign shall be not more than 144 square feet in area. Signs shall be removed within 30 days of the sale of all lots in the subdivision.

[**History:** 10.85 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.86 TEMPORARY SIGN REGULATIONS. (1)

Except as provided otherwise by this ordinance, any property is permitted to display temporary signs for a maximum of thirty days within any 12 month period. Furthermore, any property is limited to use of temporary signs a maximum of two times in any 12 month period. Political signs are exempt from this restriction.

(2) Events of public interest, such as a neighborhood, church or club fair, festival, bazaar, etc., may have one sign, not over 64 square feet in area, located upon the site of the event. Such sign shall not be erected more than 30 days before the event and shall be removed within 24 hours after the event.

(3) Directional signs, not more than four square feet in area, showing only a directional arrow and the name of the event are permitted. Such signs shall not be erected more than 10 days before the event and shall be removed within five days after the completion of the event.

[**History:** 10.86 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.87 REGULATIONS PERTAINING TO NONCONFORMING SIGNS AND USE. (1)

Signs existing prior to the effective date of this ordinance which do not conform to the provisions of the ordinance shall be nonconforming signs. Nonconforming signs shall not be rebuilt, altered, or moved to a new location without being brought into compliance with the requirements of this ordinance. Routine maintenance of a sign is permitted unless the cost exceeds 50% of the current value of the sign, if the maintenance cost is more than 50% of the value of the sign said sign shall be considered rebuilt.

(2) Signs advertising a nonconforming use may be continued but such signs shall not expand in number, copy area, height, or illumination. New signs may be erected only upon the complete removal of all nonconforming signs.

(3) Nonconforming signs shall be brought into compliance or removed when the principal use of the premises is changed to a different use.

[**History:** 10.87 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.88 VARIANCES. (1) Variances from the requirements of this chapter may be granted by the standing committee designated by the County Board upon application to and payment of a fee to the Zoning Administrator. Variances are limited as specified in this section.

(2) Variances may be granted from the maximums of height or area (but not both) for all signs regulated by this ordinance, except as limited by this section.

(3) Variances to maximum of height or area may not exceed maximums specified in this Chapter by more than 20%.

(4) Variances may not be granted to maximum height, to maximum area or to minimum separation requirements for off-premise advertising signs.

[**History:** 10.88 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.89 VARIANCE STANDARDS. (1)

Unnecessary hardship must be found as distinguished from a mere inconvenience. The finding of a hardship shall take into consideration the particular physical surroundings, shape or topographical conditions of the specific property involved.

(2) The conditions upon which the application for a variance is based would not be applicable generally to other property similarly situated.

(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 hardship or difficulty is caused by this 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, or injurious to other property or improvements in the neighborhood in which the property is located.

(6) The proposed variance will not impair an adequate supply of light and air to adjacent property, or endanger the public safety or substantially diminish or impair property values within the neighborhood.

[**History:** 10.89 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.90 CONDITIONS ON VARIANCES. (1) The Committee may impose such conditions or restrictions upon the sign and 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 in the neighborhood and to better carry out the general intent of this ordinance.

[**History:** 10.90 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.91 APPLICATIONS AND PERMITS. (1) The application for a permit to install or erect a sign shall contain such information as required by the Zoning Administrator.

(2) The Zoning Administrator shall issue a suitable identification tag with each sign permit. The identification tag shall be placed on the sign or on a support column in a location that is easily visible from the road or proximity of the sign.

(3) Fees established by chapter 12 supersede all other fees established in Chapters 10 and 78 of the Dane County Code of Ordinances.

[**History:** 10.91 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.92 PENALTIES. (1) Any person or persons, firm, company or corporation, owner, occupant or other user of the premises, who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this subchapter shall be subject to a forfeiture of not less than five dollars, nor more than two hundred dollars and costs. Each day that a violation is permitted to exist shall constitute a separate offense.

(2) Compliance herewith shall be enforced by injunctive order at suit of the County or occupant of real estate within the district affected by the regulations of this ordinance. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

(3) Any person who has the ability to pay any forfeiture entered against him under this ordinance but refuses to do so may be confined in the county jail until such forfeiture is paid, but in no event to exceed thirty (30) days. In determining whether an individual has the ability to pay a forfeiture, all items of income and all assets may be considered regardless of whether or not such income or assets are subject to garnishment, lien or attachment by creditors.

[**History:** 10.92 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

10.93 SEVERABILITY. (1) Should any section, clause or provision of this subchapter be declared by the courts to be invalid, the same shall not affect

the validity of this subchapter as a whole or any part thereof, other than the part so declared to be invalid.

[**History:** 10.93 cr., Sub. 2 to O.A. 6, 1989-90, pub. 09/21/90.]

(2) This subchapter shall be construed to repeal the provisions of any other ordinance in conflict with its provisions.

END OF CHAPTER

CHAPTER 11

**Shoreland, Shoreland-Wetland and
Inland-Wetland Regulations**

- 11.01 Dane County Shoreland, Shoreland-Wetland, Inland-Wetland and Flood Plain Management.
- 11.02 Shoreland District.
- 11.03 Shoreland Regulations.
- 11.04 Shore Cover.
- 11.05 Filling, Grading, Lagooning, Dredging and Excavating Ditching.
- 11.06 Shoreland-Wetland and Inland-Wetland Districts.
- 11.07 Permitted Uses in the Shoreland-Wetland and Inland-Wetland Districts.
- 11.08 Uses Which are Allowed in the Shoreland-Wetland and Inland-Wetland Districts Subject to the Issuance of a Zoning (Land Use) Permit.
- 11.09 Prohibited Uses.
- 11.10 Re-Zoning of Lands in the Shoreland-Wetland and Inland-Wetland Districts.

Flood Plain Regulations

- 11.11 Statutory Authorization, Finding of Fact, Statement of Purpose and Title.
- 11.12 General Provisions.
- 11.13 Regional Floodway District (FW).
- 11.14 Regional Flood Fringe District (FF).
- 11.15 General Flood Plain District (GFP).
- 11.16 Flood Storage District.
- 11.17 Non-Conforming Uses.
- 11.18 Administration.
- 11.19 Amendments.
- 11.195 Map Amendments.
- 11.196 Map Amendments.
- 11.20 Enforcement and Penalties.
- 11.21 Definitions.

11.01 DANE COUNTY SHORELAND, SHORELAND-WETLAND AND INLAND-WETLAND. The county is specifically empowered to regulate these management districts under sections 59.971 and 33.455, Wis. Stats.
[History: am., Sub. 2 to OA 21, 1993-94, pub. 09/30/94; am., Sub. 1 to OA 47, 1993-94, pub. 03/22/95.]

11.015 DEFINITIONS. As used in this chapter, the following words and phrases have the meanings indicated:

- (1) *Board of Adjustment.* The body established under Chapter 59.99, Wisconsin Statutes, for counties and designated "board of adjustment."
- (2) *Boathouse.* A building for the storage of boats, canoes and other water craft and their accessories.
- (3) *Channel.* A channel is a natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.
- (4) *Department of Natural Resources.* The department of natural resources of the State of Wisconsin.
- (5) *Development.* Any manmade change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings. Other structures, or accessory uses, the placement of mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations, deposition of materials.
- (6) *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.
- (7) *Land Use.* Any "development" as defined in 11.21(i).
- (8) *Non-Conforming Structure.* An existing lawful structure or building which is not in conformity with the provisions of the applicable zoning ordinance for the area which it occupies.
- (9) *Non-Conforming Use.* A lawful use that existed prior to adoption of a zoning ordinance which restricts or prohibits said use.
- (10) *Ordinary high-water mark* means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
- (11) *Inland-Wetlands.* These wetlands include all wetlands located throughout unincorporated Dane County that are not within the county shoreland district, i.e., not located within 1,000 feet from the ordinary high-water mark of navigable lakes, ponds or flowages, and also not located within 300 feet of the ordinary high-water mark or landward side of the flood plain of the navigable reaches of rivers and streams.
- (12) *Special Exception* means a use which is permitted by this ordinance provided that certain

conditions are met and that a permit is granted by the board of adjustment.

(13) *Wetlands* means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

[History: 11.015 cr., Sub. 1 to OA 47, 1993-94, pub. 03/22/95.]

11.02 SHORELAND DISTRICT. (1) *Authority:* This shoreland protection section is adopted pursuant to the authorization found in sections 59.07(51), 59.97, 59.971, 87.30 and 144.26, Wis. Stats.

(2) *Legislative Finding:* The county board does find that the uncontrolled use of the shorelands and pollution of the navigable waters of Dane County adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin had delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and, preserve shore cover and natural beauty, and this responsibility is hereby recognized by Dane County.

(3) *Statement of purpose:* For the purpose of promoting and protecting the public health, safety, convenience and general welfare to: prevent and control water pollution; protect fish spawning grounds, fish and aquatic life, control building sites, placement of structures, preserve shore cover and natural beauty.

(4) *Compliance:* Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when section 13.48(13), Wisconsin Statutes, applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when section 30.12(4)(a), Wisconsin Statutes, applies.

(5) *County Jurisdiction:* (a) Shoreland areas shall include all lands in the unincorporated areas of Dane County which are within 1,000 feet from the ordinary high-water mark of navigable lakes, ponds or flowages listed in the "Surface Water Resources of Dane County" published by the Wisconsin Department of Natural Resources, or so

designated on the United States Geological Survey Quadrangle Maps, or included on other county zoning base maps, and all lands which are within 300 feet of the ordinary high-water mark or landward side of the flood plain of the navigable reaches of rivers and streams. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on U.S.G.S. Quadrangle Maps or other zoning base maps which have been incorporated by reference and made a part of the ordinance in section 10.03 of this ordinance.

(b) The county zoning administrator shall make the initial determination of whether or not a lake, pond flowage, river or stream is navigable.

(c) The county zoning administrator shall make the initial determination of the location or elevation of the ordinary high-water mark.

(d) When the navigability or ordinary high-water mark is questionable the zoning administrator shall contact the appropriate department of natural resources office for assistance in making the determination.

11.03 SHORELAND REGULATIONS. (1) *Lot area, width and density:* Area, width and density requisites for lots located in shoreland areas shall not be less than those required in section 10.05(4) and (5), R-1 Residence District, section 10.16(3), General Provisions and Exceptions of Chapter 10 of the Dane County Code of Ordinances.

(2) *Setback from ordinary high-water mark:* (a) Setbacks for all principal buildings and structures, except piers, hoists and boathouses shall be not less than seventy-five (75) feet, measured horizontally, from an ordinary high-water mark unless otherwise specified by the County Flood Plain Zoning Ordinance provisions.

(b) *Reduced setback:* Proposed primary buildings which will be located within 200 feet of existing primary building(s), which have a setback of less than 75 feet, may have a reduced setback as follows:

1. Where there is a primary building on each side of the proposed site, the setback for the proposed building shall be the average of the setbacks of the existing buildings.

2. If there is an existing primary building on only one side, the setback for the proposed building shall be the average of the required (75') setback and the existing building's setback.

3. Other setbacks may be permitted by the board of adjustment as per section 10.26(6)(c), Dane County Zoning Ordinance.

(3) **Boathouses:** (a) Boathouses shall not be constructed below the ordinary high-water mark.

(b) Boathouses shall not be utilized for human habitation.

7 (c) Height of a boathouse shall be measured vertically from the ordinary high-water mark. Railings may be placed on top of the boathouse provided the railing is not solid in appearance and not greater than 3.5 feet in height.

(d) The maintenance and repair of non-conforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of section 30.121 of the Wisconsin Statutes.

11.04 SHORE COVER. (1) *Purpose:* To maintain trees and shrubbery in the shoreland areas for protection of scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland. These provisions shall not apply to the removal of dead, diseased or dying trees or shrubbery or to silvi-cultural thinning upon recommendation of a forester.

(2) *Shoreline cutting:* Tree and shrubbery cutting in a strip paralleling the shoreline and extending 35 feet inland from all points along the ordinary high-water mark of the shoreline shall be limited in accordance with the following provisions:

(a) No more than 30 feet in any 100 feet, as measured along the ordinary high-water mark, may be clear cut to the depth of the 35 foot strip.

(b) Natural shrubbery shall be preserved as far as practicable and, where removed, it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

(3) *Alternate cutting:* A special cutting plan allowing greater cutting may be permitted by the board of adjustment by issuance of a special exception permit, under section 10.26(6)(b). In applying for such a permit, the board shall require the lot owner to submit a sketch of his or her lot, including the following information:

location of parking, gradient of the land, existing vegetation, proposed cutting, and proposed replanting. The board may grant such a permit only if it finds that such special cutting plans will not cause undue erosion or destruction of scenic beauty, and will provide substantial shielding from the water of swellings, accessory structures and parking areas. Where the plan calls for replacement plantings, the board may require the

submission of a bond which guarantees the performance of the planned tree or shrubbery planting by the lot owner.

(4) *Paths:* Any path, road or passage within the 35 foot strip shall be constructed and surfaced as to effectively control erosion.

(5) *Cutting more than 35 feet inland:* From the inland edge of the 35 foot strip to the outer limits of the shoreland, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management practices and sound soil conservation practices which protect water quality.

11.05 FILLING, GRADING, LAGOONING, DREDGING AND EXCAVATING DITCHING. (1)

General standards: Filling, grading, lagooning, dredging, ditching, or excavating which does not require a permit under section 11.05(2) is permitted in the shoreland area provided that:

(a) It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.

(b) Any fill placed in a shoreland area is protected against erosion by use of rip-rap, bulkhead or vegetative covering.

(c) Any filling, grading, lagooning, dredging, ditching or excavating in a Shoreland-Wetland District shall comply with sections 11.07 and 11.08 of this ordinance.

(2) Permits are not required for the following:

(a) Septic system installations for private use.

(b) Construction of single family or duplex residences.

(c) Soil conservation and stream protection practices such as terraces, run-off diversions, grassed waterways, cattle and equipment crossings, cattle watering access, etc., when planned by S.C.S.

(3) *Permit required:* Except as provided in section 11.05(2), a special exception permit is required for:

(a) Any filling or grading of any area which is within 300 feet of the ordinary high-water mark of a navigable water and which has surface drainage toward the water.

(b) Any filling or grading on slopes of 20% or more.

(c) Filling or grading of more than 1,000 square feet on slopes of 12% - 20%.

(d) Filling or grading of more than 2,000 square feet on slopes of 12% or less.

(e) Constructing, dredging or commencing work on any artificial waterway, canal, ditch, lagoon,

pond, lake or similar waterway which is within 300 feet of the ordinary high-water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

(f) Any deposition of dredged spoils in areas described as per (a) through (d) above.

(4) *Permit conditions:* In considering a special exception permit the board of adjustment shall evaluate the effect of the proposal as to possible water pollution, including erosion and sedimentation, harmful changes to fish life or aquatic plants, maintenance of safe and healthful conditions:

(a) In granting a special exception permit, the board of adjustment shall attach the following conditions where appropriate:

1. The smallest amount of bare ground shall be exposed for as short a time as feasible.

2. Temporary ground cover (such as mulch) shall be used and permanent cover (seeding or sod) shall be planted.

3. Diversion, silting basin, terraces and other methods shall be used to trap sediment.

4. Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions.

5. Fill shall be stabilized according to accepted engineering standards.

6. Fill shall not restrict a floodway or destroy the storage capacity of a flood plain.

7. Sides of a channel or artificial water course shall be stabilized to prevent slumping.

8. Sides of channels or artificial watercourses shall be constructed with slopes (side) of 2 units horizontal distance to one unit vertical or flatter, unless bulkheads or rip-rapping are provided.

9. Other specifications found in the USDA-SCS Technical Guide may be required by the board of adjustment.

(5) *Department of Natural Resources:* (a) Written notice shall be given to the appropriate district office of the department of natural resources at least 10 days prior to hearing on proposed shoreland variances, special exceptions (conditional uses), appeals for map or text interpretations, and map or text amendments.

(b) Copies of decisions on shoreland variances, special exceptions (conditional uses), appeals for map or text interpretations, and map or text amendments shall be submitted to the appropriate district office of the department of natural resources within 10 days after they are granted or denied.

11.06 SHORELAND-WETLAND AND INLAND-WETLAND DISTRICTS. (1) Purpose:

This ordinance is adopted to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty, to conserve inland wetland areas occurring throughout the unincorporated areas of Dane County, and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner consistent with state and federal law that minimizes adverse impacts upon the wetland.

(2) *Designation:* (a) The shoreland-wetland district shall include all shorelands which are designated as wetlands of two acres or more in area on the Wisconsin Wetland Inventory Maps of 1986 (or subsequent appropriate year) applicable to Dane County.

(b) The inland-wetland district shall include all non-shoreland wetlands, as shown on the Wisconsin Wetland Inventory Maps, which are two acres or more in area and located in the unincorporated territory of Dane County.

(c) The Wisconsin Wetland Inventory Maps are incorporated herein by reference and are on file in the office of the Dane County Zoning Administrator. Wetlands that extend across the corporate limits of an adjacent municipality or across the shoreland boundary shall be included in the appropriate wetland district if the total contiguous wetland area is two acres or more in area.

(4) *Discrepancies:* When an apparent discrepancy exists between the shoreland-wetland district shown on the official wetlands inventory maps and actual field conditions at the time the maps were adopted, involving an area of five acres or more in size, the zoning administrator shall contact the appropriate field office of the Department to determine if the shoreland-wetland district as mapped is in error. If the department staff concur with the zoning administrator that a particular area of five acres or more in size was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a land use permit in accordance with the regulations applicable to the correct zoning district.

(5) In order to correct wetland mapping errors shown on the official zoning map, the zoning administrator shall initiate a shoreland-wetland or inland-wetland map amendment within a reasonable period of time.

[History: (2) am., (3) renum. as (4) and (5) and (3) recreated, OA 16, 1991-92, pub. 02/18/92; (1), (2), (3), (4) and (5) am., Sub. 2 to OA 21, 1993-94, pub. 09/30/94; (3) rep., Sub. 2 to OA 47, 1993-94, pub. 03/22/95.]

11.07 PERMITTED USES IN THE SHORELAND-WETLAND AND INLAND-WETLAND DISTRICTS.

The following uses shall be allowed, subject to general shoreland and inland zoning regulations in section 11.01 through 11.05 of this Ordinance, the provisions of Chapters 30, 31 and 33 of the Wisconsin Statutes, and the provisions of other state and federal laws, if applicable:

(1) Activities and uses which do not require the issuance of a zoning permit: Said uses must be carried out without filling, flooding, draining, dredging, ditching, tiling or excavating:

(a) Hiking, fishing, trapping, hunting, swimming and boating;

(b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;

(c) The practice of silviculture, including the planting, thinning and harvesting of timber;

(d) The pasturing of livestock;

(e) The cultivation of agricultural crops;

(f) The construction and maintenance of duck blinds.

(2) Uses which do not require the issuance of a zoning permit and which may involve filling, flooding, draining, dredging, ditching, tiling, or excavating to the extent specifically provided below:

(a) Temporary water level stabilization measures, in the practice of silviculture, which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;

(b) Flooding, dike and dam construction and ditching for the purpose of growing and harvesting cranberries; and

(c) Ditching, tiling, dredging, excavating or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use and only where permissible under section 30.20 Wisconsin Statutes. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system, provided that the dredged spoil is placed on existing spoil banks

where possible and such filling is permissible under Chapter 30, Wisconsin Statutes.

(d) Limited excavating and filling necessary for the construction and maintenance of fences for the pasturing of livestock.

(e) Limited excavating and filling necessary for the construction and maintenance of piers, docks and walkways built on pilings.

(f) Limited excavating and filling necessary for the maintenance, repair, replacement or reconstruction of existing town and county highways and bridges.

[History: intro. par. am., Sub. 2 to OA 21, 1993-94, pub. 09/30/94.]

11.08 USES WHICH ARE ALLOWED IN THE SHORELAND-WETLAND AND INLAND-WETLAND DISTRICTS SUBJECT TO THE ISSUANCE OF A ZONING (LAND USE) PERMIT.

(1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:

(a) The road cannot as a practical matter be located outside the wetland; and

(b) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetlands and meets the following standards:

1. The road shall be designed and constructed as a single land roadway with only such depth and width necessary to accommodate the machinery required to conduct agricultural and silvicultural activities;

2. Road construction activities are to be carried out in the immediate area of the roadbed only; and

3. Any filling, flooding, draining, dredging, ditching, tiling or excavating that is to be done must be necessary for the construction or maintenance of the road.

(2) The construction and maintenance of nonresidential buildings used solely in conjunction with raising of waterfowl, minnows or other wetland or aquatic animals or used solely for some other purpose which is compatible with wetland preservation, if such building cannot as a practical matter be located outside the wetlands, provided that:

(a) Any such building does not exceed 500 square feet in floor area; and

(b) No filling, flooding, draining, dredging, ditching, tiling or excavating is to be done;

(3) The establishment and development of public and private parks and recreation areas, boat

access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, provided that:

(a) Any private recreation or wildlife habitat area must be used exclusively for that purpose;

(b) No filling is to be done; and

(c) Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or otherwise enhance wetland values.

(4) The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, provided that:

(a) The transmission and distribution lines and related facilities cannot as a practical matter be located outside the wetland; and

(b) Any filling, excavating, ditching or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.

(5) The construction and maintenance of railroad lines, provided that:

(a) The railroad lines cannot as a practical matter be located outside the wetland; and

(b) Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon natural functions of the wetland.

[History: caption am., Sub. 2 to OA 21, 1993-94, pub. 09/30/94.]

11.09 PROHIBITED USES. Any use not listed in sections 11.07 and 11.08 is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 11.10 of this Ordinance.

11.10 REZONING OF LANDS IN THE SHORELAND-WETLAND AND INLAND-WETLAND DISTRICTS.

(1) Rezoning of a wetland or portion of a wetland shall be by an amendment to this ordinance and the related wetland maps in accordance with the requirements of section 59.97(5)(e), Wisconsin Statutes, Chapter NR 115,

Wisconsin Administrative Code and section 11.10(2), following.

(2) A wetland, or a portion thereof, in the shoreland-wetland or inland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

(a) Storm and flood water storage capacity;

(b) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;

(c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;

(d) Shoreline protection against soil erosion;

(e) Fish spawning, breeding, nursery or feeding grounds;

(f) Wildlife habitat; or

(g) Areas of special recreational, scenic or scientific interest, including scarce wetland types.

(3) For all proposed text and map amendments to the shoreland-wetland district, involving an area of five acres or more in size, the appropriate district office of the department of natural resources shall be provided with the following:

(a) A copy of every petition for a text or map amendment to the shoreland-wetland district, within 5 days of the filing of such petition with the county clerk;

(b) Written notice of the public hearing to be held on a proposed amendment, at least 10 days prior to such hearing;

(c) A copy of the county zoning agency's finding and recommendations on each proposed amendment, within 10 days after the submission of those findings and recommendations to the county board; and

(d) Written notice of the county board's decision on the proposed amendment, within 10 days after it is issued.

(4) This ordinance shall not be construed or administered to limit or prohibit federally approved wetlands mitigation projects implemented pursuant to applicable federal and state requirements.

(5) If the department of natural resources has notified the county zoning agency that a proposed amendment to the shoreland-wetland district affecting a designated wetland area of five acres or more in size may have a significant adverse impact upon any of the criteria listed in section 11.10(2) of this ordinance, that amendment, if approved by the county board, shall contain the following

provision: "This amendment shall not take effect until more than 30 days have elapsed since written notice of the county board's approval of this amendment was mailed to the department of natural resources. During that 30-day period the department of natural resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under section 59.971(6) of the Wisconsin Statutes. If the department does so notify the county board, the effect of this amendment shall be stayed until the section 59.971(6) adoption procedure is completed or otherwise terminated."

[History: caption, (1), (2), (3) and (4) am., and (5) cr., Sub. 2 to OA 21, 1993-94, pub. 09/30/94.]

[History: 11.11 - 11.15 rep., Sub. 2 to OA 47, 1993-94, pub. 03/22/95.]

[History: 11.16 cr., zoning OA #3613, 1986-87, adopted 05/01/86; 11.16 renum. as 17.81, Sub. 2 to OA 47, 1993-94, pub. 03/22/95.]

[History: 11.17 - 11.21 rep., Sub. 2 to OA 47, 1993-94, pub. 03/22/95.]

END OF CHAPTER

CHAPTER 12

ZONING FEES

- 12.01 Title.
- 12.02 Authority.
- 12.03 Single Family and Duplex Residences.
- 12.04 Agricultural Buildings.
- 12.05 Permit Fees.
- 12.06 Exemptions From Fees.
- 12.07 Disposition of Fees.
- 12.08 Permits And Fees.

12.01 TITLE. This Chapter may be cited as the Dane County Zoning Fee Ordinance.

12.02 AUTHORITY. This Chapter is enacted under the authority of Section 59.07(16), (16m) and (68), Wis. Stats.

12.03 SINGLE FAMILY AND DUPLEX RESIDENCES. (1) For construction of new single family and duplex residences the fee shall be \$50.00 plus \$0.035 for each square foot of floor area including basements and attached garages.

(2) For additions to or alterations of existing single family and duplex residences the fee shall be \$50.00 plus \$1.00 for each \$1,000 or fraction thereof of construction costs.

(3) For construction, including additions or alterations, of commercial and multi-family structures, the fee shall be \$100.00 plus \$1.50 for each \$1,000 of construction cost or fraction thereof, provided that the fee per \$1,000 of construction cost shall only apply to the first \$1,000,000 of such cost.

(4) Measurements are to be made using outside dimensions. When computed, the fee amount shall be rounded to the nearest dollar.

[History: am., Sub. 1, OA 8, 1986-87, adopted 12-12-86; am., OA 19, 1990-91, pub. 11/30/90.]

12.04 ALL OTHER BUILDINGS. (1) The fee for all new construction, alterations and additions to existing buildings and buildings used for agricultural purposes where a permit is required because of locational requirements of board of adjustment, except as provided in section 12.03, shall be \$50.00 plus \$1.00 for each \$1,000 or fraction thereof of construction costs.

(2) Cost of construction shall include the cost of mechanical equipment, but not including the cost of manufacturing or processing equipment or

machinery, site preparation, sewage disposal systems, utility lines and landscaping.

[History: 12.04 am., Sub. 1 to OA 8, 1986-87, adopted 12-12-86; (1) am., OA 19, 1990-91, pub. 11/30/90.]

12.05 PERMIT FEES. (2) The fee for a zoning permit to place fill, grade or excavate in a flood plain area shall be \$75.00.

(3) The fee for a petition to amend the zoning ordinance shall be \$100.00.

(4) The fee for a conditional use permit shall be \$100.00.

(5) The fee for a variance \$85.00.

(6) The fee for a certificate of compliance for buildings constructed prior to August 20, 1970, and all other certificates provided for in chapter 10 shall be \$10.00.

(7) The fee for a salvage yard license or renewal shall be \$30.00.

(8) The fee for a petition to amend the zoning ordinance and for a conditional use permit filed jointly for the same parcel of land shall be \$150.00.

(9) The fee for each zoning certificate under the Wisconsin Farmland Preservation Act shall be \$10.00.

(a) Whenever a farm is located in two townships and two certificates are required, only one fee shall be charged.

(10) The fee for a special exception permit shall be \$85.00.

[History: am., Sub. 1 to OA 8, 1986-87, ad. 12-12-86; (8) and (9) rep., Sub. 2, OA 6, 1989-90, pub. 9/21/90; am. and (1), (11) and (12) rep., OA 19, 1990-91, pub. 11/30/90.]

12.06 EXEMPTIONS FROM FEES. (1) The following types of petitions and permits shall be exempt from fees:

(a) Petitions to amend the text of the ordinances when filed by a county board supervisor.

(b) Petitions to amend the zoning maps and applications for conditional use permits, special exception permits and variances if the land is owned by a municipality and the governing body thereof submits the petition or applications.

(c) Zoning permits for municipally owned buildings.

(d) Permits for construction or maintenance of farm drainage ditches and soil conservation practices in a flood plain area.

(e) On a one time basis, a town board may petition to amend its zoning district maps for the

purpose of implementing its land use plan without the necessity of a filing fee. It shall be the responsibility of the town board to notify owners of land that will be affected by the proposed change in the zoning district boundaries.

(f) Petitions to amend zoning maps made by a town board when it determines that it or its agent has made an error and the landowner requests correction of the error. The circumstances surrounding the claimed error shall be reported on the petition for rezoning.

(g) Petitions to amend zoning maps when the zoning administrator determines that an error has been made by county staff and the affected landowner requests the change. The zoning administrator shall promptly report any such waiver to the zoning agency, as defined in s. 11.20(1)(kk), Dane County Ordinances, which shall have the authority to set aside the administrator's decision if it finds waiver is not justified. Any person requesting a waiver may ask the zoning agency to review the decision of the administrator denying the request.

(h) All permits and petition fees when the land involved is owned or leased by the county and when the petition is presented, or the permit applied for, by the county executive or his or her designee or any county board supervisor.

(i) Any petition to rezone lands by the owner of the property to the zoning classification of CO-1 conservancy district.

(j) Any petition to place any lands in the historic district overlay under sec. 10.157 of this code of ordinances.

(2) When a petition pending before the county board is exempt from fees under this section that fact shall be noted on the county board calendar, along with citation to the specific provision authorizing the waiver under this section.

[History: am., Sub. 1 to OA 7, 1985-86, pub. 11/07/85; (1)(i) cr., OA 25, 1988-89, pub. 03/29/89; (1)(j) cr., OA 40, 1990-91, pub. 05/21/91.]

12.07 DISPOSITION OF FEES. (1) Fees collected under this chapter shall be accounted for and paid into the general fund of Dane County as are other monies collected by the county. A receipt shall be issued for each fee collected.

(2) Any fee, once paid, is not refundable.

12.08 PERMITS AND FEES. (1) Permits are required for the installation, erection or alteration of the types of signs listed below. The repainting, changing of parts, and preventive maintenance of signs which completely conform to the requirements of chapter 10 shall not be deemed alterations requiring a sign permit.

(2) Fees are imposed according to the following schedule:

<u>TYPE OF SIGN:</u>	<u>FEE</u>
APARTMENT COMPLEX	\$ 25.00
BILLBOARDS	\$100.00
(Each Face)	
DEVELOPMENT	\$ 25.00
(Each Face)	
DIRECTORY	\$ 50.00
(Each Face)	
HOME OCCUPATION	\$ 10.00
LIMITED FAMILY	\$ 10.00
BUSINESS	
ON-PREMISE ADVERTISING	\$ 50.00
(Each Sign)	
MARQUEE (Each Sign)	\$ 50.00
SUBDIVISION	\$ 50.00
(Permanent)	

(3) Signs not listed are exempt from any fee and permit requirements.

(4) The term sign and the various types of signs listed in sub. (2) of this section have the meanings set forth in sec. 10.71.

[History: cr., Sub. 2 to OA 6, 1989-90, pub. 9/21/90.]

END OF CHAPTER

CHAPTER 14**Subchapter I
MANURE STORAGE**

- 14.01 Title.
- 14.02 Authority.
- 14.03 Findings and Declaration of Policy.
- 14.04 Purpose.
- 14.05 Applicability.
- 14.06 Definitions.

[14.07 - 14.10 reserved for future use.]

- 14.11 General Requirement.
- 14.12 Compliance with Permit Requirements.
- 14.13 Standard for Earthen Manure Storage Facilities.
- 14.14 Standard for Animal Waste Management and Utilization.

[14.15 - 14.20 reserved for future use.]

- 14.21 Permit Required.
- 14.22 Exception to Permit Requirement.
- 14.23 Fee.
- 14.24 Earthen Manure Storage Facility Plan Required.
- 14.25 Review of Application.
- 14.26 Permit Conditions.
- 14.27 Permit Revocation.

[14.28 - 14.30 reserved for future use.]

- 14.31 Delegation of Authority.
- 14.32 Administrative Duties.
- 14.33 Inspection Authority.
- 14.34 Enforcement Authority.

[14.35 - 14.49 reserved for future use.]

**Subchapter II
EROSION CONTROL SYSTEM**

- 14.50 Authority.
- 14.51 Definitions.
- 14.52 Legislative Finding.
- 14.53 Applicability of Requirement for Erosion Control Plans.
- 14.54 Requirements for Specific Erosion Control Plans.
- 14.55 Filing of Erosion Control Plan.
- 14.56 Administration and Enforcement.
- 14.57 Variances and Appeals.

[14.58 - 14.59 reserved for future use.]

- 14.60 One- And Two-Family Dwelling Erosion Control.

[14.61 - 14.70 reserved for future use.]

- 14.71 Appeals.
- 14.72 Procedure on Appeals.
- 14.73 Who May Appeal.

[14.74 - 14.80 reserved for future use.]

- 14.81 Penalties.
- 14.82 Enforcement by Injunction.

[14.83 - 14.96 reserved for future use.]

- 14.97 Interpretation.
- 14.98 Severability Clause.
- 14.99 Effective Date.

[History: Ch. 14 cr., Sub. 2 to OA 13, 1987-88, pub. 03/19/88.]

**Subchapter I
Manure Storage**

14.01 TITLE. This ordinance shall be known as, referred to, and may be cited as the Dane County Manure Storage Ordinance and is hereinafter referred to as *this ordinance*.

14.02 AUTHORITY. This ordinance is adopted under authority granted by sections 59.07(51) and 92.16, Wis. Stats.

14.03 FINDINGS AND DECLARATION OF POLICY. (1) The Dane County Board of Supervisors finds that storage of manure in earthen storage facilities not meeting technical design and construction standards may cause pollution of the surface and ground waters of Dane County, and may result in actual or potential harm to the health of county residents and transients; to livestock, aquatic life and other animals and plants; and to the property tax base of Dane County.

(2) The Dane County Board of Supervisors also finds that improper land application, of stored manure, may cause pollution of the ground and surface water of Dane County.

(3) The Dane County Board of Supervisors further finds that the technical standards developed by the U.S.D.A. Soil Conservation Service and adopted by the Dane County Land Conservation Committee provide effective, practical, and environmentally safe methods of storing and utilizing animal waste.

14.04 PURPOSE. The purpose of this ordinance is to regulate the design and construction of earthen manure storage facilities; prevent water pollution and thereby protect the health of Dane County residents and transients; prevent the spread of disease; and promote the prosperity and general welfare of the citizens of Dane County. It is also intended to provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

14.05 APPLICABILITY. This ordinance applies to the entire geographical area of Dane County.

14.06 DEFINITIONS. As used in this ordinance, the following words and phrases have the meanings indicated:

- (1) *Animal manure* means livestock excreta and other materials such as bedding, water, soil, hair, feathers, and other debris normally included in animal waste handling operations.
- (2) *Applicant* means any person who applies for a permit under this ordinance.
- (3) *Earthen manure storage facility* means a facility constructed of earth dikes, or pits and ponds used for temporary storage of animal waste.
- (4) *Permit* means the signed, written statement issued by the zoning administrator under this ordinance authorizing the applicant to construct, install, reconstruct, enlarge, or substantially alter earthen manure storage facility, and to use or dispose of waste from the facility.
- (5) *Permittee* means any person to whom a permit is issued under this ordinance.
- (6) *Person* means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.
- (7) *Technical Guide* means the United States Department of Agriculture (U.S.D.A.) Soil Conservation Service Technical Guide as adopted by the Dane County Land Conservation Committee.
- (8) *Water pollution* means contaminating or rendering unclean or impure the ground or surface waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

[14.07 - 14.10 reserved for future use.]

14.11 GENERAL REQUIREMENT. Any person who designs and constructs an earthen manure storage facility or who employs another person to do the same, on land subject to this ordinance, shall be subject to the provisions of this ordinance.

14.12 COMPLIANCE WITH PERMIT REQUIREMENTS. A person is in compliance with this ordinance if he or she follows the procedures of this ordinance, receives a permit from the zoning administrator before beginning activities

subject to regulation under this section, and complies with the requirements of the permit.

14.13 STANDARD FOR EARTHEN MANURE STORAGE FACILITIES. The standards for design and construction of earthen manure storage facilities are those in standard 425 of the Technical Guide.

14.14 STANDARD FOR ANIMAL WASTE MANAGEMENT AND UTILIZATION. The standards for management of manure facilities and utilization of manure are those in standard 633 of the Technical Guide.

[14.15 - 14.20 reserved for future use.]

14.21 PERMIT REQUIRED. No person may undertake an activity subject to this ordinance without obtaining a permit from the zoning administrator prior to beginning the proposed activity.

14.22 EXCEPTION TO PERMIT REQUIREMENT. Emergency repairs to an earthen manure storage facility, such as repairing a broken pipe or equipment, leaking dikes, or the removal of stoppages, may be performed without a permit. If repairs will significantly alter the original design and construction of the storage facility, a report shall be made to the zoning administrator for determination as to whether a permit will be required for any additional alteration or repair to the facility. The zoning administrator shall consult with the land conservation committee staff prior to rendering a determination.

14.23 FEE. There shall be no fee for a permit under this ordinance.

14.24 EARTHEN MANURE STORAGE FACILITY PLAN REQUIRED. Each application for a permit under this section shall include an earthen manure storage facility plan. The plan shall specify:

- (1) The number and kinds of animals for which storage is provided.
- (2) A sketch of the facility and its location in relation to buildings within 250 feet and homes within 500 feet of the proposed facility. The sketch shall be drawn to scale, with a scale no smaller than 1 inch = 100 feet.
- (3) The structural details, including dimensions, cross sections, and concrete thickness.

(4) The location of any wells within 300 feet of the facility.

(5) The soil test pit locations and soil descriptions to a depth of at least three feet below the planned bottom of the facility.

(6) The elevation of groundwater or bedrock if encountered in the soil profile and the date of any such determinations.

(7) Provisions for adequate drainage and control of runoff to prevent pollution of surface water and groundwater. If a navigable body of water lies within 500 feet of the facility, the location and distance to the body of water shall be shown. If no such body of water lies within 500 feet of the proposed facility, a statement to that effect shall be placed on the face of the application.

(8) The scale of the drawing and the north arrow.

(9) A time schedule for construction of the facility.

(10) A description of the method used in transferring animal waste into and from the facility.

(11) Plans for utilization of manure, including the amount of land available for application of manure, identification of the areas where manure will be used, soil types and any limitations on manure application due to soil limitations, type and proximity of bedrock or water table, slope of land, and proximity to surface water.

14.25 REVIEW OF APPLICATION. The zoning administrator shall receive and review all permit applications. The zoning administrator shall determine if the proposed facility meets required standards set forth in section 14.24 of this ordinance. In making this determination, the zoning administrator shall consult with the land conservation committee staff. Within 30 working days after receiving the completed application, the zoning administrator shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the zoning administrator shall so notify the permit applicant. The zoning administrator has 10 working days from the receipt of the additional information in which to approve or disapprove the application. If the zoning administrator fails to approve or disapprove the permit application in writing within 40 days of the receipt of the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

14.26 PERMIT CONDITIONS. (1) All permits issued under this ordinance shall be issued subject to the following conditions and requirements:

(a) Earthen manure storage facility designs and constructions shall be carried out in accordance with the earthen manure storage facility plan and applicable standards specified in section 14.24 of this ordinance.

(b) The permittee shall give (2) working days notice to the zoning administrator before starting any construction activity authorized by the permit.

(c) Approval in writing must be obtained from the zoning administrator prior to any modifications to the approved manure storage facility plan.

(d) The permittee and, if applicable, the contractor, shall certify in writing that the facility was installed as planned.

(2) Activities authorized by permit must be completed within two years from the date of issuance after which such permit shall be void.

14.27 PERMIT REVOCATION. The zoning administrator may revoke any permit issued under this ordinance if the holder of the permit has misrepresented any material fact in the permit application or animal waste facility plan, or if the holder of the permit violates any of the conditions of the permit.

[14.28 - 14.30 reserved for future use.]

14.31 DELEGATION OF AUTHORITY. The County of Dane hereby designates its zoning administrator to administer and enforce this ordinance. The zoning administrator shall seek the technical advice of the Dane County Land Conservation Committee staff in the administration and enforcement of this ordinance.

14.32 ADMINISTRATIVE DUTIES. In the administration and enforcement of this ordinance, the zoning administrator shall:

(1) Keep an accurate record of all permit applications, animal waste facility plans, permits issued, inspections made, and other official actions.

(2) Review permit applications and issue permits in accordance with section 14.25 of this ordinance.

(3) Inspect animal waste facility construction to insure the facility is being constructed according to plan specifications.

(4) Investigate complaints relating to compliance with the ordinance.

(5) Perform other duties as specified in this ordinance.

14.33 INSPECTION AUTHORITY. The zoning administrator is authorized to enter upon any lands affected by this ordinance in order to inspect such lands prior to or after permit issuance for the purpose of determining compliance with this ordinance. If permission cannot be received from the applicant or permittee, entry by the zoning administrator shall be according to sections 66.122 and 66.123, Wis. Stats.

14.34 ENFORCEMENT AUTHORITY. (1) The zoning administrator is authorized to post an order stopping work upon land which has had a permit revoked or on land currently undergoing activity in violation of this ordinance. Notice is given by both posting upon the land where the violation occurs one or more copies of the poster stating the violation, and by mailing a copy of the order by certified mail to the person whose activity is in violation of this ordinance. This order shall specify that the activity must cease or be brought into compliance within 30 days.

(2) Any permit revocation or order stopping work shall remain in effect until rescinded by the zoning administrator, or a court of general jurisdiction; or until the activity is brought into compliance with the ordinance. The zoning administrator is authorized to refer any violation of this ordinance or of an order stopping work issued pursuant to this ordinance to the corporation counsel for commencement of further legal proceedings.

[14.35 - 14.49 reserved for future use.]

Subchapter II Erosion Control System

14.50 AUTHORITY. Sections 14.50 through 14.57, inclusive, are created under the authority of sec. 59.974 and sec. 33.455(3) of the Wisconsin Statutes.

[History: am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

14.51 DEFINITIONS. As used in sections 14.52 through 14.57, inclusive, the following words have the definitions indicated:

(1) **LCC** means the Dane County Land Conservation Committee created under sec. 92.06 of the Wisconsin Statutes.

(2) **LCC staff** refers to staff of the land conservation committee as authorized under s. 92.09 of the Wisconsin Statutes.

(3) **Plan** means the erosion control plan required by sec. 14.53.

(4) **Sensitive areas** refers to lakes, perennially flowing streams, or wetlands regulated by Dane County.

(5) **Soil loss rate** means the rate at which soil movement occurs as a result of sheet and rill erosion and does not apply to ditches or areas of concentrated flows.

(6) **No increase in surface water drainage** means all calculated post-construction discharges from any regulated site for a two-year and a 10-year storm shall not be greater than pre-construction peak discharges. Where permanent on-site detention is used for runoff control, the detention facilities shall safely contain and/or safely pass the runoff of a 100-year storm of any duration.

(7) **Site** means the bounded area described in an erosion control plan upon which regulated soil disturbing activity takes place.

[History: (4), (5), (6) and (7) cr., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

14.52 LEGISLATIVE FINDING. The county board of supervisors of Dane County finds that soil erosion from land disturbing activities and subsequent development can disturb natural cover and land surfaces resulting in a change in runoff patterns that may have a detrimental effect on water quality and downstream uses; these activities and impacts may cause damage to adjoining properties that should be strictly regulated. Further, effective sediment and storm water management depends upon proper planning, design and timely installation of conservation practices as well as continuing maintenance practices.

[History: am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

14.53 APPLICABILITY OF REQUIREMENT FOR EROSION CONTROL PLANS.

(1) Any land disturbing activity occurring anywhere within the territorial limits of Dane County which involves an area in excess of 4,000 square feet or involving activity on a slope of greater than 12% grade which may have off-site impacts, excluding agricultural activities or government highway construction, is subject to sections 14.51 through 14.99 of this ordinance to control off-site soil transport. This provision shall not apply to

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includes exemption for all ag use buildings & activities such as ditching, stream protection, etc.

construction sites regulated under the Wisconsin Uniform Dwelling Code ("UDC"); Dane County shall regulate these sites during the period that residential building permits are in effect under its authority pursuant to section 14.60 of the Dane County Ordinances consistent with then-existing UDC regulations. This ordinance also shall not apply to construction site erosion control for public buildings and buildings that are places of employment relating to activities specifically regulated by the Wisconsin Department of Industry, Labor and Human Relations ("DILHR") during the period that DILHR-authorized building permits are in effect and specific erosion control procedures on these construction sites are effective. Notwithstanding the immediately preceding exclusion for commercial building sites regulated by DILHR, activities unrelated to actual building construction such as, but not limited to, land disturbing activity prior to excavation for foundation work, landscaping, installation of driveways, parking areas and sidewalks, extensive earthwork on sites not directly related to structural concerns, development of ponds and channelized watercourses, commercial parks, and landing strips or airport runways, shall be subject to the requirements of this ordinance. Administration and regulation of soil erosion control programs may be done by cities and villages which have enacted local ordinances or entered into s. 66.30, Wis. Stats., intergovernmental cooperative agreements with the county consistent with this ordinance; in situations where cities and villages regulate such land disturbing activities, references in this chapter to county staff shall also by implication where appropriate refer to equivalent counterparts on municipal staffs.

[History: (1) rep. and recr., OA 45, 1987-88, pub. 05/05/88; am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

14.54 REQUIREMENTS FOR SPECIFIC EROSION CONTROL PLANS. Erosion control plans required under section 14.53 may include consideration of adjoining landowners cooperative efforts to control transport of sediment, and to be approved shall consist of the following:

- (1) cross sections of road ditches;
- (2) profiles within road ditches;
- (3) culvert sizes;
- (4) direction of flow of runoff;
- (5) watershed size for each drainage area;
- (6) design discharge for ditches and structural measures;

- (7) runoff velocities;
- (8) fertilizer and seeding rates and recommendations;
- (9) time schedules for stabilization of ditches and slopes;
- (10) plans shall adhere to the following minimum standards:
 - (a) proposed design, suggested location and phased implementation of effective, practicable erosion control measures for acceptable plans shall prevent gully erosion and limit total off-site permissible annual aggregate soil loss for exposed areas resulting from sheet and rill erosion to an annual, cumulative rate not to exceed 15 tons per acre per year and where sites are located adjacent to or directly drain into sensitive areas, the annual, cumulative rate shall not exceed 7.5 tons per acre per year;
 - (b) plan compliance under subs. (a) shall be determined using the soil conservation service Technical Guide or another commonly accepted soil erosion control methodology approved by the county conservationist which includes the following considerations: season of year; site characteristics; soil erodability; and, slope; and,
 - (c) erosion control measures for plan approval need not attempt to regulate soil transportation within the boundaries of the applicant's site;
- (11) description of methods by which sites are to be developed;
- (12) provision for sequential steps mitigating erosive effect of land disturbing activities to be followed in appropriate order and in a manner consistent with accepted erosion control methodology suitable to proposed sites and amenable to prompt re-vegetation;
- (13) provisions to ensure no increase in surface water drainage from sites during or after construction, unless water is discharged into existing, adequate drainage areas, specifying all stormwater management controls such as outlet control structures or basins necessary to comply with maximum permitted discharges;
- (14) provisions to prevent mud-tracking off-site onto public thoroughfares during construction period; and,
- (15) any proposed modifications to approved plans or alterations to accepted sequencing of land disturbing site activities shall be approved by county zoning prior to implementation of said changes.

[History: am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

14.545 SIMPLIFIED PLAN CHECKLIST.

Applicants may submit erosion control proposals using simplified checklists of standard erosion control practices to be installed on sites, on a standard form approved by Dane County, wherever the following conditions exist: the site is not more than 20,000 square feet in area; the site is not adjacent to and does not directly drain into any sensitive areas nearby; and, there is a slope of less than six percent (6%) throughout the site.

[History: cr., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

14.55 FILING OF EROSION CONTROL PLAN.

Any person applying for a zoning permit in any district subject to section 14.53 shall, as part of the zoning permit application process, submit an erosion control plan meeting the requirements of section 14.54, or, if applicable, section 14.545. The zoning administrator and county conservationist shall review and make a determination as to any adequately prepared plan submitted under section 14.54 within 10 working days for completeness and performance competency. Simplified plan checklists submitted pursuant to section 14.545 shall be reviewed by the zoning administrator within two (2) working days for completeness and adequacy. A zoning permit may not be issued if the plan is not submitted or is deficient in content. The issuance of a zoning permit shall be withheld pending approval of the plan.

[History: am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

14.56 ADMINISTRATION AND ENFORCEMENT.

(1) The zoning administrator shall forward any site-specific plan to the county conservationist for review and approval. There shall be a site erosion control authority principally responsible for this review and approval process. This authority shall be comprised of the zoning administrator and the county conservationist or their respective designees. LCC staff shall review the plan pursuant to the soil conservation service Technical Guide as adopted by Dane County and notify the zoning administrator of any deficiency in the proposed plan. County staff engaged in this review and approval process shall be certified where appropriate by the Wisconsin Department of Industry, Labor and Human Relations for this purpose.

(2) The zoning administrator shall inform the applicant of any deficiency in the proposed plan and the applicant shall correct any such deficiency in the plan before the zoning permit is issued.

(3) The plan shall be implemented prior to the start of any land disturbing activity and shall be maintained as proposed throughout the entire term of such activity. The applicant on an approved plan shall be referred to as the permittee who is responsible to the approving authority indicated in sub. (1) to successfully complete the erosion control plan as proposed or consistent with an approved, amended plan. The permittee shall be liable for any and all costs incurred resulting from noncompliance with an approved plan submitted by that party. Within ten (10) days after completion of an approved plan, where soil stabilization has been achieved, the permittee must notify the authority and the authority will then arrange an inspection to verify plan compliance within ten (10) days after said notification. When a permittee acts to transfer an interest in property subject to an approved plan prior to completion of the proposed steps to attain soil stabilization, the permittee must secure approval from the authority to transfer any portion of the permittee's responsibility to the authority for the approved plan to another party.

(4) All incidental mud-tracking off-site onto adjacent public thoroughfares shall be immediately removed using proper disposal methods.

(5) As part of the plan approval process, the zoning administrator shall establish a minimum number of inspections to be conducted. The site of any regulated land disturbing activity shall be inspected at least once every 30 days during the active phase by the zoning administrator's staff with the assistance of LCC staff.

(6) If the zoning administrator's inspections reveal any noncompliance with the plan, the zoning administrator shall notify the owner and/or contractor of all such specific instances of noncompliance. The owner shall have 24 hours from the time and date of notification by the zoning administrator to correct any noncompliance with the plan when notification is achieved in the following manner: personal communication of noncompliance to owner and/or contractor or their respective agents; or, written notice sent by certified mail to owner and/or contractor. The owner shall have 72 hours to correct any noncompliance with the plan when notification is achieved by either posting in a conspicuous place on the site a "noncompliance notice card" or

sending notice by facsimile transmission to owner and/or contractor.

(7) The zoning administrator shall issue a citation or a "stop work" order on the project covered by the zoning permit if the project is not brought into compliance with the plan within 24 hours or 72 hours respectively after notice under sub. (6) above. Upon issuance of a "stop work" order, only permittee's or an agent's efforts to achieve compliance with the approved erosion control plan shall be permissible project activity.

(8) The permittee on an approved plan thereby authorizes the authority to take any action, to perform any work, or commence any operations necessary to correct conditions upon the subject property where notice of noncompliance has been issued to bring the property into conformance with plan requirements; the permittee further consents to reimburse the authority for the total costs and expenses of the aforementioned actions, said reimbursement may be collected as a special charge upon the property for current services rendered as provided by law.

(9) When a permittee transfers ownership, possession or control of real estate subject to an uncompleted erosion control plan, the party who is successor in interest to any portion of this real estate shall bear responsibility to control soil erosion on that portion of the real estate under that successor party's ownership, possession or control and shall comply with the minimum standards provided in this ordinance following appropriate methodology and practices.

(10) When ownership, possession or control of property subject to an uncompleted erosion control plan is transferred from one party to another, the former owner shall notify the party taking possession as to the current status of compliance with the filed erosion control plan, also providing a copy of said notice to the authority, and provide a copy of the erosion control plan to the buyer if the soil on the property being transferred has not been stabilized prior to the date of this real estate transfer.

(11) Transfers of interest in real estate subject to an approved, uncompleted erosion control plan may be conducted consistent with this ordinance under any of the following arrangements:

- (a) the transferee shall file a new, approved erosion control plan with the authority;
- (b) the transferee shall obtain an approved assignment from the authority as sub-permittee to complete that portion of the approved plan

regulating soil erosion on the transferee's property; or,

(c) the permittee shall provide the authority with a duly completed and executed continuing surety bond or a certified check in an amount sufficient to complete the work proposed in the approved plan; at the time of transfer the permittee may seek to reduce the surety bond or certified check to the appropriate amount to complete remaining work. If the transferor enters into escrow agreements with transferees to complete an approved plan, these funds shall be available to the authority to attain plan compliance. When an approved erosion control plan is not completed as proposed, the authority may use the bond, certified check or funds in escrow to complete remaining work to achieve plan compliance stabilizing soils upon the site.

(12) The fee for review of the erosion control plan by the zoning administrator shall be payable at the time an application for a zoning permit is submitted. For simplified plan checklists submitted under section 14.545, the fee for plan review shall be fifty dollars (\$50.00). For plans submitted under section 14.54 covering a regulated land disturbing activity on sites whose total surface area is less than five acres the fee shall be one hundred twenty-five dollars (\$125.00). For plans submitted under section 14.54 covering soil disturbance areas on sites greater than five (5) acres in size, the fee shall be five hundred dollars (\$500.00).

[History: (1) - (7) am. and (8) -(12) cr., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

14.57 VARIANCES AND APPEALS. (1) Variances and appeals from the requirements of sections 14.50 through 14.55 may be taken to the LCC by an applicant, property owner or other person with a substantial interest, within thirty (30) days after the zoning administrator's erosion control plan determination. The LCC may only grant variances and appeal requests when a specific finding is made of no damage to water quality.

[History: cr., sub. 2 to OA 10, 1987-88, pub. 09/14/87; am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

[14.58 - 14.59 reserved for future use.]

14.60 ONE- AND TWO-FAMILY DWELLING EROSION CONTROL. (1) *Authority.* Section 14.60 is adopted under the authority of sec. 59.07(51) and sec. 101.65 of the Wisconsin Statutes.

(2) *Purpose.* This ordinance serves as the county erosion control ordinance for one- and two-family dwelling construction consistent with the Wisconsin Uniform Dwelling Code ("UDC"). The county shall exercise jurisdiction for UDC construction site erosion control by plan review, permitting and inspections to promote public health, safety and general welfare.

(3) *Scope.* This ordinance shall apply to all one- and two-family dwellings whose initial construction is commenced hereafter and new additions to pre-existing dwellings. The county shall administer and enforce this ordinance in any town, village or city within the County of Dane which has not adopted the Wisconsin UDC as well as any municipality in the county which enters into an intergovernmental cooperative agreement with Dane County pursuant to sec. 66.30, Wisconsin Statutes, for this purpose.

(4) *Adoption.* Wisconsin Administrative Code Chapters ILHR 20 through 25 are hereby adopted by reference, incorporated herein and made a part of this ordinance. Future amendments and revisions to the Wisconsin UDC or successor provisions relating to one- and two-family dwelling construction site erosion control are also made a part of this ordinance by reference to promote statewide uniformity. Copies of the Wisconsin UDC shall be kept on file in the offices of the zoning administrator and county conservationist.

(5) *Enforcement.* The county shall only administer and enforce pertinent administrative and technical sections of the Wisconsin UDC related to construction site erosion control measures and procedures (i.e., Ch. ILHR 20, administration and enforcement, and s. ILHR 21.125, technical requirements, Wis. Admin. Code) through this ordinance.

(6) *Zoning Administrator and County Conservationist.* The county's zoning administrator and county conservationist, who shall be state certified inspectors pursuant to department of industry, labor and human relations requirements for this purpose, or other zoning and land conservation committee staff with appropriate state certified inspection status, shall administer this UDC construction site erosion control ordinance. The zoning administrator shall maintain all records related to UDC plan review, permit and inspection activity for periodic DILHR review and performance audits.

(7) *Permit Required.* No person shall cause soil to be disturbed for construction within the scope of

this ordinance without first obtaining a permit for that work from the zoning administrator.

(8) *Permit Fee.* The fee for review of a UDC construction site erosion control plan shall be made payable to the county zoning administrator in the amount of \$75.00 upon submittal of an application.

(9) *Violation and Penalties.* (a) *Orders.* The zoning administrator or his or her designee shall be empowered to issue written citations for violations of this ordinance. Violations shall be promptly corrected by the appropriate party. The zoning administrator or his or her designee may also issue "stop work" orders at construction sites when soil disturbance and erosion occurs. Construction activities may resume when the site is in compliance with UDC rules and the zoning administrator or his or her designee authorizes resumption of obstruction activities. The zoning administrator or designee shall inspect a site subject to a "stop work" order to determine compliance with UDC rules within two (2) working days after receiving a request from a permittee or other appropriate party.

(b) *Penalties.* Any person who violates, neglects or refuses to comply with or resists the enforcement of any of the provisions of this ordinance shall be subject to a civil forfeiture of not less than \$25.00 nor more than \$500.00, plus costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to the erosion control permit. Each day that a violation exists shall be a separate offense.

[History: cr., Sub. 2 to OA 3, 1994-95, pub. 09/30/94, eff. 01/01/95.]

[14.61 - 14.70 reserved for future use.]

14.71 APPEALS. Under authority of chapter 68, Wis. Stats., the Dane County Board of Adjustment, created under section 59.99, Wis. Stats., and under section 10.26 of the county zoning Ordinance, and acting as an appeal authority under section 59.99(7)(a), Wis. Stats., is authorized to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination by the zoning administrator in administering this ordinance.

14.72 PROCEDURE ON APPEALS. The rules, procedures, duties, and powers of the board of

adjustment and chapter 68, Wisconsin Statutes, shall apply to this ordinance.

14.73 WHO MAY APPEAL. Appeals may be taken to the LCC by any person having a substantial, material interest in an erosion control plan which is adversely affected by an order, requirement, decision, or determination made by the zoning administrator. The LCC may adopt appropriate written rules of procedure for this erosion control plan appeals process.

[History: am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

[14.74 - 14.80 reserved for future use.]

14.81 PENALTIES. (1) Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this ordinance relating to earthen manure storage facilities shall be subject to a forfeiture of not less than \$5.00 nor more than \$200.00, plus costs of prosecution for each violation. An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to the permit. Each day that a violation exists shall be a separate offense.

(2) Any person who violates, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this ordinance involving an exposed area relating to land disturbing activity except the Wisconsin Uniform Dwelling Code provision at section 14.60 of the Dane County Ordinances, shall be subject to a forfeiture as provided herein:

<u>EXPOSED AREA</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>
Less than 20,000 sq. ft.	\$100.00	\$300.00
20,000 sq. ft. to 1.0 acre	\$200.00	\$400.00
1.0 acre to 5.0 acres	\$400.00	\$800.00

5.0 acres or more	\$800.00	\$1,600.00
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An unlawful violation includes failure to comply with any standard of this ordinance or with any condition or qualification attached to the erosion control plan. Determination that a violation of this ordinance has occurred shall not be based solely upon a condition of significant soil transport off the site due to the unpredictable nature of storm events, provided that the plan has been implemented and maintained as approved. Each day that a violation exists shall be a separate offense.

[History: am., Sub. 4 to OA 27, 1993-94, pub. 09/30/94, eff. 01/01/95.]

14.82 ENFORCEMENT BY INJUNCTION. As a substitute for or an addition to forfeiture actions, the corporation counsel is authorized to seek enforcement of any part of this ordinance by court actions seeking injunctions or restraining orders.

[14.83 - 14.96 reserved for future use.]

14.97 INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of Dane County, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

14.98 SEVERABILITY CLAUSE. If any section, provision, or portion of this ordinance is ruled invalid by a court, the remainder of the ordinance shall not for that reason be rendered ineffective.

14.99 EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the Dane County Board of Supervisors and publication.

END OF CHAPTER

CHAPTER 17 FLOODPLAIN ZONING

- 17.01 Statutory Authorization
- 17.02 Finding Of Fact
- 17.03 Statement Of Purpose
- 17.04 Title
- 17.05 Definitions
- [17.06 - 17.09 Reserved For Future Use.]

Subchapter I General Provisions

- 17.10 Areas To Be Regulated
- 17.11 Official Map
- 17.12 Establishment Of Districts
- 17.13 Locating Floodplain Boundaries
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- 17.15 Compliance
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- 17.20 Severability
- 17.21 Annexed Areas For Cities And Villages
- [17.22 - 17.24 Reserved For Future Use.]

Subchapter II General Standards Applicable To All Floodplain Districts

- 17.25 Hydraulic And Hydrologic Analyses
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- 17.27 Chapters 30, 31, Wis. Stats., Other Development
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- 17.31 Applicability
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- 17.33 Standards For Developments In Floodway Areas
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- 17.34 Prohibited Uses
- 17.37 Floodfringe District (FF) Applicability
- 17.38 Permitted Uses
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- [17.40 Reserved For Future Use.]

Subchapter IV General Floodplain District(GFP)

- 17.41 Applicability
- 17.42 Permitted Uses
- 17.43 Standards For Development In The General Floodplain District

- 17.44 Determining Floodway And Floodfringe Limits
- [17.45 - 17.50 Reserved For Future Use.]

Subchapter V Nonconforming Uses

- 17.51 General Applicability
- 17.52 Floodway Areas
- 17.53 Floodfringe Areas
- [17.54 - 17.60 Reserved For Future Use.]

Subchapter VI Administration

- 17.61 Zoning Administrator
- 17.62 Zoning Agency
- 17.63 Board Of Adjustment
- 17.64 To Review Appeals Of Permit Denials
- 17.65 Floodproofing
- 17.66 Public Information
- [17.67 - 17.70 Reserved For Future Use.]

Subchapter VII Amendments

- 17.71 Amendments
- 17.72 Procedures
- [17.73 - 17.80 reserved for future use.]

Subchapter VIII [reserved]

- 17.81 Flood Storage District
- [17.82 - 17.90 reserved for future use.]

Subchapter IX Enforcement And Penalties

- 17.91 Enforcement And Penalties
- [17.92 - 17.99 reserved for future use.]

17.01 STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authority of ss. 59.97, 59.971, and 59.99, Wis. Stats. [History: ch. 17 cr., Sub. 1 to OA 47, 1993-94, pub. 03/22/95.]

17.02 FINDING OF FACT. The county board finds that uncontrolled development and use of the floodplains, rivers or streams of this county would adversely affect the public health, safety, convenience, general welfare, and impair the tax base.

17.03 STATEMENT OF PURPOSE. To regulate development in flood hazard areas to protect life, health and property the county board declares the purpose of these rules to be to

- (1) Protect life, health and property;
- (2) Minimize expenditures of public monies for costly flood control projects;

- (3) Minimize rescue and relief efforts, generally undertaken at the expense of the tax paying public;
- (4) Minimize business interruptions which usually result in the loss of local incomes;
- (5) Minimize damage to public facilities on the floodplains such as water mains, sewer lines, streets and bridges;
- (6) Minimize the occurrence of future flood blight areas on floodplains;
- (7) Discourage the victimization of unwary land and home buyers; and
- (8) Prevent increases in regional flood heights that could increase flood damage and may result in conflicts or litigation between property owners.

17.04 TITLE: This ordinance shall be known as the Floodplain Zoning Ordinance for Dane County, Wisconsin.

17.05 DEFINITIONS. (intro.) Unless specifically defined below, words and phrases used in this ordinance shall have the same meaning as they have at common law and to give this ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and not discretionary.

(1) **A ZONES:** Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood.¹ These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

(2) **ACCESSORY STRUCTURE or USE:** A detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to which it is related, and which is located on the same lot as that of the principal structure or use.

(3) **BASEMENT:** Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.²

(4) **BUILDING:** See **STRUCTURE**.

(5) *[reserved for future use.]*

(6) **CERTIFICATE OF COMPLIANCE:** A certification issued by the zoning administrator

stating that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

(7) **CHANNEL:** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

(7m) **COMMITTEE:** The Zoning and Natural Resources Committee of the County Board of Supervisors of the County of Dane.

(7n) **COUNTY:** The County of Dane.

(8) **CRAWLWAYS or CRAWL SPACE:** An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.³

(9) **DEPARTMENT:** The Wisconsin Department of Natural Resources.

(10) **DEVELOPMENT:** Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.

(11) **DRYLAND ACCESS:** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

(12) **ENCROACHMENT:** Any fill, structure, building, use or development in the floodway.

(13) **EXISTING MOBILE HOME PARK OR SUBDIVISION:** A parcel or contiguous parcels of land divided into two or more mobile home lots for rent or sale on which the construction of facilities for servicing the lots, including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, is completed before the effective date of this ordinance.

(14) **EXPANSION TO EXISTING MOBILE HOME PARK:** The preparation of additional sites by the construction of facilities for servicing the lots on

¹ The term *Official Floodplain Zoning Map* is defined in s. 17.05(42).
The term *regional flood* is defined in s. 17.05(48).

² Annotation: July 1991.

³ Annotation: July 1991.

which the mobile homes are to be placed. This includes installation of utilities, either final site grading, pouring pads, or construction of streets.

(15) **FEMA:** The Federal Emergency Management Agency, the federal agency that administers the National Flood Insurance Program. This agency was previously known as the Federal Insurance Administration (FIA), or Department of Housing and Urban Development (HUD).

(16) **FLOOD or FLOODING:** A general and temporary condition of partial or complete inundation of normally dry land areas caused by:

- (a) The overflow or rise of inland waters;
- (b) The rapid accumulation or runoff of surface waters from any source; or
- (c) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

(17) *[reserved for future use.]*

(18) **FLOODFRINGE:** That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and generally associated with standing water rather than flowing water.

(19) *[reserved for future use.]*

(20) **FLOOD INSURANCE STUDY:** A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

(21) **FLOODPLAIN:** That land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

(22) **FLOODPLAIN ISLAND:** A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

(23) *[reserved for future use.]*

(24) **FLOOD PROFILE:** A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

(25) **FLOODPROOFING:** Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

(26) **FLOOD PROTECTION ELEVATION:** An elevation two feet of freeboard above the water surface profile elevation designated for the regional flood.⁴

(27) **FLOOD STORAGE:** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

(28) **FLOODWAY:** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

(29) **FREEBOARD:** A flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for the effects of any factors that contribute to flood heights greater than those calculated. These factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggregation of the river or stream bed.

(30) **General Floodplain District:** Consists of all areas which have been or may be covered by flood water during the regional flood. It includes both the floodway and floodfringe districts.

(31) *[reserved for future use]*

(32) **HIGH FLOOD DAMAGE POTENTIAL:** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

(33) **HISTORIC STRUCTURE:**⁵ Any structure that is:

- (a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the

⁴ See also *freeboard* at s. 17.05(29).

⁵ Annotation: As set forth federal rule, Oct. 1990

requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs.

(34) **INCREASE IN REGIONAL FLOOD HEIGHT:** A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, resulting by a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

(35) **LAND USE:** Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

(36) **MOBILE 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. For the purpose of this ordinance, it does not include recreational vehicles or travel trailers which remain licensed and ready for highway use and remain on-site less than 180 days. As used in this ordinance, *mobile home* includes manufactured homes.⁶

(37) **MUNICIPALITY or MUNICIPAL:** A city, village or town located wholly or partly within the boundaries of the County of Dane.

(38) **NGVD or the National Geodetic Vertical Datum** refers to elevations referenced to mean sea level datum, 1929 adjustment.

(39) **NONCONFORMING STRUCTURE:** An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe

district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.)

(40) **NONCONFORMING USE:** An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

(41) **OBSTRUCTION TO FLOW:** Any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

(42) **OFFICIAL FLOODPLAIN ZONING MAP:** That map, adopted and made part of this ordinance, as described in s. 17.11, which has been approved by the Department of Natural Resources and FEMA.

(43) **OPEN SPACE USE:** Those uses having a relatively low flood damage potential and not involving structures.

(44) **ORDINARY HIGHWATER 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.

(45) **PERSON:** An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

(46) **PRIVATE SEWAGE SYSTEM:** A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the department of industry, labor and human relations including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

(47) **PUBLIC UTILITIES:** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

(48) **REGIONAL FLOOD:** A flood determined to be representative of large floods known to have occurred in Wisconsin or which may be expected

⁶ Annotation: As set forth federal rule, Oct. 1990

to occur on a particular lake, river or stream once in every 100 years.

(49) **STRUCTURE:** Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

(50) **SUBSTANTIAL IMPROVEMENT:** Any structural repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include any of the following:

(a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which existed before the improvement began, was identified by a county official and which is necessary to assure safe living condition;

(b) Any alteration of a designated historic structure⁷ or site documented as deserving preservation by the Wisconsin State Historical Society, or listed on the National Register of Historic Places provided the alteration will not preclude the structure's continued designation as an historic structure;⁸

(c) Ordinary maintenance repairs are not considered structural repairs, modifications or additions. Such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components. "Substantial improvement" begins when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

(51) **UNNECESSARY HARDSHIP:** Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

(52) **VARIANCE:** An authorization by the board of adjustment for the construction or maintenance of a building or structure in a manner which is

inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

(53) **WATERSHED:** The entire region or area contributing runoff or surface water to a particular watercourse or body of water.

(54) **WATER SURFACE PROFILE:** A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

(55) **WELL:** An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

[17.06 - 17.09 reserved for future use.]

SUBCHAPTER I GENERAL PROVISIONS

17.10 AREAS TO BE REGULATED. Areas regulated by this ordinance include all areas within the limits of the county that would be covered by the regional flood and include floodplain islands designated on the official map where emergency rescue and relief routes would be inundated by the regional flood.

17.11 OFFICIAL MAP. (intro.) The boundaries of the floodplain districts, including the floodway, floodfringe, and other floodplain districts, are those areas designated as floodplains or A-Zones on the maps listed below and the revisions in the Dane County Floodplain Appendix at the end of this ordinance. These official maps and revisions are on file in the office of the Zoning Administrator, Dane County. If more than one map or revision is referenced, the most current approved information shall apply.

(1) Flood Insurance Rate Maps (FIRM), panel numbers 0050A, 0100A, 0300A, 0325A, 0375A, 0400A, 425A, 0475A, 0500A, dated September 28, 1978; panel numbers 0025C, 0075C, 0150C, 0175C, 0200C, 0275C, dated August 19, 1987; panel numbers 0350B, 0450B, dated June 16, 1993. Annotated FIRM Maps, panel numbers 0125, 0225, 0250, dated January 24, 1990.

(2) Floodway Maps, panel numbers 0025, 0075, 0150, 0175, 0200, dated August 19, 1987. Annotated floodway maps, panel numbers 0125, 0225, 0250, dated January 24, 1990.

⁷ See s. 17.05(33) for the definition of *historic structure*.

⁸ Annotation: As set forth in rev. federal rule, Oct. 1990.

(3) Annotated flood profiles for Black Earth Creek, dated January 24, 1990. Corresponding flood profiles published in the Dane County Flood Insurance Study, dated June 16, 1993.

(4) The map which is a composite of the panels and profiles set forth in subs. (1) through (3) above, is the official floodplain zoning map and has been approved by the Department and FEMA, and is on file in the office of the Zoning Administrator. If more than one map is referenced the regional flood profiles govern boundary discrepancies according to sec. 17.13 below.

17.12 ESTABLISHMENT OF DISTRICTS. The regional floodplain areas are hereby divided into three districts as follows:

- (1) The Floodway District (FW).
- (2) The Floodfringe District (FF).
- (3) The General Floodplain District (GFP).⁹

17.13 LOCATING FLOODPLAIN BOUNDARIES.

(1) Where an apparent discrepancy exists between the location of the outermost boundary of the flood fringe district or general floodplain district shown on the official floodplain zoning map and actual field conditions, the location shall be initially determined by the zoning administrator using the criteria in paragraphs (a) or (b) subs. (2) or (3) below. Where the zoning administrator finds that there is a significant difference between the map and the actual field conditions, the map shall be amended using the procedures established in ss. 17.71 and 17.72. Disputes between the zoning administrator and an applicant over the location of the district boundary line shall be settled according to s. 17.63(2)(b).

(2) Where flood profiles exist, the location of the district boundary line shall be determined by the zoning administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map, and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the map and actual field conditions. The zoning administrator shall have the authority to grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is

required. The zoning administrator shall be responsible for initiating any map amendments required under this section within a reasonable period of time.

(3) Where flood profiles do not exist, the location of the district boundary line shall be determined by the zoning administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Department. Where there is a significant difference between the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both the county board and the Department, the zoning administrator shall have the authority to grant or deny a land use permit.

17.14 REMOVAL OF LANDS FROM FLOODPLAIN.

Compliance with the provisions of this ordinance shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district, and the map is amended pursuant to ss. 17.71 and 17.72. To remove flood insurance requirements, FEMA must first revise the Flood Insurance Rate Map or issue a Letter of Map Amendment or Revision.

17.15 COMPLIANCE. Any development¹⁰ or use within the areas regulated by this ordinance shall be in full compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

17.16 MUNICIPALITIES AND STATE AGENCIES REGULATED.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when s. 30.12(4)(a), Stats., applies.

17.17 ABROGATION AND GREATER RESTRICTIONS.

(1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 59.97 or 59.971 for counties; s. 62.23 for cities; or s. 61.35 for villages

⁹ For definitions of these districts, see s. 17.05(18), (28), and (30).

¹⁰ See s. 17.05(10) for the definition.

or s. 87.30, Wis. Stats., which relate to floodplains except that where the other municipal zoning ordinance is more restrictive than the provisions contained in this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

17.18 INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements liberally construed in favor of the county board, and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this ordinance is required by a standard in Ch. NR 116, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Ch. NR 116 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

17.19 WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection provided by this ordinance is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by man-made or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this ordinance does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain, will be totally free from flooding and associated flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the county or any officer or employee thereof for any flood damage that may result from reliance on this ordinance or on the acts of any county official or employee charged with enforcement of this ordinance.

17.20 SEVERABILITY. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

17.21 ANNEXED AREAS FOR CITIES AND VILLAGES. The Dane County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the annexing municipality for all areas annexed by the annexing municipality until the annexing municipality adopts and enforces an ordinance which meets the requirements of Ch. NR 116, Wis. Adm. Code. Annexed lands shall be described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and shall be kept on file in the office of the county zoning administrator.

[17.22 - 17.24 reserved for future use.]

SUBCHAPTER II GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

17.25 HYDRAULIC AND HYDROLOGIC ANALYSES. (1) No development, except as provided in sub. (2) below, shall be allowed in floodplain areas which will:

(a) Cause an obstruction to flow;¹¹ or
(b) Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeding 0.01 foot;

(2) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with ss. 17.71 and 17.72, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than 1.0 foot for the affected hydraulic reach of the stream unless a waiver is secured from FEMA for the 1.0 foot maximum increase.¹²

(3) The zoning administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.01 foot or greater.

17.26 WATERCOURSE ALTERATIONS. Prior to any alteration or relocation of a watercourse, and prior to the issuance of any land use permit which

¹¹ See s. 17.05(41) for the definition.

¹² Annotation: Rev. July 1991

may be required for the alteration or relocation of a watercourse, the county zoning administrator shall notify, in writing, the municipality or municipalities in which the watercourse is located, the appropriate district office of the Department of Natural Resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

17.27 CHAPTERS 30, 31, WIS. STATS., OTHER DEVELOPMENT. Development which requires a permit from the Department of Natural Resources, under Ch. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed provided the necessary local permits are obtained and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning ordinance, are made according to ss. 17.71 and 17.72.

[17.28 - 17.30 reserved for future use.]

SUBCHAPTER III FLOODWAY (FW) AND FLOODFRINGE (FF) DISTRICTS

17.31 APPLICABILITY. The provisions of this section apply to all areas mapped as floodway on the official floodplain zoning maps, and to those portions of the general floodplain district determined to be floodway according to the procedures in s. 17.44.

17.32 PERMITTED USES. (1) The open space uses listed in subs. (2) through (8) are allowed in the floodway district and the floodway portion of the general floodplain district, providing

- (a) they are not prohibited by any other ordinance;
- (b) they meet the standards in ss. 17.33 and 17.34; and
- (c) all permits or certificates have been issued according to s. 17.61;

(2) Agricultural uses, such as: general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

(3) Nonstructural industrial and commercial uses, such as loading areas, parking areas, and airport landing strips.

(4) Nonstructural private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of s. 17.33(4).

(5) Uses or structures accessory to open space uses, or those classified as historic structures, that are not in conflict with the provisions in ss. 17.33 and 17.34.¹³

(6) Extraction of sand, gravel or other materials according to s. 17.33(3).

(7) Functionally water-dependent uses such as: docks, piers or wharves, including those used as part of a marina, and other water related uses such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines, according to Chs. 30, 31, Wis. Stats.

(8) Public utilities, streets and bridges, according to s. 17.335(2).

17.33 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS. (1) Any development in floodway areas shall meet all of the provisions of subchap. II; and have a low flood damage potential.

(2) Applicants shall provide the following data for the zoning administrator to determine the effects of the proposal according to s. 17.25:

(a) A cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow; or

(b) An analysis calculating the effects of this proposal on regional flood height.

(3) The zoning administrator shall deny the permit application where it is determined the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for sub.(2), above.

17.335 STRUCTURES. (1) In, or over floodway areas, only structures which are accessory to permanent open space uses, Those classified as historic structures, or are functionally dependent on a waterfront location, may be allowed by

permit, providing the structures meet all of the following criteria:¹⁴ (a)

The structures are not designed for human habitation, or associated with high flood damage potential.

(b) The structures are constructed and placed on the building site so as to cause an increase less than 0.01 foot in flood height and offer minimum obstruction to the flow of flood waters. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and approximately on the same line as those of adjoining structures;

(c) The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and

(d) The structures have all service facilities such as electrical and heating equipment at or above the flood protection elevation for the particular area.

(2) Public utilities, streets and bridges may be allowed by permit, provided that:

(a) Adequate floodproofing measures are provided to the flood protection elevation;

(b) Construction does not cause an increase in the regional flood height according to s. 17.25, except where the water surface profiles, floodplain zoning maps and floodplain zoning ordinance are amended, as needed to reflect any changes resulting from such construction.

(3) Fills or deposition of materials may be allowed by permit, provided that:

(a) The requirements of s. 17.25 are met;

(b) The fill or deposition of materials does not encroach on the channel area between the ordinary high water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334 has been issued, if applicable, and the other requirements of this section are met.

(c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading sufficient to prevent erosion; and provided that

(d) Such fills are not associated with private or public solid waste disposal.

17.34 PROHIBITED USES. (intro.) All uses not listed as permitted uses in s. 17.32 are prohibited

within the floodway district and in the floodway portion of the general floodplain district including the following uses which are always prohibited in the floodway:

(1) Structures in, on or over floodway areas which are designed for human habitation, associated with high flood damage potential, or not associated with permanent open-space uses;

(2) The storage of any materials that are capable of floating, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(3) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts;

(4) Any private or public sewage systems; except portable latrines that are removed prior to flooding, and systems associated with recreational areas and Department approved campgrounds, that meet the applicable provisions of local ordinances and Ch. ILHR 83, Wis. Adm. Code.

(5) Any public or private wells which are used to obtain water for ultimate human consumption; except those for recreational areas that meet the requirements of local ordinances and Chs. NR 111 and NR 112, Wis. Adm. Code;

(6) Any solid and hazardous waste disposal sites, whether public or private;

(7) Any wastewater treatment ponds or facilities except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;

(8) Any sanitary sewer or water supply lines except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

17.37 FLOODFRINGE DISTRICT (FF)

APPLICABILITY. The provisions of sections 17.38 and 17.39 apply to all areas within the flood fringe district, as shown on the official floodplain zoning maps, and to those portions of the general floodplain district that are determined to be in the floodfringe area pursuant to s. 17.44.

17.38 PERMITTED USES. Any structures, land use, or development, including accessory structures and uses, are allowed within the floodfringe district and floodfringe portions of the general floodplain district, provided that the standards contained in s. 17.39 are met, that the use is not prohibited by this or any other ordinance

¹⁴

Annotation: Rev. federal rule Oct. 1990.

or any other local, state or Federal regulation and that all permits or certificates specified in s. 17.61 have been issued.

17.39 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS. (intro.) All of the provisions of s. 17.25 shall apply in addition to the following requirements according to the use requested;

(1) RESIDENTIAL USES. Any structure or building used for human habitation, including mobile homes, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area shall meet or exceed the following standards;

(a) The elevation of the lowest floor excluding the basement or crawlway, shall be at or above the flood protection elevation¹⁵ except where par. (b) is applicable. The fill elevation shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures where existing streets or sewer lines are at elevations which make compliance impractical provided the Board of Adjustment grants a variance due to dimensional restrictions.

(b) The basement or crawlway floor may be placed at the regional flood elevation providing it is floodproofed to the flood protection elevation. No permit or variance shall allow any basement or crawlway below the regional flood elevation.

(c) Contiguous dryland access¹⁶ shall be provided from a structure or building to land which is outside of the floodplain, except as provided in para. (d).

(d) In existing developments, where existing streets or sewer lines are at elevations which make compliance with par. (c) impractical, the county may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided:

1. The county has written assurance from the appropriate local units of police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration and velocity of the regional flood event; or

2. The county's natural disaster plan been approved by both the Division of Emergency Government and the Department.

(2) ACCESSORY STRUCTURES OR USES. An accessory structure or use¹⁷ not connected to a principal structure, including nonresidential agricultural structures, shall meet all the applicable provisions of s. 17.335(1)(a), (c) and (d), and sub. (5) below. A lesser degree of protection, compatible with these criteria and the criteria in sub. (4) may be permissible for an accessory structure or use providing that the site is not inundated to a depth greater than 2 feet or subjected to flood velocities greater than 2 feet per second during the regional flood.

(3) COMMERCIAL USES. Any commercial structure or building which is to be erected, constructed, reconstructed, altered or moved into the floodfringe area shall meet the requirements of s. 17.39(2). Storage yards, parking lots and other accessory structures or land uses may be at lower elevations, subject to the requirements of sub.(5). However, no such area in general use by the public shall be inundated to a depth greater than two feet or subjected to flood velocities greater than two feet per second during the regional flood. Inundation of such yards or parking areas exceeding two feet may be allowed provided an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES. Any manufacturing, or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the floodfringe area shall be protected to the flood protection elevation utilizing fill, levees, floodwalls, adequate flood proofing measures in accordance with s. 17.65, or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in *par. (4) and (6)* may be permissible for storage yards, parking lots and other accessory structures or uses.

(5) STORAGE MATERIALS. The storage of materials that are buoyant, flammable, explosive, or which in times of flooding, could be injurious to property, water quality or human, animal, plant, fish or aquatic life, shall be at or above the flood protection elevation for the particular area or floodproofed in compliance with s.17.65. Adequate measures shall be taken to assure that

¹⁵ See s. 17.05(26) for the definition.

¹⁶ See s. 17.05(11) for the definition.

¹⁷ See s. 17.05(2) for the definition.

said materials will not enter the river or stream during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES. All utilities, streets and bridges should be designed to be compatible with the local comprehensive floodplain development plans; and

(a) When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed, in compliance with s. 17.65, to the flood protection elevation;

(b) Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS. All on-site sewage disposal systems shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Ch. ILHR 83, Wis. Adm. Code.

(8) WELLS. All public or private wells shall be floodproofed to the flood protection elevation, pursuant to s. 17.65, and shall meet the applicable provisions of Chs. NR 111 and NR 112, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES. All public or private solid or hazardous waste disposal sites are prohibited in floodfringe areas.

(10) DEPOSITION OF MATERIALS. Any materials deposited for any purpose may only be allowed if all the provisions of this ordinance are met.

(11) MOBILE HOMES AND MANUFACTURED HOMES.¹⁸ **(a)** Owners or operators of all mobile home parks and subdivisions located in the regional floodplain shall provide for adequate surface drainage to minimize flood damage and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with the appropriate local emergency management authorities.

(b) In existing mobile home parks,¹⁹ all new homes with new pads, replacement units on existing pads, and substantially improved mobile homes and recreational vehicles that remain on-site in excess of 180 days, or are unlicensed or not ready for highway use and which are placed or

improved on a site located in the regional floodplain shall:

1. have the lowest floor elevated to the regional flood elevation; and

2. be anchored so they do not float, collapse or move laterally during a flood.

(c) Outside of existing mobile home parks, including new mobile home parks, and all single units outside of existing parks; all new, replacement and substantially improved mobile homes and recreational vehicles that remain on-site more than 180 days, which are unlicensed or are not ready for highway use, shall meet the residential development standards for the floodfringe in s. 17.39(1).

[17.40 reserved for future use.]

SUBCHAPTER IV GENERAL FLOODPLAIN DISTRICT(GFP)

17.41 APPLICABILITY. The provisions for this district shall apply to all floodplains for which regional flood²⁰ data is not available, or where regional flood data is available but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be designated in the floodfringe district or floodway district, as appropriate.

17.42 PERMITTED USES. **(1)** The general floodplain district encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to s. 17.44, to determine whether the proposed use is located within a floodway or floodfringe area.

(2) Those uses permitted in floodways (s. 17.32) and floodfringe areas (s. 17.38) are allowed within the general floodplain district, according to the standards of s. 17.43 and provided that all permits or certificates required under s. 17.61 have been issued.

17.43 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT. Once it is determined according to s. 17.44 that a proposed use is located within a floodway, the provisions of ss. 17.31-17.34 shall apply. Once determined that the proposed use is located within the floodfringe,

¹⁸ Annotation: Rev. federal rule Oct. 1990

¹⁹ See 17.05(13).

²⁰ See 17.05(48).

the provisions of subchap. 17.37-17.39 shall apply. All provisions of the remainder of this ordinance apply to either district.

17.44 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS. (INTRO.) Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

(1) Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures.

(2) Require the applicant to furnish any of the following additional information as is deemed necessary by the Department for evaluation of the effects of the proposal upon flood height and flood flows, the regional flood elevation and where applicable to determine the boundaries of the floodway:

(a) A typical valley cross-section showing the channel of the stream, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information.

(b) Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.

(c) Profile showing the slope of the bottom of the channel or flow line of the stream.

(d) Specifications for building construction and materials, flood proofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.

(3) Transmit one copy of the information described in subs. (1) and (2) to the Department District office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 17.61(2)(d) apply, the applicant shall provide all required information and computations, to delineate floodway boundaries and the effects of the project on flood elevations.

[17.45 - 17.50 reserved for future use.]

SUBCHAPTER V NONCONFORMING USES

17.51 GENERAL APPLICABILITY. (1) Insofar as the standards in this section are not inconsistent with the provisions of s. 59.97(10), Stats., they shall apply to all nonconforming uses and nonconforming structures. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(2) The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

(a) No modifications or additions to a nonconforming use or a nonconforming structure shall be permitted unless they are made in conformity with the provisions of this ordinance for the area of the floodplain occupied. The words *modification* and *addition* include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered modifications or additions; these include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities.

(b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance.

(c) As requests are received by the county for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value, and the cost of those additions or modifications which have been permitted, and the percentage of the structure's total current value those modifications represent.²¹

(d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 17.39(1).

(e) If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the requirements of this ordinance. For the purpose of this subsection, restoration is deemed impractical where the total cost of such restoration would exceed 50% of the present equalized assessed value of the structure.

17.52 FLOODWAY AREAS. (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition: (a) Has been granted a permit or variance which meets the floodway requirements of this ordinance; and

(b) Meets the requirements of s. 17.51; and
(c) Will not increase the obstruction to flood flows or regional flood height, and
(d) Any addition to the existing structure shall be floodproofed, pursuant to s. 17.65, by means other than the use of fill, to the flood protection elevation.

(2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all county ordinances and Ch. ILHR 83, Wis. Adm. Code.

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Annotation: Rev. July-91

ordinances and Ch. NR 111 and NR 112, Wis. Adm. Code.

17.53 FLOODFRINGE AREAS. (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the county. In addition, the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 17.39, except where sub. (2) is applicable.

(2) Where compliance with the provisions of sub. (1) would result in unnecessary hardship, and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of adjustment, using the procedures established in s. 17.63, may grant a variance from those provisions of sub. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted provided:

(a) No floor is allowed below the regional flood elevation for residential or commercial structures; and

(b) Human lives are not endangered;

(c) Public facilities, such as water or sewer, will not be installed;

(d) Flood depths will not exceed two feet;

(e) Flood velocities will not exceed two feet per second; and

(f) The structure will not be used for storage of materials described in s. 17.39(5).

(3) If neither the provisions of subs. (1) nor (2) above can be met, an addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe on a one-time basis only, if the addition:

(a) Meets all other regulations and will be granted by permit or variance;

(b) Does not exceed 60 square feet in area; and

(c) In combination with other previous modifications or additions to the building, does not exceed 50% of the present equalized assessed value of the building.

(4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the

applicable provisions of all local ordinances and Ch. ILHR 83, Wis. Adm. Code.

(5) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and Ch. NR 111 and NR 112, Wis. Adm. Code.

[17.54 - 17.60 reserved for future use.]

SUBCHAPTER VI ADMINISTRATION

17.61 ZONING ADMINISTRATOR. (1). The zoning administrator is hereby authorized to administer the provisions of this ordinance and shall have the following duties and powers:

(a) Advise applicants of the provisions of this ordinance; assist them in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.

(c) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;

2. Documentation of certified lowest floor and regional flood elevations for floodplain development;

3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.

(d) Submit copies of the following items to the Department district office:

1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.

(e) Investigate, prepare reports, and report violations of this ordinance to the corporation counsel for prosecution. Copies of the violation reports shall also be sent to the Department District office.

(f) Submit copies of text and map amendments and biennial reports to the regional office of FEMA.

(2) **LAND USE PERMIT** A land use permit shall be obtained from the zoning administrator before any development or any change in the use of an existing building or structure including sewage disposal systems and water supply facilities may be initiated.²² Application shall be made to the zoning administrator upon furnished application forms and shall include the following data:

(a) **GENERAL INFORMATION.** Name and address of the applicant, property owner and contractor - builder;

(b) Legal description of the property, type of proposed use, and an indication as to whether new construction or a modification to an existing structure is involved;

(c) **SITE DEVELOPMENT PLAN.** A site development plan which shall be drawn to scale and submitted as a part of the permit application form and which shall contain the following information:

1. Location, dimensions, area and elevation of the lot;

2. Location of the ordinary highwater mark of any abutting navigable waterways;

3. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;

4. Location of any existing or proposed on-site sewage systems or private water supply systems;

5. Location and elevation of existing or future access roads;

6. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;

7. The elevation of the lowest floor of proposed buildings and any fill using NGVD.²³

8. Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of ss. 17.31 through 17.34 or ss. 17.37 through 17.39 are met.

9. Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to s. 17.25. This may include any of the information noted in s. 17.33.

²² For definition of *development*, see s. 17.05(10) of this ordinance.

²³ See the definition of *NGVD* at s. 17.03(38).

(d) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

1. The applicant shall provide all Survey data and computations sufficient to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as *subdivision* is defined in ch. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000.

(e) An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.

(f) A map showing location and details of vehicular access to lands outside the floodplain.

(g) A surface drainage plan with adequate details showing how flood damage will be minimized.

(h) An estimated of the cost of the proposal which shall include all structural development, landscaping improvements, access and road development, electrical and plumbing, and similar items reasonably applied to the overall development costs, but need not include land costs.

(3) The Department will determine regional flood elevations and evaluate the proposal where the applicant is not required to provide computations as above, and inadequate data exists. The county may transmit additional information, such as the data in s. 17.44(2) where appropriate, to the Department with the request for analysis.

(4) **EXPIRATION.** All permits issued under the authority of this ordinance shall expire 1 year from the date of issuance.

(5) **CERTIFICATE OF COMPLIANCE.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

(a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance.

(b) Application for such certificate shall be made at the same time as the application for a permit.

(c) The certificate of compliance shall be issued within 10 days after written notification of completion of the work specified in the permit, provided the zoning administrator determines that the building or premises or proposed use conforms with all the provisions of this ordinance.

(d) The applicant shall submit a certification signed by a registered professional engineer or

registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that floodproofing adequacy meets the requirements of s. 17.65.

(6) **OTHER PERMITS.** The applicant must secure all other necessary permits from all appropriate federal, state, and local agencies, including those required by the U. S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.

17.62 ZONING AGENCY. (1) The Committee shall:

(a) provide policy oversight of the functions of the office of the zoning administrator and

(b) review and make recommendations to the county board on all proposed amendments to this ordinance, maps and text..

(2) The Committee shall not:

(a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment; nor

(b) amend the text or zoning maps in place of official action by the county board.

17.63 BOARD OF ADJUSTMENT. (1) The Board of Adjustment shall exercise the powers conferred by Wis. Stats., and adopt rules for the conduct of business. The zoning administrator may not be the Secretary of the Board.

(2) **POWERS AND DUTIES.** The Board of Adjustment shall:

(a) **Appeals.** Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

(b) **Boundary Disputes.** Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

(c) **Variances.** Hear and decide, upon appeal, variances from the dimensional standards of this ordinance.

(3) **APPEALS TO THE BOARD.** Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal

specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all the papers constituting the record concerning the matter appealed.

(4) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES. The board shall:

- (a) Fix a reasonable time for the hearing;
- (b) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
- (c) Assure that notice shall be mailed to the parties in interest and the district office of the Department at least 10 days in advance of the hearing.

(5) HEARING. Any party may appear in person or by agent or attorney. The board shall:

- (a) Resolve boundary disputes according to sub.(7);
- (b) Decide variance applications according to sub.(8);
- (c) Decide appeals of permit denials according to s. 17.64.

(6) DECISION. The final decision regarding the appeal or variance application shall:

- (a) Be made within a reasonable time;
- (b) Be sent to the district office of the Department within 10 days of the decision;
- (c) Be a written determination signed by the chairman or secretary of the board;
- (d) State the specific facts which are the basis for the Board's decision;
- (e) Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application for a variance;
- (g) Include the reasons or justifications for granting an appeal, with a description of the hardship or practical difficulty demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

(7) BOUNDARY DISPUTES. The following procedure shall be used by the board of adjustment in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:

- (a) Where a floodplain district boundary is established by approximate or detailed floodplain studies, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional

flood elevations or profiles are available to the board, other available evidence may be examined.

- (b) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the board of adjustment.

(c) Where it is determined that the district boundary is incorrectly mapped, the board should inform the Committee or the person contesting the location of the boundary to petition the county board for a map amendment according to subchap. VII.

(8) VARIANCE. The Board of Adjustment may, upon appeal, grant a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates that:

- (a) Literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship on the applicant;
- (b) The hardship is due to adoption of the floodplain ordinance and special conditions unique to the property; not common to a group of adjacent lots or premises (in such case the ordinance or map must be amended);
- (c) Such variance is not contrary to the public interest;
- (d) Such variance is consistent with the purpose of this ordinance in s. 17.03.

(9) A variance shall not:

- (a) Grant, extend or increase any use prohibited in the zoning district;
- (b) Be granted for a hardship based solely on an economic gain or loss;
- (c) Be granted for a hardship which is self-created;
- (d) Damage the rights or property values of other persons in the area;
- (e) Permit a lower degree of flood protection in the floodplain than the flood protection elevation;
- (f) Allow any floor of a basement or crawlway below the regional flood elevation for residential or commercial structures;
- (g) Allow actions without the amendments to this ordinance or map(s) required in s. 17.71.
- (h) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.²⁴

(10) When a variance is granted in a floodplain area the Board shall notify the applicant in writing that increased flood insurance premiums and risks to life and property may result. A copy of this

notification shall be maintained with the variance appeal record.

17.64 TO REVIEW APPEALS OF PERMIT DENIALS.

(1) The Board of Adjustment shall review all data constituting the basis for the appeal of permit denial. This data may include (where appropriate):

- (a) Permit application data listed in s. 17.61(2);
- (b) Floodway/floodfringe determination data in s. 17.44;
- (c) Data listed in s. 17.33(2)(b), where the applicant has not submitted this information to the zoning administrator.
- (d) Other data submitted to the zoning administrator with the permit application, or submitted to the Board with the appeal.

(2) For appeals of all denied permits the Board shall:

- (a) Follow the procedures of s. 17.63;
 - (b) Consider Zoning Agency recommendations;
 - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:

(a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

(b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

17.65 FLOODPROOFING. (1) No permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect that the floodproofing measures are adequately designed to protect the structure or development to the flood protection elevation.

(2) Floodproofing measures shall be designed to:

- (a) Withstand the flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the regional flood;
- (b) Assure protection to the flood protection elevation;
- (c) Provide anchorage of structures to foundations to resist flotation and lateral movement;

(d) Insure that the structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding, without human intervention.

(3) Floodproofing measures could include:

- (a) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;
- (b) Addition of mass or weight to structures to prevent flotation;
- (c) Placement of essential utilities above the flood protection elevation;
- (d) Surface or subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures;
- (e) Construction of water supply wells, and waste treatment systems to prevent the entrance of flood waters into the systems;
- (f) Cutoff valves on sewer lines or elimination of gravity flow basement drains.

17.66 PUBLIC INFORMATION. (1) Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.

(2) All available information in the form of maps, engineering data and regulations shall be readily available and should be widely distributed.

(3) All legal descriptions of property in the floodplain should include information relative to the floodplain zoning classification when such property is transferred.

[17.67 - 17.70 reserved for future use.]

SUBCHAPTER VII AMENDMENTS

17.71 AMENDMENTS. (intro.) *GENERAL.* The county board may change or supplement the boundaries of the floodplain zoning districts and the regulations contained in this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following

- (1) Any change to the official floodplain zoning map including the floodway line or boundary of any floodplain area;
- (2) Correction of significant discrepancies between the water surface profiles and floodplain zoning maps;
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above

the flood protection elevation and is contiguous to land lying outside the floodplain;

(4) Any fill or encroachment into the floodplain that will obstruct flow causing an increase of 0.01 foot or more in regional flood height;

(5) Any upgrading of floodplain zoning ordinances text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the county.

17.72 PROCEDURES. (intro.) Amendments to this ordinance may be made upon petition of any interested party according to the provisions of s. 59.97, Stats. Such petitions shall include all necessary data required by ss. 17.44 and 17.61(2).

(1) Copies of any amendment proposed shall be referred to the zoning agency for a public hearing and recommendation to the governing body. Copies of the proposed amendment and notice of the public hearing shall be submitted to the appropriate District office of the Department of Natural Resources for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 59.97, Stats., except that no provision of this chapter shall be construed to require town board approval or allow town board veto of any such amendment.

(2) No amendment to the maps or text of this ordinance shall become effective until reviewed and approved by the Department.

(3) All persons petitioning for a map amendment which involves an obstruction to flow causing an increase of 0.01 foot or more in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(4) When considering amendments to the official floodplain zoning map, in areas where no water surface profiles exist, the committee and board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See s. 17.12.)

[17.73 - 17.80 reserved for future use.]

SUBCHAPTER VIII FLOOD STORAGE DISTRICT

17.81 FLOOD STORAGE DISTRICT. (1) Intent and Purpose. The Flood Storage District delineates that portion of the floodplain where storage of flood waters has been taken into account. The district provides for the protection of the storage areas and assures that development in the storage areas will not cause higher floodplain elevations.

(2) *Criteria for establishing flood storage districts.* A "Flood storage district" may be established for the area landward of the floodway in lieu of the floodfringe designation where floodplain storage will decrease the regional flood elevation, provided that:

(a) The Department of Natural Resources approves the methodology used to analyze floodplain storage to determine revised regional flood elevations.

(b) The municipality adopts required standards pertaining to the flood storage district, pursuant to Chapter NR 116 Wisconsin Administrative Code.

(3) *Applicability.* The provisions of this section apply to all areas within the flood storage district, as shown on the official floodplain zoning maps, and to those portions of the general floodplain district that are determined to be in the flood storage area.

(4) *Development in Flood Storage District. (a)* Development in a flood storage district shall not cause an increase equal to or greater than 0.01 of a foot in the height of the regional flood.

(b) When any proposed development would remove flood storage volume, an equal volume of storage as defined by the ground surface and the regional flood elevation shall be provided to compensate for the volume of storage which is lost. Excavation below the groundwater table is not considered as providing an equal volume of storage.

1. No area in the floodplain may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside the floodplain.

2. If compensatory storage cannot be provided, the area may not be developed unless the entire affected flood storage area is rezoned to the floodfringe district.

(c) A flood zone permit from the Dane County Zoning Administrator is required for any development in a flood storage district.

(5) *Rezone from Flood Storage District to Floodfringe District.* (a) Department of Natural Resources approval of any project that results in an increase in the height of the regional flood shall be secured prior to the submitting of a petition to rezone.

(b) The effect of rezoning from the flood storage district to the flood fringe district shall be calculated by comparing the current flood profile to the flood profile determined by assuming that the area to be rezoned is not available to store flood water.

(c) The zoning maps for the flood storage district may not be amended without first amending the applicable portions of the water surface profiles and floodplain zoning ordinances and securing the Department of Natural Resources approval for such amendments.

(6) *Determination of Flood Protection Elevations and Effects of Proposed Development Upon Flood Heights, Velocity and Storage.* (a) For all subdivision proposals, as defined in §236.02(8), Statutes, and for other land divisions or proposed developments which have a total area that exceeds 5 acres or which have an estimated cost that exceeds \$125,000, the applicant shall provide all the computations which are required to show the effect of the proposal on flood heights, velocities, and flood plain storage.

(b) For land divisions and proposed developments which do not exceed 5 acres in area and which have an estimated cost of \$125,000 or less, if the regional flood profile has not been determined, the municipality may transmit the information required to the Department of Natural Resources for a determination of flood protection elevations and for an evaluation of the effects of the proposal upon flood heights, velocities and floodplain storage.

(7) *Permitted Uses in Flood Storage District.* (a) *Residential:* All residential structures shall meet the following standards:

1. The first floor of a structure to be erected, constructed, reconstructed, or moved on the flood plain shall be constructed on fill at or above the flood protection elevation for the particular area. The fill shall be not less than one foot below the flood protection elevation for the particular area and the fill shall extend at such elevation at least 15 feet beyond the limits of any structure or building erected thereon and shall be contiguous to land which is outside of the flood plain and/or is accessible by rescue and relief vehicles during the regional flood.

2. The basement floor shall be at or above the regional flood elevation, unless a community wide exemption allowing flood proofing of basements has been granted by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA).

(b) *Commercial, Manufacturing and Industrial.*

1. Principal buildings which are to be erected, constructed, reconstructed, added to or moved into a flood storage area shall be elevated or flood-proofed to two feet above the regional flood elevation. Measures shall be taken to minimize interference with normal plant operations especially for plants located on streams having protracted flood durations.

2. Storage yards, parking lots, airport landing strips and other similar accessory uses may be at lower elevations, but, no such area for general use by the public shall be inundated to a depth greater than two feet or subjected to flood velocities greater than two feet per second.

(c) *Storage or Processing.* Materials that are buoyant, flammable, explosive, or which in times of flooding, could be injurious to human, animal, or plant life, shall be stored at or above the flood protection elevation or flood proofed in compliance with the provisions of this ordinance.

(d) *Utilities.* Construction and substantial improvements to utilities may be permitted provided that they are flood proofed to the flood protection elevation.

(e) *Sewage Systems.* On-site sewage disposal systems shall be flood proofed to the flood protection elevation and shall meet the applicable provisions of local zoning ordinances and Wisconsin Administrative Code ILHR 83.

(f) *Wells.* Wells, whether public or private, shall be flood proofed to the flood protection elevation and shall meet the applicable provisions of Chapter NR 111 and NR 112, Wisconsin Administrative Code.

(g) *Agricultural Uses.* Including but not limited to: general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

(h) *Private and Public Recreational Uses.* Including but not limited to: golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

(i) *Extraction of Sand, Gravel and/or Other Materials.* The property owner or excavator shall apply for any necessary amendments to the Flood Storage District or rezone to the Flood Fringe District.

(j) *Uses Permitted by the Department of Natural Resources Pursuant to Chapters 30 and 31, Wis. Stats.* Provided that the necessary permits are obtained and amendments approved by the County to the official floodway lines, water surface profiles, flood plain zoning maps and flood plain zoning ordinance.

(k) *Other Uses.* Any uses that are compatible with the criteria for flood storage areas.

(l) *Accessory Buildings and Structures.* Accessory buildings (not connected to a principal building) and structures accessory to permitted uses may be permitted providing they:

1. Are not designed for human habitation.
2. Have a low flood damage potential.
3. Are to be constructed and placed on the building site so as to offer minimum obstruction to the flow of flood waters. Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and will be placed with their longitudinal axis approximately on the same line as those of adjoining structures.
4. Are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river.
5. Have all service facilities, such as electrical and heating equipment at or above the flood protection elevation for the particular area.

6. Are not subjected to flood depths greater than two feet or flood velocities greater than two feet per second.

(8) *Uses Not Permitted in the Flood Storage District.*

(a) *Solid Waste Disposal Sites.* All solid waste disposal sites, whether public or private, are prohibited in the flood storage district.

[**History:** cr. as s. 11.16, zoning OA #3613, 1986-87, adopted 05/01/86; renum. from 11.16, Sub. 1 to OA 47, 1993-94, pub. 03/22/95.]

[17.82 - 17.90 reserved for future use.]

SUBCHAPTER IX ENFORCEMENT AND PENALTIES

17.91 ENFORCEMENT AND PENALTIES. Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the corporation counsel for prosecution of violators. A violator shall, upon conviction, forfeit a penalty of not less than \$25 and not more than \$200, together with a taxable cost of such action. Each day of violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the county, the state, or any citizen thereof pursuant to s. 87.30, Stats.

[17.92 - 17.99 reserved for future use.]

CHAPTER 78

Special Regulation of Structures and Trees In The Vicinity of the Dane County Regional Airport

- 78.01 Definitions.
- 78.02 Zones.
- 78.03 Height Limitation Zones.
- 78.04 Exceptions.
- 78.05 Non-Conforming Uses.
- 78.06 Administration.
- 78.07 Permits.
- 78.08 Board of Appeals.
- 78.09 Appeal and Review.
- 78.10 Penalties.

[History: cr. sub nom. ch. 36, 10/30/76; renum., 03/16/78.]

State Law Reference: section 114.136, Wis. Stats.

78.01 DEFINITIONS. Unless the context otherwise requires, the following definitions apply for purposes of this chapter:

- (1) *Airport* means the Dane County Regional Airport-Truax Field located in sections 17 through 21, inconclusive, and 28 through 33, inclusive, Town 8 North, Range 10 East, Dane County, Wisconsin.
- (2) *Airport hazard* means any structure or object of natural growth, which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.
- (3) *Nonconforming use* means any structure or tree which does not conform to a regulation prescribed in this chapter or an amendment thereto, as of the effective date of such regulation.
- (4) *Person* means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- (5) *Structure* means any object constructed or installed by man.
- (6) *Trees* do not include shrubs, bushes or plants which do not grow to a height of more than twenty feet.
- (7) *Runway* means a level portion of an airport having a surface specially developed and maintained for the landing and takeoff of aircraft.

78.02 ZONES. All zones established by this chapter are as shown on the map dated May 21, 1993, entitled, "Height Limitation Zoning Map, Dane County Regional Airport, Madison, Wisconsin." Said map is on file in the Dane County Clerk's office and is incorporated by reference as a part of this chapter as though fully set forth herein.

[History: am., OA 10, 1993-94, pub. 09/18/93.]

78.03 HEIGHT LIMITATION ZONES. Except as otherwise provided in this chapter, no structure shall be constructed, altered, located or permitted to remain after such construction, alteration or location, and no trees shall be allowed to grow, to a height in excess of the height limit indicated on the map referred to in section 78.02.

78.04 EXCEPTIONS. The restrictions contained in section 78.03 shall not apply to objects which are less than thirty-five (35) feet in height above ground level at the object site within one-half mile of the airport boundary or to structures less than fifty (50) feet in height above the ground within the area beginning one-half mile from the airport boundary and extending to one mile from the airport boundary or to structures less than one hundred (100) feet in height above the ground within the area beginning one mile from the airport boundary and extending to three miles from the airport boundary.

78.05 NONCONFORMING USES. (1) *No retroactive application.* The regulations prescribed in sections 78.02 and 78.03 of this chapter shall not be construed to require the removal, lowering or other change or alteration of any nonconforming use, or otherwise interfere with the continuance of any nonconforming use, except as otherwise provided by section 78.07(2).

(2) *Changes.* Nothing contained in this chapter shall require any change in the construction, alteration or intended use of any structure, if the construction or alteration of such was begun prior to the effective date of this chapter and if such is diligently prosecuted.

(3) *Removal.* This section shall not interfere with the removal of nonconforming uses by purchase or the use of eminent domain.

78.06 ADMINISTRATION. It shall be the duty of the Dane County Zoning Administrator to administer and enforce the regulations prescribed in this chapter. Applications for variances shall be

made to the Dane County Zoning Administrator upon a form furnished by him. Applications which are by this chapter to be decided by the board of adjustment shall be granted or denied within sixty (60) days of the date of filing of the applications, unless Federal Aviation Administration approval is requested. Applications for action by the board of adjustment shall be forthwith transmitted by the zoning administrator to the board for hearing and decision. There shall be a charge of fifteen (\$15.00) dollars for applications.

78.07 PERMITS. (1) Future uses. No structure shall hereafter be constructed, erected or installed, or be permitted to remain in any zone created by section 78.02 until the owner or his agent shall have applied in writing for a permit therefore and obtained such permit from the zoning administrator, except structures less than thirty-five (35) feet in height above the ground and within one-half mile of the airport boundary and structures less than fifty (50) feet in height above the ground within the area beginning one-half mile from the airport boundary, and extending to one mile from the airport boundary, and structures less than one hundred (100) feet in height above the ground within the area beginning one mile from the airport boundary and extending to three miles from the airport boundary. Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment. Application for such permit shall indicate the use for which the permit is desired, and shall describe and locate the use with sufficient particularity to permit the zoning administrator to determine whether such use would conform to the regulations herein prescribed. If such determination is in the affirmative, the zoning administrator shall issue the permit applied for.

(2) Existing uses. Before any nonconforming structure may be replaced, altered, or rebuilt, a permit shall be applied for and secured in the manner prescribed by subsection (1) above authorizing such change, replacement or repair. No such permit shall be denied if the structure will not become a greater hazard to air navigation than

it was on the effective date of this chapter, or than it was when the application for permit was made.

78.08 BOARD OF APPEALS. The Dane County Board of Adjustment, appointed pursuant to section 59.99 of the Wis. Stats. and chapter 74 of the ordinances is hereby designated as the board of appeals pursuant to section 114.136(4)(a) of the Wis. Stats.

78.09 APPEAL AND REVIEW. (1) Variances. Upon appeal in special cases, the board of adjustment may, after investigation and public hearing, grant such variance from the terms of this chapter as will not be contrary to the public interest where owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and such relief will do substantial justice and be in accord with the spirit of this chapter, and does not create a hazard to the safe, normal operation of aircraft.

(2) Aggrieved person. Any person aggrieved or affected by any decision or action of the zoning administrator made in his administration of this chapter may appeal such decision or action to the board of adjustment.

(3) Procedure. Any appeal taken pursuant to this section shall be in conformity with the procedure established by section 59.99 of the Wis. Stats.

78.10 PENALTIES. Any person violating any of the provisions of this chapter shall, upon conviction, forfeit not less than five (\$5.00) dollars nor more than two hundred (\$200.00) dollars for such offense, together with the costs of prosecution, and in default of payment, of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until said forfeiture and costs are paid, but not to exceed thirty (30) days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

END OF CHAPTER