

CHAPTER 15
ZONING CODE

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15.01 INTRODUCTION AND PURPOSE. In order to promote the health, safety, morals and general welfare, it shall be the purpose of this ordinance to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of a lot that may be occupied, the side yards, courts and other open spaces, the density of population and the locations and use of buildings, structures and land for trade, industry, residence or other purposes and for said purposes to divide the City of South Milwaukee, Wisconsin into zones of such number, shape and area as are deemed best suited to carry out the said purposes; to provide for its enforcement; and to prescribe penalties for the violation of its provisions.

15.02 INTERPRETATION AND APPLICATION. The provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, comfort, prosperity and general welfare; and are designed to legally implement and influence the development of the City of South Milwaukee, Wisconsin in accordance with the powers granted the city under the provisions of Section 62.23 of the Wisconsin Statutes.

It is not intended by this ordinance to interfere with, abrogate or annul any existing easements, covenants or agreements between parties, nor to impair or interfere with any existing provisions of law or ordinance or any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law, relocating to the use, occupancy, location and height of buildings or premises or require larger open spaces than are imposed or required by such provisions of law or ordinance or by such rules, regulations or permits, the provisions of this ordinance shall control.

15.03 ESTABLISHMENT OF ZONES.

(A) ZONES. The City of South Milwaukee is hereby divided into eight zones designated as follows:

R-A Residential Zone
 R-B Residential Zone
 R-C Residential Zone
 C-1 Neighborhood Shopping Zone
 C-2 Commercial Zone
 C-3 Central Business Zone
 M-1 Manufacturing Zone
 M-2 Industrial Zone
 B Public Buildings Zone
 P Park Zone

(B) MAP. The boundaries of these zones are hereby established as shown on a map entitled "Zoning Map, City of South Milwaukee, Wisconsin" and is made a part of this ordinance. All notations, references and other information shown thereon shall be as much a part of this ordinance as if the matters and things set forth by said map were all fully described herein.

15.04 BOUNDARIES OF ZONES.

(A) Where land has been subdivided into lots and blocks, unless otherwise indicated, the zone boundary lines are intended to follow the center lines of streets, alleys, boulevards, railroads or such lines extended. Boundary lines within blocks are intended to follow lot lines.

(B) In subdivided land, unless otherwise indicated, the zone boundary lines are intended to follow the center lines of streets, highways, railroads, section lines, quarter section lines, quarter or such lines extended. Whenever a portion of any zone is indicated upon the zoning map as a strip paralleling an opened or unopened street or highway where the above definition does not apply, the width of this strip unless otherwise indicated, shall be determined by use of the scale shown on such Zoning Map.

(C) Questions concerning the exact location of zone boundary lines which cannot be resolved by the application of Paragraph (A) and (B) above shall be determined by the City Plan Commission.

15.05 DEFINITIONS.

(A) Certain words and terms used in this ordinance are defined for the purpose thereof as hereinafter set forth. Any words not defined shall be construed as defined in the Building Code of the State of Wisconsin as promulgated from time to time by the Industrial Commission of the State of Wisconsin. Words used in the present tense include the future; words used in the singular number include the plural number; and words in the plural number include the singular number; and the word "shall" is mandatory.

- (1) ACCESSORY BUILDING. A detached building, not used as a dwelling unit but is incidental to that of the main building and which is located on the same lot (i.e. garage, storage/tool shed, but not limited to). Rep. & Recr. 08/01/95, 1620
- (2) ACCESSORY USE. A use customarily incidental to the principal permitted use of a lot or building and located upon the same lot as the principal use.
- (3) ALLEY. A public way which affords a secondary means of access to abutting property.

- (4) APARTMENT.
- (a) A building designed for and occupied as a residence for 5 or more families living independently of each other.
- (b) Apartment Hotel. Any building which satisfies both the definition of a multiple family dwelling and that of a hotel as defined by this ordinance.
- (5) BASEMENT. A basement is a story wherein on every side of the building the average floor line is below the grade and the average ceiling height in every elevation is not more than 5 feet above such grade.
- (6) BOARDING HOUSE. See Lodging House.
- (7) BUILDING. A building is any structure built for the support, shelter or enclosure of persons, animals, or personal property of any kind; and when separated by a fire separation wall, each portion of such structure so separated shall be deemed a separate building. Am. 09/01/92, 1514
- (8) BUILDING - PERMANENT. A building erected for a period to exceed one year.
- (9) BUILDING HEIGHT. Height of building is the vertical distance measured at the center line of its principal front from the established grade or from the natural grade if higher than the coping of flat roofs or the deck line of a mansard roof or to half the height of a hipped roof. Where no roof beams exist or there are structures wholly or partly above the roof, the height shall be measured to the level of the highest point of the building.
- (10) COURT. An open space, other than a yard, unoccupied and unobstructed from the ground upward on the same lot with a building which is bounded on two or more sides by the walls of such building.
- (11) CLUBS AND LODGES. An association of persons, whether that association or formally created or informally created, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests. A club (or private club) shall also be defined as members holding regularly scheduled or advertise events for members and/or their guests. It shall be permissible to serve food on such premises provided that adequate dining room space and kitchen facilities are available and such facilities comply with applicable codes. Where properly licenses under existing City ordinance, the sale and or consumption of intoxicating beverages by members of such club or lodge or their guests may be permitted,. A club does not include an association of persons organized primarily to render a service customarily carried on as a business. All club premises or portions of buildings shall be subject to annual inspection as commercial space.
- (12) EXCEPTION. The use of property including the use and location of buildings the size of lots and the dimensions of required yards otherwise not allowable under the terms of this ordinance which is permissible by reason of special provisions by the City Plan Commission or the Board of Appeals under conditions specified in this ordinance.
- (13) DWELLING.
- (a) Single Family Dwelling. A building designed for and occupied exclusively as the residence of only one family and having no party wall in common with an adjacent building.
- (b) Two Family Dwelling. A building designed for and occupied exclusively as the residence of two families with one family wholly or partly over the other and having no party wall in common with an adjacent building or a building unit designed for and occupied exclusively as the residence of one family but having a party wall in common with another similar building unit.

- (c) Multiple Family Dwelling. A building or portion thereof designed for and occupied as a residence for three or four families living independently of each other.
- (d) Dwelling Unit. One or more rooms and a single kitchen in a dwelling designed as a unit for occupancy by one family for living purposes.

(14) **FAMILY**. An individual or a group of individuals related by blood, marriage, court order or adoption, or a group of not more than four persons not all so related, together with his or their domestic servants, maintaining a common household in a dwelling unit. A family may also include not more than two boarders or roomers when the basic family unit is a group of related individuals as defined above.

(15) **FLOOR AREA**. The area within the exterior wall lines of any building provided that the floor area of a building used for dwelling purposes shall be the aggregate habitable area excluding attics not furnished as living quarters, basements or utility rooms, attached garages, unenclosed porches, breezeways and other unheated areas.

(16) **FRONTAGE**. All of the property abutting on a public street right-of-way.

(17) **GARAGE - MECHANICAL**. Any building or premises where automotive vehicles are repaired, rebuilt, reconstructed, serviced, hired, sold or stored for compensation excluding those where the principal use pertains to auto body repairs and painting.

(18) **GARAGE - PRIVATE**. An accessory building or part thereof or an accessory portion of the main building intended for and used to store the private motor vehicles of the person resident upon the premises and in which no business, service or industry connected directly or indirectly with motor vehicles is carried on.

(19) **GARAGE - STORAGE**. A building or premises used for the storage only of motor vehicles pursuant to previous arrangements and not transients; when no equipment, parts, fuel, grease or oil is sold and vehicles are not required, rebuilt, serviced, hired or sold.

(20) **HOME OCCUPATION**. An occupation for gain or support conducted entirely and only by members of a family within their place of residence provided that such occupation is incidental to the residential use and provided no article is sold or offered for sale on the premises except such as may be produced by such occupation, no stock in trade is kept or sold, no display of products shall be visible from the street, and no accessory building shall be used for such home occupation. Automobile repair and automobile sales are not permitted home occupations. Am. 09/01/92, 1514

(21) **HOTEL**. A building in which lodging or board and lodging are provided for the transient public for compensation.

(22) **LOADING SPACE**. An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials which abuts upon or affords direct access to a street or alley.

(23) **LODGING HOUSE**. A building or portion thereof containing lodging rooms which accommodate three, but not more than 12, non-transient persons who are not members of the keeper's family and where lodging or meals or both are provided for compensation.

- (24) **LOT.** A parcel of land occupied or to be occupied by one building and its accessory buildings and uses having sufficient width and depth to include the open spaces required under this ordinance and abutting on a public street or officially approved place. A lot may be land so recorded in the records of the Register of Deeds of Milwaukee County, Wisconsin, but it may include parts of or a combination of such lots when adjacent to one another provided such land is used for one improvement. The area of lot shall be measured to the street line only.
- (25) **LOT - CORNERS.** A lot located at the intersection of two or more streets provided that the corner of such intersection shall have an angle of 120 degrees or less measured on the lot side.
- (26) **LOT - DEPTH OF.** The mean horizontal distance between the front and rear lot lines.
- (27) **LOT - INTERIOR.** A lot other than a corner lot.
- (28) **LOT LINES.** The lines bounding a lot as defined herein.
- (29) **LOT - THROUGH.** A lot having frontage of two non-intersecting streets.
- (30) **LOT WIDTH.** The width of a lot shall be the distance between side lot lines measured on a line which coincides with the required setback line for the lot.
- (31) **NON-CONFORMING USE.** A building structure, land or premises occupied at the time of the passage of this ordinance or amendments thereto by a lawful use which does not conform with the provisions of this ordinance or amendments thereto for the zone in which it is situated.
- (32) **PARKING LOT.** A building or premises containing one or more parking spaces open to the public free or for a fee.
- (33) **PARKING SPACE.** An unobstructed piece of ground or floor space sufficient for and used exclusively for the temporary storage of one automobile together with necessary maneuvering space.
- (34) **PROFESSIONAL OFFICE.** The office of a doctor or practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician and other recognized professions.
- (35) **SETBACK.** The minimum distance between the lot line and the nearest point of a building excluding permitted projections.
- (36) **SERVICE STATION.** Any building or premises used for the dispensing, selling or offering for sale of any motor fuel or oils or where battery, tire and other similar services are rendered. When such dispensing, sale or offering for sale of any fuels or oils is incidental to the conduct of a mechanical garage, the premises shall be classified a mechanical garage.
- (37) **STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it except that a basement shall not be considered a story if its ceiling is less than four feet above the finished grade along the front of the building.
- (38) **STORY - HALF.** A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story.

- (39) **STREETS.** Public thoroughfares which afford a primary means of access to abutting property or any proposed thoroughfares designated "new streets" on the Official Map for the City of South Milwaukee.
- (40) **STREETS.** The dividing line between a lot and the abutting street right-of-way. Am. 09/01/92, 1514
- (41) **STRUCTURE.** Anything except a building, constructed or erected, the use of which requires a more or less permanent location on the ground or attached to something having a permanent location on the ground. A sign, billboard or other advertising medium detached or projecting and having a gross area in excess of 40 square feet shall be construed to be a structure in this ordinance.
- (42) **STRUCTURE - TEMPORARY.** A structure not having a permanent location on the ground and readily removable in its entirety, the use of which is incidental to the erection of a permanent structure.
- (43) **STRUCTURAL ALTERATIONS.** Any change in the supporting members of a building such as bearing walls or partitions, columns, beams or girders.
- (44) **TRAILER.** Any vehicle, house car or any portable or mobile vehicle on wheels, skids, rollers or blocks, either self-propelled or propelled by any other means, which is used or designed to be used for living, sleeping or commercial purposes.
- (45) **VARIANCE.** A departure from the terms of this ordinance as applied to a specific building, structure or parcel of land which the Board of Appeals may permit, contrary to the regulations of this ordinance for the zone in which such building, structure or parcel of land is located, when the board finds that a literal application of such regulations will effect a hardship limitation on the use of the property which does not generally apply to other properties in the same zone and for which there is no compensating gain to the public health, safety or welfare. Am. 09/01/92, 1514
- (46) **VISION CLEARANCE TRIANGLE.** The triangular space formed by two intersecting street and/or alley lines or public access driveway lines and a line joining points on such street or alley lines or public access driveway lines located a minimum of eight feet from their intersection in which no building or structure may be erected and no vegetation may be maintained between the heights of three feet and ten feet above the respective alley or curb grades. Am. 09/01/92, 1514
- (47) **YARD.** An open space on a lot upon which a building is situated, unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance.
- (48) **YARD - FRONT.** A yard extending the full width of a lot between a street line and the nearest point of a building excluding permitted projections at a setback distance as provided for in the particular zone. On a corner lot, only one front yard setback will be required. Where an existing improved lot has no street access, the owner shall, by affidavit, declare the site of the front yard and this declaration shall govern all future yard computations with respect to that property. Am. 09/01/92, 1514
- (49) **YARD - REAR.** A yard directly opposite from the front yard extending the full width of the lot between a lot line and the nearest point of a building excluding permitted projections at a setback distance as provided for in the particular zone unoccupied except by accessory buildings provided further that in the case of irregular lots, the rear lot line shall be a line ten feet long within the lot parallel to the front lot line or the main chord thereof and at the maximum distance from the front lot line.

(50) **YARD - SIDE.** A yard extending from the front yard to the rear yard and between a side lot line and the nearest point of a building excluding permitted projections and a setback distance as provided for in the particular zone. On any corner lot in which the rear of the lot abuts upon the side of an interior lot, the setback on the side street shall not be less than 50% of the front yard setback required on the lot in the rear. No accessory building shall project beyond the front yard setback line of the lot in the rear. In no case shall the buildable width of such corner lot be reduced to less than 24 feet.

(51) **DECK.** An open, uncovered structure designed for gathering, entering or exiting an adjoining structure, or for aesthetic purposes. Decks may be physically attached to, or separate from the adjoining building. Covered and/or enclosed porches or decks shall be deemed a part of the adjoining building and shall conform with the setback requirements for said adjoining building. Cr. 06/20/95, 1615

(52) **ENCLOSED DECK.** An enclosed deck shall be a deck that has the walls and/or roof closed/covered to the extent that it is a secondary building. Enclosed decks shall be considered a part of the adjoining structure and shall conform with applicable codes for same. Cr. 06/20/95, 1615

(53) **GAZEBO.** An open or enclosed structure either standing alone or attached to a deck and used for gathering or aesthetic purposes. Gazebos shall be considered an accessory use and shall conform with applicable codes for same. Cr. 06/20/95, 1615

(B) **HEIGHT REQUIREMENTS.** Except as otherwise provided in this ordinance, no building or structure shall hereafter be erected, nor shall any existing building or structure be reconstructed or structurally altered to exceed in height the limits established by this ordinance or amendments to exceed in height the limits established by this ordinance or amendments thereto, for the zone in which such building or structure is located.

(C) **HEIGHT EXCEPTIONS.**

- (1) In the residential zones, a building for public or semi-public use such as churches, schools, hospitals or sanitariums, where permitted, may be erected to a height not exceeding 4 stories or 50 feet, when the required setback, side yards and rear yards are each increased not less than one foot for each foot by which such building exceeds the established height limit for the zone in which it is to be located.
- (2) Parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, gas tanks, grain elevators, scenery lofts, sugar refineries, tanks, water towers, radio and television towers, masts or aerials, microwave radio relay towers, ornamental towers, observation towers, monuments, cupolas, domes spires and necessary mechanical appurtenances may exceed the limitations of this ordinance when erected in accordance with other regulations of the City of South Milwaukee.
- (3) Building and structures for the housing of the equipment and services of necessary public utilities, such as water, sewer, gas, telegraph, telephone, electric or other public services, may be erected to greater heights than provided by this ordinance, but such buildings and structures shall not be erected to greater heights than provided by this ordinance in the R-A Residential Zone or the R-B Residential Zone until the location thereof shall have been approved by the City Plan Commission.
- (4) Where a lot abuts on two or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.

(D) AREA REQUIREMENTS. Except as otherwise provided in this ordinance, no building or structure shall hereafter be erected, nor shall any existing building or structure be moved, altered, enlarged or rebuilt, or any premises be used or occupied, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, nor shall a greater percentage of lot be occupied than is required by this ordinance except in conformity with the lot width, lot area, setback, side yard, rear yard and court regulations of this ordinance and amendments thereto, for the zone in which such building or structure is located.

- (1) No lot area shall be so reduced that the yards and other open spaces or the required lot area shall be smaller than those prescribed by this ordinance, nor shall the density of population be increased in any manner except in conformity with the regulations herein established.
- (2) No required yard or other open space or part hereof around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this ordinance, shall be considered as providing a yard or other open space or part thereof for any other building or structure.
- (3) Every building hereafter erected, moved, altered, enlarged or rebuilt shall be located on a lot as herein described. In no case shall there be more than one building on one lot.
- (4) No building permit shall be issued for building on a lot which abuts a street dedicated to only a portion of its required width and located on that side thereof from which no dedication has been secured.
- (5) At each end of a through lot, there shall be a setback of the depth required by this ordinance for the zone in which each street frontage of such lot is located; provided, however, that one of such setbacks may serve as a required rear yard or part thereof.
- (6) Every required yard shall be unoccupied and unobstructed from the ground upward except in the following cases:
 - (a) Accessory buildings shall be permitted, except in front yards, and as otherwise regulated herein.
 - (b) Open or enclosed fire escapes, terraces, and unenclosed stairways may project into a side or rear yard not more than 1/3 of the depth of such yard, but in no case more than four feet; provided further that the same shall not be closer than three feet to any lot line.
 - (c) Chimneys, flues, eaves, sills, belt courses, and ornamental features shall not project more than 24 inches into any required yard.
 - (d) Signs, trees, fences, and other ornamental, protective, or decorative installations as otherwise regulated herein or in other sections of the South Milwaukee Code of Ordinances.
 - (e) Other decorative installations not otherwise regulated herein or regulated at other sections of the South Milwaukee Code of Ordinances upon recommendation of the City Plan Commission and approval of the Common Council. Cr. 11/01/77, 1058
- (7) Any side yard or court abutting the boundary line of a zone shall have a minimum width and depth in the less restricted zone equal to the average of the required minimum widths and depths for such yards and courts in the two zones which abut such boundary line.

(E) AREA EXCEPTIONS.

- (1) The provisions of this ordinance shall not prevent the erection of a single-family dwelling and its accessory building on any lot on record in the Office of the Register of Deeds of Milwaukee County at the time of the passage of this ordinance, as being owned separately from any lot or part of a lot adjoining such lot.
- (2) Where lots have been recorded in a subdivision plat and where such subdivision plat has provided lots of greater area than is required by this ordinance, such lots or plats shall not be divided or reduced in area to create additional lots, except by recording a revised and officially approved subdivision plat.

(F) ACCESSORY BUILDING PROVISIONS. Rep. & Recr. 08/01/95, 1620, Rep. & Recr. 11/6/02, 1826

- (1) Residential Zones: Accessory buildings in all residential zoning districts and all lands used for residential purposes are subject to the following provisions:
 - (a) For lots less than or equal to 3,600 sq. ft. 530 sq. ft. of the total lot area may be used for accessory buildings, provided house and accessory buildings do not exceed 50% of the total lot area. For lots between 3,600 sq. ft. and 7,200 sq. ft., 16% of total lot area may be used for accessory structures, provided house and accessory buildings do not exceed 40% of total lot area or 900 sq. ft. total area. For lots greater than or equal to 7,200 sq. ft. 11% of total lot area or 900 sq. ft., whichever is greater, may be used for accessory structures, provided house and accessory buildings do not exceed 40% of total lot area. All accessory buildings must meet established architectural guidelines and are subject to staff and/or Plan Commission review. 2132, 9/6/16
 - (b) Accessory buildings 100 square feet or less shall not exceed twelve (12) feet in height. Walls for such structures shall not exceed eight (8) feet in height. Accessory buildings in excess of 100 square feet in area, shall not exceed fifteen (15) feet in height unless approved by the Plan Commission as part of a Conditional Use Permit. Walls for such structures shall not exceed ten (10) feet in height. For the purpose of this section height is measured from top of slab at door opening.
 - (c) No commercial vehicle with a payload capacity in excess of 1 and 1/2 tons shall be stored in an accessory building located within a residential zone.
 - (d) One detached private garage per lot.
 - (e) No accessory building shall be located within any front yard or within any side yard less than sixty (60) feet from the front lot line.
 - (f) When located in a rear yard, an accessory building shall not be nearer than three (3) feet of a side or rear lot line, except that if adjacent to an alley and having an opening directly on the alley to accommodate a vehicle, the setback from the rear lot shall not be less than ten (10) feet. If located in the rear yard of a corner lot, it shall not project beyond the side street setback line for the primary building, except that if such corner lot abuts an interior lot, the setback of the accessory building shall not project beyond the setback of the interior lot's primary building and the setback from the rear lot line shall not be less than the interior lot minimum setback or six (6) feet, whichever is less.
 - (g) Accessory buildings shall not be constructed closer than ten (10) feet to a principal or neighboring building. The Building Inspector may allow the minimum distance between structures to be reduced to five (5) feet, provided the building is designed and constructed in accordance with Chapter 16 of the Municipal Code.

- (h) No accessory building shall exceed 900 square feet in area.
- (2) In all zoning districts, accessory buildings are subject to the following restrictions in addition to any other restrictions that may apply:
 - (a) No accessory building, including, but not limited to, decks, garages and storage buildings, shall occupy more than forty percent (40%) of the required minimum or actual rear yard. 2132, 9/6/16
 - (b) No accessory building shall be located within any front yard or within any side yard less than sixty (60) feet from the front lot line. Rep. & Recr. 8/1/95, 1620
- (G) **AUTOMOBILE PARKING SPACE AND OFF-STREET LOADING ZONE REQUIREMENTS.** Each parking space required by this ordinance shall be located off the public street or alley but shall be accessible to same and shall not be less than 180 square feet in area, exclusive of access area, maneuvering area, ramps or columns, and not less than eight feet in width. Such parking space shall be graded and surfaced so as to be dust-free and shall be not more than 400 feet from the entrance of the building it serves, except that for uses in C 1 and M-2 zones where such space is to be used for employee parking, it shall be located on the same site as the building which it serves or within a reasonable distance. Such parking space shall conform to the street setback lines established for the main building in the zone. Minimum parking and loading facilities shall be as follows:
 - (1) Public Assembly Building. One parking space for every 10 persons the building is intended to accommodate.
 - (2) Restaurants and Taverns. One parking space for every four seats.
 - (3) Hospitals and Institutions. One parking space for every three beds.
 - (4) Hotels. One parking space for every three guest rooms.
 - (5) Motels. One parking space for each unit.
 - (6) Commercial Establishments. One parking space for every 30 square feet of floor area.
 - (7) Residential Uses. Two parking spaces for each dwelling unit except as otherwise approved by the Plan Commission for handicapped or elderly housing. Am. 09/01/92, 1514
 - (8) Mixed Residential/Commercial Uses. One parking space for each residential unit, plus such additional space as required by the conditional use permit. Am. 09/01/92, 1514
 - (9) Other Uses. Shall be the same as for uses similar to the above or as otherwise determined by the City Plan Commission.
 - (10) Conditional Uses. Shall be as determined by the conditional use permit. Am 09/01/92, 1514

(H) SETBACK REQUIREMENTS.

- (1) Where the setback requirements of this ordinance differ for two adjoining lots, the setback on the lot on which the greater setback is required shall be modified for a distance of not more than 60 feet from the line dividing the two adjoining lots, to be the average of the two required setbacks.
- (2) No gasoline pumps shall be located closer than 12 feet (measured from the center line of said pumps) to the nearest lot line, or established street line. On a corner lot, when a gasoline pump or a series of pumps are placed on a pump island, the pump nearest the street shall be located not closer than 20 feet (measured along the axis of said pump island) to the street line of said street.
- (3) All setback requirements of this ordinance shall also apply to all future streets as shown on the Official Map, and any amendments thereto, as well as to all existing streets. Where 40% or more of the buildable frontage is occupied with buildings having an average setback line of more or less than the front yard setback required in the zone, the setback line in any vacant interior lot in such frontage shall be established at the point of intersection of its center line, drawn from the point lot line, and a line connecting the nearest points on the setback lines of the next existing buildings on each side of such vacant lot, but in no case shall it be necessary to exceed the minimum setback required by this ordinance.

(I) SERVICE STATION REGULATIONS. No service station shall be erected, moved, or altered where such station will be located:

- (1) Within 200 feet of any school, church, playground, theater, or other place of public assembly.
- (2) Where, in the determination of the Common Council, after consideration by the City Plan Commission, the public safety would be imperiled by reason of traffic or fire and explosion hazards.

(J) VISION CLEARANCE TRIANGLE. As per the definition, therefore, a vision clearance triangle shall be provided at the intersection of all street and/or alley lines and/or public access driveways. Am. 09/01/92, 1514

(K) BUILDING ELEVATIONS. Any building or structure hereafter erected shall be constructed to an elevation which shall be set by the City Engineer, in writing, before the issuance of a building permit therefore.

(L) FILLING OR CUTTING OF LANDS. No filling or cutting of lands within the city limits shall be permitted except as is done within limits established for same, in writing, by the City Engineer.

(M) SIGNS. Advertising and business signs shall be considered a commercial use and shall not be permitted in residential zones, except as in conformance with the requirements of the zone as outlined hereafter.

(N) PRIVATE SWIMMING POOLS.

- (1) No swimming pool shall be erected to the front of the residence of the owner or occupant of the premises connected therewith. In the case of lots bordered on two sides by public streets, no swimming pool may be erected in the area between the setback lines of the main building and the street right-of-way line; in no case less than five feet from any lot line or building wall.
- (2) A swimming pool, within the meaning of this ordinance, shall be any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent, and either above or below the ground in which water of more than 18 inches in depth is contained and which is used primarily for the purpose of bathing or swimming, except temporary pools with an area of 150 square feet or less shall not come within the provisions of this ordinance.
- (3) A child of tender years, within the meaning of this ordinance, shall be any child who has not attained the age of 10 years.
- (4) Every person, every member of a partnership, and every corporation that owns, directly or indirectly, or operates or uses or has custody of, control of or has the right to use any swimming pool located in the City of South Milwaukee, shall erect and maintain a fence or suitable barrier around such swimming pool of such size and construction as to safeguard a child of tender years to prevent such child from falling into such swimming pool, or shall install and maintain a cover or other protective device over such swimming pool of such design and material that the same can be securely fastened in place, and when in place, shall be capable of sustaining a person weighing 250 pounds. Such cover or other protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for bathing or swimming purposes.
- (5) No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank, not to overflow upon or cause damage to any adjoining property. Provision may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval of the Plumbing and Public Health Administrative Assistant. In all cases where a private swimming pool is to be constructed on premises served by a private sewage disposal system, approval of the State Board of Health shall be necessary before the construction of any such pool may commence.
- (6) All private swimming pools within the meaning of this ordinance must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.
- (7) All installations of swimming pools, drains, or other equipment made under the provisions of this ordinance shall be subject to periodic inspection by the Plumbing and Public Health Administrative Assistant of the City of South Milwaukee.
- (8) All swimming pools of a permanent type shall have the sides and bottom of a smooth finish and no sand or dirt shall be permitted.

(O) EARTH STATION DISH ANTENNAS.

- (1) Ground-mounted and building-mounted earth station dish antennas are permitted as accessory uses provided that all applicable requirements of this ordinance are met.
- (2) Earth station dish antennas shall be constructed and anchored in such a manner to withstand winds of not less than 80 miles per hour and such installations shall be constructed of non-combustible and corrosive-resistant materials.

- (3) 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.
 - (4) Ground-mounted dish antennas shall meet the height requirements for accessory structures in the zoning district in which they are located. Building-mounted dish antennas shall not exceed the maximum height regulation of the zoning district in which they are located.
 - (5) Ground-mounted earth station dish antennas shall meet all setback and yard requirements for accessory structures in the district in which they are located and are permitted in the rear yard only in residential districts provided that they shall be no closer than five (5) feet to the principal structure and any rear lot line or swimming pool, nor occupy more than twenty (20) percent of the rear yard area. Ground mounted earth station dish antennas are permitted in the side and rear yards in commercial, industrial and public/institutional zoning districts provided that they shall be no closer than five (5) feet to the principal structure, shall not occupy more than fifty (50) percent of a side yard nor seventy-five (75) percent of a rear yard area, and shall be no closer than three (3) feet to any side or rear lot line nor five (5) feet to any alley line. Building-mounted earth station dish antennas shall not exceed the setback and yard requirements of the zoning district in which it is located.
 - (6) Not more than one (1) earth station dish antenna shall be permitted on a lot or parcel in a residential zoning district.
 - (7) The installation of an earth station dish antenna shall require a building 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 to minimize their visual impact on surrounding properties. If a property owner in a residential zoning district proposes a building-mounted antenna location in which the antenna would be visible from the front lot line, that property owner must demonstrate that reception would not be possible from a less conspicuous location. The property owner in a residential zoning district who proposes a building-mounted antenna must also submit a plan for screening the antenna from surrounding properties whenever such screening can be accomplished in a manner that is appropriate to the architecture of the building. The Building Inspector shall refer to the Architectural Review Board any plans which do not clearly meet the requirements of this section.
 - (8) All earth station dish antennas, and the construction and installation thereof, shall conform to applicable City Building Code and Electrical Code regulations and requirements. Prior to the issuance of a building permit for a building-mounted earth station dish antenna, the applicant shall submit a plan or document prepared by a registered professional engineer which certifies that the proposed dish antenna installation is structurally sound.
 - (9) Any earth station dish antenna existing on the date for adoption of this ordinance, which does not conform to these regulations, shall be brought into conformance within one (1) year of the date of adoption of this ordinance. Cr. 11/05/85, 1314
- (P) DECK PROVISIONS. Cr. 06/20/95, 1615
- (1) Decks are permitted uses in R-A and R-B zones provided that all applicable requirements of this ordinance are met.
 - (2) The construction of a deck shall require a building permit.

- (3) Plans for all proposed decks must be submitted, reviewed and approved by the Building Inspector. Plans, when deemed necessary by the Building Inspector, may require the approval of the Building Board according to size, structure, and aesthetics.
 - (4) All decks shall conform with applicable sections of Wisconsin's Building Code.
 - (5) No deck shall encroach on existing public utility easements without the expressed written consent of the owner of the utility facility.
 - (6) No construction for a deck shall start without the contact and location of all utilities.
 - (7) When located in a side or rear yard, a deck shall not be less than three feet from the side or rear lot line, nor shall it be constructed less than six feet from a structure on a neighboring property. In the case of a corner lot, a deck constructed on the street side shall not project closer than ten feet to the side lot line or the minimum side yard setback of the principal building, whichever is less but in no case shall it be closer than six feet.
 - (8) When located in a front, a deck shall not project into the front yard setback by more than 25% of the required minimum front yard setback, except that decks adjoining buildings which do not conform with required minimum front yard setbacks shall not project beyond the existing setback of said building.
- (Q) PORTABLE STORAGE UNITS. "Portable Storage Unit" is any container, storage unit, shed-like container, removable canopy, or other temporary structure, that can or is used for the disposal, protection, or storage of personal property of any kind and which is located for such purposes outside an enclosed building or accessory structure. Cr. 8/17/10, 2009
- (R) DONATION DROP-OFF BOXES. "Donation Drop-Off Box" is any container, storage unit or temporary structure that can be used or is used for the holding of charitable or for profit donations with collection of these donations made at a later date or time and which is located for such purposes outside an enclosed building. Cr. 8/17/10, 2009

15.06 GENERAL PROVISIONS AND EXCEPTIONS.

- (A) USE REQUIREMENTS. Except as otherwise provided in this ordinance, no building or structure shall hereafter be erected, enlarged, located, reconstructed or maintained on a lot unless such building or structure conforms with the regulations as to the use of the zone or portion thereof in which it is located, nor shall any building, structure or land be changed in use nor shall any alteration be made with such change in view in any manner other than that prescribed by this ordinance or amendments thereto and as permitted in the zone in which such building, structure or land is located.
- (1) Whenever any area which has been subject to the Milwaukee County Zoning Ordinance petitions to become a part of the city, the regulations imposed by the County Ordinance shall continue in effect without change and shall be enforced by the city until such regulations have been changed by official action of the Common Council.
 - (2) Telephone buildings, exchanges and lines, transformer stations and microwave radio relay structures, telegraph lines, police and fire stations, water pumping stations and other similar public buildings and semi-public buildings and structures may be located in any zone in which they are otherwise prohibited when such location has been approved by the Common Council. This regulation, however, shall not apply to sewage disposal plants, garbage incinerators, warehouses, garages, shops and storage yards.
 - (3) Temporary structures erected for the purpose of providing shelter to materials and equipment of those engaged in the construction of a permanent building or for use as real estate sales field office shall not be required to conform to the regulations of this ordinance. Temporary structures shall require a temporary certificate of occupancy and shall be allowed on the premises for a period not to exceed one year.

- (4) No service station, mechanical garage or public parking lot shall be erected, operated or maintained where an entrance or exit for motor vehicles is located on the same side of the street within 200 feet of a pedestrian entrance or exit from a public or private school, park, parkway, playground, public library, church, hospital, home for children or the aged, or other public or semi-public institution.
- (5) Portable Storage Unit. The use of portable storage units are allowed in all zoning districts subject to the following conditions:
- a. There must be not more than one (1) portable storage structure per property.
 - b. The portable unit must be no larger than ten (10) feet wide, twenty (20) feet long and ten (10) feet high.
 - c. A portable storage unit must not remain at a property in any zoning district in excess of thirty (30) consecutive days, and must not be placed in any one property in a zoning district in excess of (30) days in a twelve (12) month period. Upon written application of a property owner, City Engineer or designee can approve a longer duration of time, but in no case shall a portable storage unit remain on property for more than sixty (60) consecutive days.
 - d. The portable storage unit must be placed within the buildable area of the lot, or driveway.
 - e. Portable storage units associated with construction at a site where a building permit has been issued are permitted for the duration of construction and must be removed from the site within fourteen (14) days of the end of construction. Portable storage units associated with construction are limited to 180 consecutive days unless specifically approved by the city engineer or building inspector.
 - f. Property owner shall be responsible for ensuring that the portable storage unit is maintained in good condition, free from deterioration, weathering, discoloration, graffiti, rust, ripping, tearing, or other holes or breaks.
 - g. Portable storage units shall not be used for storage of business inventory or commercial goods unless approved by the Plan Commission under a Conditional Use Permit in a commercial or industrial zone. Hazardous materials shall not be stored in portable storage units. Cr. 8/17/10, 2009
- (6) Donation Drop-Off Boxes. Donation drop-off boxes are prohibited on all public and private property in the city except under the following conditions:
- a. Donation drop-off boxes are allowed on property where the primary structure is used by a not for profit organization, as defined by the Wisconsin State Statutes and the box is used exclusively to support said organization.
 - b. The drop box must be placed within the buildable area of the lot in a side or rear yard and screened from view of any public right-of-way.
 - c. All donations must be fully enclosed in a donation drop-off box. Donations that are not fully enclosed in a donation drop-off box are considered a public nuisance and subject to removal by the City of South Milwaukee. Cr. 8/17/10, 2009

15.07 NON-CONFORMING USES.

- (1) The non-conforming use of any building or land existing as of August 14, 1956, the time of the enactment of this ordinance, may be continued subject to the limitations set forth by statute and such conditions herein set forth. Am. 09/01/92, 1514
- (2) Uses which were conforming before adoption of the 1992 amendments to this ordinance may be continued subject to the limitations set forth by Statute and such conditions set forth herein. Cr. 09/01/92, 1514

- (3) **DISCONTINUANCE.** If the non-conforming use of a building or premises is discontinued for a period of one year, any future use of such building or premises shall conform to the regulations of the zone in which it is located. If the non-conforming use of a building or premises is changed to a permitted use, the non-conforming use may not be resumed.
- (4) **CERTIFICATE OF OCCUPANCY.** A certificate of occupancy for each non-conforming use shall be required. See Section 15.18(B). The Building Inspector shall keep current a file of all non-conforming uses in the City, listing in each case the name of the owner of the premises, his address, the use and location of the building or premises, and the assessed value of the building at the time of its becoming a non-conforming use. When a non-conforming use shall have been destroyed to the extent of 50% or more of its assessed value, said value being determined by the City Assessor, or the fiscal year during which such destruction occurs, or discontinued, or when the total value of the structural repairs or alterations to such use shall equal 50% of the assessed value of the building at the time of its becoming a non-conforming use, such fact shall be noted on the list. Each new non conforming use created by any amendment to this ordinance shall be listed when so created.
- (5) **CHANGES.** A non-conforming use may be changed only to a conforming use.
- (6) **EXTENSION.** No non-conforming use shall be permitted to be added to or enlarged or moved on the lot unless it is made to conform with the regulations of the zone in which it is located.
- (7) **ALTERATIONS.** Alterations to a non-conforming building which alterations conform with the requirements of the zoning regulations and which alterations, when taken in total with the present existing structures, do not exceed the maximum allowable building area nor invade the minimum residual free area, shall be permitted at the discretion of the Building Inspector without appeal to the Board of Appeals. Where the Building Inspector has any question or doubt concerning the propriety of the proposed addition, he may require the applicant to submit his proposal to the Board of Appeals. Am. 09/16/86, 1333

15.08 R-A RESIDENTIAL ZONE.

- (A) **USES PERMITTED.** In the R-A Residential Zone, no building, structure or premises shall be used and no building or structure shall hereafter be erected or structurally altered unless otherwise provided in this ordinance, except for one or more of the following uses:
 - (1) **Single family dwelling units.** All single-family dwellings constructed after October 1, 2001 shall have a two-car attached garage, or detached garage, with a minimum area of not less than 420 square feet. When a lot abuts an alley, vehicular access to the garage or other parking, shall be provided solely from the alley. Created 10/2/01, 1807
 - (2) **Accessory Buildings.** Such buildings may be used in whole or in part as separate living quarters for domestic servants employed on the premises. When an accessory building is used wholly or partly as a private garage not more than 2 the space so used may be rented, for the storing only of private vehicles belonging to persons not resident on the premises, except that in the case of a garage having space for the storage of one or two vehicles only, all of such space may be so rented. No commercial vehicle exceeding 1-1/2 tons capacity shall be stored in such private garage. See also Section 15.05(F).
 - (3) **Temporary buildings** for a period not to exceed one year.
 - (4) **Home occupations.**

- (B) **CONDITIONAL USES.** The following uses may be permitted in an R-A Residential Zone by a conditional use permit under Section 15.16:
- (1) Churches, convents, cemeteries.
 - (2) Public and parochial schools.
 - (3) Public buildings including libraries, museums, police and fire stations and community buildings, except public warehouses, garages or storage yards, sewage disposal plants or garbage incinerators and penal or correctional institutions
 - (4) Parks and playgrounds.
 - (5) Professional offices, provided that such office is incidental to the residential use, is conducted by a member of the resident family entirely within the residential building, and that no more than fifty percent (50%) of only one floor in any residential building shall be devoted to such professional use.
 - (6) The following uses are permitted when approved by the Common Council:
 - (a) Power transmission lines, telephone and telegraph toll lines and transformer stations, microwave radio relay structures, transportation systems and railroad lines and passenger depots, but not including switching, storage, freight yards or siding.
 - (b) The filling of lowlands, pits and large holes with non-odorous or non-combustible materials free from garbage or food wastes, so as to elevate lands to grade established by the City Engineer.
 - (7) **Transitional Uses.** When the side line of a lot in the R-A Residential Zone abuts the boundary of any Commercial Industrial Zone, the following transitional uses may be established, provided that:
 - (a) Such transitional uses shall not extend into the R-A Residential Zone more than seventy-five (75) feet.
 - (b) All of the regulations of the R-A Residential Zone respecting yards and open spaces shall be complied with. See also Section 15.06(D)(7).
 1. Two (2) family dwelling.
 2. Storage garage, provided no commercial vehicle exceeding five (5) ton capacity shall be stored in any such garage.
 3. Parking lot, provided such lot is operated only between the hours of 6:00 A.M. and 10:00 P.M.
Created 09/01/92
- (C) **HEIGHT.** No building or structure shall exceed 35 feet or 2-1/2 stories in height. See Section 15.05(C)(1), (2), (3), (4).
- (D) **FRONT YARD.** There shall be a front yard having a minimum depth of 30 feet.
- (E) **SIDE YARD REQUIREMENTS.**
- (1) There shall be a side yard on each side of a building. For buildings not over 1-1/2 stories high, the sum of the widths of the required side yard shall not be less than fifteen (15) feet, and no single side yard shall be less than six (6) feet in width.
 - (2) For buildings which have two (2) stories on one side and a single story on the other side, there shall be two separate and distinct side yard requirements which are as follows:

- (a) First Story. The sum of the widths of the required side yard on the first story shall not be less than fifteen (15) feet; and, the side yard width on the two-story side of the building shall not be less than nine (9) feet, and on the one-story side of the building, not less than six (6) feet.
- (b) Second Story. The sum of the widths of the required side yard on the second story shall not be less than eighteen (18) feet; and, not less than nine (9) feet on either side of the building.

(3) For buildings from 1-1/2 to 2-1/2 stories high, the sum of the widths of the required side yards shall not be less than twenty (20) feet, and no single yard shall be less than eight (8) feet in width.

Provided, however, on a single lot having a width of less than sixty (60) feet and on record at the time of the passage of this ordinance as being owned separately from any adjoining lots, the sum of the widths of the required side yards shall be not less than three (3) inches per foot of lot width for a building not over 1-1/2 stories high, and four (4) inches per foot of lot width for a building from 1-1/2 to 2-1/2 stories high; provided further that the buildable width of such lot shall in no case be reduced to less than twenty-four (24) feet, nor shall the width of any single side yard be less than forty percent (40%) of the total required side yard width. Am. 04/05/72, 940

- (F) REAR YARD. There shall be a rear yard having a minimum depth of twenty (20) feet.
- (G) LOT AREA. No residential building shall hereafter be erected or structurally altered on a lot which provides less than 7200 square feet of lot area per family and a minimum of sixty (60) feet of width.
- (H) BUILDING SIZE.
 - (1) The ground floor areas of all one floor single family dwelling units, exclusive of open porches and garages shall not be less than 1000 square feet for a two-bedroom residence, 1125 square feet for a three-bedroom residence, 1225 square feet for a four-bedroom residence and 1325 square feet for a five-bedroom residence. For other than single floor structures, the upper and lower floors shall have not less than 1400 square feet with a minimum of 800 square feet on the first floor. No bedroom, family room or den shall have an area less than 100 square feet.
 - (2) ALTERATIONS. Nothing in this ordinance shall prevent a non-conforming building or structure, existing on the date of enactment of this ordinance, from being altered, improved, repaired, or rebuilt even if after such alteration, improvement or repair, said building or structure still constitutes a non conforming use, subject to the fifty percent (50%) limitation in Section 15.07(7). Am. 10/7/75, 1020
 - (3) CONSTRUCTION APPROVED PRIOR TO ORDINANCE. Nothing herein contained shall require any change in plans, construction or designated use of a building or structure for which a building permit has been issued prior to the date of enactment of this ordinance.
- (I) FENCES. Am. 09/01/92, 1514
 - (1) Barbed fences or other hazardous construction materials shall be prohibited.
 - (2) When zoning regulations for height of fences vary along the common line of a property, the more restrictive of the regulations shall apply.
 - (3) Maximum height in required front yards shall not exceed forty-eight (48) inches.

- (4) Maximum height on side property lines, or within three (3) feet thereof, shall not exceed six (6) feet.
- (5) Maximum height on rear property lines, or within three (3) feet thereof, shall not exceed six (6) feet.
- (6) No fence shall be erected closer than forty-two (42) inches from a principal building located on an adjoining property.
- (7) Vision clearance triangles shall be maintained at the intersection of the following:
 - (a) Two streets;
 - (b) A street and an alley;
 - (c) Two alleys; and
 - (d) A driveway to street.
- (8) No fence shall be erected without the property owner first obtaining a plat of survey with monumented property corners and a permit from the City Building Inspector.
- (9) Hedges and other similar forms of vegetation which are planted to form a dense, continuous barrier shall be regulated as a fence within the vision clearance triangle.
- (10) Height regulations, as stated herein, may be varied by the City Engineer when other considerations, such as adjoining grade levels, swimming pool protections, etc., indicate that said variance would satisfy the intent of these regulations.
- (11) Fence heights shall be measured from the grade of the principal residence.

15.09 R-B RESIDENTIAL ZONE.

- (A) **USES PERMITTED.** In the R-B Residential Zone, no building or structure shall hereafter be erected or structurally altered unless otherwise provided in this ordinance except for one or more of the following uses:
 - (1) Any non-conditional use permitted in the R-A Residential Zone. Am. 09/01/92, 1514
 - (2) Two family dwellings. All two family dwellings constructed after October 1, 2001 shall have not less than a one-car attached garaged for each dwelling unit, or a two-car detached garage. The total minimum area of the garage or garages shall not be less than 420 square feet. When a lot abuts an alley, vehicular access to the garage, or other parking, shall be provided solely from the alley. Amended, 10/2/01, 1807
- (B) **CONDITIONAL USES.** The following uses may be permitted in an R-B Residential Zone by a conditional use permit under Section 15.16:
 - (1) All conditional uses permitted in the R-A Residential Zone.
 - (2) Multi-family dwellings, boarding houses, lodging houses, bed and breakfast establishments and convalescent homes. Rep. & Recr. 10/18/94, 1587

- (3) Public hospitals, provided such building shall be located not less than 100 feet from any lot in any residential zone not used for the same purpose.
- (4) Philanthropic and eleemosynary institutions.
- (5) Private clubs, fraternities, and lodges, except those the major activity of which is a service, customarily carried on as a business.
- (6) Transitional Uses. When the side line of a lot in the R-B Residential Zone abuts the boundary of any Commercial or Industrial Zone, the following transitional uses may be established provided that:
 - (a) Such transitional uses shall not extend into the R-B Residential Zone more than seventy-five (75) feet.
 - (b) All of the regulations of the R-B Residential Zone respecting yards and open spaces shall be complied with. See also Section 15.06(D)(7).
 1. Storage garage, provided no commercial vehicle exceeding five (5) tons capacity shall be stored in any such garage.
 2. Parking lot, provided such lot is operated only between the hours of 6:00 A.M. and 10:00 P.M.
- (7) Functional Reuse of Existing Buildings – Structures or buildings existing in the R-B Zone as of January 1, 2008 that were previously used for churches, schools, banquet halls, or similar uses may be reused for establishment of commercial business or retail establishment subject to issuance of a conditional use permit under Section 15.16 provided that:
 - (a) The proposed use is a permitted or conditional use in the C-1 zone.
 - (b) The building exterior or structure does not have to be significantly modified to accommodate the intended uses.
 - (c) The functional reuse does not convert a previously existing residential use to a business enterprise.
 - (d) The proposed reuse is of such nature as not to be objectionable because of smoke, gases, fumes, dust, odor, noise, vibrations, traffic or any activity having a detrimental effect on the health, safety and/or welfare of the residents of adjacent residential areas or the neighborhood taken as a whole.
 - (e) Any conditional use permit issued under this paragraph shall be limited to a time period of 5 years unless a greater or lesser period of time is determined by the Plan Commission to be a necessary or sufficient safeguard against adverse effects and shall be reissued upon application for renewal provided the Plan Commission determines, after an evidentiary hearing, that the reuse has not had adverse effects upon the health, safety and/or welfare of the residents of the adjacent residential areas or the neighborhood taken as a whole. In the event the owner fails to petition for renewal, the conditional use permit shall lapse and be void at the end of the time limit established by the Plan Commission when it is issued or reissued. The City may notify the property owner a minimum of 120 days prior to conditional use permit expiration date. Failure of the City to notify the owner does not void the requirement of owner to petition for renewal.

- (C) HEIGHT. Same as R-A Residential Zone.
- (D) FRONT YARD. There shall be a front yard having a minimum depth of twenty-five (25) feet.
- (E) SIDE YARD. There shall be a side yard on each side of a building. For buildings not over 1-1/2 stories high, the sum of the widths of the required side yards shall be not less than fifteen (15) feet, and no single side yard shall be less than six (6) feet in width.

For buildings from 1-1/2 to 2-1/2 stories high, the sum of the widths of the required side yards shall not be less than twenty (20) feet, and no single side yard shall be less than eight (8) feet in width, except for any building which is designed for or occupied by three (3) families, the sum of the widths of the required side yards shall not be less than 20 feet, and no single side yard shall be less than ten (10) feet in width, and for any building which is designed for or occupied by four (4) families, the sum of the widths of the required side yards shall not be less than thirty (30) feet, and no single side yard shall be less than twelve (12) feet in width.

Providing, however, that on a single lot having a width of less than sixty (60) feet and on record at the time of the passage of this ordinance as being owned separately from any adjoining lots, the sum of the widths of the required side yards shall not be less than three (3) inches per foot of lot width for a building not over 1-1/2 stories high, and of four (4) inches per foot of lot width for a building from 1-1/2 to 2-1/2 stories high; provided further that the buildable width of such lot shall in no case be reduced to less than twenty-four (24) feet, nor shall the width of any single side yard be less than 40% of the total required side yard width. See Section 15.05(D)(1),(2),(5),(6) and (7).

- (F) REAR YARD. Same as R-A Residential Zone.
- (G) LOT AREA. No residential building shall hereafter be erected or structurally altered on a lot which provides less than the following minimum lot area:
 - (1) For a single family dwelling, 7200 square feet of lot area per family and a minimum of sixty (60) feet of lot width.
 - (2) For a two-family dwelling, 3600 square feet of lot area per family and a minimum of sixty (60) feet of lot width.
 - (3) For a three-family dwelling, 300 square feet of lot area per family and a minimum of seventy-five (75) feet of lot width.
 - (4) For a four-family dwelling, 2700 square feet of lot area per family and a minimum of ninety (90) feet of lot width.
 - (5) For lodging or boarding units, a minimum of sixty (60) feet of lot width.
- (H) BUILDING SIZE. In addition to the same requirements in the R-A Residential Zone for building size, each dwelling unit shall contain not less than the following floor areas:
 - (1) For a two-family dwelling, 675 square feet per family.
 - (2) For a three or four-family dwelling, 500 square feet per family. (3) (I)
 - (3) For lodging or boarding units, no minimum.
- (I) FENCES. Same as R-A Residential Zone.

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15.10 R-C RESIDENTIAL ZONE.

- (A) **USES PERMITTED.** In the R-C Residential Zone, no building or structure shall be used and no building or structure shall hereafter be erected or structurally altered, unless otherwise provided in this ordinance, except for the following uses:
 - (1) Any non-conditional use permitted in the R-B Residential Zone. Am. 09/01/92, 1514
- (B) **CONDITIONAL USES.** The following uses may be permitted in an R-C Residential Zone by a conditional use permit under Section 15.16:
 - (1) All conditional uses permitted in the R-A Residential Zone and the R-B Residential Zone.
 - (2) Apartment buildings.
- (C) **HEIGHT.** No building or structure hereafter erected or structurally altered shall exceed three (3) stories or thirty-five (35) feet in height when adjoining a zone on one or more sides which permits greater heights, the height limit may be increased to be an average between the two (2) zones. See Section 15.06(C)(2),(3) and (4). Am. 09/01/92, 1514
- (D) **FRONT YARD.** There shall be a front yard having a minimum depth at least equal to that of other residential zones which abut thereon or which are separated therefrom by a street, whichever is closer, but in no case shall said front yard be less than ten (10) feet.
- (E) **SIDE YARD.** There shall be a side yard of not less than ten (10) feet on each side of the building, except that this side yard shall be increased to twenty-four (24) feet on the side which abuts on an R-A Residential Zone.
- (F) **REAR YARD.** Same as R-A Residential Zone.
- (G) **BUILDING SITE AREA AND LOT AREA PER FAMILY LIMITATION.** For the purpose of determining the minimum lot area requirements for apartments, the following table shall be used which, when combined with the front yard setback requirements, will comprise the total lot area required per family.

<u>Height</u>	<u>Total Square Feet/Family</u>
1 Story	1,000
2 Story	800
3 Story	700
4 Stories and over	600

- (1) Building floor area requirements are based on a minimum of 400 square feet of available living space per dwelling unit.
- (2) Outdoor living area of 300 square feet per family shall be required. Such area may not be used for any other purpose and may not be considered a part of any front yard requirement as required by this ordinance. Each building intended for occupancy by eight (8) or more families shall have a play lot included in said area of a suitable size as determined by standards established by the City Plan Commission.

(3) Off-street parking spaces to allow sufficient area for one car per family, as specified in Section 15.05(G)(1) hereof shall be provided. In all cases where automobile parking spaces are provided within the main building, or some other structure on the premises, the total lot area required under (F) above may be reduced by 100 square feet for each such parking space provided.

(H) BUILDING SIZE. See Section (F) above.

(I) FENCES. Same as R-A Residential Zone.

(J) SIGNS. Same as R-A Residential Zone.

15.11 C-1 NEIGHBORHOOD SHOPPING ZONE.

(A) USES PERMITTED. In the C-1 Neighborhood Shopping Zone, no building, structure, or premises shall be used, and no building or structure shall hereafter be erected or structurally altered unless provided in this ordinance, except for one or more of the following uses:

- (1) Bank, business and professional offices, and churches. Am. 09/01/92, 1514
- (2) Telephone, telegraph and public utility office; microwave radio relay structures.
- (3) The following uses, provided that they shall be retail establishments selling only new merchandise unless otherwise provided; that such uses shall be conducted wholly within an enclosed building unless otherwise provided; that not more than seven (7) persons shall be employed on the premises for any one such use; that the ground floor area for any one use shall not exceed 1800 square feet; that any exterior sign displayed shall be attached to a building, shall pertain only to the use of the building or premises, shall be placed so as to face the principal street or a parking area in the rear, or if on a corner building, such sign shall be located on that portion of the side street wall within fifty (50) feet of the principal street, and in no case shall such sign project above the roof line of the building to which it is attached; provided further that no curb service or drive-in service shall be permitted.
 - (a) Art shop, gift shop, jewelry store, optical store
 - (b) Bakery
 - (c) Barber shop, beauty parlor
 - (d) Book and stationery store, news stand, tobacco store
 - (e) Candy store, confectionery store
 - (f) Clothing store, dress shop, hosiery shop, millinery shop, notion shop, shoe store, shoe repair shop, variety store
 - (g) Drug store, ice cream shop, pharmacy, soft drink stand
 - (h) Florist shop
 - (i) Food products, dairy products, delicatessen, fruit and vegetable store, grocery store, meat and fish market Hardware store, sporting goods store
 - (j) Music store, radio and television store
 - (k) Photographer and photographer's supplies
 - (l) Restaurant, tavern
 - (m) Tailor and clothes pressing shop; provided, however, that no cleaning or dyeing operation shall be conducted on the premises.
- (4) Accessory buildings for any use permitted in the zone.
- (5) Repealed 9/18/07, 1946

- (6) Any use permitted in the R-B Residential Zone, when constructed pursuant to the standards and requirements of Section 15.09. Am. 04/04/73, 961
- (B) **CONDITIONAL USES.** The following uses may be permitted in a C-1 Neighborhood Shopping Zone by a conditional use permit under Section 15.16:
- (1) Any other business or enterprise which is similar in character to those listed in Section 15.11 (A), and is established for the purpose of providing a service or commodity that is required by the residents of the adjacent residential area and is of such nature as not to be objectionable because of smoke, gases, fumes, dust, odor, noise, vibrations, or any activity having a detrimental effect on the health, safety and welfare of the residents of adjacent residential areas.
- (2) All conditional uses permitted in the R-A, R-B and R-C Residential Zones.
- (3) Storage garages for the storage of personal automotive vehicles only, not including trucks, buses, tractors, trailers or any other automobile vehicle. Cr. 09/01/92, 1514
- (4) Mixed residential and commercial uses.
- (C) **HEIGHT.** No building or structure hereafter erected or structurally altered shall exceed three stories or thirty-five (35) feet in height. §
- (D) **FRONT YARD.** Where parts of the frontage are designated on the Zoning Map as Residential Zone and C-1 Neighborhood Shopping Zone, the front yard regulations of the Residential Zone shall apply to the C- 1 Neighborhood Shopping Zone; otherwise no front yard shall be required.
- (E) **SIDE YARD.** There shall be a side yard on each side of any building hereafter erected or structurally altered, of not less than six (6) feet in width. All buildings hereafter erected or structurally altered shall be set back a minimum of ten (10) feet from any lot line which adjoins a residential zone.
- (F) **REAR YARD.** There shall be a rear yard having a minimum depth of twenty (20) feet.
- (G) **LOT AREA.** No minimum lot areas shall be required for commercial uses, except as is deemed necessary by the City Plan Commission for lots less than thirty (30) feet in width. For dwelling units constructed above a commercial use, and for apartments, the following minimum lot areas shall apply:
- (1) Lodging rooms (one bedroom apartments) 600 square feet per room.
- (2) Efficiency apartments (one bedroom) 1200 square feet per unit.
- (3) Apartments (two or more bedrooms) 1800 square feet per unit.
- (H) **BUILDING SIZE.** No minimum building size shall be required for commercial uses, except as is deemed necessary by the City Plan Commission for lots less than thirty (30) feet in width. When dwelling or lodging units are constructed above the commercial use, minimum unit sizes shall be as follows:
- (1) Lodging rooms (one bedroom) 150 square feet.
- (2) Apartments - 300 square feet plus 100 square feet for each bedroom in excess of one.

- (I) FENCES. Same as R-A Residential Zone.

15.12 C-2 COMMERCIAL ZONE.

- (A) USES PERMITTED. In the C-2 Commercial Zone, no building, structure or premises shall be used and no building or structure shall hereinafter be erected or structurally altered unless otherwise provided in this ordinance except for one or more of the following uses: Rep. & Recr. 01/18/94, 1555
- (1) All non-residential uses permitted in the C-1 Neighborhood Shopping Zone. Am. 09/01/92, 1514; Rep. & Recr. 01/18/94, 1555
 - (2) One and Two-family dwellings which otherwise comply with all zoning requirements (eg. area, setbacks, unit size, parking, etc.) and which were constructed prior to January 1, 1999. Cr. 11/02/99, 1752
 - (3) Any of the following specified uses: Renumbered 01/18/94, 1555
 - (a) Animal hospital, pet shop
 - (b) Repealed 04/05/00, 1766
 - (c) Bowling alley, pool and billiard room, amusement and entertainment centers utilizing mechanical, electronic, and video games, gymnasium, dancing school, dance hall, skating rink, theater except drive-in theater, ice cream store, soda fountain, soft-drink stand. Cr. 08/18/81, 1159
 - (d) Caterer, tavern
 - (e) Cleaning and dyeing establishment; laundry
 - (f) Clinic
 - (g) Convention and exhibition hall
 - (h) Crockery store
 - (i) Department store
 - (j) Financial institution, brokerage, pawnbroker
 - (k) Furniture store, upholster's shop
 - (l) Household appliance store, paint store, plumbing, heating and electrical supply store
 - (m) Job printing establishments and newspaper press rooms and offices
 - (n) Municipal buildings, including post offices, libraries, museums, fire and police stations and community centers, but not including public warehouses, garages or storage yards, sewage disposal plants or garbage incinerators, and penal or correctional institutions.
 - (o) Personal service establishments
 - (p) Private school
 - (q) Radio and television broadcasting studio, radio and television towers, masts or aerials, microwave radio relay structures
 - (r) Railroad and bus depot
 - (s) Temporary structures
 - (t) Undertaking establishment

- (B) **CONDITIONAL USES.** The following uses may be permitted in a C-2 Commercial Zone by a conditional use permit under Section 15.16. Notwithstanding any provision herein to the contrary any residential building hereinafter constructed and any existing building hereinafter structurally altered to increase the number of residential units within such building in a C-2 Commercial Zone shall be subject to such height, setback, number of units, building size, percentage of buildable area on the land and such other conditions as may be determined to be appropriate by the Plan Commission and the Common Council in the Conditional Use Permit process. In the event these provisions governing residential uses in a C-2 zone appear to be in conflict with any other provision of this zoning code, the terms of this paragraph shall supersede any such apparently conflicting provision. Rep. & Recr. 01/18/94, 1555
- (1) Electronic equipment design, programming, assembly, testing, storage, display and sales, but not including the manufacturing of component parts except as may be incidental to assembly. Detailed plans for the use of any structure or lands for such purposes, including a description of machinery and equipment to be used, shall be subject to approval by the Common Council following review and recommendation by the City Plan Commission. Am. 05/02/78, 1067
 - (2) Storage of building materials when same is in a fully enclosed building and operated in conjunction with a retail outlet for said materials on the same premises as the primary use.
 - (3) Auto body repairing and painting.
 - (4) All conditional uses permitted in the R-A Residential Zone, the R-B Residential Zone, the R C Residential Zone and the C- 1 Commercial Zone.
 - (5) The storage of equipment and supplies used in the construction services industries (e.g. building contractors, carpenters, electricians, flooring services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services and welding services) provided that no manufacturing of products is conducted on the premises and that all storage of equipment and supplies is within a building. Cr. 06/17/97, 1672
 - (6) Automotive sales and service, automobile repair, and automotive fueling stations, provided that all pumps and service islands meet the district setback requirements; provided that canopies are set back at least 10 feet from a street right-of-way; provided that the Plan Commission and Common Council has reviewed and approved the site ingress and egress plan; and provided the Plan Commission and Common Council has review and approved a site landscaping plan. Cr. 04/05/00, 1766
 - (7) Drive-through facilities such as banks, restaurants, and carwashes, provided that each drive-through bank shall provide four stacking spaces for each service lane; each drive-through restaurant shall provide eight stacking spaces for each service lane; each full service carwash shall provide seven stacking spaces per wash stall and two drying spaces beyond the carwash exit; and each self service carwash shall provide two stacking spaces per wash stall. Drive-through establishments not listed shall provide stacking spaces as required by the Plan Commission based on demonstrated need. Cr. 04/05/00, 1766
 - (8) Limited manufacturing, assembly, and storage may be permitted in the C-2 zone, provided that the need for such onsite manufacturing and assembly is demonstrated to the Plan Commission and provided the manufacturing/assembly use complies with the performance standards for residential and business districts set forth in Section 15.165. Cr. 04/05/00, 1766

- (9) **Personal Wireless Facilities.** Personal wireless facilities include cellular telephone antennas, personal communication services, other mobile radio services, and any FCC-licensed wireless common carriers; and any office, maintenance, generator, or other land use directly related to the operation of such services. Cr. 02/06/01, 1792.
- (A) The developer of a personal wireless facility shall prepare a plan showing the number and potential location of all antenna sites needed within the City, and within 3 miles of the City, to complete the complete communication network.
 - (B) The applicant for a personal wireless facility must own the property on which the facility is proposed to be located, must possess a lease to use the property for a personal wireless facility, or possess another appropriate agreement document that shows that the property owner has agreed to the use of the property for such personal wireless service facility.
 - (C) All antenna shall be constructed on existing structures, such as, but not limited to water towers, public buildings, existing utility towers, or other communications towers.
 - (D) If it is determined that such antennas cannot be co-located on existing structures, freestanding tower structures may be permitted, but said structures shall be designed to support the proposed antennas and three additional sets of communications antennas. The developer shall agree, in writing, to make the structure available for co-location by other companies of other communication equipment at a reasonable return. No more than one freestanding tower shall be permitted on a property.
 - (E) It shall be preferred, and the Common Council may require, that stealth antenna technologies be used to hide or disguise a personal wireless service facility.
 - (F) No freestanding tower shall exceed in height, twice the distance from the nearest lot line.
 - (G) The developer may be required to post a bond or cash deposit to assure maintenance of communication equipment and its supporting structures; and to assure that if facilities are abandoned, sufficient resources are available for the City to remove such equipment and structures.
- (10) **CONVENIENT CASH AND SIMILAR BUSINESSES:** Cr. 8/17/10, 2008
- (A) **Definition:** Convenient cash and similar businesses include check cashing places, pay-day loans, car title, cash loan/advance services and similar short-term credit establishments, and means any person licensed pursuant to Wisconsin Statutes who accepts a check or title, holds the check or title, for a period of time before negotiating or presenting the check or title for payment, and pays to the issuer an agreed upon amount of cash, or who refinances or consolidates such a transaction.
 - (B) **Location:**
 - (1) Convenient cash businesses shall not be located within 1500 feet of any other convenient cash business or as regulated by State Law.
 - (2) Convenient cash businesses shall not be located within 250 feet from a residential zoning district or residential use as measured by the shortest line between the parcel to be occupied by the proposed convenient cash facility and the property line of the residential use or district.

(C) Hours of Operation: Convenient cash businesses shall not operate between the hours of 9:00 p.m. and 9:00 a.m.

(D) All convenient cash businesses shall purchase and install based upon specifications provided by the Police Department, one outdoor surveillance camera and wireless subscription module [total cost not to exceed five thousand dollars (\$5,000.00)] to be positioned in close proximity to said business at a location determined by the Police Department. The owner of this equipment shall be responsible for its repair and upkeep. Failure to maintain and repair the above-named equipment will necessitate a review of the Conditional Use approval and possible revocation of same.

(E) Applicant must provide a security plan that addresses all of the following:

- a) Limits on amount of cash immediately available for withdrawal;
- b) Lighting plan for the business showing both exterior and interior lighting;
- c) Plans for maintaining visibility into the interior of the check cashing facility;
- d) Plans for security of the check cashing area of the facility;
- e) A program for graffiti and litter abatement;
- f) Hour of operation; and
- g) Use of security guards and cameras plan.

(C) HEIGHT. No building or structure hereafter erected or structurally altered shall exceed fifty (50) feet or five (5) stories in height. See Section 15.05(C)(2),(3) and (4).

(D) FRONT YARD. No front yard shall be required.

(E) SIDE YARD. No side yard shall be required, but if provided, such side yard shall not be less than six (6) feet in width. All buildings shall be set back a minimum of ten (10) feet from any lot line which adjoins a residential zone.

(F) REAR YARD. There shall be a rear yard of not less than twenty (20) feet for a building three (3) stories or less in height. For each additional story in height, the depth of such rear yard shall be increased two (2) feet. See Section 15.05(C),(3);(D)(2),(5),(6) and (7).

(G) LOT AREA. Same as C-1 Zone.

(H) BUILDING SIZE. Same as C-1 Zone.

(I) FENCES. Same as C- I Zone.

15.13 C-3 CENTRAL BUSINESS ZONE.

(A) USES PERMITTED. In the C-3 Central Business Zone, no building, structure or premises shall be used and no building or structure shall hereafter be erected or structurally altered unless otherwise provided in this ordinance, except for one or more of the following uses:

- (1) All non-conditional uses permitted in the C-1 Neighborhood Shopping Zone and the C-2 Commercial Zone. Am. 09/01/92, 1514
- (2) Financial institution, brokerage, pawnbroker.
- (3) Wholesale tropical fish business. Am. 03/15/94, 1560

- (4) Transitional Uses. Cr. 04/09/96, 1639 When the side or rear lot line of a lot in the C-3 Central Business Zone abuts the boundary of any Industrial or Manufacturing Zone, the uses defined at (c) hereof may be established provided that:
- (a) Such transitional uses shall not extend into the C-3 Central Business Zone more than 75 feet.
 - (b) All of the regulations of the C-3 Central Business Zone respecting yards and open spaces shall be complied with. See Sec. 15.05 (d) (7)
 - (c) The uses permitted as transitional uses are:
 - (1) Storage of contractor/building materials when the same is stored in a fully enclosed building, is an incidental part of the business located on the premises, and does not occupy more than 50% of the building.
 - (2) Storage of contractor equipment when the same is in a fully enclosed building or in an area fully enclosed by a screened fence, is an incidental part of the business located on the premises, and the equipment does not exceed the following limitations:
 - (a) No commercial vehicle with a payload capacity in excess of two tons shall be stored on the property.
 - (b) No equipment with a gross weight in excess of 3 tons shall be stored on the property.
- (B) CONDITIONAL USES. The following uses may be permitted in a C-3 Central Business Zone by a conditional use permit under Section 15.16:
- (1) All conditional uses permitted in the R-A Residential Zone, the R-B Residential Zone, the R-C Residential Zone, the C-1 Neighborhood Shopping Zone and the C-2 Commercial Zone. Am. 09/01/92, 1514; Rep. & Recr. 04/21/98, 1704
 - (2) The storage of equipment and supplies used in the construction services industries (e.g. building contractors, carpenters, electricians, flooring services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services and welding services) provided that no manufacturing of products is conducted on the premises and that all storage of equipment and supplies is within a building. Cr. 06/17/97, 1672
 - (3) Automotive sales and service, automobile repair, and automotive fueling stations, provided that all pumps and service islands meet the district setback requirements; provided that canopies are set back at least 10 feet from a street right-of-way; provided that the Plan Commission and Common Council has reviewed and approved the site ingress and egress plan; and provided the Plan Commission and Common Council has reviewed and approved a site landscaping plan. Cr. 04/05/00, 1766

- (4) Drive-through facilities such as banks, restaurants, and carwashes, provided that each drive-through bank shall provide four stacking spaces for each service lane; each drive-through restaurant shall provide eight stacking spaces for each service lane; each full service carwash shall provide seven stacking spaces per wash stall and two drying spaces beyond the carwash exit; and each self service carwash shall provide two stacking spaces per wash stall. Drive-through establishments not listed shall provide stacking spaces as required by the Plan Commission based on demonstrated need. Cr. 04/05/00, 1766
- (5) Limited manufacturing, assembly, and storage may be permitted in the C-2 zone, provided that the need for such onsite manufacturing and assembly is demonstrated to the Plan Commission and provided the manufacturing/assembly use complies with the performance standards for residential and business districts set forth in Section 15.165. Cr. 04/05/00, 1766
- (6) Tattoo establishments. Cr. 5/20/08, 1971
- (7) Functional reuse of historic non-standard structures: Historic train cars or other historic equipment or vehicles may be used for establishment of commercial business, or other use, subject to issuance of a conditional use permit under Section 15.16, provided that:
 - a. The proposed use is a permitted or conditional use in the C-3 zone;
 - b. The historic vehicle does not have to be significantly modified to accommodate the intended use;
 - c. The proposed reuse is not objectionable because of the effect on the neighborhood;
 - d. The historic vehicle is not a motor home, recreational vehicle, trailer, mobile (manufactured) home, or otherwise drivable or movable vehicle;
 - e. Conditional use permit shall include provisions for removal of the structure if the reuse ceases operation. Cr. 4/19/11, 2021
- (C) HEIGHT. No building or structure hereafter erected or structurally altered shall exceed fifty (50) feet or five (5) stories in height. See Section 15.05(C)(2),(3) and (4).
- (D) FRONT YARD. No front yard shall be required.
- (E) SIDE YARD. Same as C-2 Zone.
- (F) REAR YARD. No rear yard will be required where adequate off-street loading space is provided.
- (G) LOT AREA. Same as C-1 Zone.
- (H) BUILDING SIZE. Same as C-1 Zone.
- (I) FENCES. Same as C-1 Zone.

- (J) SIGNS. Same as C-1 Zone.
- (K) OFF-STREET PARKING. None of the provisions of this ordinance requiring off-street parking shall apply to this zone, except that off-street loading space, when needed, shall be provided.

15.14 M-1 MANUFACTURING ZONE.

- (A) USES. In the M-1 Manufacturing Zone, no building, structure or premises shall be used and no building or structure shall hereafter be erected, moved or structurally altered unless otherwise provided in this ordinance, except pursuant to the terms of a conditional use permit issued pursuant to the terms of this zoning code. Repl. and Recr. 4/16/02, 1818
- (B) REVIEW. In granting or denying conditional use permits in the M-1 zone, in addition to employing the standards and criteria of Sec. 15.16 of these ordinances, the Plan Commission shall not permit any use which was formerly prohibited and in considering an application for a use which was formerly conditionally prohibited, the Plan Commission shall give due regard to those conditions which formerly limited the conditionally prohibited use for which an application has been submitted. The provisions of this paragraph should be read to supplement and not replace the standards established in Sec. 15.16 of these ordinances. In the event of a conflict between the provisions of this paragraph and the provision of Sec. 15.16, the conflict shall be resolved in favor of application of the provisions in Sec. 15.16. Repl. and Recr. 4/16/02, 1818
- (C) HEIGHT. The height of any building in the M-1 zone shall be established by the conditional use permit. Repl. & Recr. 4/16/02, 1818
- (D) FRONT YARD.
 - (1) There shall be a front yard having a minimum depth of twenty-five (25) feet. In case of a corner lot, no such building shall be nearer the side street line than ten (10) feet.
 - (2) Where any part of the premises is used for storage or manufacturing and is not in an enclosed building, such use shall be screened by a wall, fence, evergreen, or other equally effective planting, and built or maintained at a minimum height of six (6) feet.
- (E) SIDE YARD.
 - (1) For buildings or parts of buildings hereafter erected or structurally altered for residential purposes, the side yard requirements of the R-A Residential Zone shall apply.
 - (2) All buildings hereafter erected or structurally altered shall be set back a minimum of fifty (50) feet from any lot line which adjoins a residential zone except that where a street divides the zones, no setback shall be required but, if provided, such side yard shall be not less than ten (10) feet in width.
 - (3) Where any part of the premises adjoining a residential zone is used for storage or manufacturing and is not in an enclosed building, such use shall be screened by a wall, fence, evergreen, or other equally effective planting, and built or maintained at a minimum height of five (5) feet.

- (F) REAR YARD. There shall be a rear yard of not less than twenty (20) feet for a building three (3) stories or less in height, except that loading platforms may be established in such rear yard when it abuts on a railroad. For each additional story or fractional story in height, the depth of such rear yard shall be increased two (2) feet. See Section 15.05(C)(2),(3);(D)(2),(5),(6),(7).
- (G) LOT AREA. No minimum lot area shall be required, except as may be deemed necessary by the Plan Commission in the conditional use permitting process. Repl. & Recr. 4/16/02, 1818
- (H) BUILDING SIZE. No minimum building size shall be required, except as may be deemed necessary by the Plan Commission in the conditional use permitting process. All plans for construction in this zone shall be approved by the City Plan Commission along with the proposed orientation of buildings. Repl. & Recr. 4/16/02, 1818.
- (I) Repealed 4/16/02, 1818
- (J) Repealed 4/16/02, 1818
- (VIII) FENCES and SIGNS. Fences and signs will be permitted or required by conditional use permit only.

15.15 M-2 MANUFACTURING ZONE.

- (A) USES. In the M-2 Manufacturing Zone, no building, structure or premises shall be used and no building or structure shall hereafter be erected, moved or structurally altered unless otherwise provided in this ordinance, except pursuant to the terms of a conditional use permit issued pursuant to the terms of this zoning code. Repl. & Recr. 4/16/02, 1818
- (B) REVIEW. In granting or denying conditional use permits in the M-2 zone, in addition to employing the standards and criteria of Sec. 15.16 of these ordinances, the Plan Commission shall not permit any use which was formerly prohibited and in considering an application for a use which was formerly conditionally prohibited, the Plan Commission shall give due regard to those conditions which formerly limited the conditionally prohibited use for which an application has been submitted. The provisions of this paragraph should be read to supplement and not replace the standards established in Sec. 15.16 of these ordinances. In the event of a conflict between the provisions of this paragraph and the provisions of Sec. 15.16, the conflict shall be resolved in favor of application of the provisions in Sec. 15.16. Repl. & Recr. 4/16/02, 1818
- (C) HEIGHT. The height of any building in excess of two stories or 30 feet in the M-2 zone shall be established by the conditional use permit. Repl. & Recr., 4/16/02, 1818
- (D) FRONT YARD.
 - (1) There shall be a front yard having a minimum depth of ten (10) feet.
 - (2) Where any part of the premises is used for storage or manufacturing and is not in an enclosed building, such use shall be screened by a wall, fence, evergreen or other equally effective planting built or maintained at a minimum height of six (6) feet. No setback shall be required, but if a setback is used, it shall be a minimum of ten (10) feet.

(E) SIDE YARDS.

(1) For building or parts of building hereafter erected or structurally altered for residential purposes, the side yard requirements of the R- 1 Residential Zone shall apply.

(2) All buildings hereafter erected or structurally altered shall be set back a minimum of fifty (50) feet from any lot line which adjoins a residential zone, except that when an M-1 or M-2 Zone adjoins a residential zone and is separated by a street, no setback shall be required. Otherwise no side yard shall be required but if provided, such side yard shall not be less than ten (10) feet in width.

(3) Where any part of the premises adjoining a residential zone is used for storage or manufacturing and is not in an enclosed building, such use shall be screened by a wall, fence, evergreen or other equally effective planting, built or maintained at a minimum height of six (6) feet.

(F) REAR YARD. There shall be a rear yard of not less than twenty (20) feet for a building three (3) stories or less in height, except that loading platforms may be established in such rear yard when it abuts on a railroad. For each additional story or fractional story in height, the depth of such rear yard shall be increased two (2) feet. See Section 15.05(C)(2),(3);(D)(2),(5),(6) and (7).

(G) LOT AREA. Same as M-1 Zone.

(H) BUILDING SIZE. Same as M-1 Zone.

(I) FENCES. Same as M-1 Zone.

(J) FENCES and SIGNS. Fences and signs will be permitted or required by conditional use permit only. Repl. & Recr. 4/16/02, 1818

15.16 CONDITIONAL USES. Cr. 09/01/92, 1514

(A) (1) PERMIT. The City of South Milwaukee Plan Commission may authorize the Building Inspector to issue a conditional use permit for conditional uses after review, a public hearing and approval by the Common Council, provided that such conditional uses and structures are in accordance with the purpose and intent of this ordinance and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community. Renumbered 10/18/94, 1587

(2) REVIEW STANDARDS. A conditional use permit shall only be granted on such terms regulating the setback of buildings, yards and open areas, height of structures, parking and concentration of buildings and people and use of land as will in all circumstances insure that the essential character of the zoning and neighborhood is not changed, that neighboring property values are preserved, that the general health and welfare of the community is enhanced and that the objectives of Sec. 62.23(7)(c) are met. Cr. 10/18/94, 1587

- (3) **EXCEPTIONS.** Any structure, building or use of land which was a permitted use in the zoning district of which it is a part immediately prior to the adoption of an amendment to this zoning code which amendment made that structure, building or use a conditional use shall be deemed to have been granted a conditional use permit on the effective date of the amendment to continue that structure, building and/or use as a conditional use. However, any extension or expansion of the structure, building or use will be allowed only upon grant of a conditional use permit specifically approving the extension or expansion. Additionally, this provision shall not affect the non-conforming status of any structure or use existing before such an amendment to this Code. Cr. 10/18/94, 1587
- (B) **APPLICATION.** Applications for conditional use permits shall be made in duplicate to the Building Inspector on forms furnished by the City and shall include the following: Cr. 09/01/92, 1514
- (1) Name and address of the applicant, owner of the site, architect, professional engineer, contractor, and all abutting property owners of record.
 - (2) Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 - (3) Plat of Survey prepared by a registered land surveyor in the State of Wisconsin.
 - (4) Additional information as may be required by the City of South Milwaukee Plan Commission, City Engineer, or the Building, Electrical, Health or Plumbing Inspectors.
 - (5) Fee receipt from the City of South Milwaukee Treasurer in an amount established by the Common Council.
- (C) **REVIEW AND APPROVAL.** Am. 12/20/94, 1595 The City of South Milwaukee Plan Commission shall review the site, existing and proposed structures, building layout, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water system and the proposed use and where the proposed use will either create an apartment structure or increase the number of dwelling units in an existing apartment structure, the following minimum standards shall be required and no permit shall be issued for any structure or premise which does not meet the following minimum standards:
1. **Density.** The maximum number of units upon any land shall not exceed the following: 12 efficiency units per acre; 10 one-bedroom units per acre; 8 two-bedroom units per acre; 8 units per acre for units of 3 or more bedrooms. Structures consisting of two or more types of units must meet the standard for the more restrictive type of unit.
 2. **Open Space.** At least 1800 sq. ft. of open space per family is required. Open space may not be devoted to the primary structures, accessory structures or parking areas and do not include streets, driveways or alleys.
 3. **Unit Size.** The following are the minimum required unit sizes:
 - _ 500 sq. ft. for each efficiency.
 - _ 650 sq. ft. for each I bedroom.
 - _ 850 sq. ft. for each two bedroom.
 - _ 1050 sq. ft. for each three bedroom.
 - _ for a unit of more than three bedrooms, the minimum size is 1050 plus 200 sq. ft. for each bedroom over three.

4. Lot Area. The minimum lot area is made up of the following minimum yard sizes plus the required open area and the area needed to meet the minimum unit sizes:
- _ lot width: 90 feet.
 - _ front yard setback: 25 feet.
 - _ side yard: 10 feet.
 - _ rear yard: 20 feet.
 - _ side and rear yard requirements for structures in excess of 2 stories shall be double that required for 1 & 2 story structures.
- (D) The public hearing shall be noticed in the same fashion as a re-zoning except that the hearing shall be before and conducted by the City Plan Commission.
- (E) **CONDITIONS.** Conditions such as landscaping, building layout and location of the site, type of construction, construction commencement and completion dates, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, increased yards, or parking requirements and any other condition restriction or limitation which may be reasonable based on the specific circumstances of the property, neighborhood and proposed use, may be required by the City of South Milwaukee Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.
- (F) **COMPLIANCE.** Compliance with all other provisions of this ordinance, such as to width and area of the lot, required yards, height, parking, loading, traffic, driveway access, and performance standards shall be required of all conditional uses.
- (G) **REVOCATION PROCEDURE.**
- (I) Any conditional use permit may be revoked for any of the following reasons:
- (a) Any material failure to comply with the conditions of the permit, including failure to complete any condition within a defined time limit; or
 - (b) If the conditional use, or characteristics of the conditional use, be changed without prior approval of the Plan Commission.
- (2) A conditional use permit can only be revoked after notice and a hearing before the Plan Commission pursuant to Chapter 68 of the Wisconsin Statutes.

15.165 PERFORMANCE STANDARDS. Cr. 04/05/00, 1766

- (A) This ordinance permits specific uses in specific districts; these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, land, air, and waters shall hereafter, in addition to their use and site regulations, shall comply with the following performance standards.
- (B) **AIR POLLUTION.** No person or activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding state or federal air pollution standards.
- (C) **FIRE AND EXPLOSIVE HAZARDS.** All activities 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 and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, or stored only within completely enclosed buildings which have incombustible exterior walls and an automatic fire

extinguishing system. The above-ground storage capacity of materials that produce flammable or explosive vapors shall not exceed 50,000 gallons.

(D) **GLARE AND HEAT.** No activity shall emit glare or heat that is visible or measurable outside its premises except activities which may emit direct or sky reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

(E) **WATER QUALITY PROTECTION.** No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards set forth in Chapter NR 102 of the Wisconsin Administrative Code.

(F) **NOISE.** In the following zoning districts the noise emitted from any source and measured at any point within any distance beyond fifty (50) feet of the property line or public right-of-way where the noise is produced or beyond fifty (50) feet from the noise source when such exists on public property shall not exceed the amounts indicated in the following table:

SOUND PRESSURE LEVEL

Zone	Time	Decibel (dBA) Level Maximum
Residential and Business Districts (R-A, RB, R-C, C-1, C-2, C-3, PDD)	<u>7:00 p.m. to 7:00 a.m.</u> <u>7:00 a.m. to 7:00 p.m.</u>	<u>70 dBA</u> <u>75 dBA</u>
Manufacturing (M-1, M-2) Except where such operations are adjacent to Residential District or Residential Use	All times	80 dBA 75 dBA

All noise shall be muffled or otherwise controlled to prevent fluctuations above the amounts indicated. The provisions of this ordinance shall not apply to construction machinery when engaged in bona fide, temporary construction work between the hours of 7:00 a.m. and 7:00 p.m. of any day. Such hour limitations shall not apply to emergencies where immediate action is required.

The provisions of this section shall not apply to any noise which is either necessary or required by law or is made for the protection or preservation of persons or to licensed and authorized fireworks displays.

(G) **ODORS.** No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises. The guide for determining odor measurement and control shall be Chapter NR 154 of the Wisconsin Administrative Code and amendments thereto.

- (H) RADIOACTIVITY AND ELECTRICAL DISTURBANCES. No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.
- (I) VIBRATION. No activity in any district shall emit vibrations which are discernible without instruments outside its premises. No activity shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

Frequency (Cycles per second)	Outside the Premises	Displacement (inches) Outside the District
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and Over	.0002	.0001

- (J) LIGHTING. No exterior lighting used for parking lots, recreational facilities, product display, or security shall be permitted to spill-over on operators of motor vehicles, pedestrians, and uses of land in the vicinity of the light source. These requirements shall not apply to lighting placed in a public right-of-way for public safety.
 1. Type. Shielded luminaries, or luminaries with cutoff optics, and careful fixture placement shall be required so as to facilitate compliance with this section.
 2. Orientation. Exterior lighting fixtures shall be oriented so that the lighting element (or a transparent shield) does not throw rays onto neighboring properties. Light rays shall not be directed into street rights-of way or upward into the atmosphere.
 3. Minimum Lighting Standards. All areas designated on approved site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 footcandles, exclusive of approved anti-vandal lighting. This standard shall not apply to properties in agricultural and single-family residential districts.
 4. Intensity of Illumination. The intensity of illumination, measured at the property line, shall not exceed 0.5 footcandles.
 5. Location. Light fixtures shall not be permitted within required buffer yards.
 6. Flashing, Flickering, and Other Distracting Lighting which may distract motorists is prohibited.
 7. Nuisances. Lighting which creates or becomes a public nuisance is not permitted.
 8. Accent Lighting and Low Voltage Lighting (12 volts or less) is exempt from these requirements.
 9. Nonconforming Lighting. All lighting fixtures approved prior to the adoption of this ordinance shall be treated as and regulated as legal nonconforming uses. (See Section 15.07)

- (K) NONCONFORMING USES. Uses lawfully existing on January 1, 2000 which do not conform to the performance standards set forth in this section may continue as conforming uses with legal nonconforming performance standards. No use shall be changed, extended, enlarged or expanded unless such change, extension, enlargement, or expansion conforms to the performance standards set forth in this section.

15.17 CITY PLAN COMMISSION.

(A) The Common Council shall refer to this City Plan Commission for its consideration and report before final action is taken thereon by the Council, any subject or matter relating to this ordinance. The City Plan Commission shall consider and, within thirty (30) days or such longer period as may be stipulated by the Common Council, report thereon to the Common Council.

(B) The Commission may also, on its own motion, make such recommendations to the Council with reference to the above matters as the Commission shall deem to be advisable.

(C) The City Plan Commission shall have the following specific powers in relation to this ordinance:

(1) To define the limits of zones, only when the exact location of a zone boundary line cannot be determined from the Zoning Map and application of the rules contained in Section 15.04(A) and (B). See Section 15.04(C).

(2) To recommend the location of public utility buildings and structures in the R-A Residential Zone or the R-B Residential Zone, as required by Section 15.05(C)(3).

15.18 BOARD OF APPEALS.

(A) The Board of Appeals shall consist of five (5) members appointed by the Mayor, subject to confirmation by the Common Council, for terms of three (3) years without compensation, except that of those first appointed, one shall serve for one year, two for two years, and two for three years. At least one of the members shall be a registered architect or professional engineer. Members of the Board shall be removable by the Mayor for cause upon written charges and after public hearing. The Mayor shall designate one of the members Chairman. The Mayor shall appoint an alternate member for a term of three (3) years who shall act with full power only when a member of the Board of Appeals refuses to serve because of interest. Vacancies shall be filled for the unexpired terms of members whose become vacant. The Board of Appeals may employ a secretary and other employees.

(B) RULES OF BOARD. The following shall be the rules governing the conduct of the business of said Board of Appeals.

(1) Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board may determine.

(2) The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses.

(3) All meetings of the Board shall be open to the public.

(4) The Board shall keep minutes of its proceedings showing the vote of each member upon each question (or if absent or failing to vote, indicating such fact) and shall keep records of all its hearings and examinations and other official actions, all of which shall be immediately filed in the Office of the Board and shall be a public record.

(C) APPEALS.

- (1) Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer department, board or bureau of the City of South Milwaukee, affected by any decision of the Building Inspector.
- (2) Such appeals shall be made within twenty (20) days from the date of the decision of the Building Inspector or other administrative officer appealed from. The original of such appeal shall be filed with the Board and shall specify the grounds thereof.
- (3) A copy of such appeal shall be served upon the officer from whose decision the appeal is taken, and such officer shall, upon receiving the notice of such appeal, forthwith transmit to the Board copies of all papers constituting the record upon which the action appealed from was taken.

(D) STAY OF PROCEEDINGS. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(E) HEARING OF APPEAL. Each appeal shall be heard at the next regularly scheduled meeting of the Board following publication of notice for hearing the appeal pursuant to Section 15.18(F). The Board shall schedule a meeting at least every thirty-one (31) days. Hearings shall be held at the City Hall or other designated place. All appeals shall be decided within sixteen (16) days after completion of the hearing thereon. Am. 6/3/86,1328

(F) NOTICE OF HEARING ON APPEAL. Prior to the hearing of the appeal, public notice thereof shall be given by the secretary of the Board of Appeals by advertisement in the official newspaper at least once not less than seven days before the date set for such hearing. At least three copies of such notice shall be separately posted within a 300 foot radius of the lands affected by the appeal. Written notice thereof shall also be given to the secretary to the City Building Inspector; to the appellant; to the City Clerk, who upon receipt of such notice, shall forthwith notify all members of the Common Council; and to all interested persons. Such notice shall be given not less than seven days before the date set for such hearing either by mail or by personal service as the Board shall determine.

(G) MAJORITY RULE. The concurring vote of four members of the Board shall be necessary to constitute a decision of that body upon any of the matters which it has the power to act upon.

(H) POWERS OF THE BOARD AND POWERS RESERVED TO THE COMMON COUNCIL. No action of the Board of Appeals shall have the effect of permitting in a zone any use not specifically permitted in that zone. The Common Council reserves to itself the authority to review and consider all applications for a use variance. The Board of Appeals shall have the following powers:

- (1) To hear and decide appeals wherein it is alleged there is error in any order, requirement, decision, determination made by the Building Inspector.
- (2) To hear and decide special exceptions to the area requirements of this Zoning Code.

- (3) To authorize, upon appeal in specific cases, such variance from the area requirements of this ordinance as will not be contrary to the public interest, where, owing to special conditions, peculiar to a specific lot or tract of land, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, so that the spirit of this ordinance shall be observed and substantial justice be done. In every case where a variance from the regulations imposed by this ordinance has been granted by the Board of Appeals, the minutes of the Board shall affirmatively show that an “unnecessary hardship” exists, and the records of the Board shall clearly show in what particular and specific respects an “unnecessary hardship” is created.
- (4) To forward to the Common Council any application for a variance from the use restrictions of this Zoning Code. Repl. and Recr. 4/16/02, 1817
- (I) EXERCISE OF POWERS. In exercising the above mentioned powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify any order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken; provided that the Board shall make and sign legal findings of fact based upon credible evidence in the record.
- (J) COURT REVIEW. The court review of any determination of the Board of Appeals shall be as provided by Section 62.23, Subsections (1) to (15), inclusive, Wisconsin Statutes.
- (K) The Board of Appeals shall have the power to call on any of the other City Departments for assistance in the performance of its duties, and it shall be the duty of such other department to lend all such assistance as may be reasonably required.

- (A) SPECIAL USES ZONING. Cr. 8/17/82, 1196
- (1) PURPOSE _ CATEGORIES. The development and execution of this title is based upon the division of the City into districts, within which the use of land and buildings or structures as related to the land are essentially uniform. It is recognized, however, that there are special uses which, because of their unique character cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon the neighborhood and upon the public need for the particular use. Such special uses fall into two categories:
- (a) Uses operated by a public agency or publicly regulated utilities, or uses traditionally affected with a public interest.
- (b) Uses entirely private in character, but of such nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- (2) AUTHORIZATION. The Board of Appeals may authorize the Building Inspector to issue a Special Use Permit following a public hearing, reviews and determination of findings pursuant to the appeals procedure outlined in Section 15.18.
- (3) EXISTING USES. Any use located in a district wherein such use is classified as a special use and which existed prior to August 31, 1982, is declared to be a conforming special use.
- (4) CHANGES AND AMENDMENTS _ APPLICATION REQUIRED. No permit for expansion, alteration in the arrangement, change in use, or in any condition or restriction imposed on the original special use permit shall be issued until an application for amendment of the special use permit has been filed and considered in accordance with all procedures set forth in Section 15.18.

(5) **VACANT, ABANDONED OR DISCONTINUED SPECIAL USES.** Special uses which are vacant, abandoned or discontinued for a period exceeding two years must receive Board of Appeals approval to reinstate their use.

(B) **SPECIAL EXCEPTIONS.**

(1) **PROHIBITED USES.** The following uses of land are specifically prohibited except as provided under this section: Sex bookstores, motion picture devices showing sex movies, and cabarets featuring nude or semi-nude dancers, strippers, or similar type of entertainment.

(2) **PURPOSE AND INTENT.** It is declared to be the purpose and intent of this section to protect the public health, safety, welfare and morals of the community, to promote the stability of property values, and impose restrictions upon those activities which pander to gross sexuality in a manner that would detract from the neighborhood, adversely affect the property values, increase crime and violence, and be repugnant to the morals of the community. In recognition of the protection afforded to the citizens under the First and Fourteenth Amendments, it is not the intent of this section to inhibit freedom of speech or the press, but rather to deter those of low morals from imposing their lack of morals upon the rest of the community; and further recognizing that those parts of a community, which become centers of loose moral conduct, frequently become places of rowdiness, criminality, and indecent behavior. It is further the belief that just as advertising is designed to stimulate one's appetite for desiring goods or a service, an overabundance of and preoccupation with sexual displays or material arouses the appetites of those so preoccupies and encourages violations of the criminal statutes involving sexual offenses and is contrary to the health, safety and welfare of the community.

(3) **DEFINITIONS.**

(1) For the purpose of this section "specified sexual activities" is defined as:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy;
- (c) Fondling or other erotic touching of human genitals, public region, buttock or female breast.

(2) For the purpose of this chapter "specified anatomical areas" is defined as:

- (a) Less than completely and opaquely covered:
 - 1. Human genitals pubic region;
 - 2. Buttock; and
 - 3. Female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(4) **BOOK SALES.** No person, firm, or corporation shall establish any bookstore or book department of a store in which a substantial or significant portion of its stock in trade is in books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in Section 15.19(B)(3) except as provided in Section 15.19(B)(7).

(5) **MOVIES.** No person, firm, or corporation shall offer for viewing through motion picture devices any movie or other form of display which has significant displays of specified sexual activities, or specified anatomical areas, except as provided in Section 15.19(B)(7).

(6) **CABARETS.** No person, firm, or corporation shall feature or permit topless dancers, bottomless dancers, exotic dancers, strippers or persons engaged in specified sexual activities or similar entertainers, except as otherwise provided in Section 15.19(B)(7).

(7) **EXCEPTIONS.**

(1) Such use or uses as prohibited in this section may be waived, provided that such building is not located within 500 feet of any residential dwelling, room unit, school, hospital, church, or stores which may be frequented by children under the age of eighteen. This prohibition may be waived if the person applying for the waiver files with the Common Council a petition of the proposed regulated use signed by 51% of the persons owning, residing, or doing business within a radius of 500 feet of the location of the proposed use. The petitioner shall attempt to contact all eligible locations within this radius, and must maintain a list of all addresses at which no contact was made. A minimum of 100 responses is required. In the event that the 500 feet radius is not sufficiently populated to provide 100 residences and/or business places eligible to respond, the radius will be increased in increments of 100 feet until there is an area large enough to contain 100 eligible residences and/or business places. In addition to these conditions, such use shall be subject to final approval by the Zoning Board of Appeals in the same respect as a special use permit.

(2) Any person dissatisfied with the action of the Zoning Board of Appeals under this section may appeal the decision to the Common Council for quasijudicial capacity, at which hearing parties may present evidence, cross examine witnesses, and in other ways be afforded the rights of due process. Appeal from the Common Council decision in its quasijudicial capacity shall be to the Circuit Court of Milwaukee County.

15.20

PLANS AND PERMITS.

(A) Before commencing with the execution of any work pertaining to the erection, construction, alteration or addition to any building, a building permit shall be secured from the Building Inspector by the owner or his agent, and it shall be unlawful to commence such work unless such permit shall have been obtained and the provisions of the building, health, or other ordinances or regulations of the City of South Milwaukee affecting the premises shall have been complied with.

(B) No vacant land shall be occupied or used and no building hereafter erected or altered shall be occupied or used until a certificate of occupancy shall have been issued by the Building Inspector.

Under such rules and regulations as may be established by the Common Council, the Building Inspector may issue a temporary certificate of occupancy for part of a building.

Upon written request from the owner, the Building Inspector shall issue a certificate of occupancy for any building or premises existing at the time of the passage of this ordinance, certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this ordinance.

(C) Application for a permit to build or certificate of occupancy shall be made in writing by the owner or his agent upon blank forms furnished by the Building Inspector.

All applications for a building permit shall be accompanied by a plat of survey, in duplicate, drawn to scale, showing the lot, existing structures, the proposed location and elevation of the building or buildings on the lot, accurate dimensions of building and lot, the location of the center line or lines of adjoining street or streets, the existing and intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information as may be necessary to provide for the enforcement of this ordinance. The survey plat shall also show the existing property corner and building corner elevations, plus all elevations of buildings on the lot or adjoining lots when accompanying an application for interior remodeling, or for an accessory building, the plat of survey shall be certified by a registered surveyor. The lot corners and proposed building corners shall be staked on the ground before construction is begun. Like information shall be presented on aid drawing showing the location and use of the building, if any, on adjoining lots, within forty (40) feet of the side lot line.

The application shall state the name and address of the owner of the building to be erected; the name and address of the owner of the premises; the name and address of the architect or professional engineer and the name and address of the contractor; a description of the land by lot, block, name of the subdivision or the metes and bounds description, and the street upon which said site is located; the size and kind of building; the intended use of the building or site; the zone within which said lot lies; the value of the proposed building, and such other information as is necessary to provide for the enforcement of this ordinance.

(D) The Building Inspector shall, within a reasonable time, investigate each application, and if it complies with the City Ordinances and with the rules prescribed, the permit or the certificate of occupancy shall be granted.

(E) If the Building Inspector shall find at any time that this ordinance is not being complied with, he shall revoke the permit by written notice posted on the building site or on the premises. When such permit is revoked, it shall be unlawful to do any further work upon such building or use said premises until the permit or the certificate of occupancy is reissued, excepting such work as the Building Inspector shall order is to be done as a condition precedent to the reissuance of the permit or certificate of occupancy.

15.21

CHANGES AND AMENDMENTS.

(A) The Common Council of the City of South Milwaukee may from time to time amend, supplement, or change by ordinance the boundaries of zones or the regulations herein established. Any proposed changes shall first be submitted to the City Plan Commission for its recommendation and report.

(B) Any amendment, supplement, or change may be proposed by petition of any interested landowner or may be initiated directly by the Common Council of the City of South Milwaukee.

(C) In case a protest against a proposed amendment, supplement, or change is presented, duly signed and acknowledged by the owners of 20% or more of the frontage proposed to be altered, or by the owners of at least 20% of the frontage immediately in the rear thereof, or by the owners of at least 20% of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed except by a 3/4 vote of the Common Council.

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15.22

15.22 ENFORCEMENT AND PENALTIES.

(A) The provisions of this ordinance shall be enforced by or under the direction of the City Building Inspector, who in person or by duly authorized agent, shall have the right to enter upon any premises affected by this section reasonable hours for the purpose of inspection.

(B) Any person, firm, company or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall, upon conviction, forfeit not less than \$1.00 nor more than \$200.00 for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the House of Correction or County Jail of Milwaukee County until such forfeiture and costs are paid, but not to exceed sixty (60) days for each violation. Each day that a violation continues to exist shall constitute a separate offense. In addition to the penalty above provided, any such person, firm, company or corporation shall, upon conviction, comply with the provisions of this ordinance. Upon failure to so comply, such person, firm, company or corporation shall be subject to appropriate action, initiated by the City Attorney or Building Inspector, to prevent, enjoin, abate, or remove such violation under the laws of the State of Wisconsin in such cases made and provided.

(C) In any such action, the fact that a permit shall have been issued by any officer, board or department of the City of South Milwaukee shall not constitute a defense, nor shall an error, oversight or dereliction of duty on the part of any public official, body or department constitute a defense.

15.23 SEVERABILITY OF ORDINANCE PROVISIONS. Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

15.24 REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances in any manner conflicting with the terms of this ordinance are repealed to the extent of such conflict.

15.25 EFFECTIVE DATE OF ORDINANCE. This ordinance shall take effect and be in force from and after its passage and publication.

15.30 HISTORIC PRESERVATION COMMISSION. Cr. 04/07/93, 1534

(1) PURPOSE AND INTENT. It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character or special architectural or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this section is to:

- A. Effect and accomplish the protection, enhancement, and perpetuation of such improvements, sites and districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history.
- B. Safeguard the City's historic and cultural heritage, as embodied and reflected in such historic structures, sites and districts.
- C. Foster civic pride in the notable accomplishments of the past.
- D. Stabilize and improve property values.
- E. Protect and enhance the City's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

- F. Improve and enhance the visual and aesthetic character of the City.
 - G. Educate the public regarding the need and desirability of a City historic preservation program and its enhancement of the quality of life.
- (2) DEFINITIONS. The definitions shall be as follows:
- A. Certificate of Appropriateness means the certificate issued by the commission approving alteration, rehabilitation, construction, reconstruction or demolition of a historic structure, historic site or any improvement in a historic district.
 - B. Commission means the Historic Preservation Commission created under this section.
 - C. Historic district is an area designated by the Common Council on recommendation of the Commission that contains two or more historic improvements or sites.
 - D. Historic site means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this section, or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.
 - E. Historic structure means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and which has been designated as a historic structure pursuant to the provisions of this chapter.
 - F. Improvement means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.
 - G. Improvement parcel is the unit of property which includes a physical betterment constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purpose of levying real estate taxes. Provided, however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.
- (3) HISTORIC PRESERVATION COMMISSION. A Historic Preservation Commission is hereby created, consisting of seven (7) members. Of the membership, 6 shall be citizens and one shall be an alderman. Whenever possible, of the citizen members, one shall be a historian; one shall be a licensed real estate broker; and one shall be an architect. Each citizen member shall have, to the highest extent practicable, a known interest in historic preservation. The Mayor shall appoint the citizen Commissioners subject to confirmation by Common Council. The Common Council President shall appoint the Alderman member. Of the initial citizen members so appointed, two shall serve a term of one year, two shall serve a term of two years, and two shall serve a term of three years. Thereafter, the term for each member shall be three years. Amd.
6/5/07, 1942

(4) HISTORIC STRUCTURE, HISTORIC SITE AND HISTORIC DISTRICT DESIGNATION CRITERIA.

- A. For purposes of this ordinance, a historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to the City such as historic structures, sites, or districts which:
1. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
 2. Are identified with historic personages or with important events in national, state or local history; or
 3. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
 4. Are representative of the notable work of a master builder, designer or architect who influenced his age; or
 5. Have yielded, or may be likely to yield, information important to prehistory or history.
- B. The Commission shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this ordinance.

(5) POWERS AND DUTIES.

- A. Designation. The Commission shall pursuant to subsection (6) hereof recommend the designation of historic structures and historic sites and historic districts within the city limits. Such recommendations shall be made based on the criteria established in this Section 15.30. A recommendation to designate historic structures, sites and districts may be approved or rejected by the Common Council. Once designated, such historic structures, sites and districts shall be subject to all the provisions of this chapter.
Amd. 6/5/07, 1942
- B. Regulation of Construction, Reconstruction, Alteration and Demolition.
1. No owner or person in charge of a historic structure, historic site or structure within a historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. Also, unless such certificate has been granted by the Commission, the Building Inspector shall not issue a permit for any such work.
 2. Upon filing of any application for a Certificate of Appropriateness with the Commission, the Commission shall approve the application unless:

- a. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done;
 - b. In the case of the construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;
 - c. In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this chapter and to the objectives and design criteria of the historic preservation plan for said district;
 - d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state;
 - e. The building or structure is of such old and unusual or uncommon design, texture, and/or material that it could not be reproduced without great difficulty and/or expense;
 - f. In the case of a request for a demolition permit, the denial of the demolition permit would result in the loss of all reasonable and beneficial use of or return from the property; or
 - g. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.
3. If the Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The commission shall make this decision within forty-five (45) days of the filing of the application.
 4. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.
 5. Compliance with Certificates of Appropriateness shall be started within twelve (12) months after the issuance of the certificate, and the work shall conform to the provisions of the certificate. Failure to comply with a Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness shall be a violation of this section. In addition to other penalties and remedies, the City shall issue a stop work order, and all work shall cease on the designated property.

6. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.
- C. Appeals. Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Common Council within thirty (30) days. In addition, if the Commission fails to issue a Certificate of Appropriateness, the Commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance.
 - D. Recognition of Historic Structures, Sites and Districts. At such time as a historic structure, site or district has been properly designated, the commission may cause to be prepared and erected on such property at City expense, a suitable plaque declaring that such property is a historic structure, site or district. Such plaque shall be so placed as to be easily visible to passing pedestrians.
- (6) PROCEDURES.
- A. Designation of Historic Structures, Historic Sites and Historic Districts.
 1. After application of the criteria in Section (4) above and after notice and public hearing, the Commission may recommend to the Common Council the designation of historic structures, historic sites and historic districts, or may recommend the Common Council rescind such designation. At least ten (10) days prior to such hearing, the Commission shall notify the owners of record, as listed in the office of the City Assessor, who are owners of property in whole or in part proposed to be designated as historic structures or sites and the owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected or within the boundaries of the proposed historic district. These owners shall have the right to confer with the Commission prior to final recommendation by the Commission on the designation. Notice of such hearing shall also be published as Class I Notice, under the Wisconsin Statutes. The Commission shall also notify the following: Common Council, Fire and Police Departments, Health Department, Building Inspector, Plan Commission and the Community Development Authority. Each such Department/Commission may respond to the Commission with its comments on the proposed designation or rescission. In any recommendation to the Common Council, the Commission shall note any known objections to the proposed designation. Amd. 6/5/07, 1942
 2. The Commission shall conduct the public hearing and, in addition to the notified persons, may hear expert witnesses. The Commission may conduct an independent investigation into the proposed designation or rescission. Following the public hearing, the Historic Preservation Commission shall vote to recommend, reject or withhold action on the plan. This recommendation shall be forwarded to the city Plan Commission and the Common Council. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the City Clerk, Building Inspector, Plan Commission, and the City Assessor. The Common Council shall cause the designation or rescission to be recorded in the County Register of Deeds office. Amd. 6/5/07, 1942

B. Creation of Historic District.

1. For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the city to be designated as Historic Districts and shall, with the assistance of the City Engineer, prepare a historic preservation plan for each area. A Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the City, after application of the criteria in Section (4) above. Each historic preservation plan prepared for or by the Historic Preservation Commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development and a statement of preservation objectives.

2. Review and Adoption Procedure.

a. Historic Preservation Commission. The Historic Preservation Commission shall hold a public hearing when considering the plan for a Historic District. Notice of the time, place and purpose of such hearing shall be given by publication as a Class 1 Notice under the Wisconsin Statutes in the official City paper. Notice of the time, place and purpose of the public hearing shall also be sent by the City Clerk to the Alderman of the Aldermanic District or Districts in which the Historic District is located, and the owners of record, as listed in the office of the City Assessor, who are owners of the property within the proposed Historic District or are situated in whole or in part within two hundred (200) feet of the boundaries of the proposed Historic District. Said notice is to be sent at least ten (10) days prior to the date of the public hearing. Following the public hearing, the Historic Preservation Commission shall vote to recommend, reject or withhold action on the plan.

b. The Common Council. The Common Council, upon receipt of the recommendations from the Historic Preservation Commission shall hold a public hearing, notice to be given as noted in subparagraph a. above and shall following the public hearing either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.

(7) INTERIM CONTROL. No building permit shall be issued by the Building Inspector for alteration, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination by the Historic Preservation Commission or the Common Council unless such alteration, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety. In no event shall the delay be for more than one hundred eighty (180) days.

(8) CONFORMANCE WITH REGULATIONS. Every person in charge of a historic structure, historic site or improvement in a Historic District shall maintain same or cause or permit it to be maintained in a condition consistent with the provisions of this ordinance. The Common Council may appoint the Building Inspector or any other individual or group of individuals to enforce this ordinance.

(9) PENALTIES FOR VIOLATIONS. Any person or persons violating any provision of this section shall be fined two hundred dollars (\$200.00) for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the Building Inspector.

(10) EMERGENCY CONDITIONS. In any case where the Building Inspector determines that there are emergency conditions dangerous to life, health or property affecting a historic structure, site or a property in a historic district, the Building Inspector may order the remedying of these conditions without the approval of the Commission. The Building Inspector shall promptly notify the commission of the action being taken. When the emergency conditions do not require demolition, the Building Inspector shall make every effort to carry out the intent of this ordinance and to use the design guidelines of the Commission when remedying the emergency conditions.

(11) SEPARABILITY. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

SIGNS. Cr. 9/18/07, 1946

A. PURPOSE AND INTENT

The purpose of the sign regulations of the Ordinance are to promote the effective use of signs as a means of communication; to maintain and enhance the aesthetic environment of the City; to promote pedestrian and vehicular safety and to protect property values by minimizing the adverse effects of signs.

B. SEVERABILITY

If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

C. DEFINITIONS AND SPECIFICATIONS

1. ABANDONED SIGN. A sign structure that is no longer being used for the display of sign copy, or is advertising a business or establishment that is no longer in operation.
2. AWNING. An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources. Awnings made of vinyl and plastic are prohibited.
3. AWNING SIGN. A sign displayed on or attached flat against the surface or surfaces of an awning. The copy of awning signs shall not exceed an area equal to 25 percent of the background area of the awning.
4. BACK-LIT AWNING. An awning with a translucent covering material and a source of illumination contained within its framework.
5. BANNER. A sign utilizing a flexible material such as plastic or cloth as its display surface.
6. BILLBOARD. A sign which advertises goods, products or facilities not necessarily on the premises where the sign is located.
7. CANOPY. A multi-sided overhead structure supported by columns, but not enclosed by walls.

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8. **CANOPY SIGNS.** Signs affixed to the fascia or soffit of a canopy. The copy of canopy signs shall not exceed an area equal to 25 percent of the background area of the canopy wall.
9. **CENTRAL BUSINESS DISTRICT.** For the purpose of this code section the central business district shall be defined as all parcels zoned C-3 Central Business District.
10. **CHANGEABLE SIGN.** A sign with the capability of content change by means of manual or remote input, including signs which are:
 - a) Manually activated. Changeable sign whose message copy or content can be changed manually
 - b) Electrically activated. Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface.
11. **COPY.** Those letters, numerals, figures, symbols, logos and graphic elements comprising the content of message of a sign, excluding numerals identifying a street address only.
12. **DEVELOPMENT COMPLEX SIGN.** Sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord.
13. **DIRECTIONAL SIGN.** Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.
14. **DOUBLE –FACED SIGN.** A sign with two faces, back to back. For the purposes of calculating sign area, double-faced signs shall be calculated as one sign face.
15. **EXTERIOR SIGN.** Any sign placed outside a building.
16. **FREESTANDING SIGN.** A sign supported by a structure, pole, or column placed on the ground and not supported by a building.
17. **FRONTAGE (Building).** The length on an exterior building wall or structure of a single premise oriented to the public way or other properties that it faces.
18. **FRONTAGE (Property).** The length of the property line(s) of any single premise along either a public way or other properties on which it borders.
19. **ILLUMINATED SIGN.** A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).
20. **MARQUEE.** A marquee is a permanent structure projecting beyond a building designed to provide protection from the weather.
21. **MARQUEE SIGN.** A sign attached to a marquee.
22. **MENU BOARD.** A freestanding sign oriented to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window.
23. **MONUMENT.** A sign, mounted directly to the ground or pavement.
24. **MULTIPLE-FACED SIGN.** A sign containing three or more faces.

25. **ON-PREMISE SIGN.** A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.
26. **POLE SIGN.** A sign that is affixed, attached or erected on a single pole that is designed to support and elevate the sign.
27. **PYLON SIGN.** A sign that is affixed, attached or erected on a square or rectangular base that is designed to support and elevate the sign.
28. **POST AND PANEL.** A sign consisting of more than one post or support member with the sign face located between and supported by such members.
29. **PROJECTING SIGN.** A sign other than a wall sign that is attached to or projects more than 12 inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign.
30. **ROOF SIGN.** A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs.
31. **SIGN.** A communication device, structure or fixture that incorporates graphics, symbols, trademarks, trade names, letters, or numerals which is created or designed to promote the sale of a product, commodity or service or to provide direction or identification to a premise or facility. Religious displays or holiday decorations are not considered signs.
32. **SANDWICH BOARD.** A sign which consists of two panels hinged or attached at the top or side designed to be moved and stand on the ground.
33. **SIGN AREA.** The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face.
34. **SIGN COPY.** Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.
35. **SIGN FACE.** The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.
36. **TEMPORARY SIGN.** A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.
37. **WALL OR FASCIA SIGN.** A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 12 inches from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building façade or to the face or faces of the architectural projection to which it is affixed. No sign shall extend wider or higher than existing building line.

38. WINDOW SIGN. A sign affixed to or adjacent to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

D. PERMITS

Signs in excess of the physical limits or placement restrictions herein specifically allowed are permitted only after receipt of a permit from the Building Inspector.

1. Submittal Requirements – Permit application requirements shall be determined by the Building Inspector and shall include:
 - a) Name, address, and telephone number of the applicant.
 - b) Location of building, structure, or lot upon which the sign is to be attached or erected.
 - c) Name or person, firm, corporation, or association erecting the sign.
 - d) A site plan showing the location and the position of such sign in relation to nearby buildings, public streets and City right-of-way.
 - e) A color copy of the sign indicating dimensions, material type, type of illumination, and method of construction and attachment.
 - f) Additional information as required by Building Inspector.
2. Fees – Sign Permit fees shall be non-refundable and paid in accordance with Common Council Administrative Fee Schedule.
3. Special Exception – A special exception may be granted by the Plan Commission from the provisions of this chapter if it is determined that certain site or building characteristics or physical characteristics of the sign due to its unique design render compliance with the provisions of this chapter unreasonable.

E. GENERAL PROVISIONS

1. Signs in right-of-way. No sign other than an official traffic sign or a sign approved under Section H shall be erected closer than 2 feet of the face of curb.
2. Projections over public ways. Signs projecting over public walkways shall be permitted to do so only subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of 10 feet from grade level to the bottom of the sign. Signs, architectural projections or sign structures projecting over vehicular access areas must conform to the minimum height of 15 feet. The furthestmost part of a projecting sign shall be at least 24 inches from the street curb.
3. Traffic Visibility. No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

4. Computation of frontage. If a premise contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.
5. Maintenance, repair and removal. Every sign permitted by this ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the code official forthwith in the case of immediate danger, and in any case within not more than 10 days, make such sign conform to the provisions of this ordinance, or shall remove it. If within 10 days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.
6. Obsolete sign copy. Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign copy removed within six months of discontinuing such use on the property and removed within 30 days after written notification from the municipal code official unless a Special Exception is granted pursuant to Section D(3). Upon failure to comply with such notice, the code official is hereby authorized to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located.
7. Existing Nonconforming signs.
 - a) The lawful use of a permanent sign existing at the time of the adoption of this ordinance may be continued in non-conformance with the requirements of this ordinance, except that the nonconforming sign shall not be enlarged, altered, modified, improved or rebuilt. A nonconforming sign may be repaired to the extent necessary to maintain it in a safe condition and neat and orderly appearance. A change in the advertising message on a billboard or electronic message board shall not constitute an alteration or modification of the sign provided no other modifications are made.
 - b) No structural repair or change in shape, size or design shall be permitted except to make a non-conforming sign comply with all requirements of this ordinance or to render the sign structurally sound. Routine maintenance and changing of copy shall be permitted as long as such maintenance or changing of copy does not result in or change the shape, size, or design.
 - c) A nonconforming sign structure may not be replaced by another nonconforming sign structures, except where changed conditions beyond the control of the owner warrant the signs repair and a Special Exception pursuant to Section D(3).
 - d) Any change in ownership, tenancy, or occupancy of premises shall necessitate that the signs be brought into conformance with the requirements of this code unless a Special Exception is granted pursuant to Section D(3).
8. Sign height. Height shall be measured for the grade adjacent to the sign.
9. Construction. Signs shall be constructed to withstand a 40 lb. wind load.

10. **Illumination.** Whenever an external artificial light source is used for a sign, such source shall be located, shielded, and directed so as not to be directly visible from any public street or private residence. No receptacle or device housing a permitted light source for a sign shall protrude more than 18 inches from the face of the sign or building to which it is attached. Any illuminated sign located on a lot abutting or across a street from, and visible from, any residentially zoned area shall not be illuminated between the hours of 10:00 p.m. and 7:00 a.m. except that such sign may remain illuminated during such time as the activity to which the sign pertains is open for business so long as such sign is not a public or private nuisance.
11. **Landscaping.** A landscape island shall be required for all freestanding signs. The landscaped area shall be no less than 32 square feet and shall have a border formed by stone, brick, landscape timber or any other material approved by the building inspector. The landscape island shall be maintained on an annual basis.

F. ALLOWED SIGNS.

The following signs shall be exempt from Section D requiring a sign permit, but shall be subject to all other applicable provisions of this code in addition to the conditions listed below.

1. Permanent Signs

- a) **Address Numbers** – Address numbers and residential name plates provided they are no more than one square foot in area.
- b) **Window Signs** – Signs displayed in the window of a commercial or industrial use advertising products sold on premise provided:
 - (i) sign must be located on inside of window
 - (ii) a maximum of 50% of the window area is covered with signage
- c) **Official Signs** – Signs including street signs, parking signs, legal notices or any other sign erected by city, county or state government on lands owned by the City of South Milwaukee or upon city right-of-way.
- d) **Directional Signs** – Signs displaying directional information on non-residential property provided they are no more than 3 square feet in area.
- e) **Bulletin Boards** – Church or institutional bulletin boards provided:
 - (i) bulletin board is no more than 12 square feet in area
 - (ii) freestanding sign is located 10 feet from any lot line

2. Temporary Signs

The following sign types shall be considered temporary and allowed except where prohibited in Section G. Illumination, animation or mechanical activity of these signs is not permitted.

- a) **Rummage Sale** – Signs promoting rummage sales, lawn sales, garage sales provided:
 - (i) sign is no more than 5 square feet
 - (ii) sign is erected for no longer than 5 days
 - (iii) sign is removed within 24 hrs of end of sale
 - (iv) sign is not located on City right-of-way

- b) Real Estate – Real Estate signs promoting a sale or lease of land or property provided:
 - (i) one sign per parcel
 - (ii) sign is no more than 6 feet in height for residential and 10 feet for commercial/industrial
 - (iii) sign is no more than 9 square feet for residential property and 32 square feet for commercial/industrial
 - (iv) sign shall be removed within 10 days of the date of sale
- c) Construction and Development – Signs promoting the construction or development of a project including but not limited to buildings, subdivisions, businesses provided:
 - (i) one sign per street frontage
 - (ii) sign area is no more than 32 square feet
 - (iii) sign display time is limited from the date approval is granted to 48 hours after occupancy is granted
- d) Political – Freestanding Political Signs as regulated per Wis. Stat. 12. 04 provided sign is not located in the City right-of-way.
- e) Promotional Signs – Temporary signs displayed to advertise special promotions, events, sales or grand openings, including mini air balloons, streamers, pennants, banners, window painting, hand-lettered or hand-drawn signs are allowed provided:
 - (i) such signs shall not be displayed for more than 30 consecutive days and shall be kept in good condition at all times.
 - (ii) promotional window signs combined with permanent window signage shall be limited to 50% of window area.
 - (iii) signs shall be removed not more than five days after the advertised event
 - (iv) maximum size of any sign is 32 square feet
 - (v) signs are not located in the city right-of-way unless approved by the municipal official
- f) Sandwich Boards – sandwich boards as defined in Section C provided:
 - (i) sign is no more than six (6) square feet, excluding supports, and no more than two (2) feet wide
 - (ii) sign is only displayed during hours of operation
 - (iii) sign does not interfere with pedestrian movement as determined solely by the municipal official
 - (iv) sign is placed as near as possible to the front or back of a parking stall where stalls are identified on pavement
 - (v) sign is not hand drawn or lettered except where specials may be displayed on a temporary surface

3. Mobile Signs.

A mobile sign is one that is not affixed to a permanent foundation or attached to a building that advertises products or sales on premise provided:

- a) sign area is no more than 32 square feet

- b) sign is no more than 10 feet in height
- c) sign is not located in a residential zone
- d) sign shall be secured in a manner to prevent injury to persons or property
- e) sign is not located in the city right-of-way

G. SIGNS PROHIBITED IN ALL DISTRICTS

1. Roof signs
2. Billboards
3. Pole signs
4. Signs resembling traffic signs or signals or that otherwise interfere with traffic.
5. Signs with obscene messages.
6. Signs erected or attached by nailing, fastening or affixing the sign in any manner to trees, shrubs, posts, utility poles, natural features, official street signs, or traffic control signs.
7. Signs which, in the judgment of the Building Inspector, pose a a traffic danger by virtue of flashing, blinking or animation.
8. Revolving, rotating or otherwise moving signs.
9. Signs that are attached to a vehicle and which are located in the public way, obstruct the driver's vision or pose a traffic danger.

H. SIGNS IN PUBLIC RIGHT-OF-WAY

No sign shall be erected on lands owned by the City of South Milwaukee or in the public right-of-way without approval of the Common Council, except as otherwise allowed herein.

I. RESIDENTIAL DISTRICT REGULATIONS

The following sign requirements pertain to all residential districts and residential uses in non-residential districts.

1. Home Occupation – Signs used to advertise a home occupation shall not exceed 3 square feet. Sign must be attached to the primary dwelling and shall not be illuminated.
2. Multi-Unit Developments – Developments including subdivisions, apartment complexes, condominium complexes shall provide one monument sign per street frontage no greater than 32 square feet in area and no taller than 8 feet in height. Sign shall be located a minimum of five feet from any lot line. Where possible, sign shall incorporate building materials into the sign structure. Sign shall not be internally illuminated.
3. Other Signs – Signs not to exceed 3 feet square or a total of a multiple of signs in excess of 3 feet square.
4. Churches, Schools and Institutions – A special exception will be required for all signs other than those regulated under Section F(1)(e) if the sign would otherwise not be permitted as a non-church, school or institution located in a residential district.

J. COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

Signs in all commercial and industrial districts except the Central Business District shall be regulated by the following provisions:

1. Total sign square footage permitted for each commercial or industrial site shall be one square foot per lineal foot of parcel frontage. Frontage shall be defined per Section C.
2. The total number of signs for each parcel shall not exceed two, except as follows:
 - a) A parcel with over 150 ft. of lineal frontage may have a third sign provided the total permitted sign area is not exceeded.
 - b) Price signs for gasoline stations are exempt from the total sign square footage limitation, but shall be limited to 24 square feet in area and shall be limited to one sign per street front.
 - c) Each non-residential occupant which has a separate entrance shall be allowed a minimum of one sign.
3. Permitted Signs by Type.
 - a) Freestanding Signs – Freestanding signs including but not limited to pylon signs, monument signs, post and panel signs shall be permitted provided:
 - (i) Freestanding signs shall be permitted on every parcel that has no fewer than 4 parking spaces.
 - (ii) The sign shall be located no closer than 10 feet from a property line.
 - (iii) The maximum area for a freestanding sign is 75 square feet.
 - (iv) The maximum height for a freestanding sign shall be 15 feet.
 - b) On Building Signs – On building signs including but not limited to wall signs, projecting signs, awning signs shall be permitted provided:
 - (i) The maximum area for an on building sign is 50 square feet except for projecting signs, which is 25 square feet.

K. CENTRAL BUSINESS DISTRICT REGULATIONS

Signs in the Central Business District shall be regulated by the following provisions:

1. Total sign square footage permitted for each commercial site shall be 1.5 square foot per lineal foot of parcel frontage. Frontage shall be defined per Section C.
2. The total number of signs for each parcel shall not exceed two, except as follows:
 - a) Each non-residential occupant which has a separate entrance shall be allowed a minimum of one sign.
 - b) Price signs for gasoline stations are exempt from the total sign square footage limitation, but shall be limited to 24 square feet in area and shall be limited to one sign per street front.

- c) Each occupant that has a rear entrance open to the public shall be entitled to one wall sign not to exceed 5 square feet.
- d) Each business which fronts more than one street shall be allowed one sign in addition to those permitted in this section.

3. Permitted Signs by Type

- a) Freestanding Signs – Freestanding signs including but not limited to canopy signs, pylon signs, monument signs, post and panel signs shall be permitted provided:
 - (i) Freestanding signs shall be permitted on every parcel that has no fewer than 4 parking spaces.
 - (ii) The sign shall be located no closer than 5 feet from a property line.
 - (iii) The maximum area for a freestanding sign is 50 square feet.
 - (iv) The maximum height for a freestanding sign shall be 15 feet.
- b) On Building Signs – On building signs including but not limited to wall signs, projecting signs, awning signs shall be permitted provided:
 - (i) The maximum area for an on building sign is 50 square feet except for projecting signs, which is 20 square feet.
 - (ii) No sign shall be located higher than the sill of any second floor window.

L. DEVELOPMENT COMPLEXES

All single owner controlled multiple occupancy development complexes on parcels exceeding one acre in size, such as shopping centers or industrial parks shall submit a master sign plan prior to the issuance of a new sign permit. The plan shall establish standards and criteria for all signs in the complex and shall provide the following information:

1. Proposed sign locations
2. Materials
3. Type of Illumination
4. Design of freestanding structure
5. Size
6. Quantity
7. All future sign permit applications shall conform to the master sign plan
8. Every multiple occupancy development shall be entitled to one freestanding sign per street front for identification of the development complex. No business identification shall be permitted on the development complex sign. Sign must not exceed 25 feet in height.
9. Existing commercial development complexes shall use Section J for new or replacement signs by individual tenants.

M. ENFORCEMENT AND PENALTIES

1. Any person, firm, company or corporation who fails to comply with the provisions of this ordinance shall be subject to appropriate action, initiated by the city attorney or building inspector, to prevent, enjoin, abate, or remove such violation.
2. In any such action, the fact that a permit shall have been issued by any officer, board, or department of the City of South Milwaukee shall not constitute a defense, nor shall an error, oversight or dereliction of duty on the part of any public official, body or department constitute a defense.
3. In addition, any person, firm, company or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be subject to prosecution of Municipal Court for such violation. Upon conviction, the forfeiture shall be not less than \$25.00 nor more than \$200.00 per day for each offense, together with the costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense.

15.32

B PUBLIC BUILDINGS ZONE

(A) **PURPOSE AND INTENT.** The B Public Buildings Zone is intended to eliminate the ambiguity of maintaining, in unrelated use districts, areas which are under public or public-related ownership and where the use for public purposes anticipated to be permanent.

(B) **USES PERMITTED.** In the B Public Buildings Zone, no building, structure, or premises shall be used and no building or structure shall hereafter be erected or structurally altered unless otherwise provided for in this ordinance, except for one or more of the following uses:

- (1) Libraries.
- (2) Post office and postal substations.
- (3) Public administrative offices, and public service buildings, including fire and police stations.
- (4) Public school.
- (5) Public utility offices.
- (6) Public parking lots.

(C) **ACCESSORY USES.** The following uses may be permitted in a B Public Buildings Zone, but not until the principal structure is present or under construction:

- (1) Garages for storage of vehicles used in conjunction with the operation of a permitted use.

(D) **CONDITIONAL USES.** The following uses may be permitted in the B Public Buildings Zone by Conditional Use Permit pursuant to Section 15.16:

- (1) Central composting site and related operations, such as wood shaving or brush collection sites.
- (2) Parks and playgrounds.
- (3) Playfields or athletic fields.
- (4) Skate parks or bike parks.
- (5) State or Federal offices or services, excluding jails or prisons.
- (6) Marinas, yacht clubs and associated storage.
- (7) Restaurants where ancillary to permitted or conditional use.
- (8) Community gardens or community centers.
- (9) Museums and public art galleries.
- (10) Charter schools.
- (11) Public passenger transportation terminals, such as bus and rail depots, and heliports.

(12) Recycling center and/or transfer stations.

(13) Utility substations, municipal wells, pumping stations, and towers.

(E) HEIGHT. No building or structure shall exceed thirty-five (35) feet or three (3) stories in height. Height may increase as part of a special exception permit.

(F) FRONT YARD. There shall be a front yard of ten (10) feet. Exception: If lot is abutting another lot with a more restrictive front setback requirement, the average of the two requirements shall be used.

(G) SIDE YARD. There shall be a side yard of ten (10) feet. All buildings hereafter erected or structurally altered shall be set back a minimum of twenty-five (25) feet from any lot line which adjoins a residential zone.

(H) REAR YARD. There shall be a rear yard having a minimum depth of twenty (20) feet.

(I) LOT AREA. No minimum lot areas shall be required, except as is deemed necessary by the Plan Commission for lots less than thirty (30) feet in width.

(J) BUILDING SIZE. No minimum building size shall be required, except as may be deemed necessary by the Plan Commission.

P PARK ZONE

(A) PURPOSE AND INTENT. The P Park Zone is intended to provide for areas where the open space and recreational needs, both public and private, of the citizens of the city of South Milwaukee can be met by designation of natural and improved lands with the intent to be permanent, unless the use is discontinued or use is amended with recommendation of the Plan Commission.

(B) USES PERMITTED. In the P Park Zone, no building, structure, or premises shall be used and no building or structure shall hereafter be erected or structurally altered, unless otherwise provided for in this ordinance, except for one or more of the following uses:

- (1) Botanical gardens and arboretums.
- (2) Hiking, biking, and nature trails.
- (3) Historic monuments or sites.
- (4) Outdoor skating rinks.
- (5) Park and playgrounds.
- (6) Picnic areas.
- (7) Playfields or athletic fields.
- (8) Non-motorized winter sports.
- (9) Swimming beaches.
- (10) Swimming pools.
- (11) Tennis courts.

(C) ACCESSORY USES. The following uses may be permitted in the P Park Zone, but not until the principal structure is present or under construction:

- (1) Service buildings and facilities normally accessory to the permitted uses.

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(D) **CONDITIONAL USES.** The following uses may be permitted in the P Park Zone by Conditional Use Permit issued pursuant to Section 15.16:

- (1) Archery ranges.
- (2) Bathhouses.
- (3) Neighborhood tot lots.
- (4) Boat mooring and rental.
- (5) Campgrounds.
- (6) Conservatories.
- (7) Driving Ranges.
- (8) Athletic fields with lighting.
- (9) Gymnasiums.
- (10) Ice boating facilities.
- (11) Marinas.
- (12) Outdoor theatre.
- (13) Pavilions.
- (14) Restaurants where ancillary to a permitted or conditional use.
- (15) Fishing piers or water front access points.
- (16) Boat launches.
- (17) Golf courses and clubhouses.
- (18) Utility substations, municipal wells, pumping stations, and towers.

(E) **HEIGHT.** No building or structure shall exceed thirty-five (35) feet or three (3) stories in height. Heights may be increased as part of a special exception permit.

(F) **FRONT YARD.** There shall be a front yard having a minimum depth of forty (40) feet.

(G) **SIDE YARD.** There shall be a side yard on each side of a building. The minimum side yard setback shall be twenty (20) feet.

(H) **REAR YARD.** There shall be a rear yard having a minimum depth of twenty (20) feet.

(I) **LOT AREA.** Uses in the P Park Zone shall provide sufficient lot area and width for all uses, buildings, and attendant off-street parking areas.

15.35

MORATORIUM ON NEW APPLICATIONS FOR PAWNSHOPS, SECONDHAND ARTICLE DEALERS AND SECONDHAND JEWELRY DEALERS.

- (1) The City of South Milwaukee hereby establishes a temporary moratorium on new applications for the operation of pawnshops, secondhand article dealers and secondhand jewelry dealers and similar businesses pursuant to the terms described below;
- (2) During this moratorium , except as otherwise stated below, the City of South Milwaukee shall not accept, review, nor approve any occupancy permits or building permit applications for such businesses occupancy or developments which are located within three-hundred (300) feet of any residentially –zoned parcels or within one thousand five hundred (1,500) feet of a similar business.
- (3) This moratorium shall apply to all applications currently pending or under review by the City of South Milwaukee and staff as of the date of this ordinance.

(4) This moratorium shall be in effect until such time that the South Milwaukee Common Council has had an opportunity to address changes in zoning regulations and establishment of citywide regulations regarding these types of businesses, and has either approved or rejected such items, but shall be in effect for no more than 12 months from the date of this ordinance unless this moratorium is extended by approval of the Common Council prior to 12 months from the effective date.

(5) The Common Council may, by resolution, approve exceptions if it finds that a particular proposal is in compliance with the expected long-term goals of any legislation which is likely to enact during the time period encompassed by this moratorium.

Created 11/1/11, 2034

15.40 TRADITIONAL NEIGHBORHOOD DEVELOPMENT

A. Purpose and Intent:

The Purpose of this ordinance is to comply with Wisconsin Statutes and to encourage redevelopment of land or reconstruction of buildings to be consistent with the design principles of traditional neighborhood development, including preservation of various neighborhood characteristics.

B. Applicability:

This ordinance shall apply to all vacant parcels and existing structures in the C-3 Central Business Zone, where standards are necessary to protect the original pedestrian oriented architecture. Standards are necessary to protect, reestablish, and retain the unique aesthetic character including windows, side and rear parking, minimum setbacks, and pedestrian oriented design prevalent in the existing neighborhood oriented commercial district. Permitted uses, conditional uses, subdivision of land, stormwater management, and wetlands shall comply with applicable chapters of the zoning code. Any new construction or remodeling (requiring a building permit) or site work in the C-3 zone shall comply with the provisions of this ordinance, unless otherwise approved by the Plan Commission. The provisions of this ordinance can also be applied as an alternative set of standards for redevelopment of infill development outside of the C-3 zone if a developer and the Plan Commission agree that the ordinance shall be used.

C. Design Standards and Guidelines:

1. New construction, reconstruction, or remodeling requiring a building permit shall be designed to be compatible in size and scale with existing commercial or institutional structures in the district and be oriented to the sidewalk, pedestrian and street rather than to a parking lot.
2. Storefronts. Properties should retain existing arrangements in regards to window size and placement, as well as entry orientation. Reduction or elimination of store windows or closing of business entrances shall be discouraged.
3. Conflicts. The standards contained in this Section shall be in addition to the regulations of the underlying zoning districts. Where the provisions of the Section conflict with those of the underlying zoning district or other provisions of the Zoning Code, the provisions of the Section shall prevail except within historic districts. Within historic districts the development standards established in Section 15.30 shall apply.

4. Signs. New signage shall be subject to the Sign Ordinance and to the following guidelines:
 - a. Backlit, plastic box signs shall be discouraged. Externally illuminated signs of wood or metal are preferred.
 - b. Neon signage is appropriate if properly scaled to the façade of the business.
 - c. Backlit, translucent awnings shall be prohibited, with preference given to traditional awnings of canvas, either retractable or stationary.
 - d. Mobil signs shall be prohibited, unless used for a temporary event.
5. Building Setbacks. Front setbacks shall be determined according to the following methods. Buildings on corner lots shall be deemed to have two frontages and shall comply with the setback requirements for both front facades.
 - a. The distance between the principal building or structure, or any portion thereof, and the right of way shall be a maximum distance of ten feet.
 - b. There may be a public-private setback zone in front of each building. This zone allows for up to fifty percent of the frontage of the building or structure to be set back from the right of way of the street a maximum of fifteen feet. This additional space between the building or structure and the right of way shall be surfaced with an impervious masonry material and utilized for the primary entry, seating, outdoor eating, public art or similar pedestrian amenity.
6. Building Standards.
 - a. Building facades facing public streets shall incorporate a main entrance door on the primary street.
 - b. For commercial uses, at least sixty percent of the façade facing a public street, between the height of two feet and ten feet above the sidewalk grade shall be window glass, unless otherwise approved. This provision shall not apply for the conversion of a residential building to a commercial use.
 - c. Facades which face public streets and exceed fifty feet in horizontal length, shall include vertical piers or other vertical visual elements to break the plane of the façade. Such vertical piers or any other vertical visual elements shall be between fifteen and thirty five feet apart long the façade. This provision shall not apply for the conversion of a residential building to a commercial use.
 - d. All roof mounted mechanical equipment shall be screened from view from fifty feet off all property lines. The design and materials of mechanical enclosures shall be architecturally integrated with the rooftop and the balance of the entire building.
 - e. All ground mounted mechanical equipment shall be screened from view to the height of the equipment.

7. Parking.

a. Parking and vehicular circulation shall be prohibited in the setback area. Parking, stacking, and circulation aisles between the street and the building are also prohibited.

b. Parking lots and parking structures shall be located at the rear or side of the principal building or structure. Where access to the rear of the property is not available from a public alley or street, the majority of parking shall be located to the rear of the principal building with remaining parking located to the side of the principal buildings.

c. The parking setback line shall be a minimum of five feet.

d. For any permitted use, the required amount of off street parking may be reduced by up to fifty percent by the Board of Appeals in consultation with the City Engineer. Factors to be considered include, but are no limited to:

1. Availability of on street parking;
2. Pedestrian traffic and accessibility;
3. Availability of transit service;
4. Availability of other public parking;
5. Elimination of curb cuts;
6. Hours of operation;
7. Shared parking options.

e. All sides of any parking lot that fronts public streets shall be screened using one of the following methods:

1. Four-foot high steel tube or solid bar fence at the street right of way line with or without masonry pier supports, with a minimum three-foot wide landscaped area on the parking lot side of the fence. Such landscaped areas shall be planted with ground cover, three foot high evergreen shrubs and trees.
2. A four foot high masonry brick wall.

f. All sides of any parking lot adjacent to a residence shall be screened using one or more of the following methods:

1. Six feet solid stockade fencing;
2. Shrubs that will reach a height of at least six feet;
3. Six foot high chain link fence with privacy strips.

8. Drive-thru Uses. Drive-thru uses are permitted only in accordance with the following standards, which are in addition to all sections of this Chapter.

a. Drive-thru structures shall be attached to the building.

b. Drive-thru windows and services shall be accessed only at the rear or side of the building.

15.75 WETLAND ORDINANCE. Cr. 06/20/95, 1616

15.75 - 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE

1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in sections 62.23 and 62.231 Wis. Stats.

1.2 FINDING OF FACT AND PURPOSE

Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the municipality would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

- (1) Promote the public health, safety, convenience and general welfare;
- (2) Maintain the storm and flood water storage capacity of wetlands;
- (3) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (5) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (6) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland, wetland excavation, filling and other earth moving activities.

15.75 - 2.0 GENERAL PROVISIONS

2.1 COMPLIANCE

The use of wetlands and the alteration of wetlands within the shoreland area of the municipality shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see section 4.0 of this ordinance, for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this ordinance.

2.2 MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if section 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when section 30.12(4)(a), Wis. Stats., applies.

2.31 ABROGATION AND GREATER RESTRICTIONS

This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under sections 62.23 Wis. Stats., which relate to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

2.32 This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

2.4 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this ordinance is required by a standard in chapter NR 117, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the chapter NR 117 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

2.5 SEVERABILITY

Should any portion of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

15.75 - 3.0

SHORELAND-WETLAND ZONING DISTRICT

SHORELAND-WETLAND ZONING MAPS

The following maps are hereby adopted and made part of this ordinance and are on file in the office of the municipal Clerk:

- (1) Wisconsin Wetland Inventory maps stamped "FINAL" on April 5, 1989.
- (2) Floodplain zoning maps titled FIRM Flood Ins. Rate Map City of South Milwaukee dated April 15, 1980.
- (3) United States Geological Survey maps dated 1976.
- (4) Zoning maps title Zoning Map City of South Milwaukee and dated December 1992.

DISTRICT BOUNDARIES

3.21 The shoreland-wetland zoning district includes all wetlands in the municipality which are three and one-half (3-1/2) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this ordinance and which are:

- (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the municipality shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance.

(2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance. Floodplain zoning maps adopted in section 3.1(2) shall be used to determine the extent of floodplain areas.

3.22 Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary high-water mark.

3.23 When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped, is in error. If Department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in section 3.24 and 3.25, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period.

3.24 FILLED WETLANDS

Wetlands which are filled prior to April 15, 1989, the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this ordinance.

3.25 WETLANDS LANDWARD OF A BULKHEAD LINE

Wetlands located between the original ordinary high water mark and a bulkhead line established prior to May 7, 1982 under s. 30.11, Stats. are not subject to this ordinance.

3.3 PERMITTED USES

The following uses are permitted subject to the provisions of chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

- 3.31 Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
- (1) Hiking;
 - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (3) The practice of silviculture, including the planting, thinning and harvesting of timber;
 - (4) The cultivation of agricultural crops; and

- 3.32 Uses which do not require the issuance of a permit and which may involve wetland alterations only to the extent specifically provided below:
- (1) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - (3) The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible; (all cutting or filling must be per permit issued by the City Engineer);
 - (4) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - (5) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in section 6.13 of this ordinance; and
 - (6) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- 3.33 Uses which are allowed upon the issuance of a building permit, conditional use permit, final plat approval, and excavation or filling permit and which may include wetland alterations only to the extent specifically provided below:
- (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under section 3.3, of this ordinance, provided that:
 - (a) The road cannot, as a practical matter, be located outside the wetland;
 - (b) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland listed in section 6.13 of this ordinance;
 - (c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - (d) Road construction activities are carried out in the immediate area of the roadbed only; and
 - (e) Any wetland alteration must be necessary for the construction or maintenance of the road.

- (2) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
 - (a) Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
 - (b) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 - (c) The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in section 3.33(1) of this ordinance; and
 - (d) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

- (3) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided that:
 - (a) The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - (b) Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 - (c) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in section 6.13 of this ordinance.

3.4 PROHIBITED USES

- 3.41 Any use not listed in section 3.3 of this ordinance is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 6.0 of this ordinance.
- 3.42 The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

15.75 - 4.0 NONCONFORMING STRUCTURES AND USES

- 4.1 The lawful use of a building, structure or property which existed at the time this ordinance, or an applicable amendment to this ordinance, took effect and which is not in conformity with the provisions of the ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- 4.2 The shoreland-wetland provisions of this ordinance authorized by s. 62.231, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure in existence on the effective date of the shoreland-wetland provisions, or of any environmental control facility in existence on May 7, 1982 related to such a structure. All other modifications to nonconforming structures are subject to s. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50% of current fair market value.
- 4.3 If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this ordinance.
- 4.4 Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this ordinance adopted under sections 61.351 or 62.231, Wis. Stats., may be continued although such use does not conform with the provisions of the ordinance. However, such nonconforming use may not be extended.
- 4.5 The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of section 30.121, Wis. Stats.
- 4.6 Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

15.75 - 5.0 ADMINISTRATIVE PROVISIONS

5.1 ZONING ADMINISTRATOR

The City Engineer is appointed zoning administrator for the purpose of administering and enforcing this ordinance.

The zoning administrator shall have the following duties and powers:

- 5.11 Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
- 5.12 Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
- 5.13 Keep records of all permits issued, inspections made, work approved and other official actions.
- 5.14 Have access to any structure or premises between the hours of 8 a.m. and 6 p.m. for the purpose of performing these duties.
- 5.15 Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation, and map or text amendments within 10 days after they are granted or denied, to the appropriate district office of the Department.
- 5.16 Investigate and report violations of this ordinance to the appropriate municipal planning agency and the district attorney, corporation counsel or municipal attorney.

5.2 ZONING PERMITS5.21 WHEN REQUIRED

Unless another section of this ordinance specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any new development, as defined in section 8.2(6), of this ordinance, or any change in the use of an existing building or structure is initiated.

5.22 APPLICATION

An application for a zoning permit shall be made to the zoning administrator upon forms furnished by the municipality and shall include, for the purpose of proper enforcement of these regulations, the following information:

(1) GENERAL INFORMATION

- (a) Name, address, and telephone number of applicant, property owner and contractor, where applicable.
- (b) Legal description of the property and a general description of the proposed use or development.
- (c) Whether or not a private water supply or sewage system is to be installed.

(2) SITE DEVELOPMENT PLAN

The site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

- (a) Dimensions and area of the lot;
- (b) Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
- (c) Description of any existing or proposed on-site sewage systems or private water supply systems;
- (d) Location of the ordinary high-water mark of any abutting navigable waterways;
- (e) Boundaries of all wetlands;
- (f) Existing and proposed topographic and drainage features and vegetative cover;
- (g) Location of floodplain and floodway limits on the property as determined from floodplain zoning maps,
- (h) Location of existing or future access roads; and
- (i) Specifications and dimensions for areas of proposed wetland alteration.

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5.23 EXPIRATION

All permits issued under the authority of this ordinance shall expire twelve (12) months from the date of issuance.

5.3 CERTIFICATES OF COMPLIANCE

5.31 Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this ordinance.
- (2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
- (3) The certificate of compliance shall be issued within ten (10) days after notification of the completion of the work specified in the zoning or conditional use permit, providing the building or premises and proposed use thereof conform with all the provisions of this ordinance.

5.32 The zoning administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the municipal governing body.

5.33 Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing at the time of ordinance adoption, certifying after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this ordinance.

5.4 CONDITIONAL USE PERMITS

5.41 APPLICATION

Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the Board of Appeals following the procedures in sections 5.82, 5.83 and 5.84 of this ordinance.

5.42 CONDITIONS

Upon consideration of the permit application and the standards applicable to the conditional uses designated in section 3.33 of this ordinance, the Board of Appeals shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance as listed in section 1.2. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this ordinance.

5.5 FEES

The municipal governing body may, by resolution, adopt fees for the following:

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Public hearings.
- (4) Legal notice publications.
- (5) Conditional use permits.
- (6) Rezoning petitions.

5.6 RECORDING

Where a zoning permit or conditional use permit under this ordinance is approved, an appropriate record shall be made by the zoning administrator of the land use and structures permitted.

5.7 REVOCATION

Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Board of Appeals.

5.81 POWERS AND DUTIES The Board of Appeals under this ordinance:

- (1) Shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (2) Shall hear and decide applications for conditional use permits under this ordinance.
- (3) May authorize upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:
 - a) That literal enforcement of the terms of the ordinance will result in unnecessary hardship for the applicant.
 - b) That the hardship is due to special conditions unique to the property; and is not self-created or based solely on economic gain or loss;
 - c) That such variance is not contrary to the public interest as expressed by the purpose of this ordinance and;
 - d) That such variance will not grant or increase any use of property which is prohibited in the zoning district.

5.82 APPEALS TO THE BOARD

Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision, or determination of the zoning administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board by filing with the official whose decision is in question, and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other official whose decision is in question shall transmit to the Board all the papers constituting the record on the matter appealed.

5.83 PUBLIC HEARINGS

- (1) Before making a decision on an appeal or application, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a class 2 notice under ch. 985, Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may present testimony in person, by agent or by attorney.
- (2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least 10 days prior to all public hearings on issues involving shoreland-wetland zoning.

5.84 DECISIONS

- (1) The final disposition of an appeal or application for a conditional use permit before the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing and signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse, or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution, or grant the application for a conditional use under this ordinance.
- (2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within 10 days after the decision is issued.

15.75 - 6.0 AMENDING SHORELAND-WETLAND ZONING REGULATIONS

- 6.1 The municipal governing body may alter, supplement or change the district boundaries and the regulations contained in this ordinance in accordance with the requirements of section 62.23(7)(d)2., Wis. Stats., NR 117, Wis. Adm. Code, and the following:
 - 6.11 A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within 5 days of the submission of the proposed amendment to the municipal planning agency;
 - 6.12 All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the Plan Commission, and a public hearing shall be held after class II notice as required by section 62.23(7)(d)2., Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least 10 days prior to such hearing.
 - 6.13 In order to insure that this ordinance will remain consistent with the shoreland protection objectives of section 144.26, Wis. Stats., the municipal governing body may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:

- (1) Storm and flood water storage capacity;
 - (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (4) Shoreline protection against erosion;
 - (5) Fish spawning, breeding, nursery or feeding grounds;
 - (6) Wildlife habitat; or
 - (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- 6.14 Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in section 6.13, of this ordinance, the Department shall so notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.
- 6.15 The appropriate district office of the Department shall be provided with:
- (1) A copy of the recommendation and report, if any, of the municipal planning agency on a proposed text or map amendment, within ten (10) days after the submission of those recommendations to the municipal governing body.
 - (2) Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.
- 6.16 If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in section 6.13, of this ordinance, that proposed amendment, if approved by the municipal governing body, shall not become effective until more than 30 days have elapsed since written notice of the municipal approval was mailed to the Department, as required by section 6.15(2) of this ordinance. If within the 30 day period, the Department notifies the municipality that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the municipality as provided by sections 62.231(6) and 61.351(6), Wis. Stats., the proposed amendment shall not become effective until the ordinance adoption procedure under section 62.231(6) or 61.351(6), Wis. Stats., is completed or otherwise terminated.

ENFORCEMENT AND PENALTIES

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced or any use or accessory use established after the effective date of this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator shall refer violations to the municipal planning agency and the district attorney, corporation counsel or municipal attorney who shall prosecute such violations.

Provisions of this ordinance shall be subject to a forfeiture of not less than \$100.00 nor more than \$1,000.00 per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to section 87.30(2), Wis. Stats.

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DEFINITIONS

For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified, shall be measured horizontally.

8.2 The following terms used in this ordinance mean:

- (1) "Accessory structure or use" means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principle structure or use to which it is related and which is located on the same lot as that of the principle structure or use.
- (2) "Boathouse" as defined in section 30.121(1), Wis. Stats., means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.
- (3) "Class 2 public notice" means publication of a public hearing notice under chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two consecutive weeks, the last at least seven days prior to the hearing.
- (4) "Conditional use" means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.
- (5) "Department" means the Wisconsin Department of Natural Resources.
- (6) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.
- (7) "Drainage system" means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (8) "Environmental control facility" means any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

- (9) "Fixed houseboat" as defined in section 30.121(1), Wis. Stats., means a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.
- (10) "Navigable waters" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under sections 61.351 or 62.221, Wis. Stats., and chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if;
- (a) Such lands are not adjacent to a natural navigable stream or river;
 - (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - (c) Such lands are maintained in nonstructural agricultural use. "Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGaynor and Co., Inc., v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons."
- (11) "Ordinary high-water mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (12) "Planning agency" means the municipal plan commission created under section 62.23(1), Wis. Stats., a board of public land commissioners or a committee of the municipality's governing body which acts on matters pertaining to planning and zoning.
- (13) "Shorelands" means lands within the following distances from the ordinary high-water mark of navigable waters; 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (14) "Shoreland-wetland district" means the zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this ordinance.
- (15) "Unnecessary hardship" means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.
- (16) "Variance" means an authorization granted by the Board of Appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this ordinance.

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- (17) "Wetlands" means those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (18) "Wetland alteration" means any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

15.80 POST CONSTRUCTION STORM WATER MANAGEMENT

(A) AUTHORITY.

- (1) This ordinance is adopted by the Common Council under the authority granted by Sec. 62.234, Wis. Stats. This ordinance supersedes all provisions of any ordinance previously enacted under Sec. 62.23, Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in Sec. 62.234, Wis. Stats., Sec. 62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Common Council hereby designates the City Engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Sec. NR 151.004, Wis. Adm. Code.

(B) FINDINGS OF FACT.

The Common Council acknowledges that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant loading.
- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

(C) PURPOSE AND INTENT.

- (1) **PURPOSE.** The general purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

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- (a) Further the maintenance of safe and healthful conditions.
 - (b) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
 - (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; and control increases in the scouring and transportation of particulate matter.
 - (d) Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.
- (2) INTENT. It is the intent of the Common Council that this ordinance regulates post-construction storm water discharges to waters of the state. This ordinance may be applied on a site-by-site basis. The Common Council recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Sec. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the Common Council, it is the intent of this ordinance that the approved storm water management plan be used to identify post-construction management measures acceptable for the community.

(D) APPLICABILITY AND JURISDICTION.

(1) APPLICABILITY.

- (a) Except as provided under par. (b), this ordinance applies to a post-construction site whereupon one acre or more of land disturbing construction activity occurs during construction.
- (b) A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance:
 - 1. A post-construction site with less than ten percent connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include exemption from the protective area standard of this ordinance.
 - 2. Agricultural facilities and practices.
 - 3. Underground utility construction, but not including the construction of any above ground structures associated with utility construction.
- (c) Notwithstanding the applicability requirements in par. (a), this ordinance applies to post-construction sites of any size that, as determined by the City Engineer, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, causes undue channel erosion, or increases water pollution by scouring or the transportation of particulate matter.

(2) JURISDICTION.

This ordinance applies to post construction sites within the boundaries and jurisdiction of the City of South Milwaukee.

(3) EXCLUSIONS.

This ordinance is not applicable to activities conducted by a state agency, as defined under Sec. 227.01 (1), Wis. Stats.

(E) DEFINITIONS.

- (1) "Adequate sod, or self-sustaining vegetative cover" means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.
- (2) "Administering authority" means a governmental employee, or a regional planning commission empowered under Sec. 62.234, Wis. Stats., that is designated by the Common Council to administer this ordinance.
- (3) "Agricultural facilities and practices" has the meaning given in Sec. 281.16 (1), Wis. Stats.
- (4) "Atlas 14" means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.
- (5) "Average annual rainfall" means a typical calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality.
- (6) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
- (7) "Business day" means a day the office of the City Engineer is routinely and customarily open for business.
- (8) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the City Engineer.
- (9) "Combined sewer system" means a system for conveying both sanitary sewage and storm water runoff.
- (10) "Connected imperviousness" means an impervious surface connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.
- (11) "Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (12) "Development" means residential, commercial, industrial or institutional land uses and associated roads.
- (13) "Direct conduits to groundwater" means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.
- (14) "Division of land" means the creation from one parcel from three (3) or more parcels or building sites of three (3) or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5-year period.
- (15) "Effective infiltration area" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (16) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (17) "Exceptional resource waters" means waters listed in s. NR 102.11, Wis. Adm. Code.
- (18) "Filtering layer" means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot deep layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.
- (19) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.
- (20) "Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City Engineer by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (21) "Governing body" means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

- (22) “Impervious surface” means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, gravel or paved parking lots and streets are examples of areas that typically are impervious.
- (23) “In-fill” means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur.
- (24) “Infiltration” means the entry of precipitation or runoff into or through the soil.
- (25) “Infiltration system” means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (26) “Land disturbing construction activity” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (27) “Landowner” means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.
- (28) “Maintenance agreement” means a legal document that provides for long-term maintenance of storm water management practices.
- (29) “Maximum extent practicable” means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with SEC. EE of this ordinance.
- (30) “New development” means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (31) “NRCS MSE3 or MSE4 distribution” means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.
- (32) “Off-site” means located outside the property boundary described in the permit application.
- (33) “On-site” means located within the property boundary described in the permit application.
- (34) “Ordinary high-water mark” has the meaning given in s. NR 115.03 (6), Wis. Adm. Code.
- (35) “Outstanding resource waters” means waters listed in Sec. NR 102.10, Wis. Adm. Code.
- (36) “Percent fines” means the percentage of a given sample of soil, which passes through a # 200 sieve.
- (37) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (38) “Permit” means a written authorization made by the City Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (39) “Permit administration fee” means a sum of money paid to the City Engineer by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (40) “Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.
- (41) “Pollutant” has the meaning given in Sec. 283.01 (13), Wis. Stats.
- (42) “Pollution” has the meaning given in Sec. 281.01 (10), Wis. Stats.
- (43) “Post-construction site” means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (44) “Pre-development condition” means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.
- (45) “Preventive action limit” has the meaning given in Sec. NR 140.05 (17), Wis. Adm. Code.
- (46) “Protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.

- (47) "Redevelopment" means areas where development is replacing older development.
- (48) "Responsible party" means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement. "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (49) "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
- (a) Is designed or used for collecting water or conveying runoff.
 - (b) Is not part of a combined sewer system.
 - (c) Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
 - (d) Discharges directly or indirectly to waters of the state.
- (51) "Silviculture activity" means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.
- (52) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (53) "Stop work order" means an order issued by the City Engineer which requires that all construction activity on the site be stopped.
- (54) "Storm water management plan" means a comprehensive plan designed to reduce the discharge of pollutants from storm water, after the site has undergone final stabilization, following completion of the construction activity.
- (55) "Storm water management system plan" is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (56) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (57) "Top of the channel" means an edge, or point on the landscape landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (58) "Total maximum daily load" or "TMDL" means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.
- (59) "TP-40" means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.
- (60) "TR-55" means the United States department of agriculture, natural resources conservation service (previously soil conservation service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this chapter.
- (61) "Transportation facility" means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under Sec. 85.095 (1) (b), Wis. Stats. "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to Sec. 281.33, Wis. Stats.
- (62) "TSS" means total suspended solids.
- (63) "Type II distribution" means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published in 1973".
- (64) "Waters of the state" includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

(EE) APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE.

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City Engineer's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

(F) TECHNICAL STANDARDS.

The following methods shall be used in designing the water quality, peak discharge, and infiltration components of storm water practices needed to meet the water quality standards of this ordinance:

- (1) Consistent with the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the City Engineer.

(G) PERFORMANCE STANDARDS.

- (1) **RESPONSIBLE PARTY.** The responsible party as defined under E (48) shall comply with this section.
- (2) **STORM WATER MANAGEMENT PLAN.** A written storm water management plan in accordance with Section I shall be developed and implemented for each post-construction site.
- (3) **MAINTENANCE OF EFFORT.** For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this ordinance, whichever is more stringent.
- (4) **REQUIREMENTS.** The storm water management plan required under sub. (2) shall include the following:
 - (a) **TOTAL SUSPENDED SOLIDS.** BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
 1. BMPs shall be designed in accordance with Table 1. or to the maximum extent practicable as provided in subd. 2. The design shall be based on an average annual rainfall, as compared to no runoff management controls.

Table 1. TSS Reduction Standards	
Development Type	TSS Reduction
New Development	80 percent
In-fill development	80 percent
Redevelopment	40 percent of load from parking areas and roads

2. **Maximum Extent Practicable.** If the design cannot meet a total suspended solids reduction performance standard of Table 1. the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.
3. **Off-Site Drainage.** When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

(b) **PEAK DISCHARGE.**

1. By design, BMPs shall be employed to maintain or reduce the 1-year, 24-hour; and the 2-year, 24-hour post-construction peak runoff discharge rates to the 1-year, 24-hour; and the 2-year, 24-hour pre-development peak runoff discharge rates respectively, or to the maximum extent practicable. The runoff curve numbers in Table 2. shall be used to represent the actual pre-development conditions. Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE3 or MSE4 precipitation distribution. On a case-by-case basis, the City Engineer may allow the use of TP-40 precipitation depths and the Type II distribution.

Table 2. Maximum Pre-Development Runoff Curve Numbers				
Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

2. This subsection of the ordinance does not apply to any of the following:
 - a. A post-construction site where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.
 - b. Except as provided under SEC. 07 (3), a redevelopment post-construction site.
 - c. An in-fill development area less than 5 acres.

(c) INFILTRATION.

1. Best Management Practices. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:
 - a. *Low imperviousness.* For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.
 - b. *Moderate imperviousness.* For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.
 - c. *High imperviousness.* For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.
2. Pre-development. The pre-development condition shall be the same as specified in Table 2 of the Peak Discharge section of this ordinance.
3. Source Areas.
 - a. *Prohibitions.* Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions identified in SEC. 07 (4)(c)6.:
 - i. Areas associated with a tier 1 industrial facility identified in Sec. NR 216.21 (2) (a), including storage, loading and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.
 - ii. Storage and loading areas of a tier 2 industrial facility identified in Sec. NR 216.21 (2) (b).
 - iii. Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.
 - b. *Exemptions.* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:

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- i. Parking areas and access roads less than 5,000 square feet for commercial development.
 - ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under par a.
 - iii. Except as provided under SEC. 07 (3), redevelopment post-construction sites.
 - iv. In-fill development areas less than 5 acres.
 - v. Roads on commercial, industrial and institutional land uses, and arterial residential roads.
4. Location of Practices.
- a. *Prohibitions.* Infiltration practices may not be located in the following areas:
 - i. Areas within 1000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.
 - ii. Areas within 400 feet of a community water system well as specified in Sec. NR 811.16 (4) or within the separation distances listed in Sec. NR 812.08 for any private well or non-community well for runoff infiltrated from commercial, including multi-family residential, industrial and institutional land uses or regional devices for one- and two-family residential development.
 - iii. Areas where contaminants of concern, as defined in Sec. NR 720.03 (2), are present in the soil through which infiltration will occur.
 - b. *Separation distances.*
 - i. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 3:

Table 3. Separation Distances and Soil Characteristics		
Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

- ii. Notwithstanding par. b., applicable requirements for injection wells classified under ch. NR 815 shall be followed.

- c. *Infiltration rate exemptions.* Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is optional:
- i. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.
 - ii. Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.
5. **Alternate Use.** Where alternate uses of runoff are employed, such as for toilet flushing, laundry, or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this section.
6. **Infiltration Systems**
- a. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
 - b. Notwithstanding par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
7. **Pretreatment.** Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 6. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, bio filtration, filtration, swales or filter strips.
8. **Maximum Extent Practicable.** Where the conditions of subd. 3. and 4. limit or restrict the use of infiltration practices, the performance standard of Section G (4) (c) shall be met to the maximum extent practicable.
- (d) **PROTECTIVE AREAS.**
1. **Definition.** In this section, “protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.

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- a. For outstanding resource waters and exceptional resource waters, 75 feet.
 - b. For perennial and intermittent streams identified on a U.S. Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
 - c. For lakes, 50 feet.
 - d. For wetlands not subject to par. e. or f., 50 feet.
 - e. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.
 - f. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include: degraded wetland dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
 - g. In pars. d. to f., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Sec. NR 103.03.
 - h. Wetland boundary delineation shall be made in accordance with Sec. NR 103.08 (1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after a fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.
 - i. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
 - j. Notwithstanding pars. a. to i., the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.
2. Applicability. This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.
 3. Requirements. The following requirements shall be met:
 - a. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the storm water management plan shall contain a written, site-specific explanation.
 - b. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative

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materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.

- c. BMPs such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.

4. Exemptions. This section does not apply to any of the following:

- a. Except as provided under SEC. G, redevelopment post-construction sites.
- b. In-fill development areas less than 5 acres.
- c. Structures that cross or access surface water such as boat landings, bridges, and culverts.
- d. Structures constructed in accordance with Sec. 59.692 (1v), Stats.
- e. Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the local ordinance requirements for total suspended solids and peak flow reduction, except to the extent that vegetative ground cover is necessary to maintain bank stability.

- (e) FUELING AND MAINTENANCE AREAS. Fueling and vehicle maintenance areas shall have BMPs designed, installed, and maintained to reduce petroleum within runoff, so that the runoff that enters waters of the state contains no visible petroleum sheen, or to the maximum extent practicable.

(5) GENERAL CONSIDERATIONS FOR STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in on-site and off-site runoff management:

- (a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
- (b) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(6) BMP LOCATION.

- (a) To comply with the performance standards required under SEC. 07 of this ordinance, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with Sec. NR 151.003, Wis. Adm. Code.
- (b) The City Engineer may approve off-site management measures provided that all of the following conditions are met:
 - 1. The City Engineer determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City of South Milwaukee and that contains management requirements consistent with the purpose and intent of this ordinance.
 - 2. The off-site facility meets all of the following conditions:
 - a. The facility is in place.
 - b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
 - c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

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(c) Where a regional treatment option exists such that the City Engineer exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the City Engineer. In determining the fee for post-construction runoff, the City Engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(7) **ADDITIONAL REQUIREMENTS.** The City Engineer may establish storm water management requirements more stringent than those set forth in this ordinance if the City Engineer determines that the requirements are needed to control storm water quantity or control flooding, comply with federally approved total maximum daily load requirements, or control pollutants associated with existing development or redevelopment.

(H) PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

(1) **PERMIT REQUIRED.** No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the City Engineer prior to commencing the proposed activity.

(2) **PERMIT APPLICATION AND FEES.** Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the City Engineer a permit application on a form provided by the City Engineer for that purpose.

(a) Unless otherwise excluded by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee if applicable under the City's Administrative Fee Schedule.

(b) The storm water management plan shall be prepared to meet the requirements of SEC. G and SEC. I, the maintenance agreement shall be prepared to meet the requirements of SEC. J, the financial guarantee shall meet the requirements of SEC. K, and fees shall be those established by the Common Council as set forth in SEC. L.

(3) **PERMIT APPLICATION REVIEW AND APPROVAL.** The City Engineer shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

(a) Within [number] business days of the receipt of a complete permit application, including all items as required by sub. (2), the City Engineer shall inform the applicant whether the application, storm water management plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

(b) If the storm water permit application, storm water management plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the City Engineer shall issue the permit.

(c) If the storm water permit application, storm water management plan or maintenance agreement is disapproved, the City Engineer shall detail in writing the reasons for disapproval.

(d) The City Engineer may request additional information from the applicant. If additional information is submitted, the City Engineer shall have Thirty (30) business days from the date the additional information is received to inform the applicant that the storm water management plan and maintenance agreement are either approved or disapproved.

(e) Failure by the City Engineer to inform the permit applicant of a decision within Thirty (30) business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(4) **PERMIT REQUIREMENTS.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City Engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the City Engineer to suspend or revoke this permit may be appealed in accordance with SEC. 14.

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- (a) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
 - (b) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
 - (c) The responsible party shall notify the City Engineer at least five (5) business days before commencing any work in conjunction with the storm water management plan, and within five (5) business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the City Engineer so that practice installations can be inspected during construction.
 - (d) Practice installations required as part of this ordinance shall be certified "as built" or "record" drawings by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the City Engineer or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The City Engineer or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
 - (e) The responsible party shall notify the City Engineer of any significant modifications it intends to make to an approved storm water management plan. The City Engineer may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.
 - (f) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the City Engineer, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
 - (g) The responsible party authorizes the City Engineer to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under SEC. 11.
 - (h) If so directed by the City Engineer, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
 - (i) The responsible party shall permit property access to the City Engineer or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
 - (j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the City Engineer may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
 - (k) The responsible party is subject to the enforcement actions and penalties detailed in SEC. M, if the responsible party fails to comply with the terms of this permit.
- (5) **PERMIT CONDITIONS.** Permits issued under this subsection may include conditions established by City Engineer in addition to the requirements needed to meet the performance standards in SEC. G or a financial guarantee as provided for in SEC. K.
- (6) **PERMIT DURATION.** Permits issued under this section shall be valid from the date of issuance through the date the City Engineer notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)(d).

I STORM WATER MANAGEMENT PLAN.

- (1) **STORM WATER MANAGEMENT PLAN REQUIREMENTS.** The storm water management plan required under SEC. G (2) shall contain at a minimum the following information:
- (a) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
 - (b) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
 - (c) Pre-development site conditions, including:
 - 1. One or more site maps at a scale of not less than 1 inch equals Forty (40) feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed two (2) feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. Code.
 - 2. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
 - (d) Post-development site conditions, including:
 - 1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
 - 2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
 - 3. One or more site maps at a scale of not less than 1 inch equals Forty (40) feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed two (2) feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
 - 4. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
 - 5. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.

- (e) A description and installation schedule for the storm water management practices needed to meet the performance standards in SEC. G.
 - (f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
 - (g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
 - (h) Other information requested in writing by the City Engineer to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
 - (i) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (2) **ALTERNATE REQUIREMENTS.** The City Engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under SEC. G (5).
- (J) MAINTENANCE AGREEMENT.**
- (1) **MAINTENANCE AGREEMENT REQUIRED.** The maintenance agreement required under SEC. H (2) for storm water management practices shall be an agreement between the City Engineer and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.
- (2) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by SEC. I (1) (f):
- (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.
 - (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under SEC. H (2).
 - (c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under SEC. H (2).
 - (d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).
 - (e) Authorization for the City Engineer to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - (f) A requirement on the City Engineer to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
 - (g) Agreement that the party designated under par. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the City Engineer of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the City Engineer.
 - (h) Authorization of the City Engineer to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The City Engineer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(K) FINANCIAL GUARANTEE.

- (1) **ESTABLISHMENT OF THE GUARANTEE.** The City Engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the City Engineer. The financial guarantee shall be in an amount determined by the City Engineer to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the City Engineer the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the City Engineer that the requirements of this ordinance have not been met.
- (2) **CONDITIONS FOR RELEASE.** Conditions for the release of the financial guarantee are as follows:
- (a) The City Engineer shall release the portion of the financial guarantee established under this section, less any costs incurred by the City Engineer to complete installation of practices, upon submission of "as built plans" or "record" drawings by a licensed professional engineer. The City Engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - (b) The City Engineer shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the City Engineer, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

(L) FEE SCHEDULE.

Applicable fees referred to in other sections of this ordinance shall be established by the Common Council and may from time to time be modified by resolution. A schedule of any applicable fees is established by the Administrative Fee Schedule

(M) ENFORCEMENT.

- (1) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (2) The City Engineer shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (3) Upon receipt of written notification from the City Engineer under sub. (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the City Engineer in the notice.
- (4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City Engineer may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City Engineer plus interest and legal costs shall be billed to the responsible party.
- (5) The City Engineer is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the City Attorney to obtain a cease and desist order in any court with jurisdiction.
- (6) The City Engineer may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.

- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the City Engineer or by a court with jurisdiction.
- (8) The City Engineer is authorized to refer any violation of this ordinance, or a stop work order or cease and desist order issued pursuant to this ordinance, to the City Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (9) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$250.00 dollars or more than \$250.00 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (10) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (11) When the City Engineer determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the City Engineer or a party designated by the City Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved storm water management plan. The City Engineer shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to SEC. K of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

(N) APPEALS.

- (1) **BOARD OF APPEALS.** The board of appeals, created pursuant to section 4.10 of the City of South Milwaukee ordinances pursuant to Sec. 62.23 (7)(e), Wis. Stats., shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City Engineer in administering this ordinance. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.
- (2) **WHO MAY APPEAL.** Appeals to the board of appeals may be taken by any aggrieved person or by an officer, department, or board, affected by any decision of the City Engineer.

(O) SEVERABILITY.

If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgment.

15.81 **ILLICIT DISCHARGES, ILLEGAL CONNECTIONS, AND SPILL PREVENTION.** Cr.
03/02/99, 1732

- (A) **DISCHARGES PROHIBITED.** No person may discharge, release, spill, or dump substances or materials which are not entirely composed of storm water into receiving bodies of water or onto driveways, sidewalks, parking lots or other areas that drain into the municipal storm sewer system.
- (B) **EXEMPTIONS.** The following activities are exempt from the provisions of this section unless found to have an adverse impact on the storm water:
 - 1. Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.

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2. Discharges resulting from fire fighting activities.
 3. Discharges from uncontaminated ground water, portable water sources, roof drains, foundation drains and sump pumps, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water is de-chlorinated.
- (C) CONNECTIONS PROHIBITED. It shall be a violation of this ordinance to connect a wastewater, building sewer or drain to the municipal storm sewer system.
- (D) CLEAN-UP OF SPILLED OR ACCIDENTALLY DISCHARGED WASTES. Any persons delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to the following: fuel oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catch-basin wastes, oil or petroleum wastes, shall immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing the pollution to the receiving bodies of water within the City of South Milwaukee.
- (E) DUTY OF NOTIFICATION. Spills or accidental release of hazardous materials or potentially polluting substances at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible person shall be reported immediately to the emergency number for the South Milwaukee Police Department 911.
- (F) STORAGE OF POLLUTING SUBSTANCES. It shall be unlawful for any person or persons to store any potentially polluting substances unless such substances are stored in such manner as to securely prevent them from escaping onto the ground surface and/or into any street, municipal separate storm sewer system, ditch or drainage way, or receiving body of water within the City of South Milwaukee.
- (G) ENFORCEMENT.
- (1) The City Engineer or her/his designee shall have the administrative responsibility for the enforcement of this ordinance. In addition to enforcing this ordinance by means of a forfeiture action in municipal court, the City Engineer is hereby authorized to seek any judicial remedy he deems necessary under the circumstances including injunctive relief.
 - (2) Civil Penalties.
 - (a) Any person(s) who has violated or continues to violate any provision of this chapter, or order issued by the City Engineer to enforce the provisions of this ordinance shall be liable to South Milwaukee for a maximum forfeiture of \$25,000 per violation, per day. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. The City Engineer is authorized to issue a municipal citation for any offense under this ordinance as well as any other judicial or administrative action which, in his/her judgment, may be appropriate.
 - (b) The City Engineer is authorized to institute an action at law to recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages and clean-up expenses incurred by South Milwaukee.

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- (c) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained by the violator through the violation, corrective actions by the violator, and any other factor as justice requires.
- (d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a violator.
- (3) Criminal Prosecution. Penalties shall be as provided by State Statutes.
- (4) Remedies Nonexclusive. The remedies provided for in this chapter are not exclusive. The City Engineer may take any, all, or any combination of these actions against a violator.

15.85 CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL. Cr. 01/03/95, 1600; Renumbered 07/18/95, 1619, Repealed and Recreated 2130, 5/17/16

(A) AUTHORITY.

- (1) This ordinance is adopted under the authority granted by Sec. 62.234, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under Sec. 62.23, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in Sec. 62.234, Wis. Stats., Sec. 62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Common Council hereby designates the City Engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under ss. 281.16 and 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Sec. NR 151.004, Wis. Adm. Code.

(B) FINDINGS OF FACT.

The Common Council acknowledges that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters located in the City of South Milwaukee.

(C) PURPOSE.

It is the purpose of this ordinance to maintain safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the City of South Milwaukee.

(D) APPLICABILITY AND JURISDICTION.**(1) APPLICABILITY.**

- (a) Except as provided under par. (b), this ordinance applies to any construction site as defined under SEC.05 (6).
- (b) This ordinance does not apply to the following:
1. Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.
 2. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
 3. Nonpoint discharges from agricultural facilities and practices.
 4. Nonpoint discharges from silviculture activities.
 5. Routine maintenance for project sites that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (c) Notwithstanding the applicability requirements in par. (a), this ordinance applies to construction sites of any size that, as determined by the City Engineer, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, or that increases water pollution by scouring or transporting of particulate.

(2) JURISDICTION.

This ordinance applies to land disturbing construction activity on lands within the boundaries and jurisdiction of the City of South Milwaukee.

(3) EXCLUSIONS.

This ordinance is not applicable to activities conducted by a state agency, as defined under Sec. 227.01 (1), Wis. Stats.

(E) DEFINITIONS.

- (1) "Administering authority" means a governmental employee, or a regional planning commission empowered under Sec. 62.234, Wis. Stats., that is designated by the Common Council to administer this ordinance.
- (2) "Agricultural facilities and practices" has the meaning in Sec. 281.16 (1), Wis. Stats.
- (3) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.
- (4) "Business day" means a day the office of the City Engineer is routinely and customarily open for business.
- (5) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the City Engineer.

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- (6) “Construction site” means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.
- (7) “Design Storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (8) “Division of land” means the creation from one parcel, of three (3) or more parcels or building sites of three (3) or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5-year period.
- (9) “Erosion” means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.
- (10) “Erosion and sediment control plan” means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (11) “Final stabilization” means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.
- (12) “Governing body” means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.
- (13) “Land disturbing construction activity” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (14) "Landowner" means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.
- (15) “Maximum extent practicable” means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with SEC. EE of this ordinance.
- (16) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (17) “Permit” means a written authorization made by the City Engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (18) “Pollutant” has the meaning given in Sec. 283.01 (13), Wis. Stats.
- (19) “Pollution” has the meaning given in Sec. 281.01 (10), Wis. Stats.

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- (20) “Responsible party” means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.
- (21) “Runoff” means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (22) “Sediment” means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (23) "Silviculture activity" means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.
- (24) “Site” means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
- (25) “Stop work order” means an order issued by the City Engineer which requires that all construction activity on the site be stopped.
- (26) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (27) “Transportation facility” means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under Sec. 85.095 (1) (b), Wis. Stats. “Transportation facility” does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to Sec. 281.33, Wis. Stats.
- (28) “Waters of the state” includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

(EE) APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE.

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City Engineer’s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

(F) TECHNICAL STANDARDS.

All BMPs required for compliance with this ordinance shall meet design criteria, standards and specifications based on any of the following:

- (1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

- (2) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.
- (3) Technical standards and methods approved by the City Engineer.

(G) PERFORMANCE STANDARDS FOR CONSTRUCTION SITES UNDER ONE ACRE.

- (1) **RESPONSIBLE PARTY.** The responsible party shall comply with this section.
- (2) **EROSION AND SEDIMENT CONTROL PRACTICES.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
 - (a) The deposition of soil from being tracked onto streets by vehicles.
 - (b) The discharge of sediment from disturbed areas into on-site storm water inlets.
 - (c) The discharge of sediment from disturbed areas into adjacent waters of the state.
 - (d) The discharge of sediment from drainage ways that flow off the site.
 - (e) The discharge of sediment by dewatering activities.
 - (f) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
 - (g) The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
- (3) **LOCATION.** The BMPs shall be located so that treatment occurs before runoff enters waters of the state.
- (4) **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:
 - (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
 - (b) Erosion and sediment control practices shall be maintained until final stabilization.
 - (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
 - (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

(H) PERFORMANCE STANDARDS FOR CONSTRUCTION SITES OF ONE ACRE OR MORE.

- (1) **RESPONSIBLE PARTY.** The responsible party shall comply with this section and implement the erosion and sediment control plan developed in accordance with SEC. 10.

- (2) **EROSION AND SEDIMENT CONTROL PLAN.** A written site-specific erosion and sediment control plan shall be developed in accordance with SEC. J of this ordinance and implemented for each construction site.
- (3) **EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS.** The erosion and sediment control plan required under sub. (2) shall include the following:
- (a) **EROSION AND SEDIMENT CONTROL PRACTICES.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
1. The deposition of soil from being tracked onto streets by vehicles.
 2. The discharge of sediment from disturbed areas into on-site storm water inlets.
 3. The discharge of sediment from disturbed areas into adjacent waters of the state.
 4. The discharge of sediment from drainage ways that flow off the site.
 5. The discharge of sediment by dewatering activities.
 6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
 7. The discharge of sediment from erosive flows at outlets and in downstream channels.
 8. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
 9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
- (b) **SEDIMENT PERFORMANCE STANDARDS.** In addition to the erosion and sediment control practices under par. (a), the following erosion and sediment control practices shall be employed:
1. BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
 2. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
 3. Notwithstanding subd. 1., if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

- (c) **PREVENTIVE MEASURES.** The erosion and sediment control plan shall incorporate all of the following:
 - 1. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
 - 2. Minimization of soil compaction and preservation of topsoil.
 - 3. Minimization of land disturbing construction activity on slopes of 20 percent or more.
 - 4. Development of spill prevention and response procedures.
- (d) **LOCATION.** The BMPs used to comply with this section shall be located so that treatment occurs before runoff enters waters of the state.
- (4) **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:
 - (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in SEC. 08 (2).
 - (b) Erosion and sediment control practices shall be maintained until final stabilization.
 - (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
 - (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.
- (I) PERMITTING REQUIREMENTS, PROCEDURES AND FEES.**
 - (1) **PERMIT REQUIRED.** No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the City Engineer.
 - (2) **PERMIT APPLICATION AND FEES.** The responsible party that will undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of SEC. J, and shall pay an application fee in the amount specified in SEC. K. By submitting an application, the applicant is authorizing the City Engineer to enter the site to obtain information required for the review of the erosion and sediment control plan.
 - (3) **PERMIT APPLICATION REVIEW AND APPROVAL.** The City Engineer shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:
 - (a) Within fourteen (14) business days of the receipt of a complete permit application, as required by sub. (2), the City Engineer shall inform the applicant whether the application and erosion and sediment control plan are approved or disapproved based on the requirements of this ordinance.

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- (b) If the permit application and erosion and sediment control plan are approved, the City Engineer shall issue the permit.
 - (c) If the permit application or erosion and sediment control plan is disapproved, the City Engineer shall state in writing the reasons for disapproval.
 - (d) The City Engineer may request additional information from the applicant. If additional information is submitted, the City Engineer shall have Seven (7) business days from the date the additional information is received to inform the applicant that the erosion and sediment control plan is either approved or disapproved.
 - (e) Failure by the City Engineer to inform the permit applicant of a decision within Thirty (30) business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) SURETY BOND. As a condition of approval and issuance of the permit, the City Engineer may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion and sediment control plan and any permit conditions.
- (5) PERMIT REQUIREMENTS. All permits shall require the responsible party to:
- (a) Notify the City Engineer within 48 hours of commencing any land disturbing construction activity.
 - (b) Notify the City Engineer of completion of any BMPs within 14 days after their installation.
 - (c) Obtain permission in writing from the City Engineer prior to any modification pursuant to SEC. J (3) of the erosion and sediment control plan.
 - (d) Install all BMPs as identified in the approved erosion and sediment control plan.
 - (e) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
 - (f) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site inspection log.
 - (g) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week. Make needed repairs and install additional BMPs as necessary, and document these activities in an inspection log that also includes the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
 - (h) Allow the City Engineer to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the erosion and sediment control plan. Keep a copy of the erosion and sediment control plan at the construction site.
- (6) PERMIT CONDITIONS. Permits issued under this section may include conditions established by City Engineer in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in SEC. G or SEC. H.

- (7) **PERMIT DURATION.** Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The City Engineer may grant one or more extensions not to exceed 180 days cumulatively. The City Engineer may require additional BMPs as a condition of an extension if they are necessary to meet the requirements of this ordinance.
- (8) **MAINTENANCE.** The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

(J) EROSION AND SEDIMENT CONTROL PLAN, STATEMENT AND AMENDMENTS.

- (1) **EROSION AND SEDIMENT CONTROL PLAN STATEMENT.** For each construction site identified under SEC. 04 (1) (c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the City Engineer. The erosion and sediment control plan statement shall briefly describe the site, the development schedule, and the BMPs that will be used to meet the requirements of the ordinance. A site map shall also accompany the erosion and sediment control plan statement.

(2) **EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS.**

- (a) An erosion and sediment control plan shall be prepared and submitted to the City Engineer.
- (b) The erosion and sediment control plan shall be designed to meet the performance standards in SEC. G, SEC. H and other requirements of this ordinance.
- (c) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
1. Name(s) and address (es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
 2. Description of the construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
 3. Description of the intended sequence of major land disturbing construction activities for major portions of the construction site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 4. Estimates of the total area of the construction site and the total area of the construction site that is expected to be disturbed by land disturbing construction activities.
 5. Calculations to show the compliance with the performance standard in SEC. 08 (3) (b) 1.
 6. Existing data describing the surface soil as well as subsoils.
 7. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.

8. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
- (d) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet.
1. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
 2. Boundaries of the construction site.
 3. Drainage patterns and approximate slopes anticipated after major grading activities.
 4. Areas of soil disturbance.
 5. Location of major structural and non-structural controls identified in the erosion and sediment control plan.
 6. Location of areas where stabilization BMPs will be employed.
 7. Areas which will be vegetated following land disturbing construction activities.
 8. Area(s) and location(s) of wetland on the construction site, and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
 9. Areas(s) used for infiltration of post-construction storm water runoff.
 10. An alphanumeric or equivalent grid overlying the entire construction site map.
- (e) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:
1. Description of interim and permanent stabilization practices, including a BMP implementation schedule. The erosion and sediment control plan shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
 2. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the City Engineer, structural measures shall be installed on upland soils.
 3. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
 4. Trapping of sediment in channelized flow.

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5. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
 6. Protection of downslope drainage inlets where they occur.
 7. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
 8. Clean up of off-site sediment deposits.
 9. Proper disposal of building and waste material.
 10. Stabilization of drainage ways.
 11. Installation of permanent stabilization practices as soon as possible after final grading.
 12. Minimization of dust to the maximum extent practicable.
- (f) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.
- (3) **EROSION AND SEDIMENT CONTROL PLAN AMENDMENTS.** The applicant shall amend the erosion and sediment control plan if any of the following occur:
- (a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the erosion and sediment control plan.
 - (b) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.
 - (c) The City Engineer notifies the applicant of changes needed in the erosion and sediment control plan.

(K) FEE SCHEDULE.

Applicable fees referred to in other sections of this ordinance shall be established by the Common Council and may from time to time be modified by resolution. A schedule of any applicable fees is established by the Administrative Fee Schedule.

(L) INSPECTION.

If land disturbing construction activities are occurring without a permit required by this ordinance, the City Engineer may enter the land pursuant to the provisions of ss. 66.0119 (1), (2), and (3), Wis. Stats.

(M) ENFORCEMENT.

- (1) The City Engineer may post a stop work order if any of the following occurs:
 - (a) Land disturbing construction activity regulated under this ordinance is occurring without a permit.
 - (b) The erosion and sediment control plan is not being implemented in good faith.
 - (c) The conditions of the permit are not being met.

- (2) If the responsible party does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the City Engineer may revoke the permit.
- (3) If the responsible party, where no permit has been issued or the permit has been revoked, does not cease the activity after being notified by the City Engineer, or if a responsible party violates a stop work order posted under sub. (1), the City Engineer may request the city attorney to obtain a cease and desist order in any court with jurisdiction.
- (4) The City Engineer may retract the stop work order issued under sub. (1) or the permit revocation under sub. (2).
- (5) After posting a stop work order under sub. (1), the City Engineer may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The City Engineer may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the City Engineer, plus interest at the rate authorized by the City Engineer shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.
- (6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than [amount] nor more than [amount] and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- (7) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

(N) APPEALS.

- (1) **BOARD OF ZONING.** The board of zoning created pursuant to section 4.10 of the city's ordinance pursuant to Sec. 62.23 (7) (e), Wis. Stats.:
 - (a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City Engineer in administering this ordinance except for cease and desist orders obtained under SEC. (M) (3).
 - (b) May authorize, upon appeal, variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
 - (c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (2) **WHO MAY APPEAL.** Appeals to the Board of Appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the City of South Milwaukee affected by any decision of the City Engineer.

(O) SEVERABILITY.

If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.

15.95 FLOOD PLAIN REGULATIONS. (Repealed and Recreated, 1974, 7/15/2008)

(1) STATUTORY AUTHORIZATION- FINDING OF FACT- STATEMENT OF PURPOSE AND TITLE.

(A) Statutory Authorization. This ordinance for flood plain protection is adopted pursuant to the authorization contained in Sections 62.23 and 59.97 and 87.30 of the Wisconsin Statutes.

(B) Finding of Fact. The uncontrolled use of the flood plains, rivers or streams of the City of South Milwaukee, Wisconsin adversely affect the public health, safety, convenience and general welfare and impairs the tax base of the city.

(C) Statement of Purpose. The purpose of these rules is to provide a uniform basis for the preparation, implementation and administration of sound flood plain regulations for all flood plains in the City of South Milwaukee to:

1. Protect life, health and property.
2. Minimize expenditures of public monies for costly flood control projects.
3. Minimize rescue and relief efforts.
4. Minimize business interruptions.
5. Minimize damage to public facilities on the flood plains such as water mains, sewer lines, streets and bridges.
6. Minimize the occurrence of future flood blight areas on flood plains.
7. Discourage the victimization of unwary land and home buyers.
8. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners.
9. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(D) Title - South Milwaukee Flood Plain Ordinance.

(2) GENERAL PROVISIONS.

(A) Areas to be Regulated. Areas regulated by this ordinance include all lands, within the corporate limits of the City of South Milwaukee, Wisconsin, that would be inundated by the "regional flood" defined in the DEFINITIONS of this ordinance.

(B) Official Maps: Based of FIS. The boundaries of the flood plain districts shall be those areas designated on the Flood Insurance Rate Maps (FIRMs) prepared based on the Flood Insurance Study (FIS) report for Milwaukee County, Wisconsin. The FIRMs for the City of South Milwaukee are identified as Map Parcel Numbers 55079C0167E, 55079C0169E, 55079C0186E, 55079C0187E, 55079C0188E, 55079C0189E, Effective Date: September 26, 2008, and are the Official Flood Plain Zoning Maps for the community approved by the Department of Natural Resources and the Federal Emergency Management Agency (FEMA), and are on file in the Office of the City Engineer.

(C) Official Maps & Revisions. The boundaries of all floodplain districts are designated as floodplains or A-Zones on the revisions in the FIRMs. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the City Engineer, City of South Milwaukee. If more than one map or revision is referenced, the most restrictive information shall apply.

(D) Locating Floodplain Boundaries. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to Section 9. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to Section 7 (D)(3) and the criteria in (a) and (b) below.

- (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (b) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to Section 9(A)(6).

(E) Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s.13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

1. Establishment of Districts. The flood plain areas within the jurisdiction of this ordinance are hereby divided into three districts: The Floodway District (FW), Flood Fringe Districts (FF), and General Flood Plain District (GFP) defined as follows:
 - a. The Floodway District consists of the channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge the flood waters or flood flows of any river or stream associated with the regional flood.
 - b. The Flood Fringe District consists of that portion of the flood plain between the regional flood limits and the floodway area.
 - c. The General Flood Plain District consists of the land which has been or may be hereafter covered by flood water during the regional flood and encompasses both the Floodway and Flood Fringe Districts.

Within these districts, all uses not listed as PERMITTED USES shall be prohibited.

2. The flood plain boundary lines on the map shall be determined by the use of the scale appearing on the map. Where there is a conflict between the flood plain boundary illustrated on the map and actual field conditions, the dispute shall be settled according to the Section 7(D)(3) of this ordinance.
3. Compliance with the provisions of this ordinance shall not be grounds for the removal of lands from the flood plain district unless such lands are filled to a height of at least two feet above the elevation of the "regional flood" for the particular area and are contiguous to other lands lying outside the flood plain district, approval has been granted by the Department of Natural Resources pursuant to Section 9 of this ordinance, and where required, an "official letter of map amendment" has been issued by the Federal Emergency Management Agency.

(F) Effect of Flood Plain District Regulations. The regulations set forth in this ordinance for flood plain, flood fringe and floodway districts shall apply to all flood plains, flood fringes and floodways mapped on the “Official Flood Plain Zoning Map”. [See Definition (39)]

(G) Compliance. No new use or change in use of any structure, land or water shall be located, extended, converted or structurally altered, and no development as defined in this ordinance shall commence without full compliance with the terms of this ordinance and other applicable regulations.

(H) Abrogation and Greater Restrictions.

1. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under ss. 59.69, 59.692, or 59.694 for counties; s.62.23 for cities; s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

2. It is not otherwise intended by this ordinance to repeal, abrogate or impair any existing deed restrictions, however, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(I) Interpretation. In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(J) Annexed Areas for Cities and Villages. The Milwaukee County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality’s official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(K) General Development Standards. The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing and air condition equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

(L) Warning and Disclaimer of Liability. The degree of flood protection intended to be provided by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man made or natural causes such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside flood plain zoning district boundaries or land uses permitted within such districts will always be totally free from

flooding or flood damages nor shall this ordinance create a liability on the part of or a cause of action against the City of South Milwaukee or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(M) Severability. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

(N) Special Provisions Applicable to All Flood Plain Districts.

1. No developments shall be allowed in floodway areas which, acting alone or in combination with existing or future similar uses, cause an increase equal to or greater than 0.1 foot in height of the regional flood for any main stem, tributaries to the main stem of any stream, drainage ditches or any other drainage facilities. Said increase shall be calculated using an equal degree of hydraulic encroachment from the hydraulic floodway lines for a hydraulic reach on both sides of a river or stream. Increases equal to or greater than 0.1 foot may be permitted but only if amendments are made to this ordinance, the official floodway lines, water surface profile and flood plain zoning maps pursuant to Section 9 of this ordinance;

2. No developments in flood fringe areas shall materially affect the storage capacity of flood plains based upon an equal degree of hydrologic encroachment (volume of the storage area which is lost). For the purpose of this subsection, "materially" is defined as any increase in discharge of the regional flood which causes a rise in the water surface profile of 0.1 foot. Such development may be permitted only if amendments are made to this ordinance pursuant to Section 9 herein;

3. All subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is the lesser, shall include within the means to provide adequate surface drainage and to minimize flood damage. Where the estimated cost of such development exceeds \$75,000, and for all subdivision proposals, the applicant shall provide all necessary computations to show the effects of the proposal(s) on flood heights, velocities and flood plain storage. The provisions of Section 7(E) shall apply hereto.

4. Utility facilities such as dams, flowage areas, transmission lines, pipelines and water monitoring devices are permitted subject to regulations pursuant to Chapter 30, and 31, Wisconsin Statutes, and applicable federal regulations.

5. A map showing location and details of vehicular access to lands outside the floodplain;
and

6. A surface drainage plan showing how flood damage will be minimized.

7. Navigational and drainage aids such as channels, channel markers, buoys and other such devices are permitted provided that prior to any alteration or relocation of a watercourse, the City Administrator shall notify adjacent communities, the Department of Natural Resources and the Federal Emergency Management Agency (FEMA) and require the applicant to secure necessary permits. The flood carrying capacity within the altered or relocated portion of any water course shall be maintained.

8. Other water related uses such as docks, piers, wharves, bridges, culverts and river crossings of transmission lines are permitted subject to any pier or dockline regulations or any other regulations that are required pursuant to Chapter 30, and Chapter 31, Wisconsin Statutes, and applicable federal regulations.

9. The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (10) are met.

10. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Section 9.0.

Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

(3) WATERCOURSE ALTERATIONS

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

(4) REGIONAL FLOODWAY DISTRICT (FW)

(A) APPLICABILITY. The provisions of this section shall apply to all areas within the Regional Floodway District as shown on the Official Flood Plain Zoning Maps and to the floodway portion of the General Flood Plain District as determined pursuant to Section 7(E) of this ordinance.

(B) DESCRIPTION OF DISTRICT. The Regional Floodway District shall include mapped floodway areas so designated on the Official Flood Plain Zoning Map [See Definition (39)] showing the regional flood limits which are based on the Flood Hazard Boundary Maps or Flood Insurance Study Maps prepared by the Federal Emergency Management Agency (FEMA). All such maps shall be approved by the Department of Natural Resources and the Federal Emergency Management Agency (FEMA).

(C) PERMITTED USES. The following open space uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodway District and in the floodway portion of the General Flood Plain District provided that they are not prohibited by any other ordinance and provided further that they meet all of the standards contained in Section 4 (D) and an occupancy permit has been issued by the Building Inspector.

1. Nonstructural, industrial, commercial uses such as loading areas, parking areas, airport landing strips.
2. Nonstructural private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, fish hatcheries, fishing areas and hiking trails.
3. Uses or structures accessory to open space uses.
4. Marinas, boat rentals, docks, piers, wharves.

5. Railroads, streets, bridges, pipelines and other water related uses such as culverts and river crossings of transmission and other public utility lines and any uses subject to regulations pursuant to Chapter 30 and Chapter 31, Wisconsin Statutes.
6. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
7. Uses or structures accessory to open space uses, or classified as historic structures that comply with Section 4(D).
8. Extraction of sand, gravel or other materials that comply with Section 4 (D)(8).

(D) STANDARDS FOR DEVELOPMENTS.

1. Any development in floodway areas shall comply with Section 2 and have a low flood damage potential.
2. Applicants shall provide the following data to determine the effects of the proposal according to Section 2:
 - a) A cross-section evaluation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - b) An analysis calculating the effects of this proposal on regional flood height.
3. The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.
4. All of the provisions of Section 2 (N) shall apply hereto.
5. Structures which are accessory to permitted open space uses or functionally dependent on a waterfront location may be permitted providing the structures:
 - a. Are not designed for human habitation.
 - b. Have a low flood damage potential.
 - c. Are to be constructed and placed on the building site so as to offer minimum obstruction to the flow of flood waters. Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of flood waters and will be placed with their longitudinal axes approximately on the same line as those adjoining structures.
 - d. Are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river.
 - e. Have all service facilities such as electrical and heating equipment at or above the flood protection elevation for the particular area.

6. Uses permitted by the Department of Natural Resources pursuant to Chapters 30 and 31, Wisconsin Statutes, provided that the necessary permits are obtained and amendments approved by the City of South Milwaukee to the official floodway lines, water surface profiles, flood plain zoning maps and flood plain zoning ordinance.
7. Public utilities, streets and bridges provided that:
 - a. Adequate flood proofing measures are provided to the flood protection elevation.
 - b. Construction shall not cause any increase of 0.1 foot or greater in the height of the regional flood.
 - c. The City of South Milwaukee amends its water surface profiles, flood plain zoning maps and flood plain zoning ordinances to reflect any changes resulting from such ordinances. DNR and FEMA must approve any amendments to water surface profiles, etc. prior to the amendment becoming effective.
8. Fills or deposition of materials may be permitted provided that:
 - a. The provisions of Section 2(N)(1) are met.
 - b. Fill or deposition of materials does not encroach on the channel area between the ordinary high water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Chapter 30, Wisconsin Statutes, and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met.
 - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading sufficient to prevent erosion and leachate.
9. The fill is not classified as a solid or hazardous material.

(5) REGIONAL FLOOD FRINGE DISTRICT (FF)

(A) **APPLICABILITY.** The provisions of this section shall apply to all areas within the Regional Flood Fringe District as shown on the official flood plain zoning maps and to those portions of the General Flood Plain District that are determined to be in the flood fringe area pursuant to Section 7 (E) of this ordinance.

(B) **DESCRIPTION OF DISTRICT.** The Regional Flood Fringe District shall include the "A" Zones so designated on the Official Flood Plain Zoning Map showing the regional flood limits which are based on the Flood Hazard Boundary Maps or Flood Insurance Study Maps prepared by the Federal Emergency Management Agency. All such maps shall be approved by the Department of Natural Resources and the Federal Emergency Management Agency.

(C) PERMITTED USES. The following uses shall be permitted uses within the Flood Fringe District and flood fringe portions of the General Flood Plain District.

1. Any structures, land use or development may be permitted to the extent that they are not prohibited by this or any other ordinance or any other federal, state or local regulations and provided that an occupancy permit has been issued by the Building Inspector.

(D) STANDARDS FOR DEVELOPMENT IN FLOOD FRINGE AREAS.

1. All of the provisions of Section 2 (H) shall apply hereto.
2. Residential Uses.

Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards:

- a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
- b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
- c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).
- d. In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 - 1) The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - 2) The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

3. Accessory Structures or Uses.

- a) Except as provided in par. (b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
- b) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of Sections 4 (D)(5) and 5 (D).

4. Commercial.
In commercial areas, any structure or building which is to be erected, constructed, reconstructed, added to or moved into the flood fringe area shall meet the requirements of Section 4D(2)(a). Certain yards, parking lots and other accessory land uses may be at lower elevations if an adequate warning system exists to protect life and property. However, no such area in general use by the public shall be inundated to a depth greater than two feet or subjected to flood velocities greater than four feet per second upon the occurrence of the regional flood.
5. Public Utilities, Streets and Bridges.
All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
 - a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with Section 7 (F) to the flood protection elevation;
 - b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
6. Sewage Systems.
All on-site sewage disposal systems shall be floodproofed, pursuant to Section 7(F), to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
7. Wells.
All wells shall be floodproofed, pursuant to Section 7 (F), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
8. Solid Waste Disposal Sites.
Disposal of solid or hazardous waste is prohibited in floodfringe areas.
9. Deposition of Materials.
Any deposited material must meet all the provisions of this ordinance.
10. Manufactured Homes.
 - (a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - (b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 1. have the lowest floor elevated to the flood protection elevation; and
 2. be anchored so they do not float, collapse or move laterally during a flood.

(c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in Section 5 (D)(2).

11. Mobile Recreational Vehicles.

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Section 5 (D)(10). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached addition.

12. Manufacturing and Industrial.

Manufacturing and industrial buildings, structures and accessory uses shall be elevated or flood proofed in accordance with Section 6E to two feet above the regional flood elevation. Measures shall be taken to minimize interference with normal plant operations especially for streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be lower elevations subject to requirements set out in Section 5 (D)(4).

13. The storage or processing of materials that are buoyant, flammable, explosive, or which in times of flooding could be injurious to human, animal, or plant life, shall be at or above the flood protection elevation for the particular area or flood proofed in compliance with Section 7 (F) of this ordinance.

14. Utilities

Construction and substantial improvements to utilities may be permitted provided that they are flood proofed to the flood protection elevation pursuant to Section 6(E).

15. Permitted Uses

Pursuant to Section 7 (E) it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway Section 4 (C) and floodfringe areas Section 5 (C) are allowed within the general floodplain district, according to the standards of Section 4 (D), provided that all permits or certificates required under Section 7 (A) have been issued.

(6) NONCONFORMING USES.

(A) GENERAL. Insofar as the standards in this section are not inconsistent with the provisions of Section 62.23 (7)(h), Wisconsin Statutes, they shall apply to all nonconforming uses. The existing lawful use of structure or building or its accessory use or accessory structure which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

1. No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this section. For the purposes of this section, the words "modification" and "addition" shall include but not be limited to any alteration, addition, modification, rebuilding or replacement of any such existing structure or accessory use. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or

replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

2. If a nonconforming use is discontinued for 12 consecutive months, any future use of the structure or building shall conform with the appropriate provisions of this ordinance for floodway and flood fringe areas.

3. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

4. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 5 (D)(2). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

5. (a) Except as provided in sub. (D)(2), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds 50% of the structure's present equalized assessed value.

(b) For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44CFR Part 60), or the regulations promulgated thereunder.

6. A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with Section 4 (D), flood resistant materials are used, and construction practices and floodproofing methods that comply with Section 7 (F) are used.

(B) FLOODWAY AREAS.

1. No modifications or additions shall be allowed to any existing structures which are not in compliance with permitted floodway standards or uses unless such modifications or additions meet all of the following criteria:

a. The modifications or additions to a structure will not increase the amount of obstruction to flood flows pursuant to Section 4 (D) of this ordinance.

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- b. Any addition to a structure shall be flood proofed, pursuant to Section 6 (E) by means other than the use of fill to the flood protection elevation.
- c. No structural repairs, modifications or additions to a structure which are equal to or exceed over the life of the structure 50% of its equalized assessed value shall be allowed unless the entire structure is permanently changed to a conforming use.
- d. If any nonconforming structure is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless permanently changed to a conforming use. For the purposes of this subsection, restoration is deemed impractical where the total cost of such restoration would be equal to or exceed, over the life of the structure, 50% of its equalized assessed value.
- e. Will not increase the obstruction to flood flows or regional flood height.
- f. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - 1) The enclosed area shall be designated by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - 2) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials.
 - 3) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - 4) The use must be limited to parking or limited storage.
- g. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
- h. No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR811 and NR 812, Wis. Adm. Code.

(C) FLOOD FRINGE AREAS.

1. All modifications or additions to any nonconforming structure which do not exceed 50% of its assessed value shall be protected by flood proofing measures pursuant to Section 6 (E) of this ordinance. No structural modification or addition to any nonconforming structure, which over the life of the structure exceeds fifty (50) percent of its assessed value, shall be allowed unless the entire structure is permanently changed to a conforming use. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in Section 5 (D), except where Section 6 (C) (2) is applicable.

2. Where compliance with the provisions of par. (1) above would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in Section 7 (D), may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- a. No floor is allowed below the regional flood elevation for residential or commercial structures;
- b. Human lives are not endangered.
- c. Public facilities such as water or sewer are not to be installed.
- d. Flood depths may not exceed two feet.
- e. Flood velocities will not exceed two feet per second.
- f. The structure will not be used for storage of materials described in Section 5 (D) (13).

3. If a variance is granted, the community shall notify the property owner that increased flood insurance premiums may result.

4. If neither of the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:

- a. Meets all other regulations and will be granted by permit or variance;
- b. Does not exceed 60 square feet in area; and
- c. In combination with other previous modifications or additions to the building, does not exceed 50% of the present equalized assessed value of the building.

5. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83 Wis. Adm. Code.

6. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Cod

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- (7) ADMINISTRATION. This ordinance provides for the appointment of appropriate boards and staff and the development of necessary policies and procedures to administer the Flood Plain Zoning Ordinance in accordance with this section. The Board of Appeals appointed under Section 15.18 of the South Milwaukee Municipal Code pursuant to the provisions of Section 62.23 (7) of the Wisconsin Statutes shall administer the Flood Plain Zoning Ordinance.
- (A) The City Administrator and the Building Inspector shall exercise the following duties and powers:
1. Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications.
 2. Issue permits and inspect properties for compliance with this ordinance and issue Certificates of Compliance when appropriate.
 3. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 4. Keep the official records of:
 - a. All water surface profiles, flood plain zoning maps, flood plain zoning ordinances, nonconforming uses and structures and changes thereto, permit applications, permits, appeals, variances and amendments, records of water surface profiles, related to the Flood Plain Zoning Ordinance.
 - b. All substantial damage assessment reports for floodplain structures.
 5. Submit copies of the following items to the Department Regional office:
 - a. Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - b. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
 6. Submit copies of any required data, variances, amendments, case-by-case analyses, annual reports and any other required information to the Department of Natural Resources. An annual summary showing only the number and types of zoning actions taken by the county, city or village shall be submitted to that department by the City Administrator.
 7. Investigate, prepare reports and report violations of the Flood Plain Zoning Ordinance to the Ordinances and Legislation Committee and to the City Attorney with copies to the Regional district office of the Department of Natural Resources.
 8. Submit copies of map and text amendments and biennial reports to the Federal Emergency Management Agency.
 9. Maintain on file a list of all documentation of certified elevations.

10. Administrative Procedures.

- a. Occupancy Permit – An occupancy permit shall be obtained from the Building Inspector before any new land use, change in use or development as defined in Section 11 (A)(12), subject to the provisions of this ordinance may be initiated. An application for an occupancy permit shall be made to the Building Inspector upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

Name and address of the applicant and property owner; legal description of the property and type of proposed area; a sketch showing the dimensions of the lot and locations of buildings from lot line, center line of abutting highways and high-water mark of any abutting watercourse.

- b. Certificate of Compliance - No development as defined in this chapter shall take place, no vacant land in the flood plain shall be occupied or used and no building hereafter erected, altered or moved, shall be occupied until the applicant obtains an Occupancy Permit from the Building Inspector. The Building Inspector shall require that the applicant submit a certification by a registered professional engineer or architect that the finished fill and building floor elevations and other flood plain regulatory factors were accomplished in compliance with appropriate flood plain zoning provisions and other flood plain regulations. The applicant shall submit such certification for all new construction and substantial improvements. Upon written request from the owner, the Building Inspector shall issue an Occupancy Permit for any building or premises existing at the time of the adoption of this ordinance certifying, after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions for this ordinance.
- c. Other Permits – It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state and local agencies, including those required under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1344.

(B) LAND USE PERMITS

A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

1. General Information.
 - a) Name and address of the applicant, property owner and contractor;
 - b) Legal description, proposed use, and whether it is a new construction or a modification;

2. Site Development Plan.

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- a) Location, dimensions, area and elevation of the lot;
- b) Location of the ordinary highwater mark of any abutting navigable waterways;
- c) Location of any structures with distances measured from the lot lines and street center lines;
- d) Location of any existing or proposed on-site sewage systems or private water supply systems;
- e) Location and elevation of existing or future access roads;
- f) Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- g) The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study- either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
- h) Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Section 4 or 5 are met; and
- i) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Section 2 (N) (9). This may include any of the information noted in Section 4 (D).

3. Data Requirements to Analyze Developments.

a) The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as “subdivision” is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

- 1) An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
- 2) A map showing location and details of vehicular access to lands outside the floodplain; and
- 3) A surface drainage plan showing how flood damage will be minimized.

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The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

4. Expiration.

All permits issued under the authority of this ordinance shall expire 30 days after issuance.

(C) The Ordinances and Legislation Committee shall be appointed and given the duties and powers to:

1. Oversee the functions of the Office of the Building Inspector.
2. Review and recommend to the Common Council all proposed amendments to the flood plain ordinance maps and text.
3. Maintain a complete public record of all proceedings.

(D) BOARD OF APPEALS. The appropriate board created under Chapter 62.23 (7) of the Wisconsin Statutes and Section 15.18 of the Municipal Code is hereby authorized to act as the Board of Appeals. The Zoning Administrator may not act as secretary to the Board. The powers of the Board of Appeals shall be pursuant to Chapter 62.23 (7) of the Wisconsin Statutes.

1. Appeals to the Board – Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the Building Inspector. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board by filing with the Building Inspector and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

2. Hearing Appeals

a. The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof by publishing in the official newspaper of the City of South Milwaukee, a Class II Notice pursuant to Chapter 985, Wisconsin Statutes, specifying the date, time and place of hearing and the matters to come before the Board; as well as mailed notices to the parties at interest. The Board must assure that notice shall be mailed to the parties in interest and the Departmental Regional office at least 10 days in advance of the hearing.

b. Hearing – Any party may appear in person or by agent. The Board shall:

- 1) Resolve boundary disputes according to Section 7 (D) (3).
- 2) Decide variance applications according to Section 7 (D)(4).
- 3) Decide appeals of permit denials according to Section 7 (D)(5).

c. A decision regarding the appeal shall be made as soon as practicable.

- d. The final disposition of an appeal or application to the Board of Appeals shall be in the form of a written resolution or order signed by the Secretary of the Board. Such resolution shall state the specific facts which are the basis for the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for the lack of jurisdiction or prosecution, or grant the application. The final decision regarding the appeal or variance application shall include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.
 - e. A copy of all decisions by the Board of Appeals shall be sent to the Department Regional office within 10 days of the decision.
3. Mapping and Boundary Disputes - The Board may hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map. The following procedures shall be used by the Zoning Board of Appeals in disputes of a flood plain zoning district boundary:
 - a. Flood District Boundaries – When the location of the flood plain or floodway district boundary is established by experience flood maps or engineering studies pursuant to Section 4 (B) or 5 (B) of this ordinance, the flood elevations or “flood profiles” for the point in question shall be the governing factor in locating the district boundary. If no elevation or profiles are available to the board, any other available evidence may be examined.
 - b. In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board of Appeals and if he chooses, submit his own technical evidence. The Board shall not allow deviations from the boundary line as mapped unless the evidence clearly and conclusively establishes that the mapped location of the line is incorrect, approval has been granted by the Department of Natural Resources, and an official letter of map amendment has been issued by the Federal Emergency Management Agency.
 4. Variance – The Board may hear and decide, upon appeal, variances from the ordinance standards. Any deviation from the standards of this ordinance for which a permit has been denied by the Building Inspector may be allowed only upon written request for a variance submitted to the Building Inspector, Public Hearing and issuance of a variance from the Board of Appeals. The board may authorize in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance:
 - a. Shall be consistent with the spirit and intent of this Flood Plain Zoning Ordinance.
 - b. Shall not permit any changes in established flood elevations or profiles.
 - c. Shall not be granted for a use that is common to a group of adjacent lots or premises. (In such a case, the Zoning Ordinance would have to be amended through proper procedure.)

- d. Shall not be granted unless it is shown that the variance will not be contrary to the public interest or damaging to the rights of other persons or property values in the area.
 - e. Shall not be granted for actions which require an amendment to the Flood Plain Zoning Ordinance.
 - f. Shall not have the effect of allowing or expanding a use or structure which is prohibited in the zoning district by the Flood Plain Zoning Ordinance.
 - g. Shall not be granted solely on the basis of economic gain or loss.
 - h. Shall not be granted for a self-created hardship.
 - i. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 - j. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
 - k. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.
5. To Review Appeals of Permit Denials:
- a. The Plan Commission shall review all data related to the appeal. This may include:
 - 1. Permit application data listed in Section 7 (B).
 - 2. Floodway/floodfringe determination data in Section 5(A).
 - 3. Data listed in Section 4 (D)(2) where the applicant has not submitted this information to the zoning administrator.
 - 4. Other data submitted with the application, or submitted to the Board with the appeal.
 - b. For appeals of all denied permits the Board shall:
 - 1. Follow the procedures of Section 7(D);
 - 2. Consider zoning agency recommendations; and
 - 3. Either uphold the denial or grant the appeal.
 - c. For appeals concerning increases in regional flood elevation the Board shall:
 - 1. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

2. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

(E) PROCEDURES FOR DETERMINING FLOODWAY AND FLOOD FRINGE LIMITS.

1. Applicability – When any developments are proposed within a General Flood Plain District, a determination shall be made to establish the boundaries of the floodway and determine whether floodway or flood fringe uses apply, and where applicable, to determine the regional flood elevation.
2. Upon receiving an application for development, the Building Inspector shall:
 - a. Require the applicant to submit, at the time of application, two copies of an aerial photograph or a plan which accurately locates the flood plain proposal with respect to the flood plain district limits, channel of stream, existing flood plain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures.
 - b. Require the applicant to furnish any of the following additional information as is deemed necessary by the Department of Natural Resources for evaluation of the effects of the proposal upon flood flows and to determine the boundaries of the floodway and, where applicable, the regional flood elevation:

A typical valley cross-section showing the channel of the stream, the flood plain adjoining each side of the channel, cross-sectional area to be occupied by the proposed development and high water information.

Plan (surface views) showing elevations or contours of the ground, pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site, location and elevations of streets, water supply, sanitary facilities, soil types and other pertinent information.

Profile showing the slope of the bottom of the channel of flow line of the stream.

Specifications for building construction and materials, flood proofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.
 - c. Transmit one copy of the information described in Subsections (a) and (b) to the Department of Natural Resources along with a written request to have that agency provide technical assistance to establish floodway boundaries and, where applicable, provide regional flood elevation. Where the provisions of Section 2(N) of this ordinance apply, the applicant shall provide all required information and computations.

- (F) FLOOD PROOFING. Flood proofing measures such as the following shall be designed consistent with the flood protection elevation for the particular area as described in Section 11 (A) (28) to withstand the flood velocities, forces and other factors associated with the flood protection elevation. The applicant shall submit a plan or document certified by a registered professional engineer or architect the flood proofing measures are adequately designed to protect to the flood protection elevation for the particular area. All flood proofing shall provide anchorage to resist flotation and lateral movement. Other flood proofing measures may include:

1. Installation of watertight doors, bulkheads and shutters.
2. Reinforcement of walls and floors to resist pressures.
3. Use of paints, membranes or mortars to reduce seepage of water.

The above Section 7 (F) (1), (2) and (3) shall insure that structural walls are watertight which shall be the minimum standard for certification pursuant to Section 7 (F) above.

4. Addition of mass or weight to structures to prevent flotation.
5. Placement of essential utilities above the flood protection elevation.
6. Pumping facilities and/or subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures and to lower water levels in structures.
7. Construction of water supply and waste treatment systems to prevent the entrance of flood water.
8. Construction to resist rupture or collapse caused by water pressure or floating debris.
9. Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

(8) PUBLIC INFORMATION.

- (A) Place marks on structures to show the depth of inundation during the regional flood.
- (B) All maps, engineering data and regulations shall be available and widely distributed.
- (C) All real estate transfers should show what floodplain zoning district any real property is in.

(9) AMENDMENTS.

(A) GENERAL. The Common Council of the City of South Milwaukee, Wisconsin may from time to time alter, supplement or change the boundaries of use districts and regulations contained in the ordinance in the manner provided by law. Official amendments are required for any changes in the official floodway lines, water surface profiles, flood plain zoning maps or Flood Plain Zoning Ordinance. Actions which require an amendment include, but are not limited to, the following:

1. Any change in the official floodway lines or in the boundary of the flood plain area.
2. Settlement of conflicts between the water surface profiles and flood plain zoning maps in accordance with Section 7 (D) (3) of this ordinance.
3. Any fill or encroachment into the floodway which will result in raising the elevation of an area in the floodway to a height at or above the area elevation of the regional flood.

4. Any fill or encroachment that will cause a change equal to or greater than 0.1 foot in the water surface profiles of the regional flood.
5. Any upgrading of Flood Plain Zoning Ordinances required by law.
6. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
7. Amendments to this ordinance may be made upon petition of any interested party in accordance with the provisions of Section 62.23 of the Wisconsin Statutes. Such petitions shall include any necessary data required by Sections 7 (E)(2) and 2 (N)(2) of this ordinance.

(B) **AMENDMENT PROCEDURE.** Copies of any amendment proposed to the Common Council shall be referred to the City Plan Commission which shall be forwarded, together with the first notice of the Public Hearing thereon, to the main office and appropriate district office of the Department of Natural Resources and of the Federal Emergency Management Agency. The amendment procedure shall comply with provisions of Section 62.23, Wisconsin Statutes. No amendment to the text or maps shall become effective until approved by the Department of Natural Resources, the Federal Emergency Management Agency and, in the case of map amendments, until an official letter of map amendment has been issued by the Federal Emergency Management Agency.

(10) **ENFORCEMENT AND PENALTIES.**

Any violations of the provisions of this ordinance by any person, firm, association, corporation (including building contractors) or his or their agent, shall be unlawful and shall be forwarded to the City Attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the City of South Milwaukee a penalty of not less than \$50 and not more than \$200 together with the cost of such action. Each day such violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the City of South Milwaukee, state or any citizen thereof pursuant to s. 87.30, Stats.

(11) **DEFINITIONS.**

(A) Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have at common law and to give this ordinance its most reasonable application.

1. **"A" Zones** – Those areas shown on a community's "Official Flood Plain Zoning Map" which would be inundated by the "base flood" or "regional flood" as defined herein. These areas are designated on the map as "A" Zones. The "A" Zones may or may not be reflective of flood profiles depending on the availability of data for a given area.
2. **Accessory Use** – An accessory use is any facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
3. **Base Flood** – A flood having a one percent chance of being equaled or exceeded in any given year. (See also Regional Flood)

4. Base Flood Elevation – An elevation equal to that which reflects the height of the base flood as defined in (3) above.
5. Basement – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
6. Board of Appeals – The body established under Chapter 62.23(7), Wisconsin Statutes, and designated as the “Board of Appeals”.
7. Bulkhead Line – A geographic line along a reach of navigable body of water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11, Wisconsin Statutes, and which allows complete filling on the landward side except where such filling is prohibited by the floodway provisions of this ordinance.
8. Certificate of Compliance – A certification by the Building Inspector that a structure, use of development is in compliance with all provisions of this ordinance.
9. Channel - A channel is a natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.
10. Crawlways or crawl space – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
11. Deck – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
12. Development – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
13. Dryland access – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
14. Encroachment – An encroachment is any fill, structure, building, accessory use, use or development in the floodway.
15. Encroachments/Floodway Lines – Encroachment lines are limits of obstruction to flood flows. These lines are on both sides and generally parallel to the stream. The lines are established by assuming that the area landward (outside) of the encroachment lines will be ultimately developed in such a way that it will not be available to convey flood flows.

16. Equal Degree of Hydraulic Encroachment – The effect of any encroachment into the floodway must be computed by assuming an equal degree of hydraulic encroachment on the other side of a river or stream for a significant hydraulic reach. This computation assures that property owners up, down or across the river of hydraulic encroachment. Encroachments are analyzed on the basis of the effect upon hydraulic conveyance but upon the distance the encroachment extends into the floodway.
17. Federal Emergency Management Agency (FEMA) – The federal agency that administers the National Flood Insurance Program.
18. “Flood” or “Flooding” - A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - a) The overflow or rise of inland waters,
 - b) The rapid accumulation or runoff of surface waters from any source,
 - c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
 - d) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
19. Flood Fringe – The flood fringe is that portion of the flood plain outside of the floodway which is covered by flood waters during the regional flood; it is generally associated with standing water rather than rapidly flowing water.
20. Flood Hazard Boundary Map – A map prepared by the Federal Emergency Management Agency, designating areas of special flood hazard within a given community. Flood hazard areas are designated as “A” Zones. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.
21. Flood Frequency - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
22. Flood Insurance Rate Map (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
23. Flood Insurance Study – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

24. Flood Insurance Study Map – A map prepared by the Federal Emergency Management Agency, designating areas of special flood hazard and flood insurance rate zones for a given community. Flood hazard and insurance rate zones are designated as “A” Zones. Said map forms the basis for the regulatory and/or the insurance aspects of the National Flood Insurance Programs.
25. Flood Plain – The flood plain is the land which has been or may be hereafter covered by flood water during the regional flood. The flood plain includes the floodway and the flood fringe.
26. Flood Profile - A graph or longitudinal profile showing the relationship of the water surface elevation of a flood event to locations along a stream or river.
27. Flood Proofing – Flood proofing involves any combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the purpose of reducing or eliminating flood damage to properties, water and sanitary facilities, structures and contents of buildings in flood hazard areas.
28. Flood Protection Elevation – The flood protection elevation shall correspond to a point two feet of freeboard above the water surface profile associated with the regional flood and the official floodway lines. Also see “Freeboard”.
29. Floodway – The floodway is the channel of a river or stream and those portions of the flood plain adjoining the channel required to carry and discharge the flood water or flood flows associated with the regional flood.
30. Freeboard – “Freeboard” is a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include but are not limited to ice jams, debris openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of the river or stream bed.
31. Habitable Structure – Any structure or portion thereof used or designed for human habitation.
32. Historic Structure – Any structure that is either:
 - a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
 - b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
 - c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or

- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
33. Land Use - Any “development” as defined in Section 11 (A) (12).
34. National Geodetic Vertical Datum – (NGVD) – Elevations referenced to mean sea level datum, 1929 adjustment.
35. New Construction – For floodplain management purposes, “new construction” means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
36. Nonconforming Structure – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
37. Nonconforming Use – A nonconforming use is an existing lawful use of a structure, building or accessory use which is not in conformity with the provisions of the Flood Plain Zoning Ordinance for the area of the flood plain which it occupies.
38. North American Vertical Datum – (NAVD) – Elevations referenced to mean sea level datum, 1988 adjustment.
39. Official Flood Plain Zoning Map – That map, adopted and made part of this ordinance, which has been approved by the Department of Natural Resources and the Federal Emergency Management Agency and which delineates those areas which would be inundated by the base or regional flood, including but not limited to, numbered and unnumbered “A” Zones and where applicable, floodways.
40. Official Letter of Map Amendment – Official notification from the Federal Emergency Management Agency that a Flood Hazard Boundary Map or Flood Insurance Study Map has been amended.
41. Reach – Hydraulic – A hydraulic reach along a river or stream is that portion of the river of stream extending from one significant change in the hydraulic character of the river or stream to the next significant change. These changes are usually associated with breaks in the slope of the water surface profile, and may be caused by bridges, dams, expansion and contraction of the water flow, and changes in stream bed slope or vegetation.
42. Regional Flood – The regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once every 100 years; this means that in any given year, there is a 1% chance that the regional flood may occur or be exceeded. During a typical 30-year mortgage period, the regional flood has a 26% change of occurrence.

43. Start of Construction – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.
44. Storage Capacity of a Flood Plain - The volume of space above an area of flood plain land that can be occupied by flood water of a given stage at a given time regardless of whether the water is moving.
45. Structure - Anything constructed or erected, the use of which requires a permanent or temporary location on or in the ground, stream bed or lake bed, which includes but is not limited to objects such as buildings, factories, sheds and cabins, mobile homes, gas or liquid storage tanks, bridges or culverts.
46. Substantial Damage – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
47. Substantial Improvement - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the assessed value of the structure, either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either: (a) Any project for state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (b), any alterations of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components.
48. Unnecessary Hardship – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density necessarily burdensome or unreasonable in light of the purposes of this ordinance.
49. Utilities – Any public water supply or waste collection system including but not limited to public wells and their attendant facilities and public sewage collection systems and treatment facilities.
50. Variance – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

51. Violation – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
52. Watershed – The entire region contributing runoff or surface water to a watercourse or body of water.
53. Water Surface Profile - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
54. Well – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

Repealed and recreated July 15, 2008, 1974

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