

ARTICLE III. ADMINISTRATION

SECTION 30-5 ENFORCEMENT

(A) Enforcing Officer

The Director of Community Development, or designee, shall serve as the Zoning Administrator. The Zoning Administrator shall enforce the provisions of this Chapter.

(B) Building Permits

- (1) No structure shall hereafter be erected, moved or structurally altered until a building permit therefore shall have been applied for and issued.
- (2) All applications for a building permit shall be accompanied by plans in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing structure and accessory structure, the lines within which the structure shall be erected, altered, or moved, the existing and/or intended use of each structure or part of a structure, the number of families the structure is intended to accommodate, and such other information with regard to the lot and neighboring lots or structures as may be necessary to determine and provide for the enforcement of this Chapter.
- (3) All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the structure thereon shall be staked out on the ground before construction is started.
- (4) Nothing herein contained shall require any change in the plans, construction, size or designated use of any structure or part thereof for which a building permit has been issued before the effective date of this Chapter and the construction of which shall have been started within six (6) months from the date of such permit.

(C) Certificate of Occupancy

- (1) No vacant land shall be occupied or used and no structure hereafter erected, altered or moved shall be occupied nor shall the use of land or structures be changed until a certificate of occupancy has been issued by the Zoning Administrator/Building Inspector. Such certificate shall show that the structure or premises or part thereof and the proposed use thereof are in conformity with the provisions of this Chapter. Such permit shall be issued only when the structure or premises and the proposed use thereof conform with all the requirements of this Chapter.
- (2) The Zoning Administrator/Building Inspector may issue a temporary certificate of occupancy if substantial compliance has been achieved and proper assurances and commitments have been made for timely compliance with all provisions of this Ordinance.
- (3) Upon written request from the owner, the Building Inspector shall issue a certificate of occupancy for any structure or premises existing at the time of adoption of this Ordinance, certifying, after inspection, the extent and kind of use made of the structure or premises and whether or not such use conforms to the provisions of this Chapter.

SECTION 30-6 BOARD OF APPEALS**(A) Organization**

The Board of Appeals shall be organized and governed as provided in Chapter 2 of this Municipal Code.

(B) Appeals: Procedure

(1) Any person feeling aggrieved by any order or ruling of the Director of Community Development or designee may appeal from such order or ruling to the Board of Appeals within fifteen (15) calendar days after written notice of such order or ruling. The date of written notice or ruling shall be the date of mailing of the Official Notice or the date of personal service of the Official Notice. The Notice of Appeal shall be in writing and specify the reasons for the appeal. The Board of Appeals shall act upon the appeal within sixty (60) days of the filing of the Notice of Appeal.

(2) (a) Application for appeal may be made when it is claimed that: the true intent of the Codes or the rules legally adopted thereunder have been incorrectly interpreted; the provisions of the Codes do not apply; enforcement of any provision may cause unnecessary hardship; or specifically in the case of the building or housing code appeals an equally good or better form of construction or repair can be used. All appeals shall be accompanied by supporting data.

(b) Unnecessary hardship means:

- (i) that no feasible use can be made of the property without the granting of the appeal; and
- (ii) that the hardship is something which is unique to this property and not the owner of the property; and
- (iii) that the hardship is not self-created; and
- (iv) that the hardship is not solely economic.

(3) An appeal shall stay all enforcement activities and 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 that by reason of the facts stated in the certificate a stay would in the opinion of the officer, 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 a court of record on application, on notice to the officer from whom the appeal is taken, and upon due cause shown.

(C) Procedures

The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as the Board of Appeals may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Appeals shall take no action except in a specific case and after a public hearing conducted by such Board. Notices of the time and place of such public hearing shall be posted in at least three (3) public places. Notices shall be sent to interested parties as determined by the secretary of the Board of Appeals. There shall be at least a three (3) day period between the time of posting and the time of the meeting excluding the day of posting. Such notice shall contain the particular address or location of the property for which the variance or other ruling by the Board of Appeals is sought, as well as a brief description of the nature of the appeal, and of what the proposed variance consists.

- (1) An appeal for a variance to the Zoning Ordinance may be filed and held only three (3) times in any twelve (12) month period.
- (2) Should a change in circumstances occur within said twelve (12) month period which, in the appellant's opinion, changes the character of the appeal, then the appellant shall, in that event:
 - (a) Submit a request for an additional hearing, outlining the changes in circumstances which have occurred.
 - (b) The Board shall review the request of the appellant and if in the opinion of three (3) members of the Board, there is sufficient change in said circumstances to warrant a hearing, the Zoning Administrator shall schedule said hearing under the normal rules of procedure of the Board of Appeals.
- (3) No order of the Board of Appeals permitting the erection or alteration of a structure shall be valid for a period longer than six (6) months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- (4) No order of the Board of Appeals permitting a use of a structure or premises shall be valid for a period longer than six (6) months, unless such use is established within such period; provided, however, that where such use is dependent upon the erection or alteration of a structure, such order shall continue in force and effect if a building permit for said erection or alteration is started and proceeds to completion in accordance with the terms of such permits.
- (5) The Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such 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 Zoning Administrator, Building Inspector or Housing Inspector. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this Ordinance. In exercising the foregoing powers, the Board of Appeals may in appropriate cases, establish suitable conditions and safeguards in harmony with the general purpose and intent of this Chapter.

(D) Powers

(1) Hear Appeals

To hear and decide appeals where it is alleged there is an error in any order, ruling, requirement, decision or determination made by the Director of Community Development

or designee.

(2) Authorize Variances

To authorize upon appeal in specific cases such variance from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(3) Extend Districts

To permit the extension of a district where the boundary line of a district divides a lot held in single ownership at the time of passage of this Chapter.

(4) Interpret Ordinance

To interpret the provisions of this Chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts accompanying and made a part of this Chapter where the street layout on the ground varies from the street layout as shown on the map aforesaid.

(5) Vary Height and Area Regulations

Vary height and area regulations where there is an exceptional or unusual physical condition of a lot, which condition is not generally prevalent in the neighborhood and which condition when related to the height and area regulations of this Ordinance would present a reasonable or sensible arrangement of structures on the lot.

(6) Vary Parking Regulations

Vary the parking regulations where an applicant demonstrates conclusively that the specific use of a structure would make unnecessary the parking spaces required by this Chapter but providing that such a reduction not be more than twenty-five (25) percent of the usual requirement.

(7) Powers of Board Limited

The Board of Appeals has no other powers than those specified above.

(E) Records and Minutes

The Board of Appeals shall keep minutes of its proceedings, showing the action taken upon each question, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.

SECTION 30-7 CITY PLAN COMMISSION

The City Plan Commission shall be organized and governed as provided in Chapter 2 of this Municipal Code.

SECTION 30-8 AMENDMENT PROCEDURE FOR CHANGING BOUNDARIES AND REGULATIONS

The Common Council may from time to time on its own motion or on petition after first submitting the proposal to the City Plan Commission, amend, supplement, or change the district boundaries or the regulations herein or subsequently established by publication, in the official paper of a Class 2 notice, under Chapter 985, Wis. Stats., of the proposed amendment, supplement or change and of hearing

thereon, and opportunity to any person interested to be heard.

SECTION 30-9 ANNEXATION

Prior to the adoption of any Ordinance annexing property to the City, the City Plan Commission shall recommend to the Common Council the zoning district, or districts, for the property proposed to be annexed. All Ordinances hereafter adopted annexing property to the City shall include a provision which determines the zoning district or districts for the property annexed. (See Section 62.07(1) of the Wisconsin Statutes)

SECTION 30-10 PLATS AND SUBDIVISIONS

Any regular plat or subdivision within the City, in order to receive the approval of the Common Council, must have the streets laid out and graded to a grade established by the City Engineer and approved by the Common Council, which street shall provide access in all lots in the plat and shall be surfaced with gravel or other approved material so as to accommodate ordinary traffic. Any assessor's plats ordered by the Common Council need not conform to the requirements of this Section.

SECTION 30-11 CONDITIONAL USE PERMITS

- (A) Conditional uses may be located in certain districts under certain conditions and structures may be built higher than otherwise allowed with issuance of a conditional use permit by the Common Council after referral to the Plan Commission for recommendation.
- (B) Action by Plan Commission
The Plan Commission shall review a request for a conditional use permit and make a report and recommendation of denial, approval, or approval with conditions it may deem appropriate to the Common Council.
- (C) Action by the Common Council
The Common Council shall act to deny, approve, or approve with conditions any conditional use permit before them for consideration.
- (D) Standards
When reviewing a conditional use permit, the Plan Commission and Common Council shall take into consideration, among other things, the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence that such standards are being satisfied.

No conditional use shall be recommended for approval or approval with conditions by the Plan Commission, and approved or approved with conditions by the Common Council, unless it shall find the conditional use:

- (1) Will not have a negative effect upon the health, safety, and general welfare of occupants of surrounding lands; and
- (2) Will be designed, constructed, operated, and maintained so as to be harmonious, and be appropriate in appearance with the existing or intended character of the general vicinity, and that such a use will not change the essential character of the same area; and

- (3) Will not be hazardous or disturbing to existing or future neighboring uses; and
 - (4) Will not be detrimental to property in the immediate vicinity or to the community as a whole; and
 - (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal and schools and that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service; and
 - (6) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets, alleys, roads, or sidewalks; and
 - (7) Will for M-1 Light Industrial District uses requested in C-2 General Commercial District and C-3 Central Commercial District, provide off-street parking and loading facilities in accordance with Section 30-36(C)(2); and
 - (8) Will for M-1 Light Industrial District uses requested in the C-2 General Commercial District, and C-2 General Commercial District and C-3 Central Commercial District uses requested in C-1 Neighborhood Business District, provide transitional yards devoted to green area in required setbacks, per Section 30-35(B)(1)(c).
- (E) The Common Council may, with the recommendation of the Plan Commission, require additional standards and conditions that may be deemed necessary for the conditional use requested to meet the standards of this Section. Such additional standards and conditions may include, but not be limited to, requirements pertaining to: lot coverage, lot area, setbacks, off-street parking and loading, pedestrian and vehicular access ways, storage, fencing, screening, landscaping, open space, height limitations, lighting, and hours of operation.
- (F) Enumerated throughout this Ordinance are the uses allowed in each district by conditional use permit.
- (G) A conditional use shall lapse and become void one (1) year after approval by the Common Council unless substantial construction has been undertaken or the activity has commenced in accordance with the permit. The approved conditional use permit, unless otherwise specified in the conditions of approval, shall remain in effect as long as the authorized use continues. Prior to the re-establishment of an abandoned use, a new conditional use permit shall be obtained under the terms of this section.
- (H) No application for a conditional use permit which has been denied wholly, or in part by the Common Council, shall be resubmitted for a period of one (1) year from the date of said denial, except on the grounds of new evidence or proof of change of conditions is found to be valid.

SECTION 30-12 TEMPORARY USE PERMITS

(A) Standards

- (1) No temporary use of a structure or site shall be commenced without a temporary use permit first being applied for and issued by the Zoning Administrator.
- (2) All temporary uses of a structure/property shall comply with all underlying district standards of the zoning district, excluding off-street parking regulations in which the temporary use is

located.

- (3) All temporary uses shall not exceed ninety (90) days within a calendar year with said temporary use being discontinued immediately upon expiration of the temporary use permit, except for temporary green houses which may be permitted for one hundred twenty (120) days within a calendar year.
- (4) Temporary uses include, but are not limited to: temporary signs, tents greater than two hundred (200) square feet in area, outside sales activities, fire works stands, Christmas tree sales and other uses/structures which are of a temporary nature (excluding rummage sales) and which are allowed by the underlying zoning district uses/standards where the temporary use is located. Signs for the temporary use are considered a part of the use and shall be covered by the same permit.

Temporary use permits would not be required for the placement of products on the exterior of buildings or structures, when such placement is in conjunction with the principal use of the premises. Temporary use permits would be required, however, for independent vendors who for a short period of time place products on the premises for outdoor sales unrelated to the principal use of the premises.

- (5) All required minimum dimensional standards of the underlying zoning district apply to the placement of any temporary structure/use.
- (6) All temporary use permit applications must be accompanied by information as required by Section 30-5(B)(2).

SECTION 30-13 FEES

Applications shall be filed with the Director of Community Development, or designee, and be in such form and accompanied by such information as required by the Director of Community Development, or designee. Applications will not be accepted unless accompanied by the following fee:

(A)	Conditional Use Permit	\$ 300.00
(B)	Final Plat	\$100.00 plus \$25.00 per lot
(C)	Land Division	\$ 75.00
(D)	Preliminary Plat	\$ 50.00 plus \$1.00 per lot
(E)	Rezoning	\$300.00
(F)	Variance to Subdivision Regulations	\$ 100.00
(G)	Variance or Appeal to Zoning Ordinance	\$ 125.00
(H)	All Other Requests	\$ 75.00
(I)	Privilege in Street.....	\$100.00
(J)	Ordinance Revision/Citizen Request.....	\$200.00

SECTION 30-14 STATE STATUTES AND ADMINISTRATIVE CODE PROVISIONS

Provisions of the Wisconsin Statutes and the Wisconsin Administrative Code adopted by this Chapter are hereby adopted together with any future renumbering, recodification, additions, deletions or supplements thereto, and are herewith incorporated as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in this Chapter, the provisions of this Chapter shall apply.

SECTION 30-15 PENALTIES AND REMEDIES

Any person convicted of a violation of any of the provisions of this Chapter shall for each offense be punished by the forfeitures as set forth, together with the costs of prosecution and in default of payment of such forfeitures and costs, by imprisonment in the County Jail for Winnebago County for the terms hereinafter stated; except that if a different penalty is enumerated by Wisconsin Statutes, as adopted by this Chapter, then the enumerated penalty including alternative penalty for default of payment shall be imposed. Each day a violation exists or continues shall constitute a separate offense.

- (A) General Penalty. Any person who violates any provision of this Chapter for which a specific penalty is not provided below shall be fined not less than Seventy-five Dollars (\$75.00) nor more than Five Hundred Dollars (\$500.00), together with the costs of prosecution, and in default of payment thereof by imprisonment for not exceeding sixty (60) days.
- (B) A forfeiture of not less than One Hundred Twenty-five Dollars (\$125.00) nor more than One Thousand Dollars (\$1000.00), together with the costs of prosecution, and in default of payment thereof by imprisonment for not exceeding six (6) months for a violation of any of the following:

Article XVII. Subdivision Regulations, except for the following:

- (1) Recordation improperly made has penalties provided for in Section 236.30, Wisconsin Statutes.
 - (2) Conveyance of lots in unrecorded plats has penalties as provided for in Section 236.31, Wisconsin Statutes.
 - (3) Monuments disturbed or not placed has penalties as provided for in Section 236.32, Wisconsin Statutes.
- (C) Assessor's Plat may be ordered by the City or County when a subdivision is created by successive divisions as provided in Section 236.31(2), Wisconsin Statutes.
- (D) For violations of Article XV. Floodplain Provisions, see Section 30-66.