

TITLE 13

ZONING

- Chapter 1 Zoning Code
- Chapter 2 Floodplain and Shoreland-Wetland Zoning

Chapter 1

Zoning Code

Article A Introduction; Performance Requirements

- 13-1-1 Performance Zoning
- 13-1-2 Intent and Purpose
- 13-1-3 Interpretation
- 13-1-4 Definitions
- 13-1-5 Performance Code Requirements
- 13-1-6 through
- 13-1-19 Reserved for Future Use

Article B General Performance Standards

- 13-1-20 Purpose
- 13-1-21 Master Plan (revised per Ordinance 4-10-613, adopted April 19, 2010)
- 13-1-22 through
- 13-1-39 Reserved for Future Use

Article C Use Performance Standards

- 13-1-40 Use Performance Standards – Generally
- 13-1-41 General Use Performance Standards
- 13-1-42 Operational Use Performance Standards
- 13-1-43 Home Occupations
- 13-1-44 Garage Sales
- 13-1-45 Maintenance
- 13-1-46 Earth Station Dish Antennas
- 13-1-47 Procedure and Standards for the Siting, Construction, or Modification of Antennas, Communication Towers and Related Facilities/Technology
- 13-1-48 through
- 13-1-59 Reserved for Future Use

Article D Site Performance Standards

- 13-1-60 Site Performance Standards – Generally
- 13-1-61 General Site Performance Standards
- 13-1-62 Parking Standards
- 13-1-63 Architectural Compatibility
- 13-1-64 Historic Conservation
- 13-1-65 Environmentally Sensitive Lands
- 13-1-66 Land Disturbance
- 13-1-67 Floodplains
- 13-1-68 through
- 13-1-79 Reserved for Future Use

Article E Zoning Districts

- 13-1-80 Single-Family Residence District
- 13-1-81 Two-Family Residence District

13-1-82	Multi-Family Residence District
13-1-83	Neighborhood Small Business District
13-1-84	Retail Business District
13-1-85	Commercial – Industrial District
13-1-86	Community Design District
13-1-87	Conservancy District
13-1-88	Public Facilities District
13-1-89	Cemetery District
13-1-90	through
13-1-99	Reserved for Future Use

Article F Planned Community Developments

13-1-100	Intent and Purpose
13-1-101	Minimum Planned Community Development Area
13-1-102	Permitted Uses
13-1-103	Standards
13-1-104	Procedures
13-1-105	through
13-1-119	Reserved for Future Use

Article G Non-Conforming Uses

13-1-120	Existing Non-Conforming Uses
13-1-121	Existing Non-Conforming Buildings and Structures
13-1-122	Changes and Substitutions of Non-Conforming Uses, Buildings or Structures
13-1-123	Substandard Lots
13-1-124	through
13-1-139	Reserved for Future Use

Article H Zoning Map

13-1-140	Map of Existing and Planned Uses
13-1-141	Determination of Compatibility
13-1-142	Amendment of Zoning Map
13-1-143	Amendment Procedure
13-1-144	Zoning Upon Annexation
13-1-145	through
13-1-159	Reserved for Future Use

Article I Administration

13-1-160	Zoning Administrator; Powers and Duties
13-1-161	Zoning Board of Appeals
13-1-162	Fees
13-1-163	Enforcement and Penalties
13-1-164	through
13-1-179	Reserved for Future Use

Article J Zoning and Occupancy Permits

13-1-180	Zoning Permits
13-1-181	Occupancy Permits
13-1-182	Zoning and Occupancy Permits; Single-Family and Two-Family

- 13-1-183 Zoning and Occupancy Permits; All Other Districts
- 13-1-184 through
- 13-1-199 Reserved for Future Use

Article K Mobile Home Parks

- 13-1-200 Mobile Home Parks Defined and Permitted
- 13-1-201 Licensing of Mobile Home Parks
- 13-1-202 Mobile Home Parks
- 13-1-203 Special Regulations
- 13-1-204 through
- 13-1-219 Reserved for Future Use

Article L Signs, Canopies, Awnings and Billboards

- 13-1-220 Purpose and Review Authority
- 13-1-221 Definitions
- 13-1-222 Prohibited Signs in All Districts
- 13-1-223 Non-Conforming Signs
- 13-1-224 Maintenance and Repair of Signs
- 13-1-225 Abandoned Signs
- 13-1-226 Deteriorated or Dilapidated Signs
- 13-1-227 Administration
- 13-1-228 Application Procedures
- 13-1-229 Structural Requirements
- 13-1-230 Awnings and Canopies
- 13-1-231 Enforcement

Appendix A City of Monona Site Design Standards for Parking, Landscaping and Lighting

Appendix B Monona Drive Access Management Guidelines

Article A: Introduction; Performance Requirements

Sec. 13-1-1 Performance Zoning

- (a) This is a performance zoning code, which differs from traditional specification zoning. The previous Monona zoning ordinance was a specification ordinance, with rigid lists of permitted, conditional and prohibited uses for each district. For all districts, there were regulations to specify the exact minimum lot and yard dimensions, building heights and setbacks and open space requirements. Complicated procedures were required to obtain permission for minor variances from the regulations, yet the regulations were unsuccessful in preventing development, which was unattractive, environmentally unsound and incompatible with the needs of the community.
- (b) Performance zoning substitutes sensible judgment and efficient administration for rigid regulations. The intent of this performance zoning code is to regulate development according to flexible standards, with individual review of each development proposal. Proposed developments are to be judged on the basis of their compatibility with the land, the environment, surrounding uses, the goals of the master plan, general use and site performance standards and specific district performance standards.
- (c) Monona is a landlocked community. Since Monona is almost fully developed, it is crucial that the development of its remaining vacant land be carefully regulated to meet the community's needs for services, a diversity of housing, economic growth, jobs convenient to employee's homes, and an improved environmental and aesthetic quality. Monona faces the conditions of scarce land and an impending shift from the rapid development of raw land to a slower process of redevelopment of existing uses. Under these circumstances, maintenance of the quality of life in Monona requires individual project review according to performance standards, instead of specification standards which were more appropriate when Monona was less developed and more rapidly growing.
- (d) In many cases, the specification zoning previously used in Monona obstructed creative and desirable development because the zoning regulations were too rigid and arbitrary, and because any deviation from these regulations required cumbersome administrative and governmental procedures. This performance zoning code is designed to be more flexible and to use more efficient administrative and governmental procedures. In order to avoid delays in processing development applications, this Code establishes strict time limits for the review process. In order to ensure administrative fairness, this Code requires that decisions of the reviewing agency be put in writing and be based only on how the evidence presented to it for review meets the standards set by this Zoning Code.

Sec. 13-1-2 Intent and Purpose.

The purposes of this Zoning Code are:

- (a) To promote the public health, safety, convenience and general welfare of the community with due consideration of the needs of the region affected by the City's land use policies.
- (b) To lessen congestion in the streets, and to provide for convenient access to property.
- (c) To secure safety from fire, panic, environmental hazards and other dangers.
- (d) To provide adequate light, air, privacy and open space.
- (e) To prevent the overcrowding of land.
- (f) To avoid undue concentration of population.
- (g) To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public services.
- (h) To conserve the value of buildings and the quality of neighborhood and environmental amenities.
- (i) To encourage the most appropriate use of land throughout the City and the region.
- (j) To regulate and restrict the erection, construction, reconstruction, alteration, location and use of buildings, structures, or land for residence, trade, industry or other purposes, in accordance with the Master Plan.

- (k) To regulate and restrict the dimensions of buildings and structures, yards, and other open spaces, the intensity of development, in accordance with the Master Plan.
- (l) To designate zoning districts with reasonable consideration of the character of each district and its peculiar suitability for particular uses.
- (m) To establish zoning districts of such number, shape and area as may be deemed best suited to carry out these purposes while implementing the goals of the Master Plan.

Sec. 13-1-3 Interpretation.

- (a) This Zoning Code shall be the minimum requirements for the promotion of the public health, safety and general welfare of the City.
- (b) This Zoning Code is not intended to repeal, impair, or interfere with any existing provisions of law or ordinance, or with any rules, regulations or permits which have been or will be adopted or issued according to law, or with any private restriction placed on property by covenant, easement or other private agreement. But if this Code imposes a greater restriction than is imposed by another law, ordinance, rule, regulation. Covenant, easement or private agreement, this Code shall govern.

Sec. 13-1-4 Definitions.

- (a) **General.** If not otherwise defined in this Chapter and other provisions of this Code of Ordinances, words used herein have their ordinary and accepted meanings. Words used in the present tense include the future; the singular includes the plural and the plural includes the singular. “Shall” is mandatory, not directory. The masculine includes the feminine and the feminine the masculine.
- (b) **Specific Definitions.** The following definitions shall be applicable in this Chapter:
 - (1) **Family.** One (1) or more persons related by blood, marriage, or adoption, including foster children, who are living and cooking together as a single housekeeping unit and evidencing a stable family relationship.
 - (2) **Unrelated Person.** Any person who is not related by blood, marriage, or adoption, including foster children, to a member of the family occupying the dwelling unit.
 - (3) **Height.** A distance to be measured from the mean ground level immediately adjoining the front of a structure, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the highest point of a flat, round or arch-type roof, or to the midpoint of the highest gable on a pitched or hip roof.
 - (4) **Structure.** Includes building.
 - (5) **Commission.** Shall denote the Plan Commission of the City of Monona.
 - (6) **Persons Aggrieved.** A person aggrieved includes any individual, partnership, corporation, association, public or private organization, officer, department, board, commission or agency of the City, whose rights, duties or privileges are adversely affected by a determination of the Zoning Administrator, Plan Commission or the Zoning Board of Appeals.
 - (7) **Code.** Shall mean the City of Monona Zoning Code.

Sec. 13-1-5 Performance Code Requirements.

Without complying with the requirements listed below, no person shall construct, substantially relocate, or substantially enlarge any structure or building; and without complying with the requirements listed below, no person shall use or substantially change the use of any land, water, structure or building.

- (a) The regulations of the zoning district. The zoning districts are shown on the Zoning District Map, which may be examined at City Hall. This Code specifies the regulations for each district (Sections 13-1-80 to 13-1-104)). The regulations list permitted, conditional and/or prohibited uses for each zoning district. Uses listed as permitted are allowed in a district, subject to review by the City for conformance to applicable performance standards. Uses listed as conditional are allowed only after

review to make sure that the General Performance Standards and any special performance standards are met. Uses listed as prohibited are not allowed in the district.

- (b) The goals, objectives and policies of the Monona Master Plan, which is adopted by reference as Appendix "A".
- (c) The General Performance Standards, consisting of Use Performance Standards and Site Performance Standards, listed in Sections 13-1-20 to 13-1-67 of this Code.
- (d) The appropriate District Performance Standards, which are included as part of the regulations of each Zoning District. (Sections 13-1-80 to 13-1-104).
- (e) The requirement of obtaining a zoning or occupancy permit under Sections 13-1-180 to 13-1-183.
- (f) The Zoning Administrator is authorized to grant a permit for a temporary change in the use of a building or land for a period not to exceed thirty (30) days without Plan Commission review of the change of use. No substantial building or land alterations are authorized by this Section.

Sec. 13-1-6 through Sec. 13-1-19 Reserved for Future Use.

Article B: General Performance Standards

Sec. 13-1-20 Purpose.

Articles “Use Performance Standards” and “Site Performance Standards” set general performance for all uses and for all zoning districts. The performance standards are designed to permit only uses and site arrangements which are consistent with the Master Plan and which promote the public health, safety, welfare, comfort and convenience, without causing nuisance, hazard or environmental degradation.

Sec. 13-1-21 Master Plan.

This section revised per Ordinance 4-10-613, adopted April 19, 2010.

In exercising their review functions under this Code, the Zoning Administrator, Zoning Board of Appeals, Plan Commission and the Common Council shall consider and apply the goals, objectives and policies of the City of Monona Comprehensive Plan and the Urban Design Guidelines for Monona Drive. (The Comprehensive Plan is adopted by reference as Appendix “A”.)

Sec. 13-1-22 through Sec. 13-1-39 Reserved for Future Use.

Article C: Use Performance Standards

Sec. 13-1-40 Use Performance Standards – Generally.

The following use performance standards in this Article shall apply to any construction, or substantial reconstruction, conversion, structural alteration, relocation or enlargement of any structure or building, and to any use or substantial change in the use of any land, water, structure or building.

Sec. 13-1-41 General Use Performance Standards.

- (a) The proposed use shall not adversely affect the character or quality of the district or neighborhood and shall not be detrimental to the health, safety, comfort or general welfare of the residents and workers in the general neighborhood.
- (b) The proposed use shall not impede the normal and orderly development and improvement of the area with uses permitted in the district. The proposed use shall not cause substantial detriment to the public good or substantially impair the intent and purpose of this Code or the Master Plan.
- (c) The proposed use shall promote economical and efficient land use, an improved level of amenities, creative design and a better environment.
- (d) The proposed use shall not substantially impair or diminish the development, use, value, character or enjoyment of other property in the neighborhood for uses already permitted.
- (e) The proposed use shall not be adversely affected by existing uses in the area.
- (f) The proposed use is reasonable in terms of logical, efficient and economical provision of public services and facilities provided by the City, school district and other units of government.
- (g) The proposed use is appropriate to the immediate neighborhood.
- (h) The proposed use is of an appropriate size, located and laid out with respect to access streets so that vehicular, bicycle and pedestrian traffic to and from the use shall not create undue congestion or hazards which would be detrimental to the character of the general neighborhood.
- (i) The proposed use shall be subject to conditions imposed by the Plan Commission with respect to the minimizing of traffic congestion by providing appropriate entrances and exits so as to assure the public safety, and by providing landscaping located to screen the premises from any residential use or district.
- (j) The proposed use shall not create or add to hazards to persons or property, on-site or off-site, including danger of flooding, erosion, subsidence, or slipping of the soil, or other dangers, annoyances or inconveniences. The use or development shall not create environmental damage, which will affect any other property. Conditions of soil, ground water level, drainage and topography shall be appropriate to both the kind and pattern of use intended.
- (k) The proposed use shall be subject to such conditions and safeguards as may be imposed by the Plan Commission to preserve and protect the intent and purpose of this Code and the Master Plan.
- (l) The proposed use shall produce an attractive environment of sustained aesthetic and ecological desirability, economic stability and functional practicality compatible with the general policy guidelines of the comprehensive Master Plan.
- (m) Where feasible and appropriate, the proposed use shall contribute towards serving regional and community needs for employment, services, open space, moderate-cost housing, lake access and/or recreational facilities.

Sec. 13-1-42 Operational Use Performance Standards

(This section was revised per Ordinance 1-13-641, adopted April 1, 2013.)

The intent of this Section is to set operational standards for uses in the zoning districts. No use shall be permitted except in compliance with the standards established or amended by the Department of Natural

Resources for air pollution, liquid or solid wastes, malodorous emissions and with the following City standards:

- (a) **Noise.** No use shall regularly emit noise beyond the premises of the source in excess of sixty-five (65) decibels between 7:00 a.m. and 9:00 p.m. and fifty-five (55) decibels between 9:00 p.m. and 7:00 a.m. in any octave band of frequency above three hundred (300) cycles per second as measured by a standard sound level meter. Noise shall be so muffled or otherwise controlled as not to become objectionable, due to intermittence, duration, beat, frequency, impulse character, periodic character or shrillness. Sirens, whistles, bells, etc., which are maintained and utilized solely to serve the public purpose are excluded from this regulation.
- (b) **Vibration.** No use shall cause vibration, which is discernible to human feeling beyond the premises of the source.
- (c) **Glare and Heat.** No use shall emit glare or heat which is visible or measurable beyond the premises of the source.
- (d) **Electrical Disturbance.** No use shall emit any electrical disturbance, which adversely affects the use of any other premises.
- (e) **Fire and Explosion Hazards.** All uses involving the manufacturing, utilization, processing or storage of flammable or explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion, as determined by the Fire Chief.
- (f) **Outside Storage.** All materials, equipment, and receptacles and containers for refuse and recyclables shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for clotheslines, and construction and landscaping materials and equipment currently being used, or intended for use within a period of twelve (12) months, on the premises. No exterior storage shall be permitted which has a depreciating effect on nearby property values, impairs scenic views, constitutes a threat to living amenities or which is a hazard to public health, safety or morals.
- (g) **Screening of HVAC and Mechanicals.** All building and site heating, ventilating and air conditioning (HVAC) and other mechanical equipment shall be screened from view with materials and landscaping complimentary and harmonious to the building and site.

Sec. 13-1-43 Home Occupations

- (a) Any occupation may be conducted and permitted in a residence if it complies with this Section and all other applicable codes.
- (b) A home occupation shall not be conducted or permitted in a manner which detracts from the residential character of the neighborhood or which tends to create a business atmosphere in the neighborhood. A home occupation shall not be conducted or permitted in a manner, which causes the premises to differ substantially from nearby residential uses by the use of colors, materials, construction, lighting or signs; by the emission of sound, noise or vibration; or in any other way, which would be noticeable to a causal observer. A home occupation shall not be conducted or permitted unless it is clearly incidental and secondary to the principal use of the dwelling purposes. The exterior appearance of a residential structure shall not be altered to conduct a home occupation. A home occupation shall not generate traffic, parking, commercial traffic, parking of commercial vehicles, sound, noise, vibration, glare, fumes, odors, electrical interference or nuisances beyond what is customarily and ordinarily found in a residential area, or which detracts from the residential character of the neighborhood. An accessory building may be used for a home occupation, but no area outside a building shall be used for storage or other purpose in the conduct of a home occupation.

Sec. 13-1-44 Garage Sales

- (a) Garage sales, yard sales and similar merchandise sales may be held no more than two (2) times per year at any residence, and for a total of not more than six (6) days in that year. The Zoning Administrator may authorize additional sales and/or sale days if warranted by unusual circumstances. All goods offered for sale shall be household goods or personal possessions from the residence where

- the sale is being held or, in the case of a group sale(s), from the residences of the participating households. In no case shall any sales become outlets for wholesale or retail commercial sales.
- (b) Any garage sales, yard sales and similar merchandise sales by non-profit, philanthropic, or civic organizations must be approved by the Zoning Administrator, and may be held no more than two (2) times per year for not more than a total of six (6) days in that year. The Zoning Administrator may authorize additional sales and/or sale days if warranted by unusual circumstances. In no case shall any sales become outlets for wholesale or retail commercial sales.
 - (c) Garage sale signs may not have an area more than three (3) square feet with a maximum of two (2) faces. Garage sale signs shall identify the location of the sale and must be located at least five (5) feet from the street line.
 - (d) No garage sale sign may be located on utility poles, traffic control devices, or on property or the adjoining right-of-way of property, the owner of which has not given explicit permission for its location.
 - (e) No garage sale sign shall be displayed before one (1) day before the sale or one (1) day following the sale.
 - (f) No more than one (1) garage sale sign may be located at the sale site, and no more than two (2) garage sale signs may be located off the site.

Sec. 13-1-45 Maintenance

All land shall be kept free of unhealthy and unsightly debris and shall be maintained to be compatible with neighboring property. All land, structures and buildings shall be maintained so as not to become a nuisance to the neighborhood.

Sec. 13-1-46 Earth Station Dish Antennas

- (a) Ground-mounted earth station dish antennas are permitted as accessory structures provided that all applicable requirements of this Section are met. Building-mounted earth station dish antennas are not permitted in residential areas.
- (b) Earth station dish antennas shall be constructed and anchored in such a manner to withstand winds of not less than eighty (80) miles per hour and such installations shall be constructed of non-combustible and corrosive resistant materials.
- (c) Earth station dish antennas shall be filtered and/or shielded so as to prevent the emission or reflection of electro-magnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the dish antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (d) Ground-mounted earth station dish antennas shall not exceed fourteen (14) feet in height. This measurement shall be from grade level to the top of the dish. The maximum diameter in all residential areas shall be three (3) meters.
- (e) Ground-mounted earth station dish antennas shall meet all setback yard requirements for a accessory structures in the zoning district in which they are located and are permitted only in the side yard or rear yard (not shore yards) in residential districts. Dish antennas are permitted in the side and rear yards in commercial, industrial and public/institutional zoning districts upon approval of a zoning permit according to Section 13-1-183. Dish antennas must be located at least five (5) feet from any principal structure and at least ten (10) feet from the lot lines.
- (f) Not more than one (1) earth station dish antenna shall be permitted on a lot or parcel in a residential zoning district. A maximum of three (3) earth station dish antennas shall be permitted on a lot or parcel in a commercial zoning district. A dish antenna may be placed on a lot or parcel on a trial basis for a period not exceeding five (5) days. No advertising messages will be allowed on the dish or framework other than the manufacturers identification.

- (g) The installation of an earth station dish antenna shall require a permit. The property owner shall submit to the Building Inspector plans, which indicate the appearance, proposed location and installation method of the dish antenna. Earth station dish antennas shall be located and screened on three (3) sides to minimize their visual impact on surrounding properties. All electrical lines, cables and conduits running to or from any dish antenna shall be buried underground.
- (h) All earth dish antennas, and the construction and installation thereof, shall conform to applicable City Building Code and Electrical Code regulations and requirements. A Twenty-Five Dollar (25.00) fee shall be paid prior to the issuance of a building permit.
- (i) Any earth station dish antenna existing on the date of adoption of this Section, which does not conform to these regulations, shall be treated in accordance with Article G of this Chapter.

Sec. 13-1-47 Procedure and Standards for the Siting, Construction, or Modification of Antennas, Communication Towers and Related Facilities/Technology

This section provides the procedures and standards for issuance of conditional use permits for the placement, construction or modification of antenna arrays, communication towers and related facilities/technology as defined in this ordinance.

- (a) **Definitions.** The following definitions apply to this section:
 - (1) **Communication Tower.** Any structure, whether freestanding or attached to an existing building or structure, that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.
 - (2) **Antenna Array.** The array of metal rods, dipoles, parasitic elements and associated appurtenances which are attached to the communication tower, and which are connected to the transmission lines or waveguides.
- (b) **Policy.** It is intended that conditional use permits shall be issued under this section to accommodate the expansion of wireless communication technology while minimizing the number of antenna arrays, tower sites and/or related facilities through the requirement that permitted antenna arrays, towers and/or related facilities be sited or constructed so that they may be utilized for the co-location of antenna arrays and related equipment to the extent technologically and economically feasible.
- (c) **Application.**
 - (1) The application process for a conditional use permit for the siting or construction of an antenna array, communication tower or related facility shall be governed by the procedures contained in this ordinance and Sections 13-1-180, 13-1-182, and 12-1-183.
 - (2) Any decision to deny a request under this section shall be in writing and supported by substantial evidence contained in a written record. Such denial shall state the denial and shall provide the reasons for the denial.
- (d) **Standards.** No conditional use permit for the siting or construction of an antenna array, communication tower or related facility shall be issued unless the applicant presents to the Plan Commission credible evidence to a reasonable degree of certainty the following:
 - (1) Compliance with all General Performance Standards, Use Performance Standards and Site Performance Standards, as well as Zoning District and Building Code requirements contained in the Monona Municipal Code, and
 - (2) Compliance with all radio frequency emissions requirements established by the Federal Communications Commission (FCC), and
 - (3) Compliance with all Federal Aviation Administration rules as to height, and
 - (4) Compliance with all Federal environmental laws, including the National Environmental Policy Act of 1969, and
 - (5) No existing communication tower or site is located within the area in which the applicant's equipment must be located, or

- (6) No existing communication tower or site within the area in which the applicant's equipment must be located is of sufficient height to meet applicant's requirements and the deficiency in height cannot be remedied at a reasonable cost, or
 - (7) No existing communication tower or site within the area in which the applicant's equipment must be located has sufficient structural strength to support applicant's equipment and the deficiency in structural strength can not be remedied at a reasonable cost, or
 - (8) The applicant's equipment would cause electromagnetic interference with equipment on the existing communication tower(s) or site(s) within the area in which the applicant's equipment must be located, or the equipment on the existing communication tower(s) or site(s) would cause interference with the applicant's equipment and the interference, from whatever source, can not be eliminated at a reasonable cost, or
 - (9) The fees, costs or contractual provisions required by the owner in order to co-locate on an existing communication tower or site are unreasonable relative to industry norms, or
 - (10) The applicant demonstrates that there are other factors that render existing communication towers or sites unsuitable or unavailable and establishes that the public interest is best served by the siting or construction of a new communication tower or site.
- (e) **Conditions and Guarantees.** Prior to the granting of a conditional use permit for the siting or construction of an antenna array, communication tower or related facility, the Plan Commission may stipulate such conditions and restrictions upon the establishment, location, constructing, maintenance, and operation of the antenna array, communication tower or related facility as deemed necessary to promote the public health, safety, and general welfare of the community, and to secure compliance with the standards and requirements specified in Section (4) above. Such conditions may include, but are not limited to, minimizing adverse visual effects through careful design, siting, co-location of carriers and screening, harmonizing aesthetic aspects with the surrounding area, and maintaining the appearance and structural integrity of the antenna array communication tower or related facility are granted, the Commission shall require such evidence that the conditions stipulated in connection therewith are being and will be complied with.
- (f) **Prohibition in Certain Zoning Districts.** Notwithstanding Section (4) above, it is the intent of this ordinance to prohibit antennas, communication towers and related facilities/technology in all residential areas, including Single Family, Two Family and Multi-Family zoned districts and in all conservancy zoned districts. Such prohibition extends to both publicly and privately owned property.
- (g) **Special Requirements.** The use of certain City owned property, such as water tower sites and parks, for wireless telecommunication antennas or towers brings with it special concerns due to the unique nature of these sites. The placement of wireless telecommunication antennas on these special city owned sites will be allowed only when the following additional requirements are met.
- (1) **Water Tower Sites.** The City's water towers represent a large public investment in water pressure stabilization and peak capacity reserves. Protection of the quality of the City's water supply is of prime importance to the City and the health and welfare of its citizens. As access to the City's water storage systems increase, so too increases the potential for contamination of the public water supply. For these reasons, the placement of wireless telecommunication antennas or towers on the water tower sites will be allowed only when the City is fully satisfied the following requirements are met.
 - a. The applicant's access to the facility will not increase the risks of contamination to the City's water supply.
 - b. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility.
 - c. The presence of the facility will not increase the water tower or reservoir maintenance costs to the City.
 - d. The presence of the facility will not be harmful to the health of workers maintaining the water tower.
 - (2) **Parks.** The presence of certain wireless telecommunications antennas or towers represents a potential conflict with the purposes of City owned park. Wireless telecommunication antennas or towers will be considered in City owned parks and land zoned P-Public Facilities only after the

recommendation of the Park and Recreation Board, Plan Commission and approval by the City Council.

- (h) **Reasonableness of Costs.** The cost of eliminating impediments to co-location shall be deemed reasonable if it does not exceed by twenty-five percent (25%) of the cost of constructing or placement of a new tower or site on which to mount applicant's equipment.
- (i) **Outside Consultation.** In the event the Plan Commission determines that it is necessary to consult a third party in considering the factors listed in Subsection (2) above, all reasonable costs and expenses associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or provide information requested by the Plan Commission shall be grounds for denial or revocation of a conditional use permit. The applicant may provide to the Plan Commission the names of consultants which the applicant believes are qualified to assist in resolving the issues before the Plan Commission.
- (j) **Co-Location Encouraged.** It is the intent of this ordinance to encourage the co-location of antenna arrays and related equipment whenever possible. Accordingly, in applying the standards and criteria set forth in Section 13-1-42(2) to applicants for conditional use permits for the placement or construction of an antenna array, a communication tower or a related facility, the Plan Commission shall, unless it is shown to be unreasonable, condition the grant of the permit upon the applicant siting or constructing the antenna array and/or communication tower and/or related facility so as to reasonably accommodate, at a maximum height of 160 feet, co-location of two additional antenna arrays or related equipment similar in size and function to that placed on the tower or site by the applicant. Co-location sites need not be available on the tower or site as initially placed or constructed, provided that the tower or site will support at the specified height the later addition of the required number of co-location sites. The holder of a permit under this section shall make the co-location sites required hereunder available for the placement of technologically compatible antenna arrays and related equipment upon contractual provisions which are standard in the industry and at prevailing market rates allowing the permit holder to recoup the cost of providing the co-location sites and a fair return on investment.
- (k) **Modification of Antenna Array or Tower.** Unless otherwise provided herein, a conditional use permit is required for any modification of an antenna array, communication tower or related facility which significantly alters the appearance or structural integrity of the tower or site or which involves the installation of antenna or related equipment differing in size and function from that previously installed on the tower or site. The Plan Commission shall apply the standards under Section 13-1-47(2) when considering an application for a conditional use permit to allow the modification of an existing antenna array, communication tower or related facility. In addition, the Plan Commission shall consider the reasonableness, based on the economic and technological feasibility, of conditioning the grant of the conditional use permit upon modifying the antenna array, tower or related facility in a manner which would accommodate the co-location of one or more additional antenna arrays or related equipment.
- (l) **Continued Compliance with Conditions of Permit Required.** Upon written inquiry by the Plan Commission the recipient of a conditional use permit under this section shall have the burden of presenting credible evidence establishing to a reasonable certainty the continued compliance with all conditions placed upon the conditional use permit. Failure to establish compliance with all conditions placed upon the conditional use permit shall be grounds for revocation of the permit. In the event the Plan Commission determines that it is necessary to consult with a third party to ascertain compliance with conditions on a conditional use permit, all reasonable costs and expenses associated with such consultation shall be borne by the holder of the subject conditional use permit. Failure to pay such costs and expenses or provide information requested by the Plan Commission shall be grounds for revocation of the conditional use permit. The holder of the subject conditional use permit may provide to the Plan Commission names of consultants which the permit holder believes are qualified to assist in resolving the issues before the Plan Commission. In any event, where a dispute arises under this ordinance involving an applicant for a conditional use permit and the holder of a conditional use permit hereunder, the Plan Commission may allocate consulting costs and expenses between the applicant and the permit holder.
- (m) **Notice of Co-Location.** A conditional use permit shall not be required for co-location on an existing tower or site permitted under this section, provided the co-location antenna array or related equipment

is similar in size and function to that installed by the holder of the conditional use permit for the tower or site, does not significantly alter the appearance or structural integrity of the tower or site approved and permitted under this section, and is fully in compliance with all conditions contained in the original conditional use permit. The holder of the conditional use permit for any tower or site on which co-location occurs shall within thirty (30) days of such co-location provide the Plan Commission with written notification of the identity of the co-locator and the nature of the equipment installed. Within thirty (30) days of the date on which any co-located use ceases, the permit holder shall provide the Plan Commission with written notice of the cessation of such use.

- (n) **Storage Buildings.** The holder of a conditional use permit for a communication tower or site and any user co-locating under this ordinance shall each be permitted, upon approval of the Plan Commission, to construct a building of no more than fourteen (14) feet in height and three hundred fourteen (314) square feet in floor area for use directly incidental and necessary to the use of the tower or site. Two or more users of the tower or site may build a single building with a floor area of no more than three hundred fourteen (314) square feet per user sharing the building. Buildings constructed or used by tower or site co-locators shall be subject to conditions established for the conditional use permit for the tower or site.
- (o) **Removal.** Conditional use permits issued hereunder shall identify the primary type or types of transmission equipment which is to be placed on the subject communication tower or site. Any communication tower on which the transmission equipment so identified is no longer placed or used for a continuous period of twelve (12) months shall, upon notification by the Plan Commission, be removed by the holder of the conditional use permit issued under this section. If the tower is not removed within sixty (60) days of such notification the City may remove the tower at the expense of the holder of the conditional use permit.
- (p) **Future Plans.** The Plan Commission may require that an applicant for a conditional use permit under this section provide information regarding the applicant's then current plans for future placement or construction of communication towers and/or sites in the City of Monona in addition to the tower or site which is the subject of the application.

Sec. 13-1-48 through Sec. 13-1-59 Reserved for Future Use.

Article D: Site Performance Standards

Sec. 13-1-60 Site Performance Standards – Generally.

The following site performance standards in this Article shall apply to any construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure or building.

Sec. 13-1-61 General Site Performance Standards.

- (a) To the extent reasonably possible, the existing natural character of the site shall be preserved.
- (b) Safe and efficient vehicular and pedestrian circulation, parking and loading shall be assured.
- (c) Traffic flow to and from the site shall not cause undue congestion of the public street or streets; the number, size and location of off-street parking spaces shall be in conformity with this Code. The Monona Drive Access Management Guidelines, adopted as part of this Code, shall be used as standards in determining the number, size, location and design of driveway openings on a site.
- (d) The site shall be screened, landscaped and structures located in accordance with the following standards:
 - (1) The landscape of the site shall be improved in character with neighboring properties. All areas not covered by structures, driveways, walks or other permitted coverage shall be planted and maintained in lawn, ground cover, trees, shrubs or other appropriate plant materials, and all parking, utility, loading, service and recreation areas shall be reasonably screened. The City of Monona Site Design Standards for Parking, Landscaping and Lighting, adopted as part of this Code, shall be used as standards in determining the required type, size and quantity of landscape plantings required on site.
 - (2) The arrangements of buildings on the site shall create a harmonious appearance with respect to each other and with existing buildings in the immediate neighborhood. Due consideration shall be given to topographic conditions, the spatial relationship between buildings both on and off the site and the effect that the plans, if developed, would have on surrounding properties.
 - (3) The design of buildings and structures and the kind of building materials shall provide a harmonious relationship of color and/or texture between the buildings and structures. All accessory buildings shall bear a close relationship to the principal structure or structures in their design and building materials.
- (e) Exterior lighting needed for safety reasons shall be provided in addition to any requirements for street lighting. The Site Design Standards for Parking, Landscaping and Lighting, adopted as part of this Code, shall be used as standards in determining exterior lighting requirements for a building and site.
- (f) The layout or arrangement of a subdivision or land development shall be consistent with the requirements of this Code.
- (g) All lots shall abut upon a public street. All principal buildings and structures shall be located on a lot. Except for Planned Community Developments, and Commercial/Industrial, Community Design and Retail Business Districts, only one (1) principal building or structure shall be located, erected, or moved onto a lot.
- (h) Streets in a subdivision or land development shall be of sufficient width and suitable grade and shall be suitably located to accommodate prospective traffic and to provide access for fire fighting and emergency equipment to buildings.
- (i) Adequate water supply, drainage, shade trees, sewage facilities and other utilities necessary for essential services to residents and occupants shall be provided.
- (j) Land subject to flooding shall be regulated to avoid danger to life or property.
- (k) Soils shall be protected from erosion by wind or water or from excavating or grading.
- (l) The final development plan shall be substantially complied with.
- (m) Off-site water, sewer, drainage and street improvements, which are necessitated by development, shall be provided.

Sec. 13-1-62 Parking Standards.

- (a) **Off-Street Parking Requirement.** In all districts, for all uses except one (1) family and two (2) family dwellings, all construction shall be provided with sufficient off-street parking to accommodate all vehicles which are expected to use the premises in the normal course of events. If a building permit is required for the enlargement, extension or remodeling for substantial change in use of an existing principal building or structure, sufficient off-street parking shall be provided according to the standards that would apply if the entire building or structure were being newly constructed.
- (b) **Number of Required Parking Spaces.**
 - (1) **Determination.** The number of required parking spaces shall be determined by the Plan Commission. The Plan Commission shall base their determination on the City of Monona Site Design Standards for Parking, Landscaping and Lighting, adopted as part of this Code.
 - (2) **Collective Provision.** Parking for separate uses may be provided collectively.
 - (3) **Parking Standards.** Parking lot standards shall be based on the City of Monona Site Design Standards for Parking, Landscaping and Lighting, adopted as part of this Code, subject to approval of the Plan Commission. These shall include surfacing, size, arrangement and access of parking spaces, drainage and landscaping. Such standards shall apply to all open off-street parking areas designed for more than three (3) vehicles, with the exception of parking areas which are on the premises of a one (1) family or two (2) family dwelling and are intended for use by the occupants of the dwelling. If a building permit is required for the enlargement, extension or remodeling of an existing principal building, off-street parking shall be provided in conformance with such standards. If an existing parking lot is extended or expanded, it shall be made to conform to such standards.
- (c) **Off-Street Loading Spaces.** Any building occupied by commercial, industrial, cemetery, warehouse, wholesale, storage, retail, restaurant, or other uses similarly requiring the receipt or distribution in vehicles of material or merchandise shall provide and maintain off-street loading spaces on the premises as required by the Zoning Administrator according to standards established by him and approved by the Plan Commission.

Sec. 13-1-63 Architectural Compatibility.

- (a) **Purpose.** Development of the City to provide for aesthetic quality, architectural and natural beauty and harmony will enhance the well-being and contentment of its residents and encourage economic stability through the preservation and enhancement of property values. Therefore, standards are needed to ensure that architectural design is harmonious and compatible with nearby development and with nature. This Section is not intended to impose regimented conformity to any specific architectural style or taste, but is intended solely to prevent development which would have a substantially adverse effect on the existing or potential beauty and character of a neighborhood, would reduce its desirability or would depreciate its property values.
- (b) **Standards.** The following standards are adopted to establish criteria for the purposes described in Subsection (a) above:
 - (1) No building shall be permitted if its design or exterior appearance is of such unorthodox or abnormal character in relation to the surroundings as to be unsightly or offensive to generally accepted taste.
 - (2) No building shall be permitted if its design or exterior appearance is so identical with those adjoining as to create excessive monotony and drabness.
 - (3) No building shall be permitted if any exposed façade is not constructed or faced with a finished material, which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
 - (4) No building shall be permitted to be so situated on a lot as to unnecessarily destroy or substantially damage the natural beauty of the area, particularly if it would adversely affect property values in the area, or if it would adversely affect the beauty and general enjoyment of existing buildings on adjoining properties.

Sec. 13-1-64 Historic Conservation.

- (a) **Determination of Effect on Proposed Use or Improvement.** If an application for a zoning or occupancy permit under this Code involves a landmark or landmark site designated as such by the Landmarks Board, within thirty (30) days, the Commission shall determine:
- (1) Whether the proposed work would detrimentally change, destroy, or adversely affect any architectural feature of the landmark.
 - (2) In the case of a new construction, whether the exterior or such construction would be in harmony with the external appearance of other landmarks on the site or nearby.
 - (3) Whether the proposal would significantly alter or destroy the historic characteristics of the landmark or the landmark site.
- (b) **Action of Determination.** If, after consideration of Subsection (a), the Commission deems it appropriate, it shall refer the application to the Common Council to determine, within thirty (30) days, action for acquisition or preservation of such landmarks or sites.

Sec. 13-1-65 Environmentally Sensitive Lands.

- (a) The development shall not detrimentally affect or destroy natural features such as ponds, streams, lakes, shorelines, wetlands, steep slopes and forested areas but preserve and incorporate such features into the development site design.
- (b) The location of natural features and the site's topography shall be considered in the design and siting of all physical improvements.
- (c) The development shall not substantially reduce retention storage capacity of the watershed within which it is contained. Special effort shall be made to minimize the alterations, which would adversely affect the surface and subsurface hydrology, both on and off the site. Development which affects the hydrologic character of the basin shall be approved by the City Engineer.
- (d) Site soil and subsurface conditions shall be determined by the Zoning Administrator as suitable for the proposed land use prior to approval.
- (e) The development shall be free from offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, fumes, water pollution and other objectionable influences.

Sec. 13-1-66 Land Disturbance.

- (a) **General Design Principles.** Control measures shall apply to all aspects of the proposed land disturbance and shall be in operation during all stages of the disturbance activity. The following principles shall apply to soil erosion and sediment control:
- (1) Stripping of vegetation, grading or other soil disturbance shall be done in a manner, which will minimize soil erosion.
 - (2) No site shall be cleared of top soil, trees and other natural features before the commencement of building operations. Whenever feasible, natural vegetation shall be retained and protected. Only those areas approved for the placement of physical improvements may be cleared. The extent of the disturbed area and the duration of its exposure shall be kept within practical limits.
 - (3) Either temporary seeding, mulching or other suitable stabilization measures shall be used to protect exposed critical areas during construction or other land disturbance.
 - (4) Drainage provisions shall accommodate increased runoff resulting from modified soil and surface conditions, during and after development or disturbance. Such provisions shall be in addition to all existing requirements.
 - (5) Water runoff shall be minimized and retained on site whenever possible to facilitate ground water recharge.
 - (6) Sediment shall be retained on site.

- (7) Diversions, sediment basins and similar required structures shall be installed prior to any on-site grading or disturbance.
- (b) **Maintenance.** All necessary soil erosion and sediment control measures installed under this Code shall be adequately maintained until such measures are permanently stabilized, as determined by the City Engineer. The City Engineer shall give the applicant upon request a certificate indicating the date on which the measures called for in the approved plans were completed.
- (c) **Exemptions.** The following activities are specifically exempt from this section:
 - (1) Land disturbance associated with existing one (1) and two (2) family dwellings.
 - (2) Use of land for gardening, primarily for home consumption.

Sec. 13-1-67 Floodplains.

Title 13, Chapter 2 of the Monona Code of Ordinances, the Floodplain Zoning Ordinance, designates floodplains and lists floodplain regulations. In the areas designated by Title 13, Chapter 2, any new use or change in use of any building, structure, land or water, any land disturbance, any development and any construction, reconstruction, conversion, alteration, relocation or extension of any building or structure, shall be subject to Title 13, Chapter 2.

Sec. 13-1-68 through Sec. 13-1-79 Reserved for Future Use.

Article E: Zoning Districts

Sec. 13-1-80 Single Family Residence District.

- (a) **Characteristics of District.** The Single Family Residence District is characterized by low-density development of one (1) family dwellings and accessory buildings. A one (1) family dwelling is a building not attached to another dwelling or structure, and occupied or intended to be occupied for residence purposes by one (1) family, but not including trailers, tents or rooms in hotels, nursing homes or boarding houses.
- (b) **Administration.**
- (1) The performance standards for this District shall be interpreted and enforced by the Zoning Administrator, who shall determine whether the proposed construction, remodeling or alteration, to which this Section applies, meets all performance standards. The Zoning Administrator's determination shall be based on whether or not the proposed development meets the intent and spirit of the performance standards. It is intended that the Zoning Administrator may grant minor variations from the Dimensional Guidelines, as long as the spirit and intent of the performance standards are preserved.
 - (2) Any person aggrieved may appeal a decision of the Zoning Administrator to the Plan Commission.
 - (3) However, conditional use applications shall go directly to the Board of Zoning Appeals, whose decision may be appealed by persons aggrieved to the Common Council.
 - (4) In addition to the general performance standards, uses in this District shall meet the standards in this Article.
- (c) **District Performance Standards.**
- (1) **Compatibility.** All uses shall be compatible with the character of a one (1) family residential zone.
 - (2) **Permitted Uses.**
 - a. One (1) family detached houses.
 - b. Owner-occupied dwelling units may be occupied by a family and not more than two (2) unrelated persons. Dwelling units which are not owner-occupied may be occupied by a family and one-(1) unrelated person, who are living and cooking together as a single housekeeping unit and evidencing a stable family relationship. A dwelling may be occupied by any number of members of a church, congregation or religious society recognized under Ch. 187, Wis. Stats., so long as the church society or congregation continues to occupy the building which it occupied on the effective date of this Chapter.
 - c. Home occupations. (See Section 13-1-43).
 - d. Public utility uses which are designed to blend with a residential area and which cannot feasibly be located in a non-residential district.
 - e. Accessory uses, which are customarily incidental and subordinate to a permitted principal use.
 - f. Signs of the following types:
 1. Real estate signs with an area not more than six (6) square feet per face, with a maximum of two (2) faces, which advertise the sale or rental of only the premises on which they are placed, and are located at least five (5) feet from the street line. No real estate sign or part thereof shall be taller than five (5) feet above the ground. No real estate sign with a sold label shall remain upon the premises longer than one (1) week.
 2. Directional and identification signs for public or non-profit institutions shall not exceed eight (8) square feet. All directional and identification signs for public or non-profit institutions existing upon the effective date of this Chapter shall be deemed in conformance with this Section.
 3. Signs or nameplates for home occupations are prohibited except that signs no larger than three (3) square feet may be placed on buildings, which face Monona Drive.
 4. Garage sale signs as regulated under Section 13-1-44.

- (3) **Conditional Uses.** Permitted only if the Plan Commission determines that the proposed use complies with the General Use Performance Standards (Section 13-1-41).
 - a. Churches and ancillary facilities.
 - b. Libraries.
 - c. Public or private schools.
 - d. Municipal building and facilities.
 - e. Use similar in character to uses specified as permitted in this District.
- (4) **Prohibited Uses.**
 - a. Agriculture, except for small home gardens for personal use.
 - b. Any other use which is neither a permitted use nor an authorized conditional use.
- (d) **District Dimensional Guidelines.**
 - (1) **Minimum Lot Area.** Ten thousand (10,000) square feet (unless lot was platted prior to this Chapter).
 - (2) **Minimum Lot Frontage.** Seventy (70) feet width along a public street, or fifty (50) feet if abutting a public street with a curvature exceeding thirty-three and three tenths (33.3) degrees.
 - (3) **Minimum Lot Width at Building Line.** Sixty (60) feet.
 - (4) **Minimum Setbacks.**
 - a. **Street Yard.** Thirty (30) feet [but if forty percent (40%) or more of the frontage on one (1) side of a street between two (2) intersecting streets has been developed with a setback other than thirty (30) feet, the street yard setback so established shall prevail.]
 - b. **Side Yard.** Seven (7) feet.
 - c. **Rear Yard** Forty (40) feet.
 - d. **Shore Yard.** Fifty (50) feet from the meander line. [May be increased to average shore yard setback of two (2) adjacent houses on both sides, up to seventy-five (75) feet maximum requirement.]
 - (5) **Maximum Height.** Thirty-five (35) feet.
 - (6) **Maximum Lot Coverage.** Forty percent (40%).
 - (7) **Accessory Buildings and Structures.**
 - a. **Maximum Height.** Fourteen (14) feet.
 - b. **Distance.** Must be no less than six (6) feet from principal building.
 - c. **Minimum Setbacks.**
 - 1. **Street Yard.** Same as principal building.
 - 2. **Side Yard.** Three (3) feet. Overhangs shall not project more than one-third ($\frac{1}{3}$) into setback area.
 - 3. **Rear Yard.** Three (3) feet. Overhangs shall not project more than one-third ($\frac{1}{3}$) into setback area.
 - 4. **Shore Yard.** None, but the only accessory buildings permitted in shore yards are boathouses, boat shelters, boat landings and piers.
 - d. **Lot Coverage.** Maximum total lot coverage of all accessory buildings on lot – one thousand (1,000) square feet.
 - (8) **Yard Designations.**
 - a. Front yard, a confusing term, shall be replaced by shore yard and street yard, depending on location.
 - b. Any lot area abutting a body of water: shore yard.
 - c. Any lot area abutting a street: street yard.
 - d. Any lot area abutting another lot will be either a side yard or a rear yard:
 - 1. If there is one (1) such yard in a lot, it is a side yard.
 - 2. If there are two (2) such yards, both are side yards.
 - 3. If there are three (3) or more such yards, the yard, which is farthest from the street yard, is a rear yard and the others are side yards.

Sec. 13-1-81 Two Family Residence District.

- (a) **Characteristics of District.** The Two (2) Family Residence District is characterized by more dense development than the Single Family District, including two (2) family residences and accessory buildings. A two (2) family residence is a building not attached to another dwelling or structure, and occupied or intended to be occupied for residence purposes by two (2) families, but not including one (1) family dwellings, trailers, tents or rooms in hotels, nursing homes or boarding houses.
- (b) **Administration.**
- (1) The performance standards for this District shall be interpreted and enforced by the Zoning Administrator, who shall determine whether the proposed construction, remodeling or alteration meets all performance standards. The Zoning Administrator's determination shall be based on whether or not the proposed development meets the intent and spirit of the performance standards. It is intended that the Zoning Administrator may grant minor variations from the Dimensional Guidelines, as long as the spirit and intent of the performance standards are preserved.
 - (2) Any person aggrieved may appeal a decision of the Zoning Administrator to the Board of Zoning Appeals.
 - (3) However, conditional use applications shall go directly to the Plan Commission, whose decision may be appealed by persons aggrieved to the Common Council.
 - (4) In addition to the general performance standards, uses in this District shall meet the standards of this Article.
- (c) **District Performance Standards.**
- (1) **Compatibility.** All uses shall be compatible with the character of a two (2) family residential zone.
 - (2) **Permitted Uses.**
 - a. One (1) family detached houses.
 - b. Owner-occupied dwelling units may be occupied by a family and not more than two (2) unrelated persons. Dwelling units which are not owner-occupied may be occupied by a family and one (1) unrelated person, who are living and cooking together as a single housekeeping unit and evidencing a stable family relationship. A dwelling may be occupied by any number of members of a church, congregation or religious society recognized under Ch. 187, Wis. Stats., so long as the church society or congregation continues to occupy the building which it occupied on the effective date of this Chapter.
 - c. Two (2) family detached houses.
 - d. Home occupations (see Section 13-1-43).
 - e. Public utility uses which are designed to blend with a residential area and which cannot feasibly be located in a non-residential district.
 - f. Accessory uses, which are customarily incidental and subordinate to a permitted principal use.
 - g. Signs of the following types:
 1. Real estate signs with an area not more than six (6) square feet preface, with a maximum of two (2) faces, which advertise the sale or rental of only the premises on which they are placed, and are located at least five (5) feet from the street line. No real estate sign or part thereof shall be taller than five (5) feet above the ground. No real estate sign with a sold label shall remain upon the premises longer than one (1) week.
 2. Directional and identification signs for public or non-profit institutions shall not exceed eight (8) square feet. All directional and identification signs for public or non-profit institutions existing upon the effective date of this Chapter shall be deemed in conformance with this Section.
 3. Signs and nameplates for home occupations are prohibited.
 4. Garage sale signs as regulated under Section 13-1-44.
 - (3) **Conditional Uses.** Permitted only if the Plan Commission determines that the proposed use complies with the General Use Performance Standards (Section 13-1-41):
 - a. Churches and ancillary facilities.
 - b. Libraries.

- c. Public or private schools.
- d. Municipal buildings and facilities.
- e. Uses similar in character to uses specified as permitted in this District.
- (4) **Prohibited Uses.**
 - a. Agriculture, except for small home gardens for personal use.
 - b. Any other use which is neither a permitted use nor an authorized conditional use.
- (d) **District Dimensional Guidelines.**
 - (1) **Minimum Lot Area.** Ten thousand (10,000) square feet (unless lot was platted prior to this Code).
 - (2) **Minimum Lot Frontage.** Seventy (70) feet width along a public street or fifty (50) feet if abutting a public street with a curvature exceeding thirty-three and three tenths (33.3) degrees.
 - (3) **Minimum Lot Width at Building Line.** Sixty (60) feet.
 - (4) **Minimum Setbacks.**
 - a. **Street Yard.** Twenty-five (25) feet. [But if forty percent (40%) or more of the frontage on one (1) side of a street between two (2) intersecting streets has been developed with a setback other than twenty-five (25) feet, the street yard setback so established shall prevail.]
 - b. **Side Yard.** Ten (10) feet.
 - c. **Rear Yard.** Forty (40) feet.
 - d. **Shore Yard.** Fifty (50) feet from the meander line.
 - (5) **Maximum Height.** Thirty-five (35) feet.
 - (6) **Maximum Lot Coverage.** Forty percent (40%).
 - (7) **Accessory Buildings and Structures.**
 - a. **Maximum Height.** Fourteen (14) feet.
 - b. **Distance.** Must be no less than six (6) feet from principal building.
 - c. **Minimum Setbacks.**
 - 1. **Street Yard.** Same as principal building.
 - 2. **Side Yard.** Same as principal building.
 - 3. **Rear Yard.** Ten (10) feet.
 - 4. **Shore Yard.** None, but the only accessory buildings permitted in shore yards are boathouses, boat shelters, boat landings and piers.
 - d. **Lot Coverage.** Maximum total lot coverage of all accessory buildings on lot. One thousand (1,000) square feet.
 - (8) **Yard Designations.**
 - 1. Front yard, a confusing term, shall be replaced by shore yard and street yard, depending on location.
 - 2. Any lot area abutting a body of water: shore yard.
 - 3. Any lot area abutting a street: street yard.
 - 4. Any lot area abutting another lot will be either a side yard or a rear yard.
 - a. If there is one (1) such yard in a lot, it is a side yard.
 - b. If there are two (2) such yards, both are side yards.
 - c. If there are three (3) or more such yards, the yard, which is farthest from the street yard, is a rear yard and the others are side yards.

Sec. 13-1-82 Multi-Family Residence District.

- (a) **Characteristics of District.** The Multi-Family Residence District is characterized by high-density dwelling units, having proximity to commercial developments or major streets.
- (b) **District Performance Standards.**
 - (1) **Standards.** In addition to the general performance standards, proposed uses in this District shall meet the following additional standards:
 - a. Multi-family residential uses shall be designed, sited and located to serve effectively as a smooth transition between commercial uses and low-density residential uses.
 - b. Multi-family residential uses shall be designed to be compatible with nearby low-density residential uses.

- c. To the extent feasible, a reasonable proportion of new multi-family residential construction shall be made available at moderate cost to low-income, elderly and large households.
 - d. No multi-family residential units shall be occupied to exceed a density greater than two (2) adults per bedroom.
- (2) **Permitted Uses.**
- a. Home Occupations (See Section 13-1-43).
 - b. Multi-family residential units may be occupied by one (1) or more families not exceeding a density greater than two (2) adults per bedroom.
- (3) **Signs.** Signs of the following type:
- a. Real estate signs with an area not more than six (6) square feet preface, with a maximum of two (2) faces, which advertise the sale or rental of only the premises on which they are placed, and are located at least five (5) feet from the street line:
 - 1. No real estate sign or part thereof shall be taller than five (5) feet above the ground.
 - 2. No real estate sign with a sold label shall remain upon the premises longer than one (1) week.
 - b. Directional and identification signs for public or non-profit institutions, not to exceed eight (8) square feet. All directional and identification signs for public or non-profit institutions existing upon the effective date of this Chapter shall be deemed in conformance with this Section.
 - c. Signs or nameplates for home occupations are prohibited.
 - d. Garage sale signs as regulated under Section 13-1-44.

Sec. 13-1-83 Neighborhood Small Business District.

- (a) **Characteristics of District.** The goal of this District is to provide convenient and accessible sites for small business establishments without harming the historic, architectural and aesthetic quality of the area.
- (b) **District Performance Standards.** This District is intended to serve the daily or frequent shopping needs of residents in adjacent areas by permitting limited commercial establishments within walking distance of a large number of residences. It is intended that one (1) family residences, two (2) family residences and small-scale neighborhood retail and service businesses are to be permitted in this District. This District is restricted to uses with a limited number of employees, limited traffic generation and minimal parking needs, in order to avoid disrupting the surrounding low-density residential neighborhood. It is intended that existing businesses located in historic buildings may be continued provided that the exterior walls of the building are preserved substantially undisturbed and in substantially the same appearance as they were on the effective date of this Code. Use and development in this District shall blend with the historic, architectural and aesthetic character of the area. Uses in this District shall not emit smoke, fumes, gases, dust, odors, vibration, noise or glare in amounts, which are discernible beyond the boundaries of the site. Dimensions of any development shall be compatible with nearby residential development.

Sec. 13-1-84 Retail Business District.

- (a) **Characteristics of District.** The Retail Business District is characterized by retail trade, service, office, financial, professional, ancillary residential and entertainment activities serving the community.
- (b) **District Performance Standards.** In addition to the general performance standards, proposed uses in this District shall meet the following additional standards:
 - (1) The proposed use shall be related to the general development pattern and the objectives of the Master Plan to provide a balanced local economy, to provide needed goods and services not otherwise available in the immediate area and to protect and enhance the character of the surrounding neighborhood.

- (2) Because of the limited supply of vacant land, the proposed use shall not unnecessarily duplicate retail or service uses already existing in the immediate vicinity.
- (3) Whenever feasible, building shall be physically oriented away from residential development and the layout of parking and service areas, access, landscaping, yards, walls, signs, lighting and control of loud and/or discordant noise, glare and other potentially adverse effects shall be such as to protect nearby residential development. Yards, fences, walls, landscaping or other screening or buffering shall be provided where needed to protect nearby residents from undesirable views, lighting, noise or other adverse influences. In particular, extensive off-street parking areas, service areas, loading areas and areas for storage and collection of garbage shall be adequately screened.
- (4) Whenever possible, development shall occur according to a large-scale plan rather than on a piecemeal basis. For example, whenever practical, development shall be planned in a coordinated fashion for an entire block rather than occurring on a lot-by-lot basis. This could be accomplished by single ownership or control of an entire block, by agreement among the owners of lots in a block, or by the adoption of a policy resolution for the area by the Plan Commission. However it is organized or enforced, the large-scale plan shall provide the benefits of coordinated site planning in the following manner:
 - a. To provide for features such as shared parking lots, to minimize the number of driveway entrances and exits through use of the Monona Drive Access Management Guidelines, to provide for safe and efficient traffic flow, to minimize the paved area and to facilitate on-site absorption and retention of storm water.
 - b. To provide more landscaping.
 - c. To encourage more attractive building design and layout.
 - d. To permit the construction of appropriately sized indoor and outdoor pedestrian plaza areas and attractively landscaped open spaces.
 - e. To prevent the proliferation of unattractive alleys and yards which are too small or inappropriately located to be aesthetically pleasing.

Sec. 13-1-85 Commercial Industrial District.

- (a) **Characteristics of District.** The Commercial/Industrial District is characterized by retail, service, commercial, office, recreational, warehouse and light industrial uses which are highway-oriented. Typical light industrial uses include manufacturing, fabrication, packing, packaging, assembly, repair, terminals, depots and storage. It is contemplated that multi-family residential development shall be permitted in this District only as part of a rezoning to Planned Community Development District.
- (b) **Adult Entertainment District.** Adult oriented establishments are allowed in this Section subject to the following conditions:
 - (1) Such establishments shall be licensed as provided in Section 7-14-1 through 7-14-13 of this Code of Ordinances.
 - (2) All exterior windows in any premises occupied by such establishment shall be blackened to the extent necessary to make them opaque.
 - (3) No such establishment shall be located within five hundred (500) lineal feet of a church or any other place of worship, or a private or public elementary, secondary or vocational school, or a public park, or within five hundred (500) lineal feet of any residence district.
 - (4) Such establishment may have one (1) non-flashing business sign, which sign may only indicate the name of the business and identify it as an adult entertainment establishment.
- (c) **District Performance Standards.** In addition to the general performance standards, proposed uses in this District shall meet the following additional standards:
 - (1) The proposed use shall be related to the general development pattern and the objectives of the Master Plan to provide a balanced local economy and to provide stable employment suitable for residents of Monona and the surrounding area.
 - (2) The proposed use shall be compatible with nearby development as built or contemplated for construction in the near future.
 - (3) Because of the limited supply of vacant land, any proposed retail or service uses shall not unnecessarily duplicate retail or service use already existing in the immediate vicinity.

Sec. 13-1-86 Community Design District.

- (a) **Characteristics of District.** The Community Design District is characterized by large, predominately undeveloped tracts. Because of the salience of these properties, the community vests a particular interest in the rational, comprehensively planned development. As part of the limited remaining area of undeveloped land within the City, these properties are of critical importance in establishing a balance in land uses and in community services. It is expected that the development of property within this District will take advantage of the flexibility provided by the Planned community development procedure. Further, it is expected that the district development will include a compatible mix of residential, commercial, industrial, or open space uses, which realize the goals of the Master Plan.
- (b) **District Performance Standards.**
- (1) Development shall occur only after coordinated advance site planning to retain the unique character of these tracts and to strike an acceptable balance between natural preservation, growth and development.
 - (2) For each tract, development shall occur according to a large-scale plan rather than on a piecemeal basis. It is intended that this plan be a mutual product of efforts of the property owner and the City. This could be implemented by a policy resolution of the Plan Commission to accept the owner's general development plan for the tract, or it could be implemented by a mutual decision by the owner and the City to rezone the tract to a Planned Community Development based on a General Development Plan.
 - (3) Development shall preserve the maximum possible amount of open space and environmental amenities through techniques such as clustering, site planning and permanent reservation of open space.
 - (4) All uses and their intensity, appearance and arrangement shall be of a visual and operational character which:
 - a. Is compatible with the physical nature of the site, with particular concern for preservation of natural features, open space, tree growth, unique or environmentally significant landforms and unobstructed public views of bodies of water.
 - b. Would produce an attractive environment of sustained aesthetic and ecological desirability, economic stability and functional practicality compatible with the general policy guidelines of the comprehensive Master Plan as well as the specific concerns expressed by the community.
 - c. Would not create traffic or parking demand incompatible with the existing or proposed facilities to serve it unless jointly resolved.
 - d. Would not seriously affect the anticipated provision of school or municipal services unless jointly resolved.
 - e. Serve regional and community needs for employment, open space, moderate-cost housing, lake access and/or recreational facilities.

Sec. 13-1-87 Conservancy District.

- (a) **Purpose and Intent.** The Conservancy District is established to preserve in a natural open state certain areas such as lakes, waterways, shorelands, wetlands, marshes, floodplains, stream beds, slopes and other areas of aesthetic and ecological value, which, because of their unique physical features, are desirable and functional as natural drainageways, water retention area, natural habitats for plant and animal life, or protected open space. The regulations of the Conservancy District are intended not only to preserve certain open space land and water areas for uses consistent with the intent and purpose of this Code but also to protect the community from the costs, which may be incurred when unsuitable development occurs in certain areas. Development in the Conservancy District is limited in character, although certain agricultural, public and recreational uses are permitted when controlled by specific limitations.
- (b) **Characteristics of District.** The Conservancy District is characterized by land and water preserves, arboretums, boating, fishing, harvesting by hand of wild crops, public recreational facilities, the

practice of wildlife and fish management and similar uses which protect the environmental quality of the area. It is intended that public highways and parkways will be permitted if they are designed to minimize damage to the conservancy area, to provide the public with a view of the conservancy area, and to relieve safety and traffic congestion problems along existing highways.

- (c) **Permits.** The applicant shall secure all necessary permits from all appropriate federal, state and local agencies including those required under Section 404 of the Federal Water Pollution Control Act as amended, 33 U.S.C. 1334.

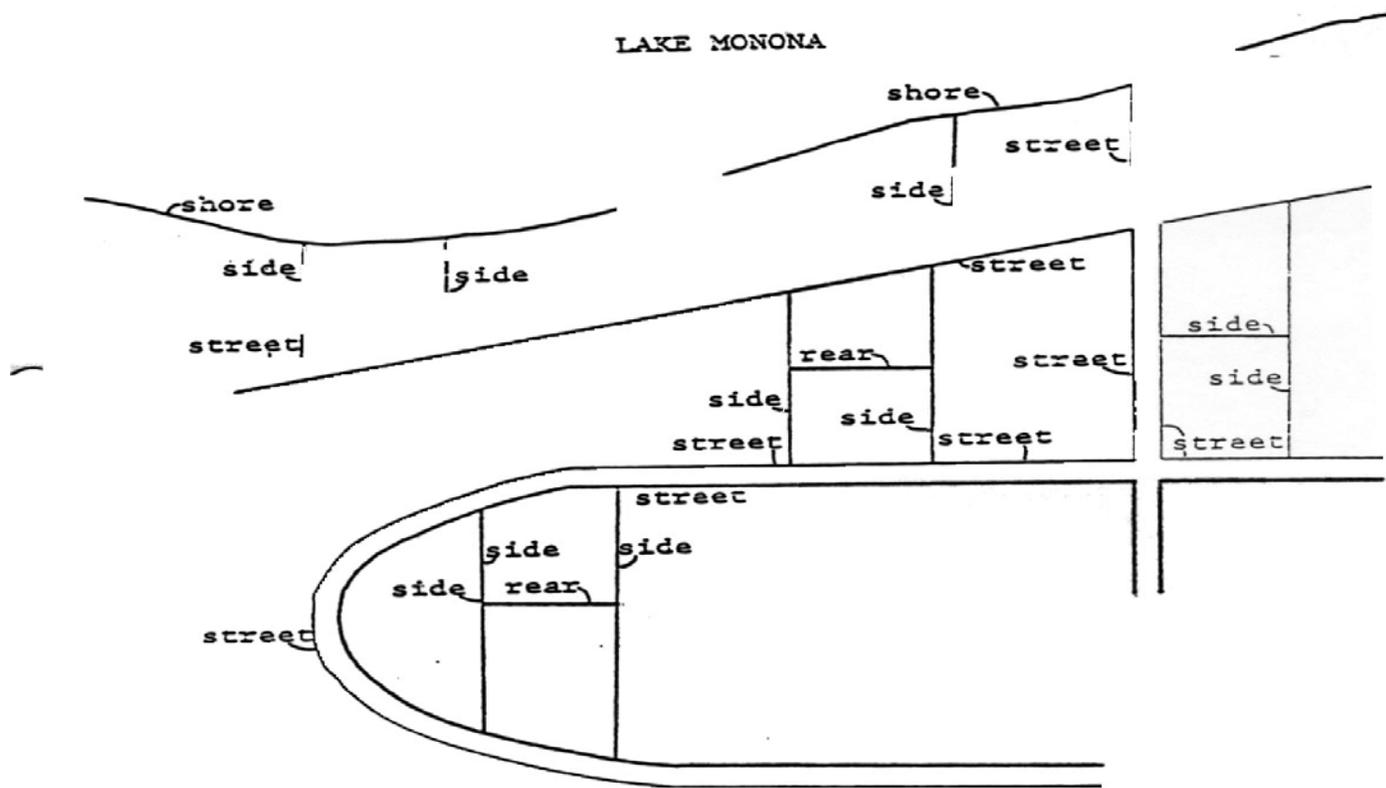
Sec. 13-1-88 Public Facilities District.

- (a) **Characteristics of District.** This District is characterized by facilities owned by a government or governmental agency, and by public utility facilities, which are compatible with the environment.
- (b) **District Performance Standards.** In addition to the general performance standards, proposed uses in this District shall meet the following standards:
- (1) To the extent feasible, a substantial portion of the property shall be maintained as landscaped open space.
 - (2) The proposed use shall be related to the general development pattern and the objectives of the Master Plan to promote a balanced local economy, to promote needed goods and services not otherwise available in the immediate area and to protect and enhance the character of the surrounding neighborhood.
 - (3) All uses and structures within this District must receive a zoning permit.

Sec. 13-1-89 Cemetery District.

- (a) **Characteristics of District.** The Cemetery District is characterized by cemeteries, mausoleums, funeral chapels, monuments and ancillary facilities.
- (b) **District Performance Standards.** In addition to the general performance standards, proposed uses in this District shall meet the following standards:
- (1) To the extent feasible, a substantial portion of the property shall be maintained as landscaped open space.

Sec. 13-1-90 through Sec. 13-1-99 Reserved for Future Use.



Article F: Planned Community Developments

Sec. 13-1-100 Intent and Purpose.

The intent of this Article is to encourage and promote improved environmental design in the development of land by allowing greater freedom and flexibility than is possible under the precise and rigid requirements of conventional zoning districts, through the use of objective standards establishing goals and criteria for judgment rather than the application of fixed formula. To this intent it allows diversification in the uses permitted and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived and implemented as comprehensive and cohesive unified projects, while still requiring substantial compliance to the general plan for community development. It is further intended to encourage more imaginative site planning, to assist in achieving more rational and economic development with relationship to public services, to permit optimum development of land and to encourage and facilitate the conservation of open land and other natural features such as woods, streams, wetlands, etc., as integral components of a balanced ecology. It is expected that the planned community development tool will be used to provide comprehensive mixed-use developments within the community design districts.

Sec. 13-1-101 Minimum Planned Community Development Area.

To qualify for consideration as a planned community development, the site shall be of sufficient size in relation to the proposed uses to justify the application of the special regulations as set forth in this Article, and shall be under the single or unified ownership of the applicant.

Sec. 13-1-102 Permitted Uses.

In a planned community development, any use may be permitted subject to the standards as herein set forth, provided no use shall be permitted except in conformity with a specific and precise development plan pursuant to the procedural and regulatory provisions as set forth.

Sec. 13-1-103 Standards.

- (a) **General.** As a basis for determining the acceptability of a planned proposal, consideration shall be given as to whether or not it is consistent with the spirit and intent of the purposes of this Section, has been prepared with competent professional advice and guidance in terms of planning, architecture and engineering, and produces significant benefits in terms of improved environment design.
- (b) **Height and Area.** Specific lot size, density, open space, building location, height, size, floor area, yard, parking and other such requirements shall be based upon determination as to their appropriateness to the uses or structures as they relate to the total environmental concept of the planned development, and consistent with the criteria set forth in this Code and with those generally accepted basic standards necessary to ensure the protection of the public health, safety and welfare.
- (c) **Parking.** Off-street parking facilities shall be provided consistent with the uses proposed in the development.
- (d) **Design Standards.** Engineering and subdivision design standards relative to street type, location and width, sidewalks, street lighting, storm drainage, lot arrangement or other elements of site design shall be based upon determination as the appropriate standards necessary to effectively implement the specific function in the specific situation, and as it relates to the total plan concept; and consistent with the necessity for compatibility with the existing pattern in areas peripheral to the development. In no case shall minimal construction standards be less than those necessary to protect the public health, safety and welfare. To this intent the subdivision control ordinance may be waived where deemed appropriate in the case of a planned community development.

- (e) **Intensity and Character of Land Use.** In a planned community development, the suitability of the type and character of uses proposed and their intensity and arrangement on the site shall be based upon the following standards:
- (1) Compatibility to the physical nature of the site, with particular concern for conservation of natural features such as tree growth, streams, wetlands, geological features, natural resources, etc., for suitability of soils for the uses proposed; for preservation of open space; and for careful shaping of terrain to minimize scarring, ensure suitable drainage and for preservation of natural terrain wherever appropriate.
 - (2) Achievement of an attractive environment appropriate to the uses proposed and compatible with existing development in the surrounding area and with official development plans for the area, with particular concern for preservation of ecologic and economic balance.
 - (3) Capacity to be effectively serviced without creating a demand for schools, sanitary sewer, water, storm water drainage, recreational areas, highways or other public services substantially in conflict with that anticipated by the appropriate jurisdictional plans for such services or which could not be provided without adverse effect upon the jurisdictional area involved.
 - (4) Adequate provision for the practical functioning of the development in terms of circulation, parking, emergency services, mail and delivery service, street maintenance and utility service.
 - (5) Adequate provision for appropriate sites for schools, parks, highways and other public facilities serving the proposed development.
- (f) **Common Open Space, Park or Other Amenities.**
- (1) In a planned community development, consideration shall be given to the preservation of open space, and other natural features such as woods, streams, wetland, etc. – as common open space, parkland, or other amenity area serving the recreational and aesthetic needs of the people in the development, the need created for such area by the development and the suitability or potential of the area for such use.
 - (2) Such areas may include landscaped or naturalistic grounds, water bodies or specific recreational activity facilities and shall be of such size, shape, character and location as makes them a practical recreational amenity to the residents of the development or a contribution to the environmental quality of the development.
 - (3) Adequate provision shall be made for the establishment, permanent preservation and maintenance of such common “open space”, parkland or amenity areas either by private reservation or dedication to the public:
 - a. Dedication shall not be mandatory, but where public ownership is desired, reservation for such purpose may be required.
 - b. In the case of private open space reservation, the open area to be reserved shall be protected against building development by conveying to the City, as part of the conditions for project approval, an open space easement over such open areas restricting the area against any future building or use except as is consistent with that of providing landscaped open space for the aesthetic and recreational benefit of the development. Buildings or uses for recreational, cultural or other purposes compatible with the open space objective may be permitted only where specifically authorized as part of the development plan or subsequently with the express approval of the Commission following approval of building, site and operational plans.
 - c. The care and maintenance of private open space reservations or amenity areas shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be determined prior to the approval of the final project plans and shall be included in the conditions of approval and in the title to each property.
 - d. Ownership and tax liability of private open space reservation or amenity areas shall be established in a manner acceptable to the City and made a part of the conditions of the plan approved.
- (g) **Economic Feasibility and Impact.** In order to minimize the possibility of adverse effect resulting from failure to implement an approved project or from the economic impact of its development upon the community, the proponents of a planned development shall provide satisfactory evidence of their economic feasibility to finance the project, and that the economic prosperity of the area or the values of surrounding properties would not be adversely affected as compared to the impact of development

which might reasonably have been anticipated under the zoning in effect at the time the planned development was proposed.

- (h) **Implementation Schedule.** The proponents of a planned community development district shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Council. The schedule shall include suitable provisions to assure that each phase could be brought to completion in a manner, which would not result in adverse effect upon the community as a result of termination at that point.
- (i) **Enforceability.** Such requirements as are made a part of an approved precise development plan shall be, along with the plan itself, construed to be enforced as a part of this Chapter.

Sec. 13-1-104 Procedures.

- (a) **Generally.** The procedure for a planned community development shall be as required for any other zoning permit application under this Code.
- (b) **Pre-Application Conference.** Prior to the submittal of a formal application for approval of a planned community development, the applicant shall meet with the Commission for an informal discussion of the proposed development in order to provide the basis for proper submittal and processing.
- (c) **Application.**
 - (1) The submittal for approval of a planned community development shall be in the form of a general development plan and a precise implementation plan. The application may be for a preliminary approval of a general development plan, followed by the submittal, in whole or part, of final detail plans for approval as a “precise implementation plan”, or for a combined general development plan.
 - (2) The application for a general development plan, a general development plan with a precise implementation plan, or a precise implementation plan shall be submitted in triplicate to the City Clerk who shall transmit it directly to the Commission for processing.
- (d) **General Development Plan.**
 - (1) The application for approval of a general development plan is intended to provide sufficient definition of the proposed development to make possible a determination as to its basic acceptability in terms of its character; its use pattern; its intensity of use; its economic, environmental, and service impact; and such other factors as would be pertinent to such basic decision prior to the preparation of detailed engineering, architectural and landscape architectural plans.
 - (2) The Plan Commission shall hold a public hearing for the purpose of collecting public input on the general development plan. The Commission shall provide a Class I notice in the official newspaper and shall also give at least ten (10) days’ written notice of the proposed plan and the time and place of the hearing at which any proposed change will be considered, to the owner of any lot or parcel of land immediately adjacent, contiguous, or separated only by a public right-of-way.
- (e) **Referral.** Within sixty (60) days after completion of the filing of the petition for approval of a general development plan, the Commission shall forward the petition to the Common Council with a recommendation that the plan be approved as submitted, approved with modification, or disapproved. Such report shall include findings of fact specifying the reasons for the Commission’s recommendation.
- (f) **Common Council Action.** Within thirty (30) days following receipt of the report of the Commission, the Council shall approve the recommendation, approve the recommendation with modifications, disapprove the recommendation or refer the matter back to the Commission for further consideration. In the case of approval or approval with modification, the Council shall approve the general development plan and may impose such conditions as it deems necessary to ensure that the development shall establish the basic right of use for the area in conformity with the plan as approved, but shall be conditioned upon approval by a precise implementation plan, and shall not make permissible any of the uses as proposed until a precise implementation plan is submitted and approved for all or a portion of the general development plan.

- (g) **Precise Implementation Plan.** A precise plan for implementation of all or part of a proposed planned community development district may be submitted concurrently with a general development plan or within a reasonable period of time as determined by the Council. If a precise implementation plan, which the Council determines to be a reasonable phase of the total plan, has not been submitted within such time, the Council may revoke the approval of the general development plan. The precise implementation plan shall present in greater detail the information given approximately in the general development plan. The precise implementation plan shall include detailed construction and engineering plans and related detailed documents and schedules.
- (h) **Public Hearing.** Whenever the precise implementation plan is submitted, the Commission shall hold a public hearing for the purpose of collecting public input on the precise implementation plan. The Commission shall provide a Class I notice in the official newspaper and shall also give at least ten (10) days written notice of the proposed precise implementation plan and the time and place of the hearing at which the precise implementation plan will be considered, to the owner of any lot or parcel of land immediately adjacent, contiguous, or separated only by a public right-of-way. A precise implementation plan submitted for approval shall be deemed to conform substantially to the general development plan approved provided any modification therein, including any modification in location, design and number of buildings, roadways and utilities, does not:
- (1) Change the concept or intent of the preliminary plan approved; or
 - (2) Increase the gross residential density or intensity of use by more than ten percent (10%); or
 - (3) Reduce the area set aside for community open space by more than ten percent (10%), or in any case below that required for a minimum; or
 - (4) Increase by more than ten percent (10%) the floor area for non-residential use; or
 - (5) Increase by more than five percent (5%) the total ground area covered by buildings or structures.
- (i) **Referral.** Within thirty (30) days after completion of the filing for approval of the precise implementation plan, the Commission shall forward the petition to the Common Council with a recommendation that the precise implementation be approved as submitted, approved with modifications, or disapproved. Such report shall include findings of fact specifying the reasons for the Commission's recommendations.
- (j) **Common Council Action.** Within thirty (30) days following receipt of the report of the Commission, the Council shall approve the recommendation, approve the recommendation with modifications, disapprove the recommendation or refer the matter back to the Commission for further consideration. In the case of approval, of approval with modification, the Council shall approve the precise implementation plan and may impose such conditions as it deems necessary to ensure that the precise implementation plan conforms with and implements the previously approved general development plan.
- (k) **Recording.** In the event of approval of the precise implementation plan, the building site and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the City offered or required with regard to project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans, shall be recorded by the developer within a reasonable period of time as determined by the Council in the County Register of Deeds Office. This shall be accomplished prior to the issuance of any building permit.
- (l) **Changes.** If the precise implementation plan submitted does not conform substantially to the general development plan previously approved, or if the applicant desires to amend substantially a development therein, amendments thereto may be approved only by following the procedure for original approval. No changes in the precise implementation plan approved hereunder shall be considered to waive any of the covenants or agreements limiting the use of land, buildings, structures and improvements within the planned community development unless specifically stated.
- (m) **Extension or Revocation.** If no substantial construction has begun in the planned community development within two (2) years after the approval by the Council of a precise implementation plan, the general development plan shall be subject to revocation upon written notice to the applicant from the City. The City may grant extensions of such period. In the event of revocation hereunder, an appropriate instrument of revocation shall be filed in the County Register of Deeds Office.
- (n) **Additions.** Land contiguous to an existing planned community development may be added to such planned community development provided such land is made a part of the original development plan

in all respects prior to its incorporation into such plan by an amendment of the development plan as provided in Subsection (k).

Sec. 13-1-105 through Sec. 13-1-119 Reserved for Future Use.

Article G: Non-Conforming Uses

Sec. 13-1-120 Existing Non-Conforming Uses.

- (a) **When Continuation Permitted.** The lawful non-conforming use of a building, structure, land or water existing on the effective date of this Code or any amendment to this Code may be continued although the use does not conform with the provisions of this Code, provided:
- (1) Only the use of that portion of the land or water in actual use may be so continued; and the building or structure shall not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required by law or order so as to comply with the provisions of this Chapter.
 - (2) The total lifetime structural repairs or alterations to buildings and structures devoted to non-conforming uses shall not exceed fifty percent (50%) of the replacement cost, or acceptable substitute indicator of market value, determined at the time the building or structure was listed as a legal non-conforming use under Subsection (c), unless the building or structure is permanently changed to a conforming use.
 - (3) Substitution of new equipment may be permitted by the Board of Zoning Appeals if such equipment will reduce the incompatibility of the non-conforming use with the neighboring uses.
- (b) **When Discontinuation Required.**
- (1) If such non-conforming use is discontinued or terminated for twelve (12) consecutive months, any future use of the building, structure, land or water shall conform to the provisions of this Chapter.
 - (2) When a non-conforming use, building or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than fifty percent (50%) of its market value, it shall not be restored except in compliance with the use provisions of this Chapter.
- (c) **Records.** As existing non-conforming uses are observed, the Zoning Administrator shall establish and maintain a file of non-conforming uses listing the following:
- (1) Owner's name and address.
 - (2) Use of the building, structure, land or water.
 - (3) Market value of the structure at the time of its becoming a non-conforming use.
- (d) **Certificate of Non-Conformity.** When the Zoning Administrator lists a non-conforming use under Subsection (3), the Zoning Administrator shall issue a certificate of legal non-conformity to the property owner, which shall include the current replacement cost, or an acceptable substitute indicator of market value.

Sec. 13-1-121 Existing Non-Conforming Buildings and Structures.

- (a) **Generally.** Any lawful non-conforming building or structure existing on the effective date of this Code or any amendment to this Code may be continued although its size or location does not conform with the lot width, lot area, yard, height, other dimensional, parking, loading, access or site performance standards of this Code; provided it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required by law or order or so to comply with such provisions, or when there would be no additional encroachment on zoning regulations. This Code shall not prevent compliance with lawful orders of the Zoning Administrator or Building Inspector or prevent strengthening or restoring to a safe condition any part of any structure the Zoning Administrator or Building Inspector declares unsafe.
- (b) **Records** A record of non-conforming buildings and structures shall be established and maintained by the Zoning Administrator as provided in Section 13-1-120(c). The Zoning Administrator shall issue certificates of non-conformity as in Section 13-1-120(d).
- (c) **Amortization of Non-Conforming Structures.** Non-conforming structures other than buildings shall be brought into conformance by January 1, 1985, or five (5) years after the effective date of any applicable amendment to this Code.

- (d) **Maintaining Non-Conforming Buildings and Structures.** Subject to Subsection (c) buildings and structures which are non-conforming for reasons other than use may be repaired and maintained.

Sec. 13-1-122 Changes and Substitutions of Non-Conforming Uses, Buildings or Structures.

- (a) Once a non-conforming use, building or structure has been changed to conform, it shall not revert back to a non-conforming use, building or structure.
- (b) Once the Zoning Board of Appeals has permitted the substitution of a more restrictive non-conforming use for an existing non-conforming use, the substituted use shall lose its status as a legal non-conforming use and become subject to all the conditions required by the Board of Appeals.

Sec. 13-1-123 Substandard Lots.

- (a) **Use of Substandard Lots.** In any residential district, a one (1) family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record which was recorded in the office of the County Register of Deeds before the effective date of this Code or the effective date of any applicable amendment to this Code, provided such lot or parcel is developed in accordance with this Section. However, if abutting lands and a substandard lot of less than fifty (50) feet in width at the building line are owned by the same owner, a substandard lot shall not be sold or used without full compliance with the provisions of the Zoning Code.
- (b) **Development Standards.**
 - (1) Any substandard lot that is allowed to be developed under Subsection (a) shall be developed in accordance with the side yard, rear yard and front yard setback limitations as set forth in the Single Family Residence District regardless of its zoning district classification. In addition to this requirements, no structure may be built within fourteen (14) feet of any adjoining dwelling structure.
 - (2) In addition, the lot coverage ratio and floor area ratio shall not be less than eighty percent (80%) of the average lot coverage ratio and the average floor area ratio for other single family resident occupied lots within the neighborhood. The proposed use must meet the use performance standards of Section 13-1-41 and the site performance standards of Section 13-1-61.
 - (3) For the purposes of this Section, “neighborhood” means those lands designated as single family by the Zoning Map lying within two hundred (200) feet of the exterior boundaries of any substandard lot that is the subject of an application for a zoning permit under this Section.

Sec. 13-1-124 through Sec. 13-1-139 Reserved for Future Use.

Article H: Zoning Map

Sec. 13-1-140 Map of Existing and Planned Uses.

The existing and planned uses within the City shall be shown on a zoning map prepared and adopted by the Common Council under Sec. 62.23(7)(b), Wis. Stats. Within such areas or “districts” the land shall be used only for uses compatible with the general characteristics of the districts as enumerated in Sections 13-1-61 through 13-1-104.

Sec. 13-1-141 Determination of Compatibility.

Since Sections 13-1-82 through 13-1-104 do not enumerate uses permitted by right, conditional uses or prohibited uses but indicate the general characteristics of each district, the Zoning Administrator under Sections 13-1-80 through 13-1-81, except for conditional uses, and the Commission in these and in all cases shall determine whether the proposed use is compatible with the district by applying the general performance standards and the performance standards enumerated in each section.

Sec. 13-1-142 Amendment of Zoning Map.

Since uses within the zoning “districts” are not specifically enumerated except according to the characteristics of the district, a rezoning amendment will not be required unless the Commission determines that a proposed use is incompatible with the district characteristics. If such is the case, the rezoning procedure of Section 13-1-143 shall apply. However, the Commission shall annually review the zoning map and on its own motion may propose amendments to the Zoning Map to the Common Council pursuant to Section 13-1-143.

Sec. 13-1-143 Amendment Procedure.

- (a) **Council May Award.** The Common Council may from time to time on its own motion or on petition, after first submitting the proposal to the Commission, amend, supplement or change the district boundaries or the regulations for the zoning districts, after hearing and report thereon by the Commission.
- (b) **Notice and Action on District Changes.**
 - (1) **Commission.** Any proposal to change the classification of any lot or parcel of land or the boundaries of any zoning district or the district regulations shall be submitted to the Commission for recommendation and report to the Common Council.
 - (2) **Notice and Hearing.** Upon referral of any proposal under Subsection (b)(1) to it, the Commission shall give notice, by publication of a Class II notice, under Ch. 985, Wis. Stats., in the official newspaper of the proposed changes and of hearings thereon, and shall give any person interested an opportunity to be heard. The Commission shall also give at least ten (10) days written notice of the proposed changes and the time and place of the hearing at which any proposed change will be considered, to the owner of any lot or parcel of land immediately adjacent to or extending one hundred (100) feet from the land included in the proposed change, and extending one hundred (100) feet from the street frontage of such opposite land. Such notice shall contain the street names and house, lot or parcel numbers of the land included in the proposed change. Such notice shall also be accompanied by a scale or plat map showing the land included in the proposed change in relation to nearby streets. The Commission shall also give at least ten (10) days prior written notice of any such change in the district plan to the clerk of any municipality whose boundaries are within one thousand (1,000) feet of the land to be affected by the proposed change. Failure to give personal notice to any property owner or to the clerk of any affected municipality shall not invalidate any such change.

- (3) **Report to Common Council.** The Commission shall report the result of any such hearing and its recommendation on any proposed change to the Common Council at the next regular meeting of the Council following such hearing. The Commission shall recommend adoption of the opposed change, or recommend its rejection or report that the Commission took no action thereon. Written notice of the Commission's recommendation shall be given prior to the Council meeting at which the recommendation will be reported to the Council, to each person who appeared before the Commission and to any other person who requests such notice. Failure to give such notice shall not affect Council action on any such recommendation. The Commission may also recommend that any proposed change be amended and if such suggestion is accepted in writing by the petitioners, a hearing on the revised change shall be held at a subsequent meeting of the Commission and notice shall be given as required herein. The Commission shall report any such recommendation to the Council for information purposes only.
- (c) **Action by Council** If the recommendation is to grant the proposed change, the City Clerk upon receipt of the recommendation shall refer the report and recommendations to the City Attorney for drafting the appropriate ordinance. The Common Council may, however, grant a zoning change which the Commission has not recommended, or may deny a zoning change recommended by the Commission. If any such action requires the drafting of an amendment to the Zoning Code, the matter shall be referred to the City Attorney for drafting.
- (d) **Appearances Before Council.** Any person interested in any such petition and the report and recommendation of the Commission may appear before the Common Council and shall be given an opportunity to appear and be heard with respect thereto. Any such person shall be heard under the order of business permitting public appearances as provided in Title 2, Chapter 2 of this Code of Ordinances. The Common Council may amend any zoning changed before it but if the effect of such amendment is to make the change a new proposal, such matter shall be re-referred to the Commission and the notice and hearing provisions of this Section shall apply.
- (e) **Protests.** In case of protest against such change duly signed and acknowledged by the owners of twenty percent (20%) or more either of the areas of land included in such proposed amendment, supplement, or change, or by the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment, supplement or change shall not become effective except by the favorable vote of three-quarters (3/4) of the members of the Council.

Note: This Section was adopted as Charter Ordinance C1-76-92.

Sec. 13-1-144 Zoning Upon Annexation.

Territory annexed to the City shall be zoned as provided in the annexation ordinance under Sec. 66.021(7)(a), Wis. Stats., until amended.

Sec. 13-1-145 through Sec. 13-1-159 Reserved for Future Use.

Article I: Administration

Sec. 13-1-160 Zoning Administrator; Powers and Duties.

- (a) **Duties.** In addition to any other duties set by the Mayor and Common Council, the Zoning Administrator shall administer, supervise and enforce the provisions of this Code and shall:
- (1) Prepare all forms necessary or useful in the administration of this Code.
 - (2) Inspect each project for which a permit has been applied for or granted.
 - (3) Issue zoning and occupancy permits when authorized or required to do so under this Code.
 - (4) Record violations and provide this information to the Common Council.
 - (5) Maintain permanent and current records of this Code, including but not limited to all maps, amendments, permits, variances, appeals and applications therefore and non-conforming uses as such uses come to his attention.
 - (6) Receive, file and forward to the Commission all applications for amendments to this Chapter.
 - (7) Receive, file and forward to the Commission all applications for zoning permits for uses other than single family and two (2) family residences.
 - (8) Receive, file and forward to the Zoning Board of Appeals all applications for appeals, variances and other matters won which the Zoning Board of Appeals is required to act under this Code.
 - (9) Receive, file and forward to the Common Council all appeals under Section 13-1-183(f).
 - (10) Make periodic activity reports to the Commission and Common Council.
- (b) **Powers and Authority.** In the enforcement of this Code, the Zoning Administrator shall have the power and authority for the following:
- (1) At any reasonable time and for any proper purpose to enter upon any public premises and make inspection thereof.
 - (2) Upon reasonable cause or question as to proper compliance, to revoke any zoning or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of this Code, such revocation to be in effect until reinstated by him or the Board of Appeals; or take any other action as directed by the Common Council to ensure compliance with or to prevent violation of its provisions.
 - (3) In the name of the City and with approval of the City Attorney commence any legal proceedings necessary to enforce this Code.
 - (4) To prepare and recommend to the Council rules and regulations for the administration of this Code which when they become effective under this Code of Ordinances shall have the force of ordinances.

Sec. 13-1-161 Zoning Board of Appeals.

- (a) **Composition.** The Zoning Board of Appeals shall have a composition as prescribed in Section 2-4-2.
- (b) **Procedure.**
- (1) **General.** The Board shall adopt rules for its government and procedure, not inconsistent with law and with the provisions of this or of any other ordinance of the City. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chair, or in the Chair's absence the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. Sessions of the Board may be closed to the public only as provided in Sec. 19.85, Wis. Stats. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, if absent or failing to vote, indicting 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 a public record. The presence of four (4) members shall constitute a quorum. The Board shall act by motion or resolution. The concurring vote of four (4) members of such Board shall be necessary to reverse any other requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter or to

effect any variation of this Chapter. Those items before the Board which do not by State Statute require an absolute majority vote shall require a vote of three (3) members for approval.

(c) Applications and Appeals.

- (1) An application to the Board, in cases in which it has original jurisdiction under this Chapter, may be taken by any property owner, including a tenant, or by a governmental officer, department, or board. Such application shall be filed with the Zoning Administrator who shall transmit the same, together with all the plans, specifications and other papers pertaining to the application, to the Board. In the case of a request for a conditional use permit within the one (1) or two (2) family zone, the decision of the Board may be appealed by a person aggrieved to the Common Council.
- (2) An appeal to the Board may be taken by any person aggrieved or any governmental officer, department or board affected by any ruling of the Zoning Administrator. An appeal from a ruling of the Zoning Administrator shall be taken within a reasonable time, as prescribed by the rules of the Board by filing with the Zoning Administrator and with the Board, notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board such notice of appeal, together with all the plans and papers constituting the record upon which the action appealed from was taken.
- (3) The Board shall fix a reasonable time for the hearing of an application or of an appeal. It shall give public notice of such hearing as well as notice to the owners of all property adjacent to the property affected by any appeal or application for a variance a reasonable time before such application or appeal shall be considered by the Board. The Board shall also notify the applicant or appellant and the Zoning Administrator. The owners of adjacent property as referred to herein shall be deemed to be the owners as shown on the assessment records in the City Hall. Any party may appear at such hearing in person or by agent or by attorney. The Board shall decide the application or appeal within a reasonable time.
- (4) The Board shall not have jurisdiction of appeals from determinations of the Commission or Common Council unless otherwise provided in this Chapter.

(d) Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after notice of appeal is filed that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than for good cause by a restraining order granted by the Board or by the circuit court, on application, on notice to the Zoning Administrator.

(e) Powers of the Board.

- (1) The Board may hear and decide, in accordance with the provisions of this Code and filed as herein provided, requests or applications for special exceptions, or for interpretation of the District Map, or for decisions upon other special questions upon which the Board is authorized to pass.
- (2) In addition to permitting special exceptions specified in this Chapter, the Board may permit the following:
 - a. **Non-Conforming Uses.** If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or a more restricted classification. Whenever a non-conforming use or a conforming use, such use shall not thereafter be changed to a less restricted use. (See Section 13-1-120 through 13-1-123).
 - b. **Temporary Uses and Permits.** The temporary use of a building or premises for a purpose incidental to commerce or industry in a Residential District, provided such be of a true temporary nature and not involve the erection of permanent buildings. Such permit shall be granted for not more than one (1) year, subject to such conditions as will safeguard the public health, safety, convenience and the general welfare.
 - c. **Social and Recreational Buildings.** Where it is desired to locate in an area zoned for residence purposes, clubs, lodges, social and recreational center buildings, except those the chief activity of which is carried on, or is one customarily carried on, primarily for gain, the Board of Appeals may issue a permit for such use, or any extension thereof. Such uses shall comply with the following requirements:
 1. Plans of the site and of the buildings proposed shall be submitted to the Zoning Administrator with a written request for approval of such use.

2. Any such building shall be located not less than seventy-five (75) feet from any lot in any Residential District not used for similar purposes.
 3. The Board shall give notice to adjacent property owners and hold public hearings as required.
- (3) The Board shall interpret the provisions of this Code in such a way as to carry out the intent and purpose of this plan as shown on the District Map and as provided in the Master Plan.
- (4) The Board may hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, grant or refusal made by the Zoning Administrator in the carrying out or enforcement of this Code. In accordance with the above, the Board shall have the following general powers:
- a. To permit the projection of a building into a required front yard, side yard or rear yard, but only to an extent necessary to construct a building or structure practicable in construction and arrangement for an exceptionally narrow, shallow, or irregular lot, or for exceptional topography, so existing on the effective date of this Code.
 - b. To permit in any district such modification of the requirements of this Code as the Board may deem necessary to secure an appropriate development of a lot, where adjacent to such lot there are buildings or uses that do not conform to regulations prescribed by this Code for the district in which these are located, provided the Board shall not permit in any district a use not permitted under the district regulations or a use denied by the Plan Commission.
 - c. Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property on the effective date of this Code or by reason of exceptional topographic conditions, or other extraordinary and exceptional situation or conditions of such property, the strict application of any provision of this Code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property, the Board may authorize, upon appeal relating to such property, a variance from such strict application, so as to relieve such difficulties or hardships, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Code.

Sec. 13-1-162 Fees.

The Common Council shall annually determine the average cost and establish a fee for processing applications for zoning permits, occupancy permits, rezonings, variances and appeals. An applicant for a zoning permit, occupancy permit, rezoning, variance or appeal shall pay the required fee upon final submission of the application. An application shall not be deemed complete until the required fee has been paid. A copy of the current fees established by the Common Council shall be kept on file by the City Clerk.

Sec. 13-1-163 Enforcement and Penalties.

- (a) Any building or structure hereafter erected, moved or structurally altered or any use hereafter established in violation of any provision of this Code shall be deemed an unlawful building, structure or use. The Zoning Administrator shall promptly report all such violations to the City Attorney who shall cause an action to be brought to enjoin the erection, moving or structural alteration of such building or the establishment of such use or to cause such building, structure or use to be vacated or removed.
- (b) Any person who violates any provision of this Code or disobeys or refuses to comply with the enforcement of any provision of this Code shall also be subject to a forfeiture under Section 1-1-7. Each day a violation continues to exist shall constitute a separate offense.

Sec. 13-1-164 through 13-1-179

Reserved for Future Use.

Article J: Zoning and Occupancy Permits

Sec. 13-1-180 Zoning Permits.

- (a) **Definition.** A zoning permit is a document, signed by the Zoning Administrator, which states that a specific proposed use, structure, or building complies with the standard procedures and other provisions of this Code.
- (b) **When Required.**
 - (1) A zoning permit is required for any construction, substantial relocation or substantial enlargement of any structure or building. A zoning permit is also required for any use or substantial change in the use of any land, water, structure or building, as determined by the Zoning Administrator. A zoning permit is not required for a change of ownership. However, if a change in ownership is accompanied by another action which requires a zoning permit, a zoning permit is required for such other action.
 - (2) When any use of land, water, structure or building is discontinued for a period of six (6) months or more, a zoning permit shall be required prior to any re-use of the land, water, structure or building, as required in this Section.
 - (3) Determination that a business has closed will be made based on a decision by the Building Inspector and Zoning Administrator that the operation of the business on the premises has ceased.
- (c) **How Obtained.** For property located in the single family residence and two (2) family residence districts, except for conditional uses, if it is determined that the proposal meets all requirements of this Code, the Zoning Administrator may directly issue a zoning permit. If the Zoning Administrator fails to determine that the proposal meets the requirements of this Code for property located in the Single-Family Residence and Two-Family Residence Districts, except for conditional uses, the Zoning Board of Appeals shall review and approve the proposal before the Zoning Administrator may issue a zoning permit. For conditional uses in the Single-Family Residence and Two-Family Residence Districts and all other districts, the Plan Commission shall review and approve a zoning permit. A zoning permit may be issued subject to conditions required by the Board or Commission. These conditions shall be noted on the zoning permit. If construction on a site, building, or structure as approved in a zoning permit has not commenced within six (6) months of the issuance of that zoning permit, the permit shall be void. The Plan Commission may extend this date for just cause.

Sec. 13-1-181 Occupancy Permits.

- (a) **Definition.** An “occupancy permit” is a document, signed by the Zoning Administrator, which states that a use, structure or building complies with the requirements, standards, and other provisions of the Zoning Code, Building Code and other applicable codes, as well as any conditions specified in the Zoning Permit. An occupancy permit allows the property to be occupied and used as outlined in the zoning permit. If a use, structure or building does not fully comply with the requirements, standards, and other provisions of the Zoning Code, Building Code and other applicable codes, as well as any conditions specified in the zoning permit, the occupancy permit may be withheld by the Zoning Administrator or a bond or irrevocable letter of credit required for performance.
- (b) **When Required.** No vacant land shall be occupied or used and no building, structure or part thereof undergoing activity which requires a building permit shall be occupied or used until an occupancy permit has been issued. An occupancy permit is not required for a change solely in ownership or occupancy.
- (c) **Temporary Occupancy Permit.** If a use, structure, or building is substantially in compliance, but compliance with some requirements is still pending, a temporary occupancy permit with a limited term may be issued. If all requirements are not met when the temporary occupancy permit expires, the use becomes illegal. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants. A temporary permit shall be void if the building fails to conform to this Code or other applicable codes to such a degree as to render it unsafe for the occupancy proposed.

- (d) **Review of Grant or Denial of Occupancy Permit.** The grant or denial of an occupancy permit shall be reviewable by the Zoning Board of Appeals under Section 13-1-161.

Sec. 13-1-182 Zoning and Occupancy Permits – Single-Family and Two-Family Residence Districts.

- (a) **Zoning Administrator.** Under Sections 13-1-180 and 13-1-181, the Zoning Administrator may issue zoning and occupancy permits for the Single-Family Residence and Two-Family Residence Districts upon compliance with all applicable provisions.
- (b) **Review of Grant or Denial of Permit.** The grant or denial of a zoning or occupancy permit shall be appealable to the Zoning Board of Appeals under Section 13-1-161.

Sec. 13-1-183 Zoning and Occupancy Permits – All Other Districts.

- (a) **Application.** Application for a zoning and/or occupancy permit shall be made to the Zoning Administrator by the owner of the property for which the permit is being requested. The property owner shall be ultimately responsible for the implementation of any plans and conditions of a zoning permit.
- (b) **Pre-Application Review by Zoning Administrator.** Prior to formal application for a zoning permit under this Article, the Zoning Administrator shall confer with the applicant or a designated representative to advise the applicant or representatives as to what information will be required by the Commission in order to act on the application. Such information may include an engineering survey, a comprehensive site plan, topographic data, a public utilities plan, a traffic circulation plan, an off-street parking plan, a preliminary sketch of any planned subdivision, architectural renderings of proposed buildings, a comprehensive landscape plan and a plan for erosion and runoff control including site restoration. The Zoning Administrator shall not advise the applicant or the applicant's representatives as the possibility of favorable or unfavorable action by the Commission on the application.
- (c) **Pre-Hearing Conference With The Plan Commission.** After the pre-application review by the Zoning Administrator, the applicant may request an informal pre-hearing conference with the Commission or a subcommittee thereof to review the applicant's proposal. The purpose of such conference shall be to familiarize the Commission with the applicant's proposal and to familiarize the applicant with the requirements which may be imposed by the Commission and the City before favorable action can be taken by the Commission on the application. The Plan Commission or its subcommittee may at this time require the applicant to submit information in addition to that which will be required under Subsection (b) when formal application is made. Any preliminary conference will be open to the public and will be listed along with the formal hearing in the notice to adjacent property owners and in the published notice.
- (d) **Formal Hearing Before Planning and Environmental Commission.** Within thirty (30) days of submission of a formal application, the Commission shall hold a formal hearing on the applicant's application. Notice to the public and to adjacent property owners of such hearing is not necessary, but the Commission shall cause the Zoning Administrator to notify at least five (5) days prior to the hearing such adjacent property owners as the Commission might reasonably anticipate to be interested in the application. The applicant may elect to have his application considered a contested case in which case the rules of procedure for such cases established by the Zoning Board of Appeals for applications for variances shall apply. The time for the formal hearing may be extended by agreement of the applicant or for fifteen (15) additional days by the Chairman of the Commission upon notice to the applicant specifying the reasons for such extension.
- (e) **Decision of the Commission.** The Commission may approve, approve conditionally or reject the application for a zoning permit. Ch. 68, Wis. Stats., shall apply to the decision of the Commission. If no request for review of approval of the application is received within thirty (30) days of notice of such determination as provided in Sec. 68.08, Wis. Stats., the Zoning Administrator shall issue the zoning permit. Upon request of the applicant, the Zoning Administrator may issue a zoning permit

upon approval of the Commission; however, such permit shall state on its face that the issuance is subject to review and appeal if a request therefore is filed by an aggrieved person within thirty (30) days. If the Commission's approval is conditional, the Zoning Administrator may issue the permit on satisfaction of the conditions; however, the application may be referred back to the Commission for determination of whether or not the conditions have been satisfied. If the Plan Commission determines that the conditions have not been satisfied, the zoning permit and occupancy permit may be revoked. If a request for review of the determination of the Commission is filed pursuant to Sec. 68.08, Wis. Stats., the Commission shall review its own determination. In all cases, any decision of the Commission shall be in writing and shall state the reasons for the decision and shall indicate the evidence in support of the decision. The secretary of the Commission shall mail copies of any decision to the applicant and anyone appearing at the hearing who has requested a copy. The Commission may reconsider and change its decision on its own motion at its next regular meeting or a special meeting called for that purpose.

- (f) **Appeal to Common Council.** Appeal of the decision of the Commission after review under Secs. 68.08 and 68.09, Wis. Stats., may be made to the Common Council pursuant to Ch. 68, Wis. Stats. For purposes of such appeal, the Common Council shall be the impartial decision-maker required under Sec. 68.11(2), Wis. Stats. If the appellant had a hearing or opportunity for hearing before the Commission substantially in compliance with Sec. 68.11, Wis. Stats., the decision of the Common Council shall be on the basis of the hearing record made before the Commission and a due process type hearing as required under Sec. 68.11, Wis. Stats., shall not be necessary. Ch. 68, Wis. Stats., shall otherwise apply.

Sec. 13-1-184 through Sec. 13-1-199 Reserved for Future Use.

Article K: Mobile Home Parks

Sec. 13-1-200 Mobile Home Parks Defined and Permitted.

- (a) **Definition.** The definitions contained in Sec. 66.058(1), Wis. Stats., are adopted herein by reference.
- (b) **Locations Outside Parks.**
 - (1) Except as provided in this Section, no person shall park any mobile home on any street, alley, or highway, or other public place, or on any tract of land within the City.
 - (2) Emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than one (1) hour subject to any other prohibitions, regulations, or limitations imposed by the traffic and parking regulations or ordinances.
- (d) **Location of Mobile Home Parks.**
 - (1) Mobile home parks shall be located in Commercial/Industrial (CI) Zoning Districts, and are a conditional use subject to Plan Commission approval, according to Section 13-1-180.
 - (2) No occupied mobile home within the City shall be located less than ten (10) feet away from any building or other mobile home.

Sec. 13-1-201 Licensing of Mobile Home Parks.

In addition to satisfying the requirements herein, mobile home parks shall also be licensed and annually inspected pursuant to Sections 7-4-2 and 7-4-3.

Sec. 13-1-202 Mobile Home Park Standards.

- (a) **Applicability of Plumbing, Electrical and Building Ordinances.** All plumbing, electrical, building and other work on or at any park approved under this Chapter shall be in accordance with the ordinances of the City and the requirements of the State Department of Health and Social Services. Permits granted hereunder grant no right to erect or repair any structure, to do any plumbing work, or to do any electrical work.
- (b) **Adoption of Wisconsin Administrative Code.** Ch. ATCP 125, Wis. Adm. Code, is hereby adopted and incorporated herein by reference, including any subsequent changes or amendments thereto.
- (c) **Conflict Between Codes.** In the event that any of the Codes listed in this Article are in conflict, the most restrictive provision shall apply.
- (d) **Application of Codes to Existing Parks.**
 - (1) Any code enforcement officer of the City may waive any technical violation of this article as to any park that was approved on July 1, 1982, if the violation does not pose a threat to persons or property. The code enforcement officer may impose as a condition of such waiver that no new mobile homes be added to the park or existing mobile homes replaced until the code violation is cured. The conditions listed for waiver of defects may also be applied to a given part of an existing park.
 - (2) As a condition of granting a waiver from the strict application of this Section, the Zoning Administrator may require the park owner to submit a compliance plan outlining the degree to which the park will be brought into compliance with the terms of this Article and the timeframe for such compliance. The compliance plan may include permanent waiver of requirements of this Article that do not involve life safety. The Zoning Administrator shall review any compliance plan submitted to it and recommend adoption, modification, or rejection of same to the Plan Commission. The Zoning Administrator shall annually review the compliance plan and the progress made by the owner in establishing the goals outlined in the plan.

Sec. 13-1-203 Special Regulations.

(a) **Waste and Garbage Disposal.**

- (1) All liquid waste from showers, toilets, laundries, faucets, lavatories, etc., shall be discharged into the public sewer system.
- (2) Every space designed to serve a non-dependent unit shall be provided with sewer connections which shall comply with the State Plumbing Code. The sewer connection shall be provided with suitable fittings so that watertight connections can be made. Such connections shall be so constructed so that they can be closed when not connected and trapped in such a manner as to be maintained in odor free condition.
- (3) All sanitary facilities in any unit which are not connected with a public sewer system by approved pipe connections shall be sealed and their use is unlawful.
- (4) Each faucet shall be equipped with facilities for drainage of waste and excess water.
- (5) Storage and disposal of solid waste shall be as required by the Director of Public Works in accordance with the City's solid refuse collection rules.

(b) **Management.**

- (1) In every mobile home park there shall be located the office of the attendant or person in charge of such park. A copy of the park license and of this Section shall be posted therein and the park register shall be kept in such office at all times.
- (2) The attendant or person in charge, together with the licensee, shall:
 - a. Keep a register of all adult occupants, to be open at all times to inspection by City, State, and Federal officers, which shall show for all adult occupants:
 1. Names and addresses.
 2. Number of children of school age.
 3. State of legal residence.
 4. Dates of entrance and departure.
 - b. Maintain the park in a clean, orderly and sanitary condition at all times.
 - c. Ensure that the provisions of this Section are complied with and enforced and report promptly to the proper authorities any violations of this Section or any other violations of law which may come to his or her attention.
 - d. Maintain in convenient places, approved by the Fire Chief, hand fire extinguishers in the ratio of one (1) to each eight (8) units.
 - e. Collect the monthly parking permit fee provided for in Subsection (13). A book shall be kept showing the names of the persons paying such fees and the amount paid.
 - f. Prohibit the lighting of open fires on the premises.
 - g. Allow inspections of park premises and facilities at reasonable times by City officials or their agents or employees.

(c) **Maximum Height.** No mobile home or its accessory structure may exceed a maximum height of fourteen (14) feet.

(d) **Utilities.** All park utilities shall be located underground.

(e) **Changes in Approved Plan.** The owner shall inform the City in writing of any change or amendment of the plan submitted pursuant to these requirements within thirty (30) days of such change.

Sec. 13-1-204 through Sec. 13-1-219 Reserved for Future Use.