

CITY OF OAK CREEK, WI

# ZONING & SIGN ORDINANCE

February 14, 2022 Common Council Hearing

**DRAFT FOR REVIEW ONLY**

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## Article 1. General Provisions

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### Sec. 17.0101. Authority

These regulations are adopted under the authority granted by Sections 62.23(7), 62.231, 87.30, and 144.26 of the Wisconsin Statutes.

### Sec. 17.0102. Purpose

The purpose of this Chapter is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of City of Oak Creek.

### Sec. 17.0103. Intent

It is the general intent of this Chapter to regulate and restrict the use of all structures, lands, and waters, and to:

- (a) Regulate lot coverage and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage;
- (b) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services and utilities;

- (c) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of the streets and highways;
- (d) Secure safety from fire, flooding, pollution, contamination, and other dangers;
- (e) Prevent flood damages to persons and property;
- (f) Minimize expenditures for flood relief and flood control projects;
- (g) Further the maintenance of safe and healthful water conditions;
- (h) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (i) Stabilize and protect existing and potential property values;
- (j) Further the appropriate use of land and conservation of natural resources;
- (k) Preserve and protect the beauty of the community;
- (l) Facilitate the use of solar energy devices and other innovative sustainable development techniques;
- (m) Implement those municipal, county, watershed, and regional comprehensive plans or plan components adopted by the City of Oak Creek; and
- (n) Provide for the administration and enforcement of this Chapter and to provide penalties for its violation.

### **Sec. 17.0104. Abrogation and Greater Restriction**

It is not intended by the provisions of this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. Except as otherwise provided in this Chapter, wherever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

### **Sec. 17.0105. Interpretation**

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

### **Sec. 17.0106. Severability**

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

### **Sec. 17.0107. Warning and Disclaimer of Liability**

The degree of flood protection provided for by this Chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. On rare occasions, larger floods may occur or the flood height may be increased by man-made or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this Chapter does not imply that areas outside the delineated flood lands or uses permitted within the flood lands will be totally free from flooding and the associated flood damages. Nor shall this Chapter create a liability on the part of, or a cause of action against, the City of Oak Creek or any office or employee thereof for any flood damages that may result from reliance on this Chapter.

### **Sec. 17.0108. Title**

This Chapter shall be known as, referred to, or cited as the “ZONING CHAPTER OF THE MUNICIPAL CODE OF ORDINANCES (ZONING CODE), CITY OF OAK CREEK, MILWAUKEE COUNTY WISCONSIN.”

### **Sec. 17.0109. Jurisdiction**

The jurisdiction of this Chapter shall include all lands and waters within the corporate limits of the City of Oak Creek.

### **Sec. 17.0110. Compliance**

No building, structure, land, or water shall hereafter be used or developed and no building, structure, or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the district in which it is located; except that in residence districts, a lot of record as of 12/1/64, even though not meeting the requirements of this Chapter as to area and width, may be used for single family residence purposes.

### **Sec. 17.0111. Municipalities and State Agencies Regulated**

Unless specifically exempted by law all cities, villages, towns, counties, school districts, vocational school districts, the Milwaukee Metropolitan Sewerage District, and other public entities are required to comply with this Chapter and obtain all required permits. State agencies are required to comply if Section 13.48(13) of the Wisconsin Statutes applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt from compliance when Section 30.12(4)(a) of the Wisconsin Statutes applies.

## Article 2. Establishment of Districts

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### Sec. 17.0201. Establishment

For the purpose of this Chapter, the City of Oak Creek is hereby divided into nineteen (19) basic use districts and six (6) overlay districts as follows:

- (a) A-1 Limited Agricultural District
- (b) ER Equestrian Residential District
- (c) Rs-1 Single-family Residential District
- (d) Rs-2 Single-family Residential District
- (e) Rs-3 Single-family Residential District
- (f) Rs-4 Single-family Residential District
- (g) Rs-5 Mobile Home Park District
- (h) Rd-1 Two-family Residential District
- (i) Rm-1 Multi-family Residential District
- (j) DTS Drexel Town Square Mixed-Use Planned Development District
- (k) B-2 Community Business District
- (l) B-3 Office and Professional Business District
- (m) B-4 General Business District
- (n) B-6 Interchange Regional Retail District
- (o) Lm-1 Light Manufacturing District
- (p) M-1 Manufacturing District
- (q) I-1 Institutional District

- (r) P-1 Park District
- (s) C-1 Shoreland Wetland Conservancy
- (t) FW Floodway District
- (u) FF Floodfringe District
- (v) GFP General Floodplain District
- (w) PUD Planned Unit Development Overlay District
- (x) Boundaries of these Districts are established as a result of the adoption of this Chapter as shown on the maps entitled “Zoning Map--City of Oak Creek, Wisconsin,” dated **January 11, 2022**, and on the City of Oak Creek Large- scale Quarter-section Zoning Maps, which maps accompany and are made a part of this Chapter along with all. This Chapter hereby incorporates any future changes or any later zoning maps that may be adopted by ordinance of the City Council.
- (y) The District Boundaries in all districts shall be construed to follow: corporate limits; U.S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended.
- (z) Vacation of public streets and alleys shall cause the vacated land to be automatically placed in the same district as the abutting property to which the vacated land reverts.

### **Sec. 17.0202. Zoning Map**

A certified copy of the Zoning Map shall be adopted and approved with the text as part of this Chapter and shall bear upon its face the attestation of the Mayor and the City Clerk and shall be available to the public in the office of the City Clerk. Amendments to the general zoning districts, shall not become effective until entered and attested on the certified copy.

### Sec. 17.0203. Purpose of Zoning Districts

- (a) **A-1 Limited Agricultural District.** The A-1 Limited Agricultural District is intended to provide for the continuation of general farming and related uses. It is further the intent of this District to protect land from urban development until their orderly transition into urban-oriented districts.
- (b) **ER Equestrian Residential District.** The ER Equestrian Residential District is intended to provide for large residential lots with limited animal husbandry uses accessory to residential uses. Residential development in the ER District is permitted at densities not to exceed 0.3 dwelling units per net acre.
- (c) **Rs-1 Single-Family Residential District.** The Rs-1 Residential District is intended to provide for single-family residential development at densities not to exceed 2.0 dwelling units per net acre.
- (d) **Rs-2 Single-Family Residential District.** The Rs-2 Residential District is intended to provide for single-family residential development at densities not to exceed 2.9 dwelling units per net acre.
- (e) **Rs-3 Single-Family Residential District.** The Rs-3 Residential District is intended to provide for single-family residential development at densities not to exceed 4.4 dwelling units per net acre.
- (f) **Rs-4 Single-Family Residential District.** The Rs-4 Residential District is intended to provide for single-family residential development at densities not to exceed 5.4 dwelling units per net acre.
- (g) **Rs-5 Mobile Home Park District.** The Rs-5 Residential District is intended to provide for the location of mobile home parks in a residential setting that is compatible with adjacent land uses.
- (h) **Rd-1 Two-Family Residential District.** The Rd-1 Residential District is intended to provide for two-family residential development at densities not exceeding 5.8 dwelling units per net acre.
- (i) **Rm-1 Multi-Family Residential District.** The Rm-1 Residential District is intended to provide for multi-family residential development at densities not exceeding 14.5 dwelling units per net acre.
- (j) **DTS Drexel Town Square Mixed-Use Planned Development District.** The purpose of the Drexel Town Square Mixed-Use Planned Development District is to provide for a hybrid town center which integrates residential, commercial, civic, and park uses. The General Development Plan for the Drexel Town Square Mixed-Use Planned Development District establishes recommendations and for uses, infrastructure design, parking design, sustainability, building design guidelines, lot area and width, building height and area, setbacks and yards, and design standards.
- (k) **B-2 Community Business District.** The B-2 Community Business District is intended to provide for the orderly and attractive grouping at appropriate locations of businesses offering a range of retail products and services primarily serving adjacent residential neighborhoods. The character, appearance, and operation of any business in the district should be compatible with the surrounding area.
- (l) **B-3 Office and Professional Business District.** The B-3 Office and Professional Business District is intended to provide for individual or groups of buildings limited to office, professional, and special service uses where the character, appearance, and operation of the use would be compatible with the surrounding area.



- (m) **B-4 General Business District.** The B-4 General Business District is intended to provide for the orderly and attractive grouping at appropriate locations along federal, state, and county highway routes of those businesses and services which are logically related to and dependent upon highway traffic or which are specifically designed to serve the need of such traffic.
- (n) **B-6 Interchange Regional Retail District.** The B-6 Interchange Regional Retail District is intended to provide for the orderly and attractive grouping of high-intensity, destination retail, commercial and mixed uses along the federal interstate highway system.
- (o) **Lm-1 Light Manufacturing District.** The Lm-1 Light Manufacturing District is intended to provide for a mix of low-impact (of a limited nature and size) manufacturing, industrial, wholesaling, limited warehousing, research and development, engineering and testing, and related service facilities and uses which occur within enclosed buildings, and which will not have an adverse effect upon the district in which the use is located.
- (p) **M-1 Manufacturing District.** The M-1 Manufacturing District is intended to provide for manufacturing, industrial, and related uses of a limited nature and size which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the City as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors.
- (q) **I-1 Institutional District.** The I-1 Institutional District is intended to provide for areas which are under public, public-related or private ownership and where the use for public purpose is anticipated to be permanent. Uses permitted shall generally serve the public benefit.
- (r) **P-1 Park District.** The P-1 Park District is intended to provide for areas where the open space and recreational needs, both public and private, of the citizens of the City of Oak Creek can be met without undue disturbance of natural resources and adjacent uses.
- (s) **C-1 Shoreland Wetland Conservancy District.** The C-1 Shoreland Wetland Conservancy District is intended to preserve, protect, and enhance the ponds, streams, and wetland areas of the City of Oak Creek. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control storm water runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native and endangered plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation resources of the City.
- (t) **FW Floodway District.** The FW Floodway District is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to Sec. 17.0309(e).

### Sec. 17.0204. Purpose of Overlay Zoning Districts

- (a) **PUD Planned Unit Development Overlay District.** The Planned Unit Development Overlay District is established to identify those parcels in the City of Oak Creek which are regulated by an approved Planned Unit Development in accordance with Article 7 of this Ordinance.
- (b) **FF Floodfringe District.** The FF Floodfringe District is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to Sec. 17.0309(e), within A Zones shown on the FIRM.
- (c) **GFP General Floodplain District.** The GFP General Floodplain District includes those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.

## Article 3. District Specific Standards

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### Sec. 17.0301. Bulk and Dimensional Standards

(a) Table 17.0301(a): Bulk and Dimensional Standards addresses the requirements applicable to the development or use of a lot in a residential zoning district.

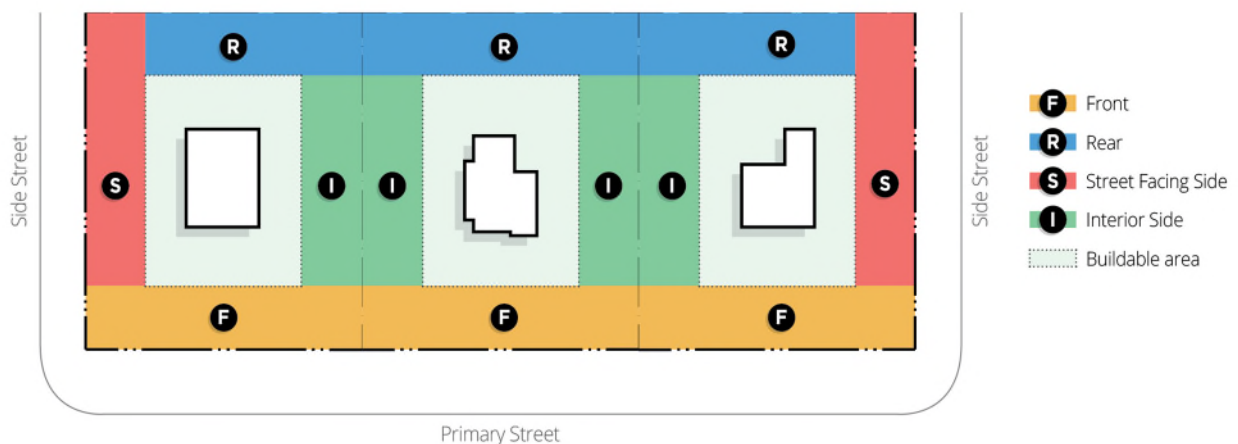
Table 17.0301(a): Bulk and Dimensional Standards								
Standard	ER	Rs-1	Rs-2	Rs-3	Rs-4	Rs-5	Rd-1	Rm-1
<i>Lot Standards (Minimum)</i>								
Lot Area	3 acres	21,780 sq ft	15,000 sq ft	10,500 sq ft	8,000 sq ft	5 acres	15,000 sq ft	15,000 sq ft
Lot Area / DU	-	-	-	-	-	-	7,500 sq ft	(1)
Lot Width (3)	200 ft	90 ft	80 ft	70 ft	60 ft	300 ft	100 ft	100 ft
<i>Yard Setbacks (Minimum) (4)</i>								
Front	50 ft	30 ft	30 ft	30 ft	25 ft	(1)	30 ft	30 ft (2)
Street Facing Side	50 ft	30 ft	30 ft	30 ft	25 ft	(1)	30 ft	30 ft (2)
Interior Side	30 ft	10 ft	10 ft	10 ft	8 ft	(1)	10 ft	10 ft (2)
Rear	100 ft	30 ft	30 ft	30 ft	25 ft	(1)	30 ft	25 ft (2)
<i>Building Standards (Maximum)</i>								
Height	35 ft	35 ft	35 ft	35 ft	35 ft	(1)	35 ft	50 ft
Building Coverage	10%	30%	30%	40%	50%	(1)	50%	50%
Lot Coverage	-	-	-	-	-	(1)	-	70%
<b>Notes:</b>								
(1) As detailed in Article 4. Use Specific Standards.								
(2) No multifamily structure shall be located closer than 50 ft to a single-family district line.								
(3) An additional ten (10) feet of lot width shall be required for corner lots.								

(4) Setbacks from wetlands shall be a minimum of fifteen (15) feet with a five (5) foot undisturbed buffer.

(b) Table 17.0301(b): Bulk and Dimensional Standards addresses the requirements applicable to the development or use of a lot in a nonresidential zoning district with the exception of the DTS Drexel Town Square District. The bulk and dimensional standards for the DTS Drexel Town Square District shall be pursuant to those established in the General Development Plan and Regulating Plan for the Drexel Town Square Mixed Use Planned Development District, as amended.

Table 17.0301(b): Bulk and Dimensional Standards									
Standard	A-1	B-2	B-3	B-4	B-6	Lm-1	M-1	I-1	P-1
<b>Lot Standards (Minimum)</b>									
Lot Area	5 acres	10,000 sq ft	10,000 sq ft	30,000 sq ft	40,000 sq ft	1 acre	1 acre	-	-
Lot Width	150 ft	75 ft	75 ft	150 ft	150 ft	150 ft	200 ft	-	-
<b>Yard Setbacks (Minimum) (1)</b>									
Front	30 ft	25 ft	25 ft	25 ft	25 ft	25 ft	40 ft	30 ft	25 ft
Street Facing Side	30 ft	25 ft	25 ft	25 ft	25 ft	25 ft	40 ft	30 ft	25 ft
Interior Side	10 ft	20 ft	20 ft	15 ft	10 ft	15 ft	20 ft	50 ft	25 ft
Rear	100 ft	25 ft	25 ft	25 ft	15 ft	25 ft	20 ft	50 ft	25 ft
<b>Building Standards (Maximum)</b>									
Height	35 ft	45 ft	55 ft	50 ft	80 ft	50 ft	55 ft	55 ft	35 ft
Building Coverage	10%	40%	40%	40%	40%	60%	70%	30%	20%
Lot Coverage	-	70%	70%	70%	70%	70%	70%	70%	70%
<b>Notes:</b>									
(1) Setbacks from wetlands shall be a minimum of fifteen (15) feet with a five (5) foot undisturbed buffer.									

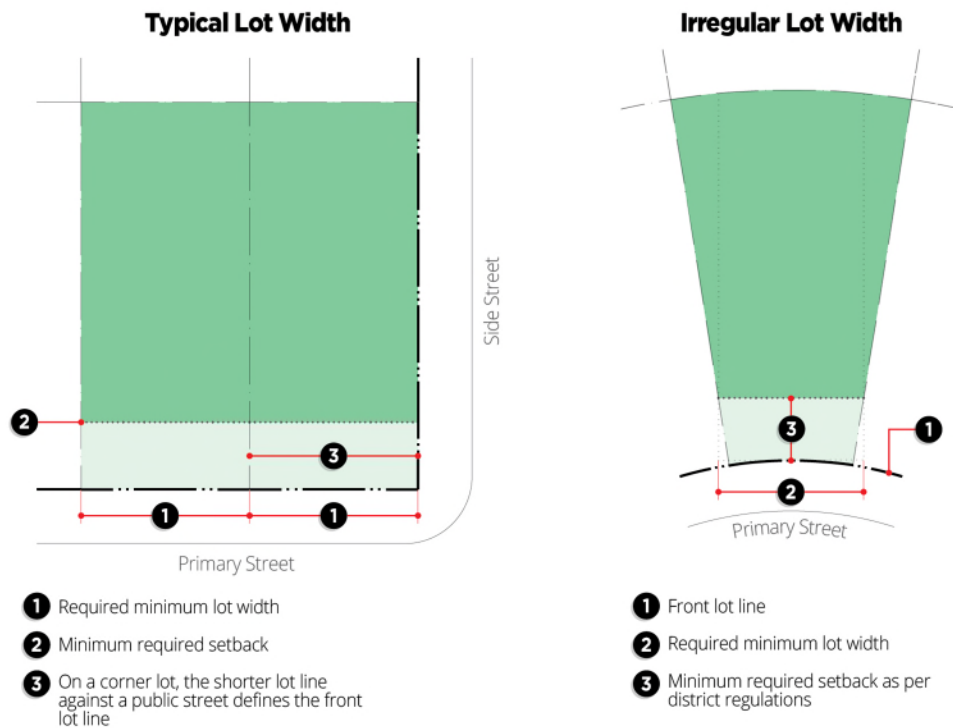
Figure 3.1: Yard Setback Locations



**Sec. 17.0302. Calculating Dimensions**

- (a) **Lot Width.** All lots shall abut upon a public or private street, and each lot shall have a minimum lot width measured at the property line.
- (b) **Lot Widths for lots that abut upon a cul-de-sac.** The lot width of all lots which abut upon a cul-de-sac may be reduced by a maximum of fifty (50) percent of the required lot width for the district in which it is located, as measured from the property line. The required lot width for the district shall be met at the front yard setback line.

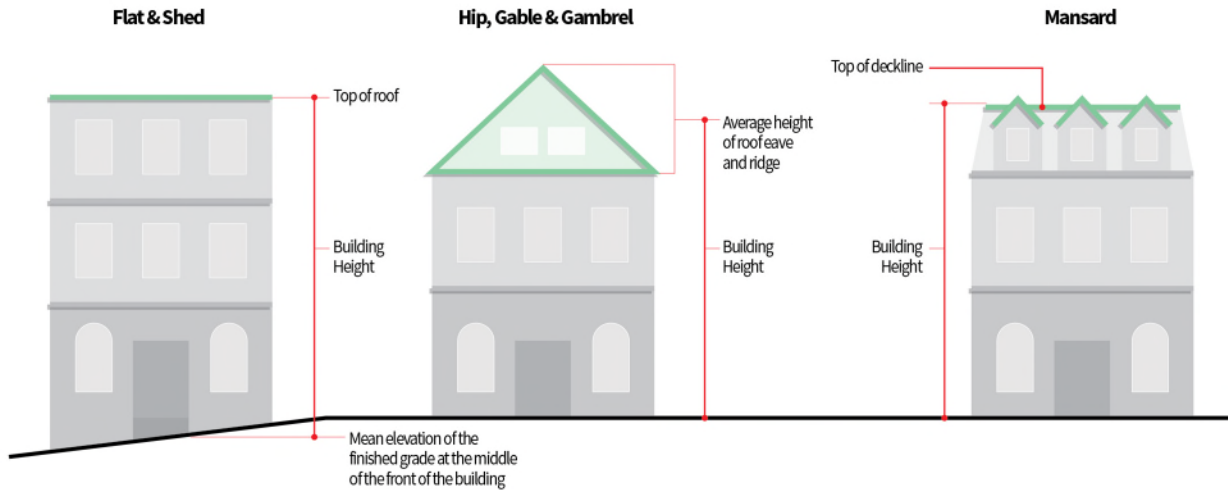
Figure 3.2: Calculating Lot Width



- (c) **Yard Setbacks.** A required yard setback shall be measured by the shortest distance between the principal building and the applicable lot line.

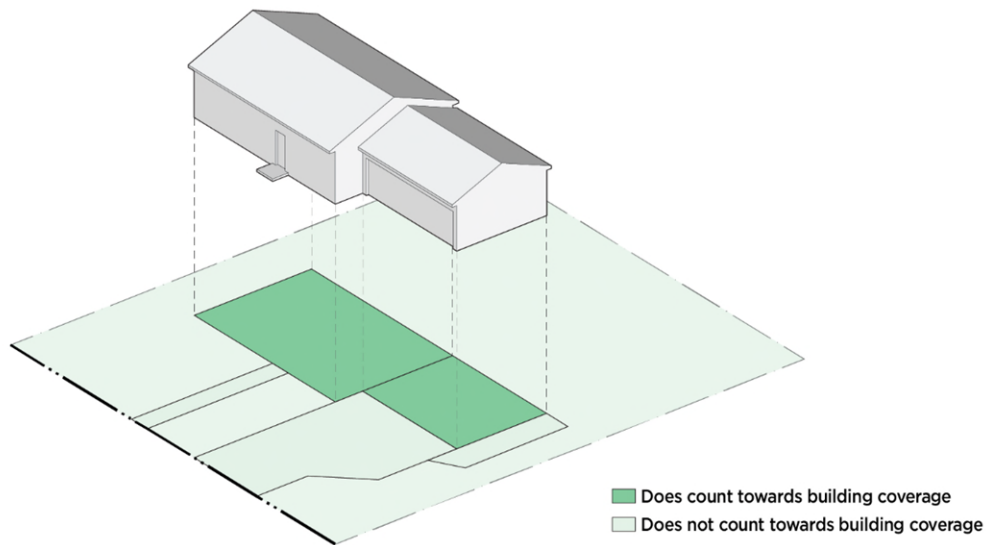
(d) **Height.** Building height shall be the vertical distance measured from the mean elevation of the finished lot grade along the front yard of the structure to the highest elevation of the roof.

Figure 3.3: Calculating Height



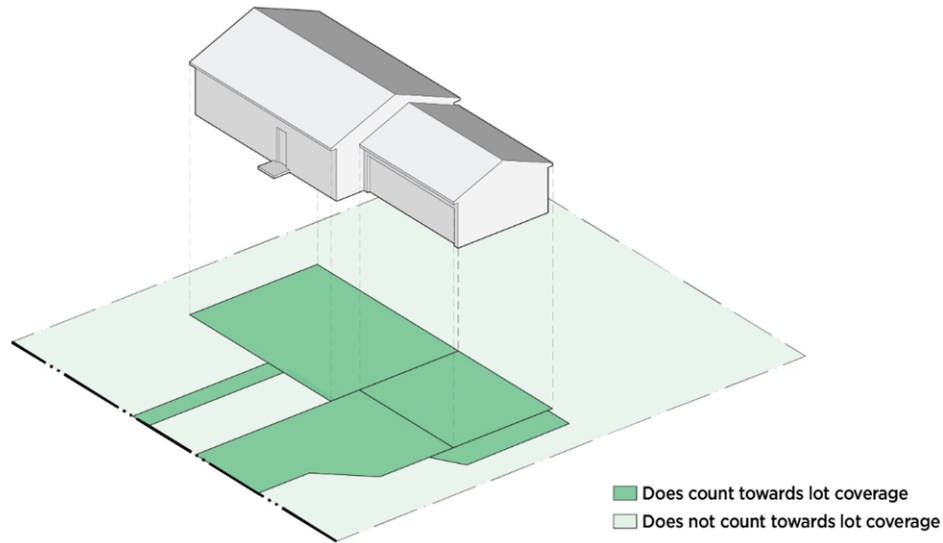
(e) **Building Coverage.** That portion of the lot occupied by a combination of the principal building and accessory buildings or structures.

Figure 3.4: Calculating Building Coverage



- (f) **Lot Coverage.** That portion of the lot that is covered by buildings and structures as measured to the roof, and paved surfaces.

Figure 3.5: Calculating Lot Coverage



- (g) **Lot Area.** Minimum lot area requirements shall not include wetlands or floodplains identified on FIRM maps unless a DNR permit for wetland fill has been obtained or a letter of map revision based on fill (LOMR-F) has been issued.

### Sec. 17.0303. Modifications

- (a) **Height Modifications.** The district height limitations included in Table 17.0301(a) and Table 17.0301(b) may be exceeded in accordance with the following:
- (1) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues, and chimneys, are exempt from the height limitations of this Chapter, but may be regulated by FCC or FAA, or Milwaukee County regulations where applicable.
  - (2) Special structures, such as elevator penthouses, grain elevators, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, solar collectors, substations, and smokestacks, are exempt from the height limitations of this Chapter as approved by the Community Development Director or their designee and in compliance with all screening requirements established in Section 17.0506.
  - (3) Essential services, utilities, water towers, electric power, telecommunications infrastructure, and communication transmission lines are exempt from the height limitations of this Chapter.
  - (4) Observation towers shall not exceed in height two (2) times their distance from the nearest lot line.
  - (5) Agricultural structures, such as barns and silos, shall not exceed in height twice their distance from the nearest lot line.



- (b) **Yard Setback Modifications.** The yard setback requirements included in Table 17.0301(a) and Table 17.0301(b) may be modified as follows:
- (1) Architectural Projections, such as chimneys, flues, sills, eaves, belt courses, bow windows and ornaments, may project into any required setback, but such projection shall not exceed two (2) feet.
  - (2) Essential Services, utilities, and electric power and communication transmission lines are exempt from the setback requirements of this Chapter.
  - (3) Patios, decks, fire pits, outdoor kitchens and similar permanent accessory structures constructed at or below grade may project into the interior side and rear yards, but such projection shall maintain a five (5) foot setback from the interior side lot line and ten (10) foot setback from the rear lot line.
  - (4) Residential air conditioning condensers, generators, and similar residential mechanical equipment may project into the interior side or rear yards, but such projection shall maintain a five (5) foot setback from all lot lines.
  - (5) A maximum of one (1) flagpole per lot may project into any yards but shall not exceed the maximum permitted building height of the district in which they are located.
  - (6) Municipally-owned emergency sirens may project into any yards.
  - (7) Yard Art, such as sculptures, bird baths, fountains, or seasonal decorations, may project into any required setback, but must be continually maintained and not interfere with required sight triangles, public services, wetlands, floodplains, rights-of-way, or utilities.
- (c) **Average Front Setbacks.** The required front setback shall not be decreased below the minimum setback for the district in which it is located. However, if the principal structures on abutting lots are set back further than the minimum, the front setback of a proposed principal structure shall be increased to the average of the existing front setbacks of the abutting structures on each side, but in no case shall the required setback be increased to more than fifty (50) feet.
- (d) **Double Lot Frontage.** Structures on lots abutting two (2) opposite streets shall be provided with a front setback and a rear setback. The Director or their designee shall select where the front setback shall be applied and where the rear setback shall be applied in a manner that prohibits access to a double frontage lot from arterial streets. The selected front setback area shall be required to comply with the front setback requirements for the district in which the lot is located. The selected rear setback area shall be required to comply with the rear setback requirements for the district in which the lot is located and the rear setback area shall be screened from arterial streets with fencing or landscaping, as may be appropriate.

**Sec. 17.0304. Permitted and Conditional Uses**

(a) The following key is to be used in the interpretation of Table 17.0304(b) and Table 17.0304(c) below.

- (1) **Permitted Uses.** Uses which are marked as “P” in the tables shall be allowed subject to all applicable regulations of this Chapter.
- (2) **Conditional Uses.** Uses which are marked as “C” in the tables shall be allowed upon the approval of a Conditional Use Permit.
- (3) **Prohibited Uses.** A blank space in the tables indicates that a use type is not allowed in the respective zoning district unless it is otherwise expressly allowed by other regulations of this Zoning Ordinance.
- (4) **Uses Not Listed.** If a proposed use is not listed in the tables, the Community Development Director or their designee shall determine, through a letter of interpretation as detailed in Section 17.0803(b), if the use is substantially similar to a use listed on the tables. If it is, he or she shall treat the use in the same manner as the substantially similar use. If not, the use shall be regarded as prohibited.
- (5) **Additional Regulation.** If a use has use specific standards they are referenced in this column. Use specific standards shall apply to permitted and conditional uses.

(b) **Residential District Permitted and Conditional Uses.**

Table 17.0304(b) Permitted and Conditional Uses									
Use	Additional Regulation	ER	Rs-1	Rs-2	Rs-3	Rs-4	Rs-5	Rd-1	Rm-1
<i>Residential Uses</i>									
Community Living, 1-8 Persons	17.0403(a)		P	P	P	P			
Community Living, 9+ Persons	17.0403(a)		C	C	C	C			
Dwelling, Multifamily Building 9+ units	17.0403(b)								P
Dwelling, Multifamily Building 2-8 units	17.0403(b)								P
Dwelling, Multifamily Complex	17.0403(c)								C
Dwelling, Single Family Attached, one story and up to 4 dwelling units	17.0403(d)		P	P	P	P	P	P	P
Dwelling, Single Family Attached, 2+ stories and/or 5+ dwelling units	17.0403(d)		C	C	C	C	C	C	C
Dwelling, Single Family Detached	17.0403(e)	P	P	P	P	P		P	P
Mobile Home Park	17.0403(f)						P		
Senior Housing, Assisted Living						C		P	P
Senior Housing, Nursing Care						C		P	P
Senior Housing, Total Life Care									C
<i>Recreational Uses</i>									
Parks and Playgrounds, Private		C	C	C	C	C	C	C	C
Parks and Playgrounds, Public		P	P	P	P	P	P	P	P

**Table 17.0304(b) Permitted and Conditional Uses**

Use	Additional Regulation	ER	Rs-1	Rs-2	Rs-3	Rs-4	Rs-5	Rd-1	Rm-1
Clubhouse	17.0404(a)		C	C	C	C	C	C	P
Community Garden			C	C	C	C	C	C	P
<i>Retail Uses</i>									
Neighborhood Retail	17.0405(b)		C	C	C	C	C	C	C
<i>Service Uses</i>									
Neighborhood Service	17.0406(b)		C	C	C	C	C	C	C
<i>Lodging Uses</i>									
Bed and Breakfast	17.0407(a)	C	C	C	C	C	C	C	
Short Term Rental	17.0407(b)	P	P	P	P	P	P	P	
<i>Eating / Drinking Uses</i>									
Café	17.0408(a)		C	C	C	C	C	C	C
<i>Public / Institutional Uses</i>									
Essential Service		P	P	P	P	P	P	P	P
Governmental Use, Indoor		P	P	P	P	P	P	P	P
Governmental Use, Outdoor		C	C	C	C	C	C	C	C
School, Private									
School, Public									
Utility, Minor		P	P	P	P	P	P	P	P
Utility, Major		C	C	C	C	C	C	C	C
<i>Accessory Uses</i>									
Accessory, Building	17.0414(a)	P	P	P	P	P	P	P	P
Accessory, Dwelling	17.0414(b)		C	C	C	C			
Accessory, Structure	17.0414(d)	P	P	P	P	P	P	P	P
Bridle Path		<b>P</b>							
Building for the Housing of Horses and other Animals	17.0414(e)	<b>P</b>							
Home Occupation	17.0414(h)	<b>P</b>	P	P	P	P	P	P	P
Keeping and Raising of Horses and other Animals	17.0414(i)	<b>P</b>							
Solar Energy Collection System, Ground Mounted	17.0414(p)	<b>C</b>	C	C	C	C	C	C	C
Solar Energy Collection System, Roof Mounted	17.0414(q)	<b>C</b>	C	C	C	C	C	C	C
Swimming Pools, Hot Tubs, Saunas, and Similar Installations, Private	17.0414(r)	<b>P</b>	P	P	P	P	P	P	P
Sport Court, Private	17.04014(s)	P	P	P	P	P	P	P	P
<i>Temporary Uses</i>									
Car, Truck, and Recreational Vehicle Parking	17.0415(a)	P	P	P	P	P		P	
Construction Related		P	P	P	P	P	P	P	P
Garage / Estate Sale		P	P	P	P	P	P	P	P

**Table 17.0304(b) Permitted and Conditional Uses**

Use	Additional Regulation	ER	Rs-1	Rs-2	Rs-3	Rs-4	Rs-5	Rd-1	Rm-1
Portable Storage Structure	17.0415(e)	P	P	P	P	P	P	P	P
Real Estate Sales or Rental Field Offices		P	P	P	P	P	P	P	P
Model Home		P	P	P	P	P	P	P	P

(c) Nonresidential District Permitted and Conditional Uses.

Table 17.0304(c) Permitted and Conditional Uses											
Use	Additional Regulation	A-1	DTS	B-2	B-3	B-4	B-6	Lm-1	M-1	I-1	P-1
<i>Agricultural Uses</i>											
Agritourism Related Uses		C									
Aquaculture		P									
Garden Plots for Rent		P									
General Farm Structures		P									
General Farming		P									
Keeping and Raising of Domestic Stock, Commercial	17.0402(a)	P									
Plant Nursery / Greenhouse		P		C	C	C		C	C		C
Solar Energy Collection System, Farm		P							C		
<i>Residential Uses</i>											
Dwelling, Multifamily Above Ground Floor			P	C		P	P				
Dwelling, Single-Family Attached											
Dwelling, Single-Family Detached		P									
<i>Recreational Uses</i>											
Art Gallery / Museum			P	C		P	P			C	
Boat Mooring and Rental / Marina											C
Campground		C									C
Golf Course											C
Golf Course, Miniature						C	C				C
Health, Athletic, or Recreation Facility, Indoor			C	C	C	P	P	C	C	P	C
Health, Athletic, or Recreation Facility, Outdoor						C	C		C	P	C
Parks and Playgrounds, Private		C	C	C	C	C	C			C	C
Parks and Playgrounds, Public		P	P	P	P	P	P			P	P
Shooting / Archery Range, Indoor						P	P	C	C		
Shooting / Archery Range, Outdoor						C	C				
<i>Retail Uses</i>											
Adult Entertainment	17.0405(a)								P		
General Retail, less than 50,000 sq ft			P	C		P	P				
General Retail, 50,000 sq ft - 100,000 sq ft			P			P	P				
General Retail, more than 100,000 sq ft			C			C	P				
Grocery Store			C	C		P	P				
Multitenant Shopping Center			P	C		P	P				
Neighborhood Retail	17.0405(d)			P							
Outlot Retail Building	17.0405(e)		P			P	P				
Wholesale						C	P				

**Table 17.0304(c) Permitted and Conditional Uses**

Use	Additional Regulation	A-1	DTS	B-2	B-3	B-4	B-6	Lm-1	M-1	I-1	P-1
<b>Service Uses</b>											
Bank / Financial Institution			P	C	P	P	P				
Funeral Parlor with Cremation Services						C			C		
Funeral Parlor without Cremation Services						P					
Day Care Center			P	C	P	P	P			C	
General Service			P	C	P	P	P				
Kennel / Boarding Facility	17.0406(a)					C			C		
Neighborhood Service	17.0406(b)			P	C						
Self Service Laundry / Dry Cleaner						P	P				
Tattoo, Body Piercing, and Body Art Studios						C					
Veterinary Clinic / Animal Hospital	17.0406(c)					C		C	C		
<b>Lodging Uses</b>											
Hotel			P			P	P				
Hotel, Extended Stay			C			C	C				
Motel			C			C	C				
<b>Eating and Drinking Uses</b>											
Café	17.0408(a)		P	P	P	P	P				
Mobile Retail Food Establishment / Food Truck Park	17.0408(b)		P	P	P	P	P				
Microbrewery / Winery / Distillery			P			P	P	C	P		
Restaurant, Delivery / Carry Out Only			P	C		P	P				
Restaurant, Fast Casual			P	C		P	P				
Restaurant, Sit Down			P	C		P	P				
Tasting Room, Brewery, Winery, Distillery			P			P	P	P	P		
<b>Vehicle Related Uses</b>											
Autobody Repair						C	C	C	C		
Car Wash						C	C				
Fuel Sales	17.0409(a)					C	C				
Fueling Plaza	17.0409(a)					C	C				
Service Station						C	C				
Vehicle Sales and Rental						C	C	C	C		
<b>Office Uses</b>											
Office, General				C	P	P	P	P	P		
Office, Above Ground Floor			P		P	P	P				
Office, Medical / Dental			P		P	P	P				
<b>Industrial Uses</b>											
Brewery / Winery / Distillery								P	P		

**Table 17.0304(c) Permitted and Conditional Uses**

Use	Additional Regulation	A-1	DTS	B-2	B-3	B-4	B-6	Lm-1	M-1	I-1	P-1
Laboratory								P	P		
Manufacturing, Artisan	17.0411(a)		C			C	C	P	P		
Manufacturing, Heavy									C		
Manufacturing, Light								P	P		
Motor Freight Terminal									C		
Self Storage								C	P		
Warehouse, Distribution, Less than 200,000 sq ft									P		
Warehouse, Distribution, 200,000 sq ft or Greater									C		
Warehouse, Storage, Less than 200,000 sq ft									P		
Warehouse, Storage, 200,000 sq ft or Greater									C		
<b>Medical Uses</b>											
Hospital			C		C	C	C		C	P	
Acute Care Center			C		C	C	C		C	P	
<b>Public / Institutional Uses</b>											
College / University							P	P	P	P	
Essential Service		P	P	P	P	P	P	P	P	P	P
Governmental Use, Indoor		P	P	P	P	P	P	P	P	P	P
Governmental Use, Outdoor		C	C	C	C	C	C	C	C	C	C
Place of Assembly				P		P	P	P	C	P	P
Religious Institution		P								P	P
School, Private		C								C	C
School, Public		P								P	P
Vocational / Employment Training		C					P	P	P	P	
Utility, Minor		P	P	P	P	P	P	P	P	P	P
Utility, Major		C	C	C	C	C	C	C	C	C	C
<b>Accessory Uses</b>											
Accessory, Building	17.0414(a)	P	P	P	P	P	P	P	P	P	P
Accessory, Retail	17.0414(c)							C	C		
Accessory, Structure	17.0414(d)	P									
Donation Drop Box	17.0414(f)									P	
Drive Through	17.0414(g)					C	C				
Home Occupation	17.0414(h)	P	P	P		P	P				
Outdoor Activity / Operation, Permanent	17.0414(j)					C		C	C	C	
Outdoor Dining	17.0414(k)		P	P		P	P				
Outdoor Display / Sale of Merchandise, Permanent	17.0414(l)				C	C					

**Table 17.0304(c) Permitted and Conditional Uses**

Use	Additional Regulation	A-1	DTS	B-2	B-3	B-4	B-6	Lm-1	M-1	I-1	P-1
Outdoor Storage, Permanent	17.0414(m)					C		C	C	C	C
Roadside Stand	17.0414(n)	P									
Solar Energy Collection System, Canopy	17.0414(o)		P			P	P	P	P	P	P
Solar Energy Collection System, Ground Mounted	17.0414(p)	P	P	P	P	P	P	P	P	P	P
Solar Energy Collection System, Roof Mounted	17.0414(q)	P	P	P	P	P	P	P	P	P	P
<b>Temporary Uses</b>											
Carnival		C	P	P		P		P	P	C	C
Circus / Animal Show		C	P	P		P		P	P	C	C
Seasonal Sales	17.0415(b)		P	P		P		P	P		
Construction Related		P	P	P	P	P	P	P	P	P	P
Farmers Market			P	P		P	C	P	P	C	C
Flea Market											
Mobile Retail Food Establishment / Food Truck	17.0415(c)		P	P	P	P	P	P	P	P	P
Outdoor Activity / Operation, Temporary			P	P	P	P		P	P	P	
Outdoor Display / Sale of Merchandise, Temporary	17.0415(d)		P	P		P		P	P	P	

**Sec. 17.0305. C-1 Shoreland Wetland Conservancy District Specific Standards.**

**(a) Permitted Uses.**

- (1) Hiking, fishing, swimming and boating, unless prohibited by other laws and ordinances.
- (2) 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, and that does not involve filling, flooding, draining, dredging, ditching, tiling, or excavating.
- (3) Silviculture (forest maintenance), including the planting, thinning, and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling, or excavating is done except for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on silvicultural activities if not corrected.
- (4) Construction and maintenance of fences.
- (5) Existing agricultural uses provided that they do not involve extension of cultivated areas, extension of or creation of new drainage systems, and further provided that they do not substantially disturb or impair the natural fauna (animals), flora (plants), topography, or water regimen.
- (6) Aquaculture (the growing of plants and animals in water), provided it does not disturb or impair the natural biota (plants and animals).



- (7) The maintenance, repair, replacement, and reconstruction of existing public streets, roads, bridges and drainageways.

(b) **Conditional Uses.**

- (1) The Construction of Streets Which Are Necessary for the Continuity of the City Street System, necessary for the provision of essential utility and public safety services, or necessary to provide access to permitted open space uses, provided that:
- a. The street cannot as a practical matter be located outside the conservancy district;
  - b. The street is designed and constructed to minimize adverse impact upon the natural functions of the wetland as listed in Section 17.0804(f)(7) of this Chapter;
  - c. The street is designed and constructed with the minimum cross-section practical to serve the intended use;
  - d. The street construction activities are carried out in the immediate area of the roadbed only; and
  - e. Any filling, flooding, draining, dredging, ditching, tiling, or excavating that is done must be necessary for the construction or maintenance of the street.
- (2) The Construction and Maintenance of Non-residential Buildings used solely in conjunction with raising of waterfowl, minnows, or other wetland or aquatic animals or used solely for some other purpose which is compatible with natural resource preservation, provided that:
- a. The building cannot as a practical matter be located outside the conservancy district;
  - b. The building is not designed for human habitation and does not exceed five hundred (500) square feet in area; and;
  - c. Only limited filling or excavating necessary to provide structural support is conducted.
- (3) The Establishment and Development of Public and Private Parks and recreation areas, recreation trails, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private habitat areas, provided that:
- a. Parks shall be limited to passive activities. No ball diamond, tennis court, playfield, playground or other active recreation area shall be constructed in a wetland;
  - b. Any private recreation or wildlife habitat area must be exclusively for that purpose;
  - c. No filling is to be done; and
  - d. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance the value of a wetland or other natural resource.
- (4) The Construction and Maintenance of Electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public utilities and cooperative associations organized for

the purpose of producing or furnishing heat, light, power or water to members and customers located outside of the C-1 district, provided that:

- a. The transmission and distribution lines and related facilities cannot as a practical matter be located outside the conservancy district; and
- b. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the utility, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the conservancy area.

(5) The Construction and Maintenance of Railroad lines, provided that:

- a. The railroad lines cannot as a practical matter be located outside the conservancy district; and
- b. Any filling, draining, dredging, ditching, or excavating that is done must be necessary for the construction or maintenance of the railroad, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the conservancy area.

(6) Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.

(7) The construction and maintenance of piers, docks, and walkways, including those built on pilings.

**(c) Prohibited Uses.**

- (1) Any use not listed as a permitted use or a conditional use is prohibited unless the C-1 District lands concerned are first re-zoned into another district.
- (2) 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 water are prohibited.

**(d) Conservancy Lands Used for Density Calculation.** Where twenty-five (25) percent or more of a lot is located within a C-1 Shoreland Wetland Conservancy District and partially within an adjoining use district, that area of the parcel in the C-1 District may be used to meet the minimum lot area requirements; provided that adequate adjacent upland space is available for the structure and related grading.

## Sec. 17.0306. Floodplain Zoning Districts

- (a) **Statutory Authorization & Title.** This ordinance, to be known as the Floodplain Zoning Ordinance for the City of Oak Creek, Wisconsin, is adopted pursuant to the authorization in s. 61.35 and 62.23, and the requirements in s. 87.30, Stats.
- (b) **Finding of Fact.** Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.
- (c) **Statement of Purpose.** This ordinance is intended to regulate floodplain development to:
  - (1) Protect life, health and property;

- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(d) **Public Information.**

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

(e) **General Provisions.**

- (1) **Areas to be Regulated.** This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable.
- (2) **Official Maps & Revisions.** Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, AO on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in **subd. (a) below**. These maps and revisions are on file in the office of the Zoning Administrator, City of Oak Creek.
  - a. **Official Maps, Based on the Flood Insurance Study (FIS):**
    1. **Flood Insurance Rate Map (FIRM) panel numbers**
      - 55079CIND0A
      - 55079C0254E

- 55079C0253E
- 55079C0252E
- 55079C0251E
- 55079C0234E
- 55079C0233E
- 55079C0232E
- 55079C0231E
- 55079C0229E
- 55079C0227E
- 55079C0189E
- 55079C0188E
- 55079C0169E
- 55079C0168E
- 55079C0167E
- 55079C0166E
- 55079C0164E
- 55079C0162E

Dated September 26, 2008.

2. Flood Insurance Study (FIS) volumes 55079CV001A, 55079CV002A, 55079CV003A, 55079CV004A, & 55079CV005A for the City of Oak Creek, dated September 26, 2008.
3. Letters of Map Revision: 15-05-2729P, Effective December 31, 2015 & 16-05-0269P-550279, Effective September 23, 2016.
4. Letters of Map Amendment/Revalidations
  - 08-05-5293A-550279, Effective 01/15/2009
  - 09-05-2088A-550279, Effective 06/15/2009
  - 09-05-2277A-550279, Effective 06/18/2009
  - 09-05-2617A-550279, Effective 05/29/2009
  - 10-05-2107A-550279, Effective 03/16/2010
  - 11-05-0436A-550279, Effective 01/13/2011
  - 11-05-0726A-550279, Effective 11/12/2010
  - 11-05-0875A-550279, Effective 01/28/2011
  - 12-05-1073A-550279, Effective 12/29/2011
  - 12-05-1484A-550279, Effective 01/12/2012
  - 12-05-2391A-550279, Effective 02/14/2012
  - 12-05-2392A-550279, Effective 02/14/2012
  - 12-05-7902A-550279, Effective 09/20/2012
  - 13-05-2747A-550279, Effective 01/25/2013
  - 13-05-4261A-550279, Effective 03/28/2013
  - 14-05-4629A-550279, Effective 04/15/2014
  - 17-05-1942A-550279, Effective 02/22/2017

- 17-05-4244A-550279, Effective 06/21/2017
- 18-05-2475A-550279, Effective 04/26/2018
- 18-05-3705A-550279, Effective 04/26/2018
- 19-05-2974A-550279, Effective 05/30/2019
- 19-05-4615A-550279, Effective 09/18/2019
- 19-05-5297A-550279, Effective 09/18/2019
- 21-05-4533A-550279, Effective 10/06/2021
- 07-05-0467V-550279, Effective 09/27/2008 (Revalidation)

Approved by: The DNR and FEMA.

- (3) Locating Floodplain Boundaries. Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in **subd (a) or (b) below**. If a significant difference exists, the map shall be amended according to Sec. 17.0804(f)(8). The zoning administrator, supported by engineering, 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 or a designee 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 Sec. 17.0804(i)(7) and the criteria in **(a) and (b) below**. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Sec. 17.0804(f)(8).
- 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.
  - Where flood profiles do not exist for projects, including any boundary of zone A or AO, the location of the boundary shall be determined by the map scale.
- (4) Removal of Lands from Floodplain.
- Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Sec. 17.0804(f)(8).
  - The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:

1. The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
  2. The fill must be contiguous to land outside the floodplain; Applicant shall obtain a Land Use Building Permit before applying for a LOMR or LOMR-F;
  - c. Removal of lands from the floodplain may also occur by operation of §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.
  - d. Removal of lands from the floodplain in accordance with the above procedures does not automatically remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).
- (5) Compliance.
- a. No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
  - b. Failure to obtain a Land Use Building Permit shall be a violation of these regulations and shall be punishable in accordance with Sec. 17.0805(c)(8).
  - c. Land Use Building Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the Floodplain Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Sec. 17.0805(c)(8).
- (6) 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. Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with Federal, State, and local floodplain standards.
- (7) Abrogation and Greater Restrictions.
- a. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 or s. 87.30, Stats, which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- b. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
- (8) Interpretation. In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body (Common Council) 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.
- (9) Warning and Disclaimer of Liability. The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by man made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.
- (10) Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- (11) 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 44 CFR 59-72, 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 floodway location.
- (f) **General Standards Applicable to All Floodplain Districts.** The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.
- (1) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
- a. be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

- b. be constructed with flood-resistant materials;
- c. be constructed by methods and practices that minimize flood damages; and
- d. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(2) If a subdivision or other proposed new development is in a flood-prone area, the community shall assure that:

- a. such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;
- b. public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and adequate drainage is provided to reduce exposure to flood hazards.

(3) 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 and all other requirements in Sec. 17.0801(b)(2).

(g) Hydraulic and Hydrologic Analyses.

(1) No floodplain development shall:

- a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
- b. Cause any increase the regional flood height due to floodplain storage area lost.

(2) The Zoning Administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Sec. 17.0804(f)(8) are met.

(h) Watercourse Alterations. No Land Use Building 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 standards of Sec. 17.0306(g) must be met and 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 and pursuant to Sec. 17.0804(f)(8), the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.



- (i) Chapter 30, 31, Wis. Stats., Development. Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to Sec. 17.0804(f)(8).
- (j) Public or Private Campgrounds. Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
- (1) The campground is approved by the Department of Agriculture, Trade and Consumer Protection;
  - (2) A land use permit for the campground is issued by the Zoning Administrator following review and approval by the Plan Commission where applicable;
  - (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
  - (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
  - (5) This agreement shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in Sec. 17.0306(j)(4) - to remain in compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection and all other applicable regulations;
  - (6) All mobile recreational vehicles placed on the site must meet one of the following:
    - a. Only camping units that are fully licensed, if required, and ready for highway use are allowed. 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 additions; or
    - b. The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
  - (7) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such

authorization shall allow placement of a camping unit consistent with Sec. 17.0306(j)(6) and shall ensure compliance with all the provisions of this section;

- (8) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (9) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in Sec. 17.0307, Sec. 17.0308, or Sec. 17.0309 for the floodplain district in which the structure is located;
- (10) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
- (11) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

### Sec. 17.0307. FW Floodway District Specific Standards

**(a) Applicability.** This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Sec. 17.0309(e).

**(b) Permitted Uses.** The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
  - they meet the standards in Sec. 17.0307(c) and (d); and
  - all permits or certificates have been issued according to Sec. 17.0801(b).
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
  - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of Sec. 17.0307(c)(4).

- (4) Uses or structures accessory to open space uses or classified as historic structures that comply with Sec. 17.0307(c) and (d).
- (5) Extraction of sand, gravel or other materials that comply with Sec. 17.0307(c)(4).
- (6) Functionally water dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
- (7) Public utilities, streets and bridges that comply with Sec. 17.0307(c)(3).
- (8) Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code.
- (9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
- (10) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.
- (11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

**(c) Standards for Developments in the Floodway.**

- (1) General
  - a. Any development in the floodway shall comply with Sec. 17.0306(f) and have a low flood damage potential.
  - b. Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to Sec. 17.0306(g) and Sec. 17.0801(b)(2)(c). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
  - c. Any encroachment in the regulatory floodway is prohibited unless the data submitted for Sec. 17.0307(c)(1)(b) demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in Sec. 17.0306(e)(4).
- (2) Structures. Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- a. Structures are not designed for human habitation, do not have a high flood damage potential and are constructed to minimize flood damage;
- b. Structures shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
  1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
  2. Have structural components capable of meeting all provisions of Sec. 17.0307(c)(2)(g) and;
  3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Sec. 17.0307(c)(2)(g).
- c. Must be anchored to resist flotation, collapse, and lateral movement;
- d. Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
- e. Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- f. For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets Sec. 17.0307(c)(2)(a) – (e), and meets or exceeds the following standards:
  1. The lowest floor must be elevated to or above the regional flood elevation;
  2. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  3. The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open;
  4. The use must be limited to parking, building access or limited storage.
- g. Certification. Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized,

where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:

1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sec. 17.0307(d)(4) and (5);
3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
5. Placement of utilities to or above the flood protection elevation.

(3) **Public Utilities, Streets and Bridges.** Public utilities, streets and bridges may be allowed by permit, if:

- a. Adequate floodproofing measures are provided to the flood protection elevation; and
- b. Construction meets the development standards of Sec. 17.0306(g).

(4) **Fills or Deposition of Materials.** Fills or deposition of materials may be allowed by permit, if:

- a. The requirements of Sec. 17.0306(g) are met;
- b. No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
- c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading;
- d. The fill is not classified as a solid or hazardous material; and
- e. Applicable provisions of Chapter 13 of the Municipal Code are met.

(d) **Prohibited Uses.** All uses not listed as permitted uses in Sec. 17.0307(b) are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

### Sec. 17.0308. FF Floodfringe District Specific Standards

- (a) Applicability.** This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Sec. 17.0309(e).
- (b) Permitted Uses.** Any structure, land use, or development is allowed in the Floodfringe District if the standards in Sec. 17.0308(c) are met, the use is not prohibited by this or any other ordinance or regulation, and all permits or certificates specified in Sec. 17.0801(b) have been issued.
- (c) Standards for Development in the Floodfringe.** Sec. 17.0306(f) shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Sec. 17.0907.
- (1) **Compensatory Storage.** No development shall be allowed which removes flood storage volume unless an amount not less than a ratio of 1.10:1 of the volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered as providing an equal volume of storage.

- (2) Residential Uses. Any structure, including a manufactured home, which is to be erected, newly constructed, reconstructed, altered, substantially improved, or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Sec. 17.0907;
- a. All new construction, including placement of manufactured homes, and substantial improvement of residential structures shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one (1) foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be shown to meet Sec. 17.0306(e)(4).
  - b. Notwithstanding Sec. 17.0308(c)(2)(a), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind 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 Sec. 17.0308(c)(2)(d).
  - d. In developments where existing street or sewer line elevations make compliance with Sec. 17.0308(c)(2)(c) impractical, the municipality may permit new development and substantial improvements where 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 DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.
- (3) Accessory Structures or Uses. In addition to Sec. 17.0306(f), new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one (1) foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
- (4) Commercial Uses. In addition to Sec. 17.0306(f), any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of Sec. 17.0308(c)(1)-(3). Subject to the requirements of Sec. 17.0308(c)(6), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

- (5) Manufacturing and Industrial Uses. In addition to Sec. 17.0306(f), any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation per the requirements of Sec. 17.0308(c)(1), and (2) or meet the floodproofing standards in Sec. 17.0804(i)(4). Subject to the requirements of Sec. 17.0308(c)(6), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (6) Storage of Materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with Sec. 17.0804(i)(4). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (7) 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 or repair of such facilities shall only be permitted if they are designed to comply with Sec. 17.0804(i)(4).
  - 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.
- (8) Sewage Systems. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to Sec. 17.0804(i)(4)(c), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.
- (9) Wells. All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to Sec. 17.0804(i)(4)(c), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (10) Solid Waste Disposal Sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (11) Deposition of Materials. Any deposited material shall meet all the provisions of this ordinance and any other applicable sections of the Municipal Code.
- (12) 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 Sec. 17.0308(c)(3).

(13) Mobile Recreational Vehicles. All mobile recreational vehicles shall not be on site for 180 or more consecutive days, and shall meet one (1) of the following:

- a. Be fully licensed and ready for highway use. 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 additions; or
- b. Meet the elevation and anchoring requirements in Sec. 17.0308(c)(12)(b) and (c).

### Sec. 17.0309. GFP General Floodplain District Specific Standards

- (a) Applicability.** The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in Sec. 17.0306(e)(2)(a).
- (b) Floodway Boundaries.** For proposed development in Zone A, or in Zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in Sec. 17.0306(e)(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to Sec. 17.0309(e). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of Sec. 17.0307. If the development is located entirely within the floodfringe, the development is subject to the standards of Sec. 17.0308.
- (c) Permitted Uses.** Pursuant to Sec. 17.0309(e), it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway [Sec. 17.0307(b)] and Floodfringe [Sec. 17.0308(b)] Districts are allowed within the General Floodplain District, according to the standards of Sec. 17.0309(d), provided that all permits or certificates required under Sec. 17.0801(b) have been issued.
- (d) Standards for Development in the General Floodplain District.** Sec. 17.0307 applies to floodway areas, determined to pursuant to Sec. 17.0309(e); Sec. 17.0308 applies to floodfringe areas, determined to pursuant to Sec. 17.0309(e).

- (1) New construction and substantial improvement of structures in Zone AO shall have the lowest floor, including basement, elevated:
    - a. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or
    - b. If the depth is not specified on the FIRM, to or above two (2) feet above the highest adjacent natural grade.
  - (2) New Construction and substantial improvement of structures in Zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
  - (3) In AO/AH Zones, provide adequate drainage paths to guide floodwaters around structures.
  - (4) All development in Zones AO and Zone AH shall meet the requirements of Sec. 17.0308 applicable to flood fringe areas.
- (e) **Determining Floodway and Floodfringe Limits.** Upon receiving an application for development within Zone A, or within Zone AE where a floodway has not been delineated on the Flood Insurance Rate Maps, the Zoning Administrator shall:
- (1) Require the applicant to submit two (2) copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.
  - (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
    - a. A Hydrologic and Hydraulic Study as specified in Sec. 17.0801(b)(2)(c).
    - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
    - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

## Article 4. Use Specific Standards

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### Sec. 17.0401. General Purpose

Use specific standards are established for those uses identified by the City of Oak Creek as having unique circumstances that warrant distinct regulation to ensure the health, safety, and welfare of the community. Use specific standards apply to permitted and conditional uses.

### Sec. 17.0402. Agricultural Use Standards

(a) **Keeping and Raising of Domestic Stock.**

- (1) No more than one (1) horse, cow, sheep, hog, or similar animal, over six (6) months of age, shall be kept for each acre; or
- (2) No more than ten (10) chickens, ducks, or similar poultry, over two (2) months of age, shall be kept for each acre; or

- (3) No more than twenty (20) rabbits or hare, over two (2) months of age, shall be kept for each acre.
- (4) No more than one (1) beehive shall be kept for each acre.
- (5) The keeping and raising of furbearing animals, except rabbits, is prohibited.
- (6) Combinations of the above shall be apportioned to the total acreage and the Community Development Director or their designee shall determine the total number of animals allowed.

**(b) Solar Energy Collection, Farm.**

- (1) No solar farm shall be erected on any lot less than four (4) acres in size.
- (2) A certified professional engineer shall certify that the foundation and design on the solar panels are within accepted professional standards, given local soil and climate conditions.
- (3) Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground.
- (4) Systems, equipment, and structures shall not exceed thirty feet (30) in height when ground mounted.
- (5) Ground mounted solar energy collection systems as part of a solar farm shall have a minimum setback for all equipment, excluding fences, equal to those of the governing zoning district.
- (6) Systems equipment and structures shall be fully enclosed and secured by a fence or wall with a height of eight (8) feet. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
- (7) An appropriate warning sign shall be provided at the entrance to the facility and along the perimeter of the solar farm. The sign at the entrance to the facility shall include the facilities 911 address and a twenty-four (24) hour emergency contact number.

**Sec. 17.0403. Residential Use Standards**

**(a) Community Living, all capacities.**

- (1) No community living arrangement shall be established within two-thousand and five hundred (2,500) feet of any other such facility regardless of its capacity.
- (2) Foster homes housing four (4) or fewer children and licensed under Sec. 48.62, Wis. Stats., shall not be subject to these provisions.

**(b) Dwelling, Multifamily Building.**

- (1) In the Rm-1 District, all efficiency and one (1) bedroom, two (2) bedroom, three (3) bedroom, or four (4) bedroom apartments or any combination thereof shall be allowed at a maximum density of twelve (12) dwelling units per net acre of lot area.
- (2) The main entrance to a multifamily dwelling building shall face the primary street.
- (3) All off-street parking shall be located to the side or rear of the primary building unless otherwise approved by the Planning Commission. Off-street parking located to the side of the primary building shall be set back a minimum of three (3) feet from the front elevation of the primary building.
- (4) A maximum of one (1) curb cut shall be permitted per street frontage unless otherwise approved by the Plan Commission.
- (5) Service areas, dumpsters, and utilities shall not be visible from rights-of-way and shall not be located in any front yard or street-facing side yard.
- (6) Pedestrian access shall be provided to the building entries and parking areas connecting to the sidewalk at the street frontage.
- (7) Exterior building materials shall be traditional, time- and weather-tested materials and techniques.
  - a. Exterior building materials utilized on the ground floor shall be limited to wood, masonry, stucco, fiber cement, or stone veneer systems. Stone veneer systems utilized on the ground floor shall have a minimum thickness of three (3) inches.
  - b. Exterior building materials utilized on upper floors may include all materials permitted on the ground floor as well as EIFS, stone veneer systems, or precast panels with inlaid or stamped brick texture. All materials utilized on upper floors shall have a minimum thickness of one (1) inch and shall be structurally integrated into the façade of the building.

**(c) Dwelling, Multifamily Complex.**

- (1) In the Rm-1 District, all efficiency and one (1) bedroom, two (2) bedroom, and three (3) bedroom apartments, or any combination thereof shall be allowed at a maximum density of sixteen (16) dwelling units per net acre of lot area. minimums shall be met:
- (2) Buildings shall be arranged, and site circulation shall be designed to create a sense of a public realm by framing and defining open spaces, street frontages, and amenities.
- (3) Buildings and other site improvements shall be clustered to maximize contiguous areas that can be dedicated to stormwater management.

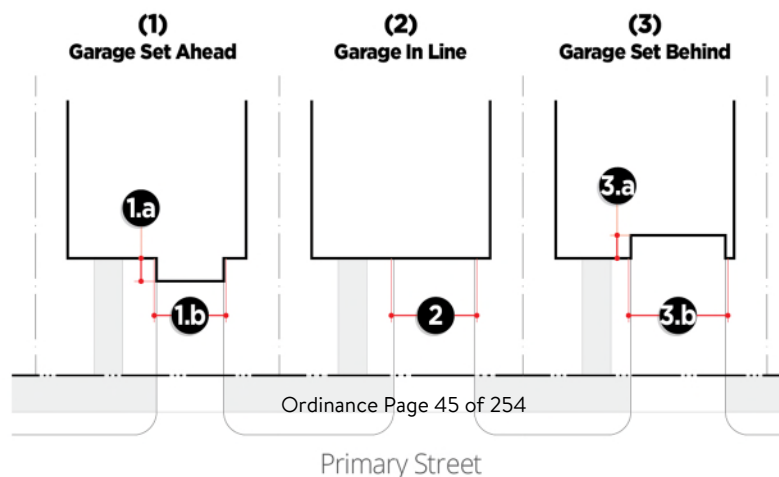
- (4) Building orientation shall reinforce site circulation patterns, open space patterns, and connections to other buildings on site.
- (5) Parking shall be integrated into the overall site design to minimize visual impact, reduce the loss of trees, and be visually concealed from public rights-of-way.
- (6) A maximum of one (1) curb cut shall be permitted per street frontage unless otherwise approved by the Plan Commission.
- (7) Service areas, dumpsters, and utilities shall not be visible from rights-of-way and shall not locate in any front yard or street-facing side yard.
- (8) Pedestrian access shall be provided to the building entries and parking areas connecting to the sidewalk at the street frontage.
- (9) Exterior building materials shall be traditional, time- and weather-tested materials and techniques.
  - a. Exterior building materials utilized on the ground floor shall be limited to wood, masonry, stucco, fiber cement, or stone veneer systems. Stone veneer systems utilized on the ground floor shall have a minimum thickness of three (3) inches.
  - b. Exterior building materials utilized on upper floors may include all materials permitted on the ground floor as well as EIFS, stone veneer systems, or precast panels with inlaid or stamped brick texture. All materials utilized on upper floors shall have a minimum thickness of one (1) inch and shall be structurally integrated into the façade of the building.
- (10) A minimum of thirty (30) percent of the site shall be developed as usable open space and shall be sited to preserve natural site features and integrate with the buildings and site circulation to provide common outdoor amenities and gathering places.

**(d) Dwelling, Single-Family Attached.**

- (1) The required interior side yard setback may be reduced to zero (0) feet to accommodate single-family attached dwellings located on two (2) or more zoning lots.
- (2) Exterior building materials shall be traditional, time- and weather-tested materials and techniques.
  - a. Exterior building materials utilized on the ground floor shall be limited to wood, masonry, stucco, fiber cement, or stone veneer systems. Stone veneer systems utilized on the ground floor shall have a minimum thickness of three (3) inches.
  - b. Exterior building materials utilized on upper floors may include all materials permitted on the ground floor as well as EIFS, stone veneer systems, or precast panels with inlaid or stamped brick texture. All materials utilized on upper floors shall have a minimum thickness of one (1) inch and shall be structurally integrated into the façade of the building.

- (3) A minimum of one (1) parking space, as required in Section 17.0501 of this Zoning Ordinance, shall be provided in an attached or detached garage.
- (4) **Attached Garages.** Single-family attached dwelling units may have attached garages if the following conditions are met.
- a. The attached garage shall be subordinate to the principal building.
  - b. The maximum size of the attached garage shall not exceed fifty (50) percent of the livable area of the principal building.
  - c. The attached garage shall share a common wall and roof with the principal building.
  - d. The attached garage shall provide internal access to the principal building.
  - e. The height of the attached garage shall not exceed the height of the principal building.
  - f. The height of the attached garage doors shall not exceed eight (8) feet.
  - g. If the garage is located on the primary façade, it shall meet the following standards:
    1. **Garage Set Ahead.**
      - (a) The garage may be set ahead a maximum of five (5) feet from the front façade of the home, inclusive of porches, bay windows, or other minor projections.
      - (b) If the garage is set ahead from the front façade of the home, as detailed in (a) above, it shall not exceed forty-five (45) percent of the façade’s total width.
    2. **Garage In Line.** If the garage is in line with the front façade of the home, exclusive of porches, bay windows, or other minor projections, it shall not exceed fifty (50) percent of the façade’s total width.
    3. **Garage Set Behind.**
      - (a) The garage may be set behind the front façade of the home, exclusive of porches, bay windows, or other minor projections, a minimum of one (1) foot.
      - (b) If the garage is set behind the front façade of the home, as detailed in (a) above, it shall not exceed fifty-five (55) percent of the façade’s total width.

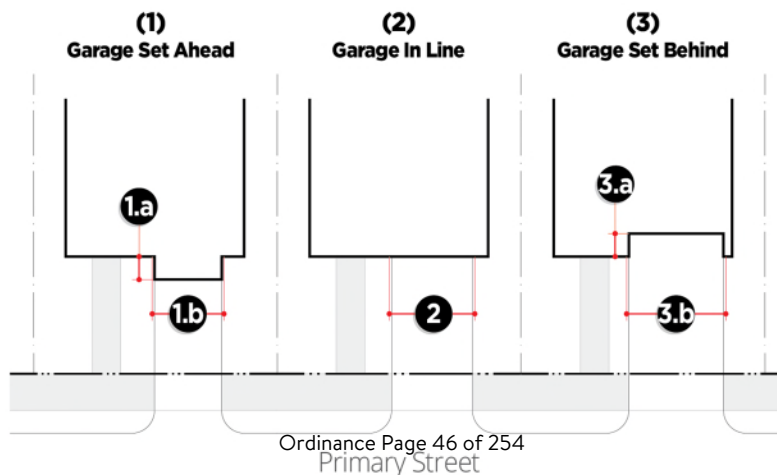
Figure 4.1: Single-Family Attached Garage Design Standards



(e) **Dwelling, Single-Family Detached.**

- (1) **Attached Garages.** Single-family detached dwelling units may have attached garages if the following conditions are met.
- a. The attached garage shall be subordinate to the principal building.
  - b. The maximum size of the attached garage shall not exceed fifty (50) percent of the livable area of the principal building.
  - c. The attached garage shall share a common wall and roof with the principal building.
  - d. The attached garage shall provide internal access to the principal building.
  - e. The height of the attached garage shall not exceed the height of the principal building.
  - f. The height of the attached garage doors shall not exceed eight (8) feet.
  - g. If the garage is located on the primary façade, it shall meet the following standards:
    1. **Garage Set Ahead.**
      - (a) The garage may be set ahead a maximum of five (5) feet from the front façade of the home, inclusive of porches, bay windows, or other minor projections.
      - (b) If the garage is set ahead from the front façade of the home, as detailed in (a) above, it shall not exceed forty-five (45) percent of the façade’s total width.
    2. **Garage In Line.** If the garage is in line with the front façade of the home, exclusive of porches, bay windows, or other minor projections, it shall not exceed fifty (50) percent of the façade’s total width.
    3. **Garage Set Behind.**
      - (a) The garage may be set behind the front façade of the home, exclusive of porches, bay windows, or other minor projections, a minimum of one (1) foot.
      - (b) If the garage is set behind the front façade of the home, as detailed in (a) above, it shall not exceed fifty-five (55) percent of the façade’s total width.

Figure 4.2: Single-Family Detached Garage Design Standards





**Mobile / Manufactured Home Park.**

- (2) All mobile / manufactured home parks shall be serviced by public water, sanitary sewer, stormwater utilities.
- (3) Mobile / manufactured home park without Platted Lots.
- a. The minimum mobile / manufactured home park size shall be five (5) acres.
  - b. The minimum mobile / manufactured home park width shall be three hundred (300) feet at the street right-of-way line.
  - c. The maximum number of mobile home sites within a mobile / manufactured home park shall be seven and two tenths (7.2) per net acre.
  - d. A minimum of ten (10) percent of the mobile / manufactured home park development area, exclusive of streets, shall be devoted to common recreational uses.
  - e. No mobile home unit shall be located closer than twenty-five (25) feet to a mobile / manufactured home park exterior lot line.
  - f. The minimum setback between a mobile home unit and a service road shall be fifteen (15) feet.
  - g. The minimum distance between mobile home units shall be twelve (12) feet.
  - h. All drives and service roads shall be a minimum of twenty (20) feet wide.
  - i. All drives, service roads, parking areas, and walkways shall be surfaced with concrete or asphalt.
  - j. There shall be a minimum of two (2) parking spaces available adjacent to each mobile home unit. Each parking area shall be at least four hundred (400) square feet in area; shall be well drained; and shall be surfaced with concrete or asphalt.
  - k. Visitor parking shall be provided in the mobile park at the rate of one (1) space per mobile home site. Supplemental parking areas shall be provided in each mobile / manufactured home park for boats, camping trailers, and utility trailers. No such equipment shall be parked on any mobile home site.
  - l. Each mobile home shall either be placed on a foundation or on a concrete pad. If it is to be placed on a foundation, the foundation shall be of a type recommended by the unit manufacturer and approved by the Community Development Director or their designee. If it is to be placed on a pad, the pad shall be at least four (4) inches thick over an approved gravel base, and be at least equal in width and length to the mobile home unit being placed on the pad.
  - m. The space between the unit and the pad shall be enclosed, but only with the use of noncombustible materials such as aluminum or fiberglass. Such skirting materials shall be of a type compatible with the material and color scheme of the mobile home unit. No person

- occupying or owning a mobile home, or a licensee of a mobile / manufactured home park shall build or cause to be erected any lean-to, shed, or addition to a mobile home without the approval of the Community Development Director or their designee. Nothing herein contained shall prohibit the use of stabilization measures, nor shall this paragraph prohibit attachment to a mobile home of a shelter roof, provided that such roof does not extend more than eight (8) feet into a side yard, or extend more than twenty (20) feet in length, or extend beyond the length of the mobile home. Such roof and its supporting members shall be constructed entirely of noncombustible materials and the roof section together with its framing shall not be less than six (6) feet above the grade immediately beneath any point of the roof section.
- n. Each mobile home may have adjacent to it, a freestanding accessory building not exceeding one hundred and twenty (120) square feet in area and a garage not exceeding two hundred and eighty (280) square feet in area; provided that neither building is located closer than ten (10) feet from any other building or structure.
  - o. All mobile homes shall be provided with City water, sanitary sewer, and storm sewer facilities.
  - p. Where portable fuel tanks are utilized, they shall be placed at the rear or side of the mobile home in as close proximity to the rear of the unit as possible.
  - q. All electric, telephone, and cable TV lines shall be installed underground; except where determined unfeasible or otherwise undesirable by the Plan Commission.
  - r. Every mobile / manufactured home park shall submit a solid waste disposal plan. Garbage and rubbish shall be collected weekly and disposed of by the park owner in accordance with the approved plan.
  - s. No business or commercial use, except permitted home occupations, shall be located on the mobile / manufactured home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage, and a manager's office are permitted.
  - t. Each mobile / manufactured home park shall be completely enclosed, except for permitted entrances and exits, by either:
    - 1. A grassed earthen berm of a least six (6) feet in height.
    - 2. A fence of uniform material that is at least six (6) feet in height and provides an effective visual screen.
    - 3. A densely planted line of coniferous plants that will grow to a height of at least six (6) feet within three years of planting.
    - 4. Any combination of the aforementioned that provides a visual screen and is at least six (6) feet in height.

- u. The total minimum floor area of the mobile home shall be nine hundred and eighty (980) square feet.
- v. All mobile homes shall meet the construction standards of the Mobile Homes Manufacturing Association.
- w. A site plan for the entire mobile / manufactured home park shall be submitted to the Plan Commission for review and approval prior to any construction within the park.

(4) Mobile / manufactured home park with Platted Lots.

- a. The minimum mobile / manufactured home park size shall be five (5) acres.
- b. The minimum mobile / manufactured home park width shall be three hundred (300) feet at the street right-of-way line.
- c. The maximum number of mobile home sites within a mobile / manufactured home park shall be seven and one-fifth (7.2) per net acre.
- d. A minimum of ten (10) percent of the mobile / manufactured home park development area, exclusive of streets, shall be devoted to common recreational uses.
- e. The minimum lot area for a mobile home shall be six thousand (6,000) square feet. The minimum lot width shall be fifty (50) feet with corner lots being not less than sixty (60) feet.
- f. No mobile home unit shall be located closer than twenty-five (25) feet to a mobile / manufactured home park exterior lot line.
- g. The minimum setback between a mobile home unit and a service road shall be fifteen (15) feet.
- h. The minimum distance between mobile home units shall be twelve (12) feet.
- i. All drives and service roads shall be a minimum of twenty (20) feet wide.
- j. The minimum rear setback for mobile homes is twenty (20) feet.
- k. All drives, service roads, parking areas, and walkways shall be surfaced with concrete or asphalt.
- l. There shall be a minimum of two (2) parking spaces per mobile home unit located on each lot. Each parking area on each lot shall be at least four hundred (400) square feet in area; shall be well drained; and shall be surfaced with concrete or asphalt.
- m. Visitor parking shall be provided in the mobile park at the rate of one (1) space per mobile home site. Supplemental parking areas shall be provided in each mobile / manufactured home park for boats, camping trailers, and utility trailers. No such equipment shall be parked on any mobile home site.

- n. Each mobile home shall either be placed on a foundation or on a concrete pad. If it is to be placed on a foundation, the foundation shall be of a type recommended by the unit manufacturer and approved by the Community Development Director or their designee. If it is to be placed on a pad, the pad shall be at least four (4) inches thick over an approved gravel base and be at least equal in width and length to the mobile home unit being placed on the pad.
- o. The space between the unit and the pad shall be enclosed, but only with the use of noncombustible materials such as aluminum or fiberglass. Such skirting materials shall be of a type compatible with the material and color scheme of the mobile home unit. No person occupying or owning a mobile home or a licensee of a mobile / manufactured home park shall build or cause to be erected any lean-to, shed, or addition to a mobile home without the approval of the Community Development Director or their designee. Nothing herein contained shall prohibit the use of stabilization measures, nor shall this paragraph prohibit attachment to a mobile home of a shelter roof, provided that such roof does not extend more than eight (8) feet into a side yard, or extend more than twenty (20) feet in length, or extend beyond the length of the mobile home. Such roof and its supporting members shall be constructed entirely of noncombustible materials and the roof section together with its framing shall not be less than six (6) feet above the grade immediately beneath any point of the roof section.
- p. Each mobile home site may contain a freestanding accessory building not exceeding one hundred and twenty (120) square feet in area and a garage not exceeding two hundred and eighty (280) square feet in area; provided that neither accessory building is located closer than five (5) feet to a side or rear lot line, or ten (10) feet from any other structure.
- q. All mobile homes shall be provided with City water, sanitary sewer, and storm sewer facilities.
- r. Where portable fuel tanks are utilized, they shall be placed at the rear or side of the mobile home in as close proximity to the rear of the unit as possible.
- s. All electric, telephone, and cable TV lines shall be installed underground, except where determined unfeasible or otherwise undesirable by the Plan Commission.
- t. Every mobile / manufactured home park shall submit a solid waste disposal plan. Garbage and rubbish shall be collected weekly and disposed of by the park owner in accordance with the approved plan.
- u. No business or commercial use, except permitted home occupations, shall be located on the mobile / manufactured home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage, and a manager's office are permitted.
- v. Each mobile / manufactured home park shall be completely enclosed, except for permitted entrances and exits, by either:
  - 1. A grassed earthen berm of a least six (6) feet in height.

2. A fence of uniform material that is at least six (6) feet in height and provides an effective visual screen.
  3. A densely planted line of coniferous plants that will grow to a height of at least six (6) feet within three years of planting.
  4. Any combination of the aforementioned that provides a visual screen and is at least six (6) feet in height.
- w. The total minimum floor area of the mobile home shall be nine hundred and eighty (980) square feet.
- x. All mobile homes shall meet the construction standards of the Mobile Homes Manufacturing Association.
- y. A site plan for the entire mobile / manufactured home park shall be submitted to the Plan Commission for review and approval prior to any construction within the park.

## Sec. 17.0404. Recreational Use Standards

### (a) Clubhouse.

- (1) All off-street parking shall be located on the side or rear of the clubhouse building unless otherwise approved by the plan commission.
- (2) A maximum of one (1) curb cut shall be permitted per street frontage unless otherwise approved by the Plan Commission.
- (3) Service areas, dumpsters, and utilities shall not be visible from rights-of-way and shall not be located in any front yard or street-facing side yard.
- (4) Pedestrian access shall be provided to the building entries and parking areas connecting to the sidewalk at the street frontage.
- (5) Exterior building materials shall be traditional, time- and weather-tested materials and techniques.
  - a. Exterior building materials utilized on the ground floor shall be limited to wood, masonry, stucco, fiber cement, or stone veneer systems. Stone veneer systems utilized on the ground floor shall have a minimum thickness of three (3) inches.
  - b. Exterior building materials utilized on upper floors may include all materials permitted on the ground floor as well as EIFS, stone veneer systems, or precast panels with inlaid or stamped brick texture. All materials utilized on upper floors shall have a minimum thickness of one (1) inch and shall be structurally integrated into the façade of the building.
- (6) Clubhouse buildings shall not exceed thirty-five (35) feet in height.
- (7) Clubhouse buildings shall provide 360-degree architecture for all sides visible to the public. 360-degree architecture incorporates facade elements, including doors, windows, exterior cladding, and all other exterior decorative elements and finishes on all front, side, and rear elevations of the building.

## Sec. 17.0405. Retail Uses

### (a) Adult Entertainment.

- (1) Pursuant to the City of Oak Creek's authority, it is the intent of the Common Council to adopt by ordinance regulations restricting the location of adult entertainment businesses as defined herein to promote the City of Oak Creek's interest in protecting and preserving the quality of its neighborhoods, commercial districts, and quality of urban life through effective land-use planning.
  - a. It has been the experience of other cities including Seattle and Renton, Washington and Detroit, Michigan that adult entertainment businesses can contribute to the impairment of the character and quality of a surrounding residential neighborhood; and contribute to a decline in the value of surrounding properties.
  - b. Adult entertainment businesses in proximity to residential areas, religious institutions, parks, schools and day care centers may lead to an increase in criminal activities in the surrounding areas and the City desires to protect the youth of the community from the deleterious effects such businesses can have on adjacent areas by restricting their close proximity to places of worship, schools and residential areas.
  - c. The Common Council has reviewed studies distributed by the National Obscenity Law Center in a three volume set that documents the secondary effects of adult entertainment businesses that affect property values, contribute to physical deterioration and blight, have a deleterious effect on both existing business around them and surrounding areas, including increased transiency, increased levels of criminal activities including prostitution, rape, assaults and other sex related crimes. The Common Council is also aware that similar studies have been conducted in other communities across the United States such as St. Paul and Minneapolis, MN; Indianapolis, IN; Hilton Head, SC; Austin, TX; Phoenix, AZ and Los Angeles, CA.
  - d. The Common Council believes that the experiences and studies from other communities set forth herein are relevant in addressing the secondary effects adult entertainment businesses can have upon areas surrounding such establishments in the City of Oak Creek. A reasonable regulation of the location of adult entertainment businesses will provide for the protection of the image of the community and its property values and protect the residents of the community from the adverse secondary effects of an adult entertainment business, while providing to those who desire to patronize adult entertainment businesses, such an opportunity in areas within the City which are appropriate for the location of adult entertainment businesses.
  - e. The United States Supreme Court in the case of City of Renton vs. Playtime Theaters, Inc., 475 US 41, 106 S. Ct., 925, 89 L. Ed., 2d, 29 (1986) and Young vs. American Mini Theaters, 427 US 50, 96 S. Ct., 2440, 49 L. Ed., 2d, 310 (1976) have approved efforts by local government to regulate the location of adult entertainment businesses through land-use plans. The Common

Council of the City of Oak Creek conducted a public hearing and heard testimony from proponents and opponents of the proposed ordinance. The Plan Commission has the adoption of the proposed ordinance as an amendment to our existing zoning code. The proposed ordinance serves a substantial government interest and does not unreasonably limit alternative avenue of communication. The Common Council of the City of Oak Creek, Milwaukee County, Wisconsin do ordain as follows:

- (2) Adult entertainment businesses, subject to the following restrictions and regulations:
- a. Definitions. The following words, terms and phases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
    1. Adult entertainment means any dance, amusement, show, display, merchandise, material, exhibition, pantomime, modeling or any other like performance of any type for the use or benefit of a member or members of the public or advertised for the use or benefit of a member of the public where such is characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” as defined herein, or the exhibition of “specified sexual activities,” also defined herein, or in the case of live adult entertainment performances, which emphasizes and seeks to arouse or excite the patrons’ sexual desires. For the purposes of this chapter, any patron of an adult entertainment business, as defined in this section, shall be deemed a member of the public.
    2. Adult entertainment business means any establishment providing adult entertainment as defined herein, including, but not limited to, adult arcade, adult bookstore, adult novelty store, adult video store, adult motion picture theater, and exotic dance studio, more specifically defined as follows:
      - (a) Adult arcade means a commercial establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, computer-generated or enhanced pornography, panorama, peep show, or similar machines, or other image producing machines, for personal viewing, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which provide material for individual viewing by patrons on the premises of the business which are characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities.”
      - (b) Adult bookstore means an establishment which has a facility or facilities, including, but not limited to, booths, cubicles, rooms or stalls, for the presentation of adult entertainment, including adult oriented films, movies or live performances for observation by patrons therein; or an establishment having as a substantial or significant portion of its stock-in-trade for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, magazines or other periodicals, which are distinguished or



characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities as defined below.

- (c) Adult motion picture theater means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities” are regularly shown for any form of consideration.
  - (d) Adult retail establishment means any bookstore, adult novelty store, adult video store, or other similar commercial establishment, business, service, or portion thereof which, for money or any other form of consideration, provides as a significant or substantial portion of its stock-in-trade the sale, exchange, rental, loan, trade, transfer, and/or provision for viewing or use off the premises of the business adult entertainment material as defined in this section. For purposes of this provision, it shall be a rebuttable presumption that thirty (30) percent or more of a business’ stock-in-trade in adult retail material, based on either the dollar value (wholesale or retail) or the number of titles of such material, is significant or substantial.
3. In determining whether or not the presumption is rebutted, the Common Council may consider the following factors, which are not conclusive:
    - (a) Whether minors are prohibited from access to the premises of the establishment due to the adult entertainment nature of the inventory;
    - (b) Whether the establishment is advertised, marketed, or held out to be an adult merchandising facility;
    - (c) Whether adult entertainment material is an establishment’s primary or one of its principal business purposes; or
    - (d) Whether thirty (30) percent or more of an establishment’s revenue is derived from adult entertainment material.
  4. An establishment may have other principal business purposes that do not involve the offering for sale or rental of adult entertainment materials and still be categorized as an adult retail establishment. Such other business purposes will not serve to exempt such establishments from being categorized as an adult retail establishment so long as one (1) of its principal business purposes is offering for sale or rental, for some form of consideration, the specified adult entertainment materials.
  5. The Common Council shall have full discretion to give appropriate weight to the factors set forth above as well as other factors considered depending on the particular facts and circumstances of each application.

6. Adult entertainment material means any books, magazines, cards, pictures, periodicals, or other printed matter, or photographs, films, motion pictures, video tapes, slides, or other photographic reproductions, or visual representations, CD-ROMs, DVDs, disks, electronic media, or other such media, or instruments, devices, equipment, paraphernalia, toys, novelties, games, clothing or other merchandise or material, which are characterized, by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities.”
  7. Booths, cubicles, rooms, compartments or stalls means enclosures as are specifically offered to the public or members of an adult entertainment business for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, “booth”, “cubicle”, “room”, “compartment” or “stall” does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee.
  8. City means the City of Oak Creek, Wisconsin.
  9. Specified anatomical areas means:
    - (a) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus, or female breast below a point immediately above the top of areolae; or
    - (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
  10. Specified sexual activities means:
    - (a) The caressing, touching, fondling or other intentional or erotic touching of male genitals, female genitals, pubic region, buttocks, anus, or female breasts of oneself or of one person by another; or
    - (b) Sex acts, normal or perverted, actual or simulated, including masturbation, intercourse, oral copulation, flagellation, sodomy, bestiality, or any sexual acts which are prohibited by law; or
    - (c) Human genitals in a state of sexual stimulation, arousal or tumescence or visual state of sexual stimulation, arousal or tumescence, even if completely and opaquely covered.
- (b) Location of Adult Entertainment Businesses. Adult entertainment businesses as defined in paragraph (1) are prohibited in all zones except the M-1 Manufacturing District, subject to the following restrictions:

- (1) No adult entertainment business shall be permitted within one thousand (1,000) feet of another adult entertainment business.
  - (2) No adult entertainment business shall be permitted with one thousand (1,000) feet of any hospital, religious institution, school, library, park, museum, playground, day care center, restaurant or any other public or private building or premises likely to be utilized by persons under the age of eighteen (18) years.
  - (3) No adult entertainment business shall be permitted within one thousand (1,000) feet of any area zoned residential.
- (c) Standards of Measurement. The distances provided in this section shall be measured in a straight line without regard to intervening structures or objects from the closest point of the structure or portion of the structure occupied or proposed for occupancy by the adult entertainment business to the nearest point of the parcel of property or land use district boundary relined from which the proposed land use is to be separated.
- (d) **Neighborhood Retail.**
- (1) A neighborhood retail use shall be limited to two-thousand five hundred (2,500) square feet of gross floor area.
  - (2) Neighborhood retail uses shall front and be accessed from arterial or collector streets only.
  - (3) The main entrance of a neighborhood retail use shall be oriented towards the primary street.
  - (4) The off-street parking and loading of a neighborhood retail use that fronts onto an existing or proposed arterial or collector roadway, as identified in the Oak Creek Comprehensive Plan or as determined by the City Engineer, may be located in the front, side, or rear of the primary building. The off-street parking and loading of a neighborhood retail use that fronts onto any other roadway type shall be located on the side or rear of the primary building.
  - (5) A maximum of one (1) curb cut shall be permitted per street frontage unless otherwise approved by the Plan Commission.
  - (6) Service areas, dumpsters, and utilities shall not be visible from rights-of-way and shall not be located in any front yard or street-facing side yard.
  - (7) Pedestrian access shall be provided to the building entries and parking areas connecting to the sidewalk at the street frontage.
  - (8) Exterior building materials shall be traditional, time- and weather-tested materials and techniques.
    - a. Exterior building materials utilized on the ground floor shall be limited to wood, masonry, stucco, fiber cement, or stone veneer systems. Stone veneer systems utilized on the ground floor shall have a minimum thickness of three (3) inches.

b. Exterior building materials utilized on upper floors may include all materials permitted on the ground floor as well as EIFS, stone veneer systems, or precast panels with inlaid or stamped brick texture. All materials utilized on upper floors shall have a minimum thickness of one (1) inch and shall be structurally integrated into the façade of the building.

(9) In residential districts, the architecture of a neighborhood retail use shall be similar in character to abutting properties including roof pitch, eaves, building materials, windows, trim, color, and landscaping.

**(e) Outlot Retail Building.**

(1) Outlot retail buildings shall be setback a minimum of fifteen (15) feet from any right-of-way.

(2) All off-street parking shall be shared with the principal building of the lot and shall not be located between the outlot retail building and the public right-of-way unless otherwise approved by the Plan Commission.

(3) Curb cuts and site vehicular access shall be shared with the primary building.

(4) Service areas, dumpsters, and utilities shall not be visible from rights-of-way and shall not be located in any front yard or street-facing side yard.

(5) Pedestrian access shall be provided to the building entries and parking areas connecting to the sidewalk at the street frontage.

**Sec. 17.0406. Service Uses****(a) Kennel and Boarding Facility.****(1) Kennel.**

1. Kennels shall be limited to the raising, breeding, boarding, and grooming of domestic dogs and cats.
2. The minimum lot size for a kennel shall be two (2) acres.
3. Dogs kept on premises will not equal more than fifteen (15) per acre of land.
4. Cats kept on premises will not equal more than twenty-five (25) per acre of land.
5. All dog runs shall be hard-surfaced, compacted fine stone or grassed. Hard-surfaced dog runs shall meet all stormwater disposal requirements of Section 15.66 of the City's Building Code.
6. Dog runs shall be setback fifty (50) feet from any lot line or as determined by the Plan Commission. All other buildings and structures shall follow the setbacks of the governing zoning district.
7. Dog runs shall not be used between the hours of 8:00 p.m. and 8:00 a.m.
8. Methods shall be used to reduce the impact of noise on adjacent properties, which may include the use of sound-barrier material such as "bark-block" and/or other approved insulation.

**(2) Boarding Facility.**

1. Dog runs shall be set back as far as possible from all residential properties. In no case shall the minimum setback be less than one hundred and fifty (150) feet from a residential lot line.
2. Methods shall be used to reduce the impact of noise on adjacent properties, which may include the use of sound-barrier material such as "bark-block" and/or other approved insulation.
3. The animals shall be boarded in appropriate kennel units with insulation to further abate noise.
4. The facility shall have appropriate flushing drains and other physical elements to properly dispose of cleaning waste from the boarding area.
5. The boarding area shall be air-conditioned and heated so that any windows, doors, or other openings can be closed at all times, with the exception of ingress and egress into the area.
6. The total area designated for boarding within the building shall not exceed seventy-five (75) percent of the gross floor area of the facility.

**(b) Neighborhood Service.**

- (1) A neighborhood service use shall be limited to two-thousand five hundred (2,500) square feet of gross floor area.
- (2) Neighborhood service uses shall front and be accessed from arterial or collector streets only.
- (3) The main entrance of a neighborhood service use shall be oriented towards the primary street.
- (4) The off-street parking and loading of a neighborhood service use that fronts onto an existing or proposed arterial or collector roadway, as identified in the Oak Creek Comprehensive Plan, may be located in the front, side, or rear of the primary building. The off-street parking and loading of a neighborhood service use that fronts onto any other roadway type shall be located on the side or rear of the primary building.
- (5) A maximum of one (1) curb cut shall be permitted per street frontage unless otherwise approved by the Plan Commission.
- (6) Service areas, dumpsters, utilities, and the required screening thereof shall not be visible from a right-of-way and shall not be located in any front yard or street-facing side yards.
- (7) Pedestrian access shall be provided to the building entries and parking areas connecting to the sidewalk at the street frontage.
- (8) Exterior building materials shall be traditional, time- and weather-tested materials and techniques.
  1. Exterior building materials utilized on the ground floor shall be limited to wood, masonry, stucco, fiber cement, or stone veneer systems. Stone veneer systems utilized on the ground floor shall have a minimum thickness of three (3) inches.
  2. Exterior building materials utilized on upper floors may include all materials permitted on the ground floor as well as EIFS, stone veneer systems, or precast panels with inlaid or stamped brick texture. All materials utilized on upper floors shall have a minimum thickness of one (1) inch and shall be structurally integrated into the façade of the building.
- (9) In residential districts, the architecture of a neighborhood service use shall be similar in character to abutting properties including roof pitch, eaves, building materials, windows, trim, color, and landscaping.

**(c) Veterinary Clinic / Animal Hospital.**

- (1) Veterinary clinics or animal hospitals shall be permitted to establish accessory kennel or boarding facilities pursuant to the regulations of Section 17.0406(a).
- (2) Methods shall be used to reduce the impact of noise on adjacent properties, which may include the use of sound-barrier material such as "bark-block" and/or other approved insulation.

### Sec. 17.0407. Lodging Uses

(a) **Bed and Breakfast.**

- (1) All bed and breakfast establishments shall be subject to the City of Oak Creek's local hotel room tax as established in Chapter 3.40(d) of the Municipal Code.
- (2) Bed and breakfast establishments shall meet all standards provided for in Section 50.51(b) of the Wisconsin Statutes and Chapter HSS 197 of the Wisconsin Administrative Code.
- (3) Lodging may be provided in a maximum of four (4) rooms.
- (4) Rooms may be rented for more than ten (10) nights in a twelve (12) month period.
- (5) The bed and breakfast establishment shall be the primary residence of the property owner.

(b) **Short Term Rental.**

- (1) All short term rentals shall be subject to the City of Oak Creek's local hotel room tax as established in Chapter 3.40(d) of the Municipal Code.
- (2) The residential dwelling in which short term rental is offered shall be the primary residence of the property owner.
- (3) The short term rental period shall be a minimum of three (3) consecutive days and a maximum of one hundred twenty (120) consecutive days.

### Sec. 17.0408. Eating and Drinking Use Standards

(a) **Café.** The following standards shall apply to Café uses in residential zoning districts only.

- (1) A café use shall be limited to two-thousand five hundred (2,500) square feet of gross floor area.
- (2) Cafés shall front and be accessed from arterial or collector streets only.
- (3) The main entrance of a café use shall be oriented towards the primary street.
- (4) The off-street parking and loading of a café use that fronts onto an existing or proposed arterial or collector roadway, as identified in the Oak Creek Comprehensive Plan, may be located in the front, side, or rear of the primary building. The off-street parking and loading of a café use that fronts onto any other roadway type shall be located on the side or rear of the primary building.
- (5) A maximum of one (1) curb cut shall be permitted per street frontage unless otherwise approved by the Plan Commission.
- (6) Service areas, dumpsters, utilities, and the required screening thereof shall not be visible from a right-of-way and shall not be located in any front yard or street-facing side yard.

- (7) Pedestrian access shall be provided to the building entries and parking areas connecting to the sidewalk at the street frontage.
- (8) Exterior building materials shall be traditional, time- and weather-tested materials and techniques.
  - a. Exterior building materials utilized on the ground floor shall be limited to wood, masonry, stucco, fiber cement, or stone veneer systems. Stone veneer systems utilized on the ground floor shall have a minimum thickness of three (3) inches.
  - b. Exterior building materials utilized on upper floors may include all materials permitted on the ground floor as well as EIFS, stone veneer systems, or precast panels with inlaid or stamped brick texture. All materials utilized on upper floors shall have a minimum thickness of one (1) inch and shall be structurally integrated into the façade of the building.
- (9) The architecture of a café use shall be similar in character to abutting properties including roof pitch, eaves, building materials, windows, trim, color, and landscaping.

**(b) Mobile Retail Food Establishment / Food Truck Park.**

- (1) The maximum number of food trucks allowed on site will be dependent on the size of the lot and sites ability to provide required electrical access and parking. Site plans shall be provided to the City for review before permitting.
- (2) A minimum of ten (10) feet of clearance shall be provided between all individual food trucks.
- (3) The area for a food truck park shall be clearly defined and separated from all patron parking with an enclosure. Any use of fencing or planters to separate the food truck park from parking shall provide visibility into the site and shall not exceed four (4) feet in height.
- (4) Food truck parks are encouraged to create an inviting and attractive aesthetic environment and shall include seating and shade elements.
- (5) A minimum of (2) permanent restrooms that meet ADA standards within two hundred (200) feet of the food truck area shall be made accessible to patrons during hours of operation.
- (6) Food truck parks shall be located a minimum of five hundred (500) feet away from any brick-and-mortar restaurant unless said restaurant is operating a truck within the food truck park, as measured from the facility property line.
- (7) Any food truck park shall not be located less than one-thousand five hundred (1,500) feet from any other food truck park, as measured from the facility property line.
- (8) Electrical service shall be provided to each food truck.
- (9) A minimum of one (1) trash receptacle and one (1) recycling receptacle shall be provided per food truck. The food truck park shall also provide a commercial dumpster outside of the designated



patron area for waste disposal. This dumpster shall be screened in accordance with Section 17.0506(a).

(10) Food trucks shall be inspected in accordance with the State of Wisconsin.

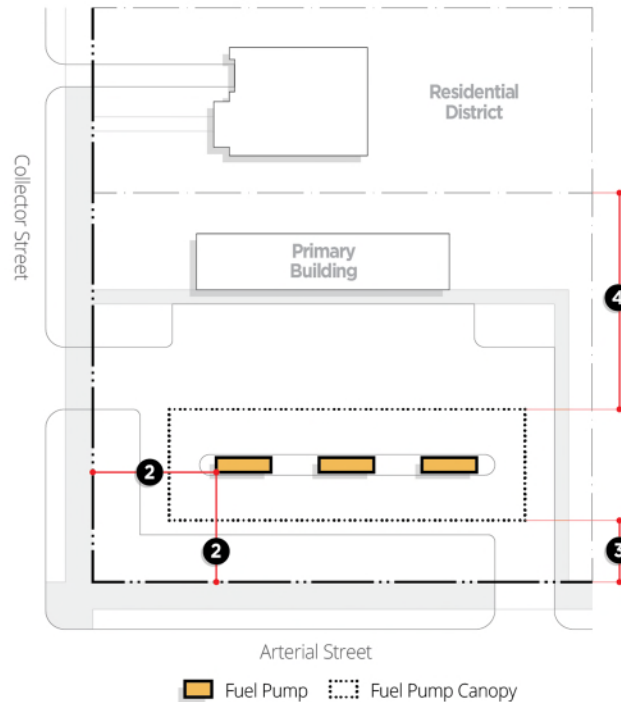
## **Sec. 17.0409. Vehicle Related Use Standards**

### **(a) Fuel Sales and Fueling Plaza.**

- (1) Fuel sale and fueling plaza uses shall front and be accessed from arterial or collector streets only.
- (2) All fuel pumps shall be set back a minimum of twenty-five (25) feet from the street right-of-way and side and/or rear lot lines.
- (3) All fuel pump canopies shall be located a minimum of twenty (20) feet from the street right-of-way and side and/or rear lot lines.
- (4) All fuel pumps and fuel pump canopies shall be located a minimum of fifty (50) feet from any residential district boundary line.
- (5) Fuel pump canopies shall maintain a uniform and consistent roofline with the building to which the fuel pump canopy is associated. The Plan Commission may approve additional fuel pump canopy height to accommodate fuel pump canopies that serve commercial vehicles.
- (6) Fuel pump canopies shall be lit with only non-surface mounted or recessed lighting.
- (7) Signs displayed on fuel pump canopies shall:
  - a. Be located only on faces of the canopy fronting a public right-of-way.
  - b. Not exceed twenty-five (25) percent of the face of the canopy on which the sign is to be located.
  - c. Not protrude above the highest point of the canopy.
  - d. Not extend more than six (6) inches from the face of the canopy on which the sign is attached.
  - e. Feature sign copy that is individually affixed letters or appear to be individually affixed letters only.

- (8) The exterior of the base of any column supporting a fuel pump canopy shall be consistent with the materials used for the exterior of the principal building up to a height of four (4) feet.
- (9) Any outdoor display or sale of merchandise shall be pursuant to Section 17.0414(j).

Figure 4.3: Fuel Sales and Fueling Plazas



### Sec. 17.0410. Office Use Standards

HOLD FOR FUTURE USE

### Sec. 17.0411. Industrial Use Standards

#### (a) Manufacturing, Artisan.

- (1) Gross floor area shall not exceed ten thousand (10,000) square feet.
- (2) Outdoor storage and / or permanent outdoor operations or activities shall be prohibited.
- (3) Retail sales of goods manufactured on-site shall be permitted but shall be limited to twenty-five (25) percent of each tenant space.
- (4) A maximum of one (1) residential unit shall be permitted but shall be limited to twenty-five (25) percent of the total area of the building.

### **Sec. 17.0412. Medical Use Standards**

HOLD FOR FUTURE USE

### **Sec. 17.0413. Public / Institutional Use Standards**

HOLD FOR FUTURE USE

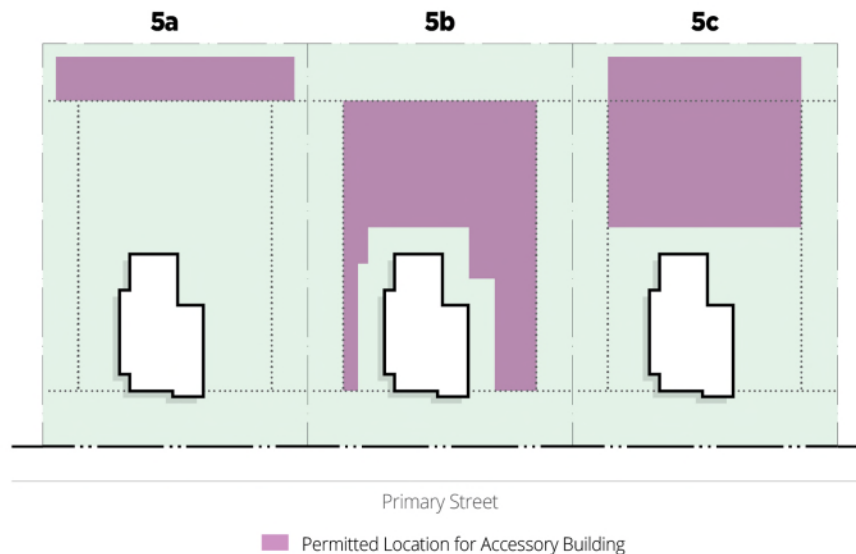
### **Sec. 17.0414. Accessory Use Standards**

(a) **Accessory, Building.**

- (1) Two (2) accessory buildings shall be permitted per lot.
- (2) On lots less than or equal to one-half (0.5) acre the aggregate maximum area of all accessory buildings shall not exceed one-thousand (1,000) square feet or seventy-five (75) percent of the livable area of the principal building, whichever is less. Livable area shall not include basements.
- (3) On lots greater than one-half (0.5) acre, the aggregate maximum area of all accessory buildings shall not exceed one-thousand and two hundred (1,200) square feet or seventy-five (75) percent of the livable area of the principal building, whichever is less.
- (4) Accessory buildings shall have a maximum height of twenty (20) feet but in no instance shall exceed the height of the principal building.
- (5) Accessory buildings shall require a certificate of zoning compliance pursuant to Section 17.0803(d), except for buildings accessory to single-family or two-family uses or located in the A-1, ER, Rs-1, Rs-2, Rs-3, Rs-4, or Rd-1 Districts, which shall require a certificate of zoning compliance pursuant to Section 17.0803(d).

- (6) Accessory buildings shall be located per the following:
  - a. If located entirely within the required rear yard the accessory building shall be located a minimum of five (5) feet from side and rear property lines,
  - b. If located entirely within the buildable area of the lot the accessory building shall not be located between the primary building and the front property line,
  - c. If located partially in the required rear yard and partially in the buildable area of the lot the accessory building shall maintain the required side yard setback for the full length of the property and be a minimum of five (5) feet from the rear property line, or
  - d. As permitted in Section 17.0303(b) Yard Setback Modifications.
- (7) Accessory buildings greater than or equal to one hundred sixty (160) square feet shall be accessed by a driveway pursuant to Section 17.0503.
- (8) Accessory buildings shall not have flat roofs.
- (9) The exterior building materials of buildings accessory to nonresidential, mixed use, or multifamily uses shall include wood, masonry, stucco, fiber cement, stone veneer systems, EIFS, or precast panels with inlaid or stamped brick texture.

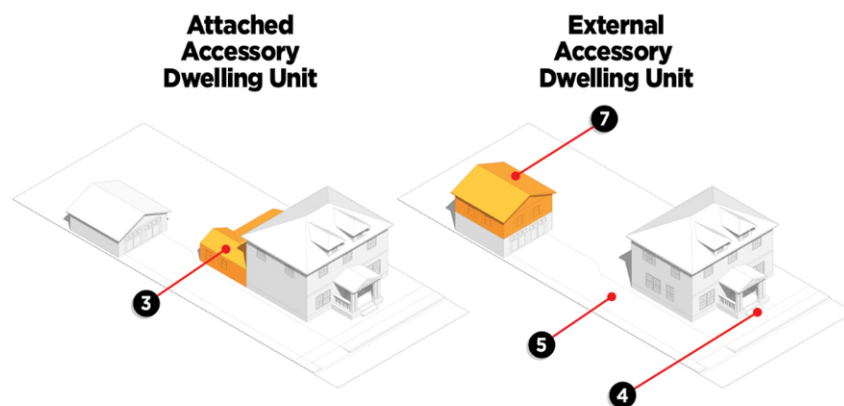
Figure 4.4: Accessory Building - Permitted Locations



(b) **Accessory, Dwelling.**

- (1) The subject parcel's owner shall live on-site in either the principal building or accessory dwelling unit.
- (2) Accessory dwelling units shall not be greater than eight hundred (800) square feet or fifty (50) percent of the size of the primary building, whichever is less.
- (3) Accessory dwelling units shall not exceed the height of the principal building.
- (4) Accessory dwelling units may be located:
  - a. Interior to the primary building,
  - b. Attached to the primary building, or
  - c. Above an existing detached garage.
- (5) Accessory dwelling units located in the interior of a primary building are not required to have an entrance separate from the principal building's entrance, however only one (1) entrance shall be located on the front façade of the primary building. Additional entrances shall be located on the side or rear façade.
- (6) Both the primary building and the accessory dwelling unit shall be served by one (1) common driveway connecting the accessory dwelling unit to a public or private road.
- (7) Parking for the accessory dwelling unit, as required by Section 17.0501, shall be in addition to the parking space(s) required for the primary building. The parking for the accessory dwelling unit shall not be located in the required front yard setback. A tandem parking space, where one (1) car is parked behind another, with the spaces required for the primary building shall be prohibited.
- (8) Accessory dwelling units shall be similar in character to the primary building and to abutting properties including roof pitch, eaves, building materials, windows, trim, color, and landscaping.

Figure 4.5: Accessory Dwellings



(c) **Accessory, Retail.**

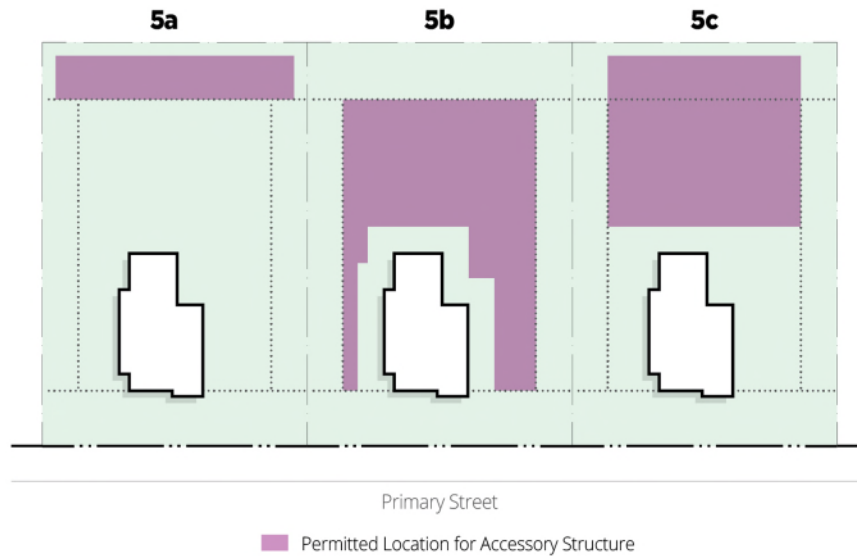
- (1) The total area devoted to retail activity shall not exceed twenty-five (25) percent of the total area of the building in which the accessory retail activity shall take place.
- (2) Restroom facilities shall be provided and shall be directly accessible from the accessory retail sales area.
- (3) Accessory retail sales areas shall be physically separated from other activity areas by a wall.

(d) **Accessory, Structure.**

- (1) Two (2) accessory structures shall be permitted per lot.
- (2) An accessory structure shall not exceed one hundred (100) square feet.
- (3) An accessory structure shall have a maximum height of twelve (12) feet.
- (4) Accessory buildings shall be located per the following:
  - a. If located entirely within the required rear yard the accessory structure shall be located a minimum of five (5) feet from side and rear property lines,
  - b. If located entirely within the buildable area of the lot the accessory structure shall not be located between the primary building and the front property line,
  - c. If located partially in the required rear yard and partially in the buildable area of the lot the accessory structure shall maintain the required side yard setback for the full length of the property and be a minimum of five (5) feet from the rear property line, or

- d. As permitted in Section 17.0303(b) Yard Setback Modifications.

Figure 4.6: Accessory Structure - Permitted Locations



- (5) Accessory structures shall require a certificate of zoning compliance pursuant to Section 17.0803 (d), except when accessory to a single-family or two-family use or located in the A-1, ER, Rs-1, Rs-2, Rs-3, Rs-4, or Rd-1 Districts, which shall require a certificate of zoning compliance pursuant to Section 17.0803 (d).

**(e) Building for the Housing of Horses and other Animals.**

- (1) Buildings for the housing of horses and other animals shall be setback a minimum of fifty (50) feet from all lot lines.

**(f) Donation Drop Box.**

- (1) Donation drop boxes shall be associated with the primary use of the lot and on properties that contain an existing and operating permitted or conditional use.
- (2) No more than two (2) donation drop boxes shall be permitted on a lot.
- (3) Each donation drop box shall not exceed seven (7) feet in height and twenty-five (25) square feet in ground area.
- (4) Donation drop boxes shall be located on an asphalt or concrete paved surface.
- (5) Donation drop boxes shall not be located in a driveway or drive aisle and shall not reduce the width of paved clear space for the passage of pedestrians to less than five (5) feet. Boxes shall not be located in such a way as to disrupt the flow of vehicular or pedestrian traffic.

- (6) Boxes shall not be located nearer than forty (40) feet from an adjoining lot in a Residential Zoning District.
- (7) A notice shall be permanently affixed to each donation drop box in a highly visible location prohibiting the placement of items outside of the box. The name and twenty-four (24) hour telephone number of the owner/operator shall be permanently affixed to each donation drop box.

**(g) Drive-Through.**

- (1) Drive-throughs shall be permitted a maximum of four (4) total menu boards and pre-order boards with a combined maximum area of one hundred (100) square feet. Each menu board or pre-order board shall not exceed sixty (60) square feet in area and ten (10) feet in height. Menu boards and pre-order boards may utilize electronic message boards for 100 percent of the permitted menu board or pre-order board area and shall follow all regulations of Section 17.0607(c).
- (2) Any speaker or intercom associated with a drive-through shall not be audible beyond the boundaries of the property.
- (3) Drive-through canopies shall maintain a uniform and consistent roofline with the building to which the drive-through is associated.
- (4) Stacking spaces and lanes for drive through stations shall not impede on- and off-street traffic movement, are not to cross or pass through off-street parking areas or drive aisles and are not to impede pedestrian access to a public entrance of a building.
- (5) Drive-through lanes are to be separated from off-street parking areas. Individual lanes are to be striped, marked, or otherwise distinctly delineated.
- (6) Drive-through facilities shall be provided with a bypass lane with a minimum width of ten (10) feet.
- (7) Stacking lanes shall have a minimum depth of twenty (20) feet per stacking space and the following minimum lane widths:
  - a. One (1) lane: twelve (12) feet,
  - b. Two (2) or more lanes: ten (10) feet per lane.

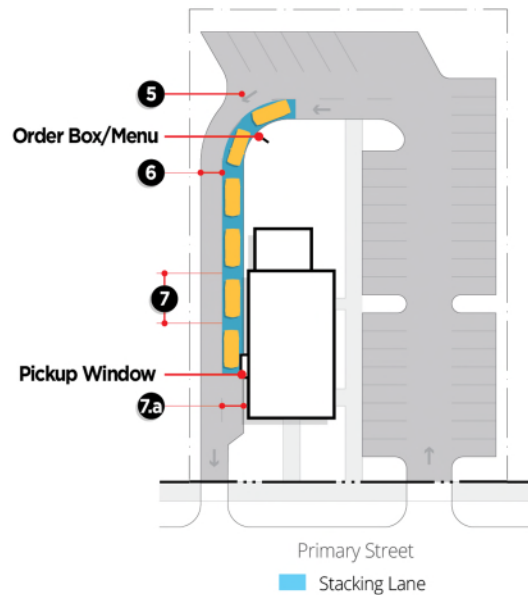


(8) Drive-through facilities shall be required to provide a minimum number of stacking spaces as detailed in Table 17.0414(g).

Table 17.0414(g): Drive-Through Stacking Space Requirements		
Use	Minimum Stack	Measure From
Automated Teller Machine	2 per machine	teller machine
Bank Teller Lane	2 per lane	teller or window
Restaurant	6 per order box	order box <sup>1</sup>
Carwash Stall, Automatic	5 per stall	stall entrance
Carwash Stall, Manual	2 per stall	stall entrance
Oil Change Shop	2 per service bay	service bay entrance
Pharmacy	4 per lane	machine or window
Other	at the discretion of the Plan Commission	

1. 4 of the required stacking spaces are to be located between the order-box and pick-up window, including the stacking space at the order box.

Figure 4.7: Drive Through Standards



(h) Home Occupation.

- (1) All home occupations shall be required to receive a Home Occupation Permit.
- (2) The primary use of the structure shall be as a dwelling unit.
- (3) The following standards shall be complied with in full at all times:

- a. No person other than a resident of the dwelling unit shall be engaged or employed in the home occupation on the premises;
- b. No additional sign area, beyond what is permitted in residential districts in Article 6 shall be granted to home occupations;
- c. No mechanical equipment shall be utilized except that which is necessarily, customarily, or ordinarily used for household or leisure purposes;
- d. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials shall be used or stored on the site except those which are necessarily, customarily, or ordinarily used for household or leisure purposes;
- e. There shall be no outside operations, storage, or display of materials or products;
- f. No alteration of the residential appearance of the premises shall occur, including the creation of a separate entrance for the home occupation;
- g. No process shall be used which is hazardous to public health, safety, morals, or welfare;
- h. Visitors, customers, or deliveries shall not exceed that normally and reasonably occurring for a residence including not more than two (2) business visitors per hour, not to exceed a total of eight (8) visitors per day, and not more than two (2) deliveries of product or material per week;
- i. The home occupation shall not displace or impede use of required parking spaces, including any business storage in required garage parking areas; and
- j. No advertisement shall be placed in any media containing the address of the property.

**(i) Keeping and Raising of Horses and other Animals.**

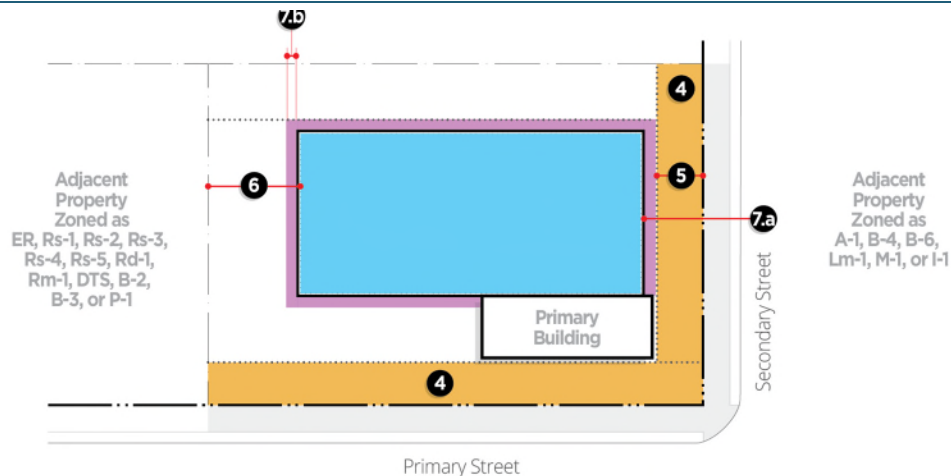
- (1) No more than two (2) horses, donkeys, mules, ponies or their offspring over six (6) months of age shall be kept on a parcel less than or equal to three (3) acres. No more than one (1) additional horse, donkey, mule or pony shall be kept for each additional acre over three (3) acres.
- (2) No other domestic stock shall be raised or kept.

**(j) Outdoor Activity / Operation, Permanent.**

- (1) Any property with permanent outdoor activity or operations shall have a minimum lot size of five (5) acres.
- (2) Outdoor activities and operations shall be conducted between the hours of 7:00am and 9:00pm unless otherwise approved by the conditional use permitting process as detailed in Sec. 17.0804(e).
- (3) Outdoor activities and operations shall be located to the rear or side of the principal building on the lot.

- (4) Outdoor activities and operations shall be prohibited in front or exterior side yards.
- (5) Outdoor activities and operations shall be setback a minimum of fifty (50) feet from all lot lines when adjacent properties are zoned A-1, B-4, B-6, Lm-1, M-1, or I-1.
- (6) Outdoor activities and operations shall be setback a minimum of one hundred (100) feet from all lot lines when adjacent properties are zoned ER, Rs-1, Rs-2, Rs-3, Rs-4, Rs-5, Rd-1, Rm-1, DTS, B-2, B-3, or P-1.
- (7) The following minimum screening requirements shall apply to permanent outdoor activities and operations visible from the right-of-way of an existing or proposed arterial or collector roadway, as identified in the Oak Creek Comprehensive Plan or a property zoned ER, Rs-1, Rs-2, Rs-3, Rs-4, Rs-5, Rd-1, Rm-1, DTS, B-2, B-3, or P-1.
  - a. A solid wall constructed from traditional, time- and weather-tested materials and techniques such as but not limited to masonry, stone veneer systems, stucco, or precast panels with inlaid or stamped brick texture and not less than six (6) feet and not more than eight (8) feet in height shall be erected to screen those portions of permanent outdoor activity and operations areas visible from an existing or proposed arterial roadway, as identified in the Oak Creek Comprehensive Plan or a property zoned ER, Rs-1, Rs-2, Rs-3, Rs-4, Rs-5, Rd-1, Rm-1, DTS, B-2, B-3, or P-1.
  - b. A landscape strip, not less than five (5) feet wide shall be located in front of the wall. A minimum of four (4) canopy or evergreen trees shall be planted and evenly spaced per every one hundred (100) lineal feet. A minimum of ten (10) shrubs shall be planted and evenly spaced per every one hundred (100) linear feet. All landscape maintenance requirements of Section

Figure 4.8: Outdoor Activity / Operations Standards



17.0505(f) shall apply.

**(k) Outdoor Dining.**

- (1) The outdoor dining area shall be located on a hard paved surface and shall comply with all applicable Code requirements.
- (2) The outdoor dining area shall not be located in a required parking space. However, parking spaces in excess of the minimum requirement for the use may be permanently converted for outdoor dining.
- (3) The outdoor dining area shall not block a private or public sidewalk in a manner which reduces the width of that sidewalk to less than five (5) feet.
- (4) A fence, landscape hedge, or wall with a minimum height of three (3) feet and maximum height of four (4) feet shall be utilized to define the outdoor dining area.
- (5) Use of the outdoor dining area shall be limited to the posted operational hours of the associated eating and drinking use.

**(l) Outdoor Display / Sale of Merchandise, Permanent.**

- (1) Only those goods and materials associated with the existing on-site use may be displayed or sold.
- (2) Permanent outdoor display or sales areas shall not be located within any required yard.
- (3) Permanent outdoor display or sales areas shall be surfaced with an approved hard surface material. Partially paved or unpaved outdoor display or sales areas shall be prohibited.
- (4) Permanent outdoor display or sales areas shall not block a private or public sidewalk in a manner which reduces the width of that sidewalk to less than five (5) feet.
- (5) Permanent outdoor display or sales areas shall not exceed ten (10) percent of the gross floor area of the principal building on the property unless approved as a conditional use.
- (6) Permanent outdoor displays or sales areas larger than four hundred (400) square feet in size shall be enclosed with a solid fence or wall to screen views from public rights-of-way. The enclosure shall be a minimum height of four (4) feet and a maximum height of eight (8) feet. The design of the enclosure shall be compatible with the main building(s) and surrounding development.

**(m) Outdoor Storage, Permanent.**

- (1) Permanent outdoor storage areas shall be surfaced with an approved hard surface material. Partially paved or unpaved outdoor storage areas shall be prohibited.
- (2) The following minimum screening requirements shall apply to all permanent outdoor storage areas which are visible from the right-of-way.
  - a. A solid wall constructed from traditional, time- and weather-tested materials and techniques such as but not limited to masonry, stone veneer systems, stucco, or precast panels with inlaid

or stamped brick texture and not less than six (6) feet and not more than eight (8) feet in height shall be erected to screen those portions of permanent outdoor storage areas visible from an existing or proposed arterial roadway, as identified in the Oak Creek Comprehensive Plan, or from a property zoned ER, Rs-1, Rs-2, Rs-3, Rs-4, Rs-5, Rd-1, Rm-1, DTS, B-2, B-3, or P-1.

b. A landscape strip, not less than five (5) feet wide shall be located in front of the wall. A minimum of four (4) canopy or evergreen trees shall be planted and evenly spaced per every one hundred (100) lineal feet. A minimum of ten (10) shrubs shall be planted and evenly spaced per every one hundred (100) lineal feet. All landscape maintenance requirements of Section 17.0505(f) shall apply.

(3) Shipping containers not located on a truck or located on a truck which is kept in the same parking or loading area for more than thirty (30) days shall be considered outdoor storage and shall be subject to all provisions for outdoor storage as found in this Section.

(n) **Roadside Stand.**

(1) One (1) roadside stand shall be permitted per property.

(2) A roadside stand shall not exceed two hundred (200) square feet in area.

(3) A roadside stand shall be setback a minimum of ten (10) feet from all lot lines.

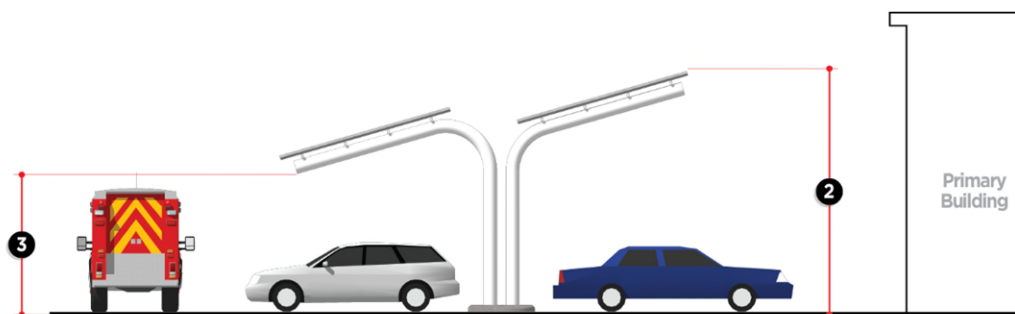
(o) **Solar Energy Collection System, Canopy.**

(1) Canopy solar energy collection systems may exceed the applicable maximum accessory structure height if they cover an impervious surface parking area.

(2) The height of canopy solar energy collection systems shall not exceed the height of the primary building that the parking area serves.

(3) The minimum height of solar energy collection systems shall allow clearance for emergency and service vehicles.

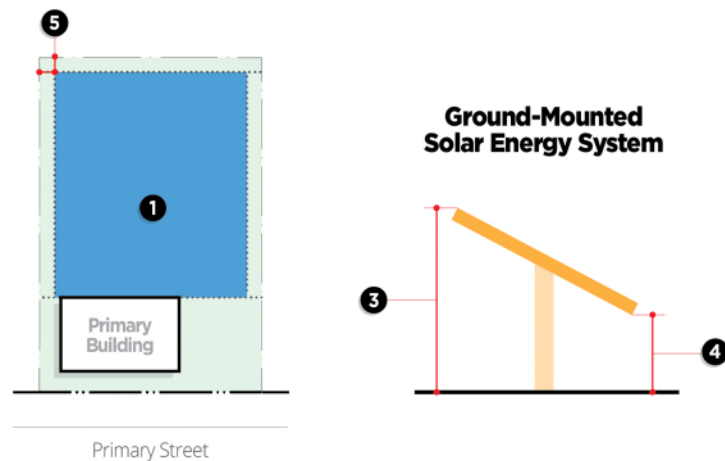
Figure 4.9: Solar Energy Collection System, Canopy Standards



(p) **Solar Energy Collection System, Ground Mounted.**

- (1) Ground mounted solar energy collection systems shall be permitted in the rear yard, or interior or street-facing side yard.
- (2) An unlimited quantity of panels is permitted on all zoning lots with the exception of any residential zoning lot thirty-thousand (30,000) square feet or less in size, which are limited to a total of one hundred (100) square feet in area of panels.
- (3) The maximum height of ground mounted solar energy collection systems shall be five (5) feet in height, measured from the grade at the base of the pole to the highest edge of the system.
- (4) Minimum clearance between the lowest point of the system and the surface on which the system is mounted is twelve (12) inches.
- (5) All parts of the freestanding system shall be set back ten (10) feet from the side and rear lot lines and shall not be located in a public utility easement.

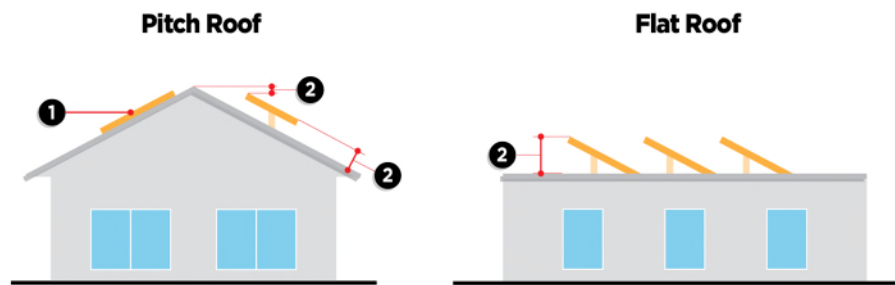
Figure 4.10: Solar Energy Collection System, Ground Mounted Standards



**(q) Solar Energy Collection System, Roof Mounted.**

- (1) Roof mounted solar energy collection systems may be located on any roof face of principal or accessory buildings. Systems should be flush mounted when possible.
- (2) Systems on residential structures shall not extend beyond twelve (12) inches parallel to the roof surface of a pitched roof or flat roof. Systems on nonresidential structures shall not extend beyond thirty-six (36) inches parallel to the roof surface of a pitched roof or flat roof. Systems on all structures shall not extend above the highest peak of a pitched roof.
  - a. Height is measured from the roof surface on which the system is mounted to the highest edge of the system.
- (3) All materials used for racking, mounts, mounting clamps, and flashings shall be of a color consistent with the color of the roof surface to minimize visibility.

*Figure 4.2: Solar Energy Collection System, Roof Mounted Standards*

**(r) Swimming Pools, Hot Tubs, Saunas, and Similar Installations, Private.**

- (1) Private swimming pools and similar installations may be located in side or rear yards only.
- (2) Private swimming pools and similar installations shall be located at least ten (10) feet from the principal structure.
- (3) Any hard paved surfaces shall be located at least (5) five feet from any side or rear lot line.
- (4) Private swimming pools and similar installations shall be installed in accordance with the City building, plumbing, and electrical codes, including the issuance of all required permits.
- (5) Private swimming pools and similar installations shall not be permitted in the C-1 Shoreland Wetland Conservancy Districts, the FW Floodway District, the FF Flood Fringe District.

**(s) Sport Court, Private.**

- (1) A building permit shall be required for all private sport courts.

- (2) All private sport courts shall be directly surrounded by a fence not less than ten (10) feet in height.
- (3) No lighting installed around a private sport court shall project onto adjacent properties.
- (4) No private sport court shall be located closer than five (5) feet to a lot line.
- (5) Private sports courts shall not be permitted in the C-1 Shoreland Wetland Conservancy Districts, the FW Floodway District, the FF Flood Fringe District.

(t) **Wind Energy Collection Systems.**

(1) **Small Structure Wind Energy Turbine Performance Standards.**

- a. **Height.** The maximum height of the system shall be fifteen (15) feet above the highest point of the roofline of the building or structure it is mounted upon. The height shall be measured from the highest point of the roofline to the top of the tower or tip of the blade in its vertical position, whichever is higher.
- b. **Diameter.** The maximum diameter of the blades or rotor shall be ten (10) feet.
- c. **Visual Appearance.** Finished in a single non-reflective, unobtrusive color, such as off-white, light gray, or other neutral color, or match the color of the building on which it is mounted. The appearance shall be maintained throughout the life of the unit.
- d. **Lighting.** The wind system shall not be artificially lighted with accent lighting unless required by the FAA, or other agency with jurisdictional authority.

(2) **Small Tower Mounted Wind Energy Turbine Performance Standards.**

- a. **Setback.** The wind tower system shall be set back a distance equal to one hundred ten (110) percent of the combined height of the tower plus the length to the tip of the blade from all adjacent property lines. Additionally, no portion of the small wind energy system may be located within any required setback.
- b. **Clear Zone.** The wind tower system shall maintain a circular clear zone that has a radius which is equivalent to one hundred ten (110) percent of the combined distance of the tower height plus the length to the tip of the blade. This clear zone shall be maintained free of any occupied structures, tanks containing combustible/flammable liquids, and above-ground utility/electrical lines.
- c. **Height.** The height shall not exceed thirty five (35) feet. The height shall be measured from the finished grade at the base of the small wind energy system to the top of the tower or tip of the blade in its vertical position, whichever is higher.



- d. **Visual Appearance.** Finished in a single non-reflective, unobtrusive color, such as off-white, light gray, or other neutral color. The appearance shall be maintained throughout the life of the unit. Only monopole towers shall be permitted.
- e. **Electrical.** All electrical wires other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- f. **Lighting.** The wind tower system shall not be artificially lighted with accent lighting unless required by the FAA, or other agency with jurisdictional authority.
- g. **Security.** Any climbing apparatus must be located at least twelve (12) feet above the ground, and the tower must be designed to prevent climbing within the first twelve (12) feet. The climbing apparatus can be reduced to eight feet above ground if the tower is surrounded by a five (5) foot fence.
- h. **Signage.** No tower should have any sign, writing, or picture other than the name of the owner and operator of the wind tower system.

(3) **General Standards Applicable to All Wind Energy Systems.**

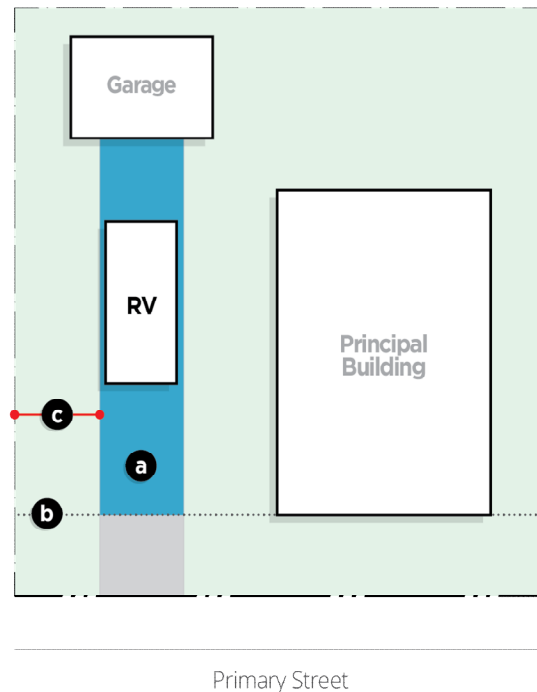
- a. **Sound.** The wind system shall not exceed sixty (60) dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms as determined by the Director of Community Development or their designee.
- b. **Shadow Flicker.** The wind system shall be installed and operated so as not to cause a shadow flicker to fall on or in any existing residential structure.
- c. **Performance and Safety Standards.** At the time of application, the applicant must present a certification from the manufacturer that the system's turbine and other components equal or exceed the standards of one of the following national certification programs such as the: National Electrical Code (NEC), American National Standards Institute (ANSI), Underwriters Laboratories (UL), or any other small wind certification program recognized by the American Wind Energy Association.
- d. **Electromagnetic Interference.** System shall be designed and constructed so as not to cause radio and television interference. Wind tower systems shall be compliant with all life safety and building codes.
- e. **Removal.** If the system remains nonfunctional or inoperative for a continuous period of six (6) months, the system shall be deemed to be abandoned. The system owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, transmission equipment and fencing from the property excluding foundations.

## Sec. 17.0415. Temporary Use Standards.

### (a) Car, Truck, and Recreational Vehicle Parking.

- (1) No car, truck, construction equipment or commercial truck shall be parked regularly upon a driveway in any residential zoning district except as provided herein:
  - a. Vehicles that do not exceed twelve thousand (12,000) lbs. manufacturer's gross vehicle weight may be parked on a driveway. Parking on lots that are used as a one or two-family residence shall be limited to parking within garages, carports and upon residential driveways consisting of concrete, brick or other similar hard surface material.
  - b. Additional vehicles may be parked or stored on the lot within a fully enclosed building or structure as permitted in Section 17.0414.
  - c. Vehicles shall be located outside of all rights-of-way, vision clearance triangles and drainage easement areas.
- (2) No boat, boat trailer, mobile home, motor home, motor coaches, truck campers, camping trailers, travel trailers, fifth-wheel trailers, large utility trailers, race cars and their trailers, sport aircraft and their trailer, canoes or kayaks and their trailers, all-terrain vehicles and their trailers, tent campers, folding campers, snow mobiles and their trailers, cases or boxes used to transport recreational vehicles or their equipment, yard maintenance equipment and similar equipment or vehicles shall be parked or stored outside on a residentially zoned lot, except as provided herein:
  - a. They shall be located on hard paved surfaces only.
  - b. They shall not be located closer to the front property line than the front elevation of the primary building.
  - c. They shall be located in the rear or side yard and not closer than five (5) feet to a side or rear lot line.
  - d. They shall be located outside of all ultimate rights-of-way, vision clearance triangles and drainage and utility easement areas.
  - e. The recreational vehicle shall be maintained in operable condition.
  - f. No recreational vehicles or equipment shall be stored in any open space outside a building unless such equipment is owned by the property owner or children of the property owner or resident at the property in question. If the property is rented, such storage shall be permitted for the tenant only provided that such equipment is owned by the tenant.
  - g. All equipment shall be parked or stored as inconspicuously as possible on the property. The area around the equipment or vehicle shall be kept weed-free and free of accumulation of other stored material.

Figure 4.32: Recreational Vehicle Parking Standards



- (3) One (1) recreational vehicle may be stored outside in the rear or side yard of an occupied residential or agricultural lot.
- (4) Except within an approved campground or mobile / manufactured home park, no recreational vehicle shall be used for the purpose of permanent habitation, living or housekeeping purposes in the City of Oak Creek. Permanent habitation is defined as living in one place for more than ten (10) consecutive days.
- (5) This Chapter is not intended to allow parking and storage of recreational vehicles or equipment where they may be otherwise prohibited by deed restriction, covenant, prior orders, developer's agreement, or otherwise limited to topography or environmental restrictions.
- (6) No semi-trailers/trucks are allowed to be parked in any residential zoning district.

**(b) Seasonal Sales.**

- (1) Seasonal sales shall include the outdoor display or sale of seasonal merchandise not otherwise associated with the principal use of the lot such as holiday tree or pumpkin sales.
- (2) Seasonal sales shall be permitted for a period not to exceed forty-two (42) days per calendar year.

- (3) Seasonal sales areas shall utilize a maximum of twenty (20) percent of the parking spaces required for the operation of the primary use or two-thousand (2,000) square feet whichever is less.

**(c) Mobile Food Retail Establishment / Food Truck.**

- (1) Mobile Food Retail Establishments / Food Trucks may only be established on sites which have an active open business during the hours of the food truck operations.
- (2) Sites for Mobile Food Retail Establishments / Food Trucks are required to have full public improvements (curb, gutter, sidewalk, access drive, etc.)
- (3) Mobile Food Retail Establishments / Food Trucks shall locate on paved surfaces. Mobile Food Retail Establishments / Food Trucks located on unimproved surfaces, landscaping areas, and required setback areas are prohibited. No food truck shall locate on dirt or gravel areas.
- (4) Mobile Food Retail Establishments / Food Trucks shall obtain written permission from the private property owner(s), and upon demand shall provide it to authorized representatives of the City of Oak Creek.
- (5) Only one (1) food truck is allowed per lot with the exception of a long-term temporary use as detailed in Section 17.0804(c) or a short-term temporary use as detailed in Section 17.0803(i).
- (6) Mobile Food Retail Establishments / Food Trucks shall only impact no more than four (4) parking stalls or six hundred and fifty (650) square feet, whichever is less, on private property including all vending activity, tables, chairs, and trash / recycling receptacles.
- (7) Tables and chairs (furniture) shall be permitted and shall be located on improved and/or paved surfaces.
- (8) Tables and chairs located in parking stalls, landscape areas, or drive aisles shall be prohibited, excepting the four (4) parking stall area designated for vending.
- (9) A minimum of one (1) trash receptacle and one (1) recycling receptacle shall be provided per Mobile Food Retail Establishments / Food Truck.
- (10) Furniture and trash / recycling receptacles shall not be retained on-site overnight.
- (11) Mobile Food Retail Establishments / Food Trucks may not occupy or operate within an ADA Parking Stall or a pedestrian path.
- (12) Drive aisles, sidewalks, access to trash enclosures and similar areas may not be blocked by any vending activity.
- (13) Mobile Food Retail Establishments / Food trucks are prohibited within three hundred (300) feet from the front door of any restaurant unless written permission from the restaurant owner/operator is provided.

(14) Prior to each instance of Mobile Food Retail Establishments / Food Truck establishment a permit from the Inspections Department shall be required. The application for the permit shall be accompanied by the required fee as established by the Common Council, a copy of the Mobile Food Retail Establishments/Food Truck License, and written proof of the last Mobile Food Retail Establishments/Food Truck inspection date to the satisfaction of the City's Environmental Health Specialist.

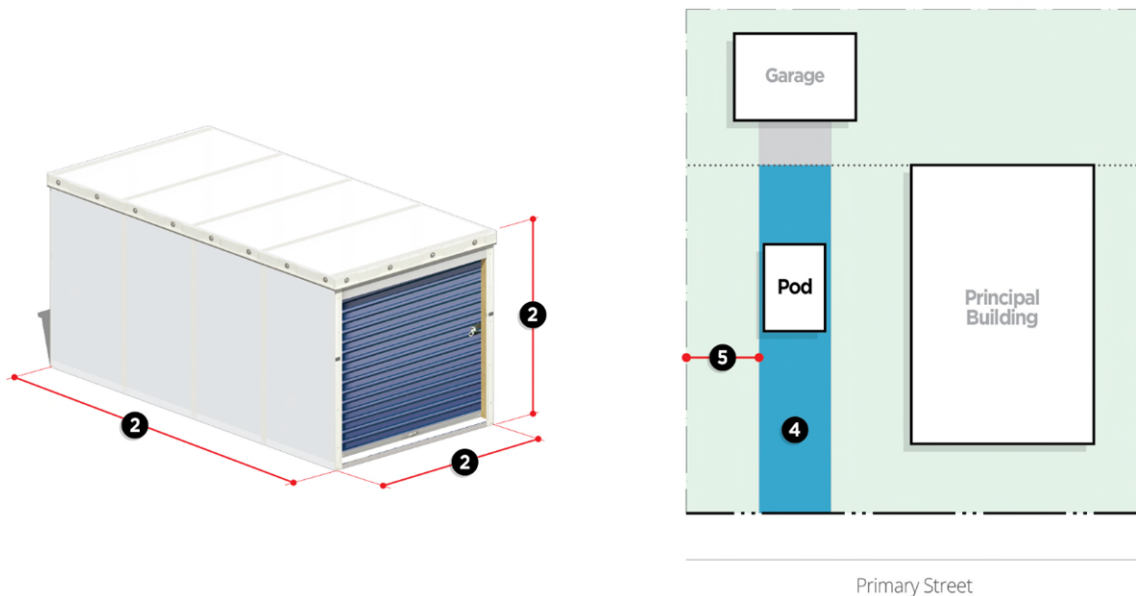
**(d) Outdoor Display / Sale of Merchandise, Temporary.**

- (1) Temporary outdoor display or sale of merchandise shall be located on the same lot and in conjunction with the primary use of the lot.
- (2) Temporary outdoor display or sale areas shall occur:
  - a. On the sidewalk area at the foundation of the primary use, limited to the free space, and not including a five (5) foot wide pedestrian way.
  - b. In a portion of the parking lot, which shall not exceed twenty (20) percent of the parking spaces required for the operation of the primary use, or two-thousand (2,000) square feet, whichever is less.

(e) **Portable Storage Structure.**

- (1) There shall be no more than one (1) portable storage structure per property.
- (2) The portable storage structure shall be no larger than ten (10) feet wide, twenty (20) feet long, and ten (10) feet high.
- (3) The portable storage structure shall not encroach on City property, rights-of-way, neighboring property, sidewalk, or be placed in the street.
- (4) The portable storage structure shall be placed on an approved hard surface material between the front lot line and the rear building line of the principal building.
- (5) The visual distance between the portable storage structure and the side lot line shall be five (5) feet or as approved by the Community Development Director or their designee and agreed upon by written consent by the neighboring property owner.
- (6) A portable storage structure shall not remain on the property in any zoning district in excess of thirty (30) consecutive days and shall not be placed at any one property in a zoning district in excess of thirty (30) days in any calendar year.
- (7) Portable storage structures associated with construction at a site where a building permit has been issued are permitted for the duration of construction and shall be removed from the site within fourteen (14) days of the end of construction. Portable storage structures associated with construction are exempt from the aforementioned conditions.

Figure 4.4: Portable Storage Structure (POD) Standards



## Article 5. General Development Standards

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### Sec. 17.0501. Off-Street Parking

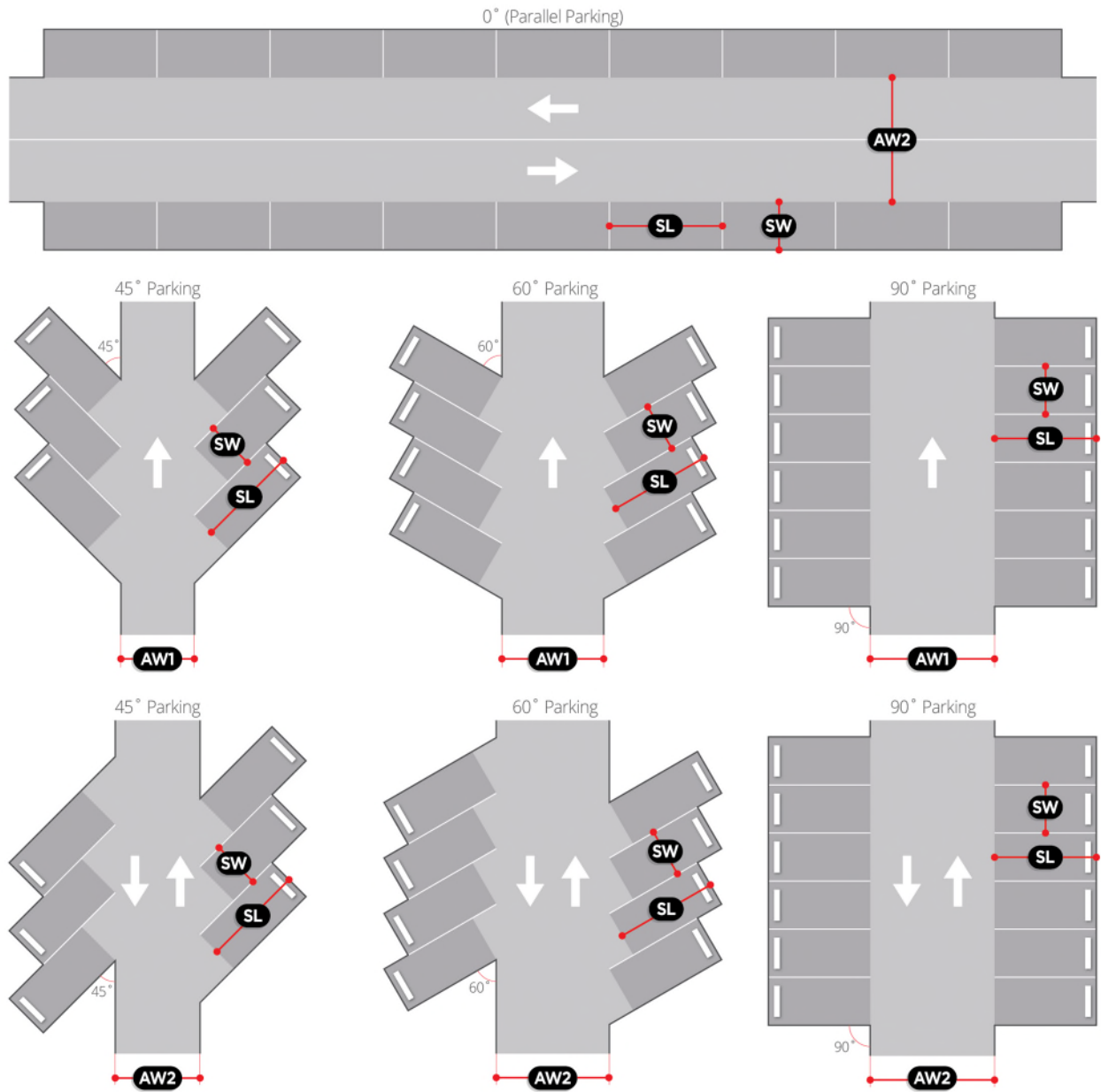
- (a) **Applicability.** In all districts and in connection with every use, there shall be provided at the time any use is erected, enlarged, extended, or increased, off-street parking spaces and lots for all vehicles in accordance with the provisions of this Section.
- (b) **Parking Spaces for Use by Physically Disabled Persons.** All open off-street parking areas provided for more than twenty-five (25) parking spaces, except for parking areas restricted to use by employees only, shall provide parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the requirements of Section 346.503 of the Wisconsin Statutes.

- (c) **Location of Parking.** Parking spaces shall be located on the same lot as the principal use except as provided for in this Chapter.
- (1) Uninterrupted parking lots along the full street frontage of commercial or manufacturing developments abutting a public right-of-way are prohibited, except where the physical orientation of the lot makes it necessary, as determined by the Plan Commission.
  - (2) Parking should be directed to the side or rear of the lot, where it is less visually intrusive. No more than fifty (50) percent of the off-street parking for commercial developments with a gross floor area in excess of twenty-five thousand (25,000) square feet and that directly abut a public right-of-way shall be located between the front of the building and the primary abutting street unless the overall development design includes smaller buildings on pads or outlots closer to the street.
  - (3) All parking shall be set back from street rights-of-way and adjacent lot lines in accordance with the parking lot perimeter area and transition area requirements in Section 17.0505.
- (d) **Parking Stall and Aisle Dimensional Standards.** The minimum length of parking stalls shall be modified in parking lots based on the aisle width and the angle of parking. Parking stalls shall conform to the following minimum dimensions:

<b>Table 17.0501 (d): Parking Stall and Aisle Dimensional Standards</b>				
<b>Parking Angle (degrees)</b>	<b>Minimum (feet)</b>			
	<b>Stall Width (SW)</b>	<b>Stall Length (SL)</b>	<b>One-Way Aisle Width (AW1)</b>	<b>Two-Way Aisle Width (AW2)</b>
0	8	20	11	20
45	9	20	16	20
60	9	19	16	20
90	9	18	20	24



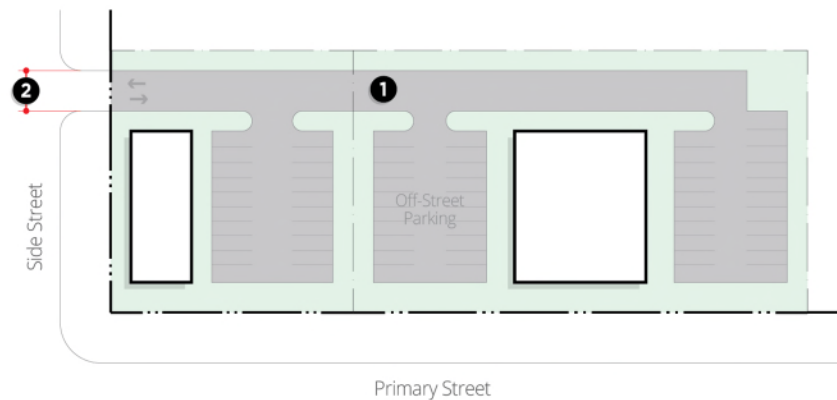
Figure 5.1: Parking Stall and Aisle Dimensional Standards



(e) **Access.**

- (1) Except for detached single-family dwellings, attached single-family dwellings, off-street parking areas with three (3) or more spaces shall be configured so that a vehicle may enter and leave a parking space without moving another vehicle.
- (2) **Vehicular Cross-Access.** To facilitate vehicular access between adjoining developments, encourage shared vehicle parking, and minimize access points along streets, new multifamily, nonresidential, and mixed-use development or redevelopment shall comply with the following standards:
  1. Internal vehicular circulation systems shall be designed to allow for vehicular cross-access between the development's vehicle parking facilities and vehicle parking facilities in an adjoining multifamily, nonresidential, or mixed-use development, or to the boundary of adjoining vacant land zoned to allow multifamily, nonresidential, or mixed-use development.
  2. Required vehicular cross access between the adjoining lots shall be provided through the use of a frontage or service street (if the lots front on a major thoroughfare right-of-way), a single two-way maneuvering lane, or two one-way maneuvering lanes that are sufficiently wide to accommodate traffic by automobiles, service vehicles, loading vehicles, and emergency vehicles.
  3. The Community Development Director or their designee may waive or modify the requirement for vehicular cross access on determining that such cross access is impractical or undesirable because it would require crossing a significant physical barrier or environmentally sensitive area, would create unsafe conditions, or there exists an inability to connect to adjacent property.
  4. Easements allowing cross access to and from properties served by a vehicular cross-access, along with agreements defining maintenance responsibilities of property owners, shall be submitted for recording with the Register of Deeds for the county in which the properties are located before issuance of a Building Permit for the development.

Figure 5.2: Vehicular Cross Access Standards



- (f) **Surfacing.** All off-street parking lots shall be surfaced with asphalt, concrete, brick, pavers, or an equivalent material as approved by the City Engineer. Surfaces such as pervious asphalt, pervious concrete or turf blocks are permitted; subject to the requirements of this Chapter and other City policies pertaining to stormwater management. Drive approaches from an alley or street shall be concrete. The required off-street parking spaces (parking lots) shall be completely paved prior to the issuance of the occupancy permit for all new buildings and prior to the final inspection of all building additions. However, if the new building or building addition is completed during the November to March period, the pavement shall be completed by June 1 of that year and in the interim, a binder course shall be required.
- (g) **Grading.** All off-street parking lots shall be graded and drained as to dispose of all surface water in accordance with the requirements of Section 16.08 of the Municipal Code of the City of Oak Creek.
- (h) **Parking Requirements.**
- (1) **Minimum Requirements.** Except as otherwise expressly stated, off-street parking spaces shall be provided in accordance with the parking ratio requirements of Table 17.0501(h)(4). Parking spaces with electric vehicle charging stations shall count toward the minimum requirement.
  - (2) **Maximum Requirements.** To minimize excessive areas of pavement, no parking lot shall exceed the required number of parking spaces by more than twenty (20) percent, except as approved by Community Development Director or their designee. In granting additional spaces, the Community Development Director or their designee shall determine that the parking is needed based on documented evidence of actual use and demand provided by the applicant.
  - (3) **Calculations.** The following rules shall apply when calculating the minimum required number of parking spaces.
    1. **Multiple Uses.** In developments involving the establishment or addition of two (2) or more uses on one (1) lot or parcel, the cumulative number of spaces required for each use shall determine the total number of spaces required.
    2. **Fractions.** When measurements of the number of required spaces result in a fractional number, any fraction of less than 0.5 is rounded down to the next lower whole number, and any fraction of 0.5 or more is rounded up to the next higher whole number.
    3. **Area Measurements.** Unless otherwise expressly stated, all area-based (square footage) parking standards must be computed on the basis of gross floor area (GFA).
    4. **Occupancy or Capacity-Based Standards.** For the purpose of computing parking requirements based on employees, students, residents or occupants, calculations must be based on the largest number of persons working on any single shift, the maximum enrollment or the maximum fire-rated capacity, whichever is applicable as determined by the Community Development Director or their designee and the Fire Department.

5. **Unlisted Uses.** In the case of uses not specified in Table 17.0501(h)(4), the number of spaces specified as the general City of Oak Creek 17-89 standard for the use class or the number of spaces specified for similar use shall apply.

(4) **Minimum Parking Requirements by Use.**

<b>Table 17.0501(h)(4): Minimum Parking Requirements by Use</b>	
<b>Use</b>	<b>Minimum Parking Requirement</b>
<i>Agricultural Uses</i>	
Agritourism Related Uses	1 / 250 sq ft retail / assembly space
Aquaculture	1 / 1,500 sq ft
Garden Plots for Rent	n/a
General Farm Structures	As determined by parking demand study
General Farming	
Keeping and Raising of Domestic Stock, Commercial	
Plant Nursery / Greenhouse	
Solar Energy Collection System, Farm	
<i>Residential Uses</i>	
Community Living, 1-15 Persons	1 / 6 residents and 1 / employee
Community Living, 16+ Persons	1 / bedroom, including dens <sup>1</sup> 1 enclosed space / dwelling unit
Dwelling, Multifamily Above Ground Floor	
Dwelling, Multifamily Building 9+ units	
Dwelling, Multifamily Building 2-8 units	
Dwelling, Multifamily Complex	
Dwelling, Single-Family Attached	2 / dwelling unit
Dwelling, Single-Family Detached	
Mobile Home Park	2 / mobile home space
Senior Housing, Assisted Living	1.5 / dwelling unit
Senior Housing, Nursing Care	0.5 / dwelling unit
Senior Housing, Total Life Care	1 / dwelling unit
<i>Recreational Uses</i>	
Art Gallery / Museum	1 / 3 people at maximum capacity
Boat Mooring and Rental / Marina	
Campground	1 / 250 sq ft community room space
Clubhouse	
Community Garden	n/a
Golf Course	1 / 3 people at maximum capacity
Golf Course, Miniature	
Health, Athletic, or Recreation Facility, Indoor	

<b>Table 17.0501(h)(4): Minimum Parking Requirements by Use</b>	
<b>Use</b>	<b>Minimum Parking Requirement</b>
Health, Athletic, or Recreation Facility, Outdoor	As determined by parking demand study  1 / 3 people at maximum capacity
Parks and Playgrounds, Private	
Parks and Playgrounds, Public	
Shooting / Archery Range, Indoor	
Shooting / Archery Range, Outdoor	
<b>Retail Uses</b>	
Adult Entertainment	1 / 250 sq ft
General Retail, less than 50,000 sq ft	
General Retail, 50,000 sq ft - 100,000 sq ft	
General Retail, more than 100,000 sq ft	
Grocery Store	
Multitenant Shopping Center	
Neighborhood Retail	
Outlot Retail Building	
Wholesale	
<b>Service Uses</b>	
Bank / Financial Institution	1 / 250 sq ft
Day Care Center	
General Service	
Kennel / Boarding Facility	
Neighborhood Service	
Self Service Laundry / Dry Cleaner	
Tattoo, Body Piercing, and Body Art Studios	
Veterinary Clinic / Animal Hospital	
<b>Lodging Uses</b>	
Bed and Breakfast	1 / occupiable room
Hotel	
Motel	
Short Term Rental	
<b>Eating and Drinking Uses</b>	
Café	2 / 250 sq ft
Microbrewery	3 / 250 sq ft
Restaurant, Delivery / Carry Out Only	1 / 250 sq ft
Restaurant, Fast Casual	3 / 250 sq ft
Restaurant, Sit Down	
Tasting Room, Brewery, Winery, Distillery	
<b>Vehicle Related Uses</b>	
Autobody Repair	1 / 300 sq ft and 1 / service bay

<b>Table 17.0501(h)(4): Minimum Parking Requirements by Use</b>	
<b>Use</b>	<b>Minimum Parking Requirement</b>
Car Wash	1 / car wash stall
Fuel Sales	1 / fuel pump
Fueling Plaza	
Service Station	1 / 300 sq ft and 1 / service bay
Vehicle Sales and Rental	1 / 600 sq ft
<b>Office Uses</b>	
Office, General	1 / 300 sq ft
Office, Above Ground Floor	
Office, Medical / Dental	
<b>Industrial Uses</b>	
Brewery / Winery / Distillery	1 / 1,500 sq ft
Laboratory	
Manufacturing, Artisan	
Manufacturing, Heavy	
Manufacturing, Light	
Motor Freight Terminal	
Self Storage	
Warehouse, Distribution	
Warehouse, Storage	
<b>Medical Uses</b>	
Hospital	As determined by parking demand study
Acute Care Center	
<b>Public / Institutional Uses</b>	
College / University	1 / 2 students and 1 / employee
Essential Service	As determined by parking demand study
Governmental Use, Indoor	
Governmental Use, Outdoor	
Place of Assembly	1 / 2 persons at maximum occupancy
Religious Institution	As determined by parking demand study
School, Private	
School, Public	
Vocational / Employment Training	1 / 2 students and 1 / employee
1 - A minimum of one (1) of the required parking spaces per residential unit shall be enclosed.	

- (i) **Adjustments to Required Parking.** The purpose of this Section is to allow adjustments to the minimum number of parking spaces required to avoid constructing unneeded and excessive off-street parking facilities. Reducing the amount of excess off street parking facilities is intended to provide for more cost-efficient site development, to eliminate constructing more impervious surface than necessary, to minimize storm water runoff, to avoid construction of unnecessarily large storm water management facilities, and to provide more landscape areas and open space on commercial and industrial sites. To achieve these purposes, the Plan Commission may reduce the minimum number of required off-street parking spaces in specific cases as described in this Section.
- (1) **Adjustments.** In all districts, the minimum number of required parking spaces may be adjusted by the Plan Commission on a case-by-case basis. The petitioner for such an adjustment shall show to the satisfaction of the Plan Commission that adequate parking will be provided for customers, clients, visitors, and employees. The following provisions and factors shall be used as a basis to adjust parking requirements:
1. **Evidence That Actual Parking Demands Will Be Less Than Ordinance Requirements.** The petitioner shall submit written documentation and data to the satisfaction of the Plan Commission that the operation will require less parking than the Chapter requires.
  2. **Availability of Shared Parking.** The petitioner shall submit written documentation to the satisfaction of the Plan Commission that off-site shared parking spaces are available within four hundred (400) feet of the lot line and within the same block to satisfy the parking demand. When a reduction of parking spaces attributable to shared parking is requested, the petitioner shall submit written verification that such parking is available and shall include copies of any contracts, joint lease agreements, purchase agreements, and other such documentation to show that such shared parking can be accomplished. Any and all such agreements shall be recorded with the Milwaukee County Register of Deeds, at the applicant's expense, and a copy of the recorded agreement shall be filed with the Community Development Director or their designee. The off-site shared parking spaces shall be clearly posted for the joint use of employees, and/or tenants, or customers of each respective use sharing those spaces.
  3. **Use of Optional Modes of Transportation.** Upon demonstration to the Plan Commission that effective alternative transportation to the automobile will occur within twelve (12) months following the issuance of the certificate of occupancy, the Plan Commission may reduce parking requirements. Optional modes of transportation may include, but is not limited to, bus transit, van pool operations, carpool/ride sharing, and bicycles. Parking management plans/operations may also be used as a basis to reduce required parking. Parking management plans may include, but are not limited to, flexible working hours or shifts, preferential parking for carpools/van pools, transit/van pool fare subsidy, imposition of a charge for parking, and establishment of a transportation coordinator to implement car pool, van pool, and transit programs. Proposals for adjustments of parking requirements under this section shall show how the alternative transportation modes will be implemented, the permanency of such modes, extent of the program, the number of vehicles the mode will replace, and other pertinent information.

4. **Oversize Vehicles.** All businesses that cater to customers who drive vehicles larger than what can be accommodated in a 10' X 20' parking space, shall provide the appropriate number of parking spaces and access aisles to accommodate these vehicles.
- (2) **Space to be Set Aside for Reduced Parking.** The site plan for the commercial or industrial use shall be designed to provide sufficient open space on the subject site to accommodate the additional parking spaces otherwise required by this Chapter. Such open space shall be in addition to required yards, setbacks, driveways, private streets, loading and service areas. Sufficient open space shall be provided which, if converted to parking spaces, would provide off street parking to meet the full requirements of this Chapter at the time of application.
  - (3) **Changes in Occupancy or Use.** When the use of a building, structure, or land is changed to another use or occupancy that requires more parking spaces than required for the use existing immediately prior to such change, additional parking spaces shall be constructed for the new use or occupancy in the amount necessary to conform to this Chapter prior to the issuance of a Certificate of Occupancy for the new use.
  - (4) **Changes in Intensity of Use.** When the intensity of use of a building, structure or land is increased by an addition of employees, gross floor area, seating capacity, or other unit of measurement, additional parking spaces shall be constructed for such additions in the amount necessary to conform to this Chapter.
  - (5) **Plan Commission Review and Verification.** The Plan Commission shall review the adequacy of parking where an adjustment to parking requirements has been granted within one year following such parking modification grant, and periodically thereafter to determine that the conditions justifying the parking requirement still exist. If the parking is found to be inadequate, the Plan Commission shall order the use of the property to comply with the parking requirements set forth in this Chapter.
- (j) **Off-Street Bicycle Parking Design Standards.**
- (1) **Location.**
    1. Required bicycle parking shall be provided on the same lot as the use for which it is intended to serve.
    2. Bicycle racks shall be adequately lit and located such that they are highly visible from the street and/or building entrance(s) from where bicyclists approach.
    3. The location of bicycle parking shall not conflict with pedestrian and/or vehicle circulation.
    4. Bicycle parking shall be sited within fifty (50) feet of a building's main entrance. If provided indoors, bicycle parking shall be located within a common area designated for secure bicycle storage.
    5. Bicycle parking adjacent to a pedestrian walkway shall be sited to ensure that a minimum five (5) foot walkway clearance is maintained.



(2) **Design Criteria.** All bicycle parking facilities shall be designed in accordance with standards established by the National Association of City Transportation Officials.

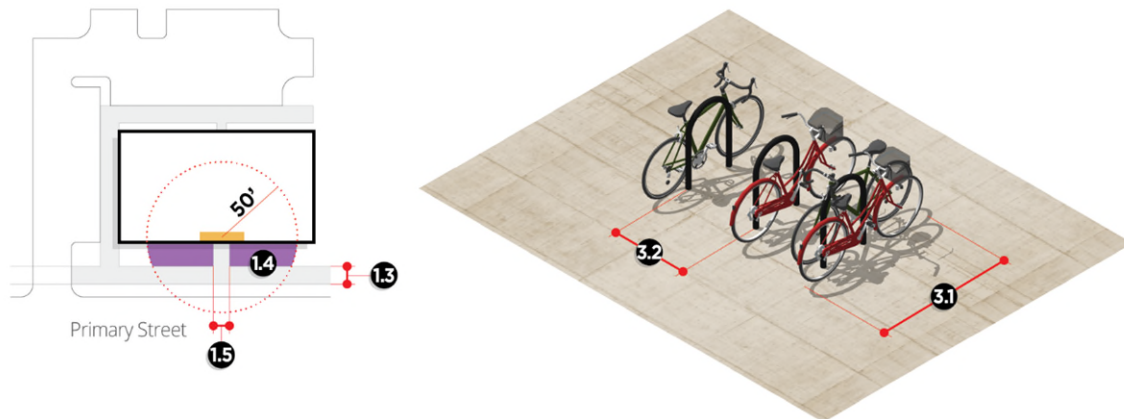
(3) **Dimensional Standards.**

1. Each bicycle parking space shall be a minimum of six (6) feet in length.
2. Bicycle racks shall be located at least three (3) feet in all directions from any obstruction, including but not limited to other bicycle racks, walls, doors, posts, columns, or landscaping.
3. A minimum vertical clearance of seven (7) feet shall be maintained above all bicycle parking facilities.

(4) **Off-Street Bicycle Parking Requirements.**

1. **Exemption.** The bicycle parking requirements of this Section shall apply to all uses other than the following:
  - a. All vehicle related uses;
  - b. Single-family detached and attached uses;
2. The number of required bicycle parking spaces shall be left to the discretion of the developer upon approval of the Plan Commission.

Figure 5.3: Bicycle Parking Standards



**(k) Internal Pedestrian Walkway Standards.**

- (1) A continuous internal pedestrian walkway must be provided from the perimeter public sidewalk to the principal customer entrance and shall be along direct routes that do not require significant out-of-direction travel.
- (2) The internal pedestrian walkways must be distinguished from driving surfaces through the use of contrasting materials to enhance pedestrian safety. Examples of acceptable materials include, but are not limited to, special pavers, bricks, or scored concrete, unless otherwise approved by the Plan Commission.
- (3) The internal pedestrian walkways shall provide at least one (1) connection to adjacent properties along a shared street frontage. Connections must provide access to existing walkways on adjacent properties, or to the likely future location of walkways on those properties. The Community Development Director or their designee may waive this requirement upon determining that no walkway exists, a future walkway is unlikely to exist, or such connection would create a safety hazard.

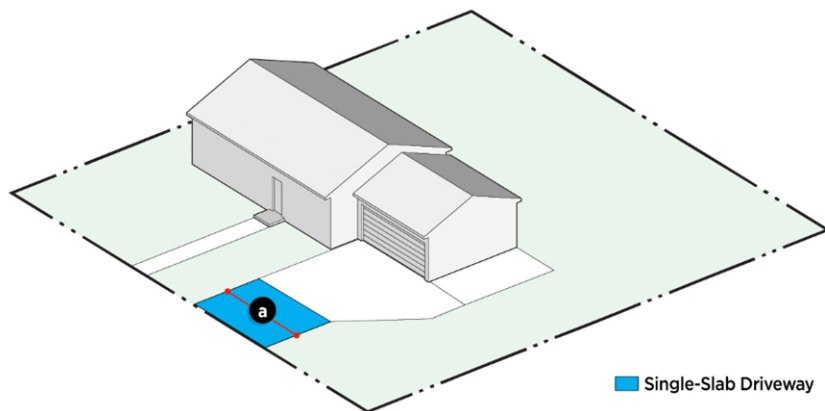
## Sec. 17.0502. Off-Street Loading

- (a) **Purpose.** The purpose of this Section is to prevent congestion of public rights-of-way and private lots to promote the safety and general welfare of the public by establishing minimum requirements for the provision of loading facilities on various sites.
- (b) **Applicability.** Any building which has a gross floor area of six thousand (6,000) square feet or more, and which requires deliveries or makes shipments, shall provide off-street loading facilities in accordance with the regulations of this Section. The Plan Commission may waive the requirement for the provision of off-street loading facilities based on site specific conditions.
- (c) **Location.** All loading docks shall be located twenty-five (25) feet or more from the intersection of two (2) street right-of-way lines. All loading areas shall be located on the private lot and shall not be located within, or so as to interfere with, any public right-of-way, off-street parking area, or pedestrian circulation area. No loading dock or overhead doors shall face upon a street right-of-way in commercial or office and professional business zoning districts. Loading docks or overhead doors may face upon a street right-of-way in manufacturing districts only in cases where no practical alternative exists, as determined by the Plan Commission.
- (d) **Size of Loading Area.** Adequate space for standing, turning, loading, and unloading services shall be provided in a manner that does not interfere with required off-street parking areas, pedestrian circulation areas, and with the public use of streets or alleys.
- (e) **Access to Loading Area.** Each loading berth shall be located so as to facilitate access to a public street or alley and shall not interfere with other vehicular or pedestrian traffic and shall not interfere with the function of parking areas. In no instance shall loading areas rely on backing movements into public rights-of-way.
- (f) **Surfacing and Marking.** All required loading areas shall be paved and maintained in a dust-free condition at all times. Said surface shall be marked in a manner that clearly indicates required loading areas.
- (g) **Use of Required Loading Areas.** The use of all required loading areas shall be limited to the loading and unloading of vehicles. Said area shall not be used to provide minimum required parking spaces, as detailed in Section 17.0501.
- (h) **Required Loading Spaces.** The number of required loading spaces shall be determined by the developer and shall provide for adequate space for standing, turning, loading, and unloading services shall be provided in a manner that does not interfere with required off-street parking areas, pedestrian circulation areas, and with the public use of streets or alleys.

## Sec. 17.0503. Driveways

- (a) **Single-Family Driveway Standards.** A single slab or ribbon driveway from the property line to legal, on-site parking shall be provided and shall be in conformance with the following criteria. A single slab or ribbon driveway and parking pad taper shall be the only permitted paved area in a front yard.
- (1) **Limit of One.** No more than one (1) single slab or ribbon driveway and one (1) curb cut shall be permitted for each single-family residential lot. New residential parcels taking access from collector or arterial streets shall share driveways in order to protect public safety by limiting curb cuts.
  - (2) **Single-Slab Driveway Design Standards.**
    - a. Single-slab driveways shall not exceed twenty-four (24) feet in width at the property line.
    - b. Single-slab driveways shall be surfaced with concrete including decorative concrete, patterned concrete, and exposed aggregate concrete, asphalt, concrete pavers, paving blocks, or similar materials approved by the City Engineer.

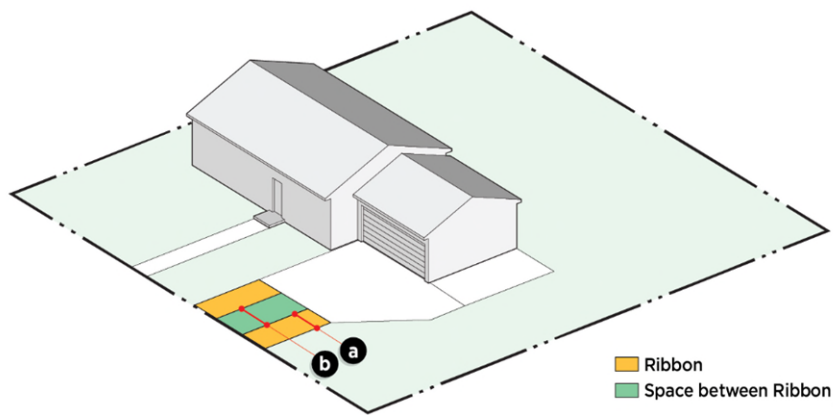
Figure 5.4: Single-Slab Driveway Design Standards



**(3) Ribbon Driveway Design Standards.**

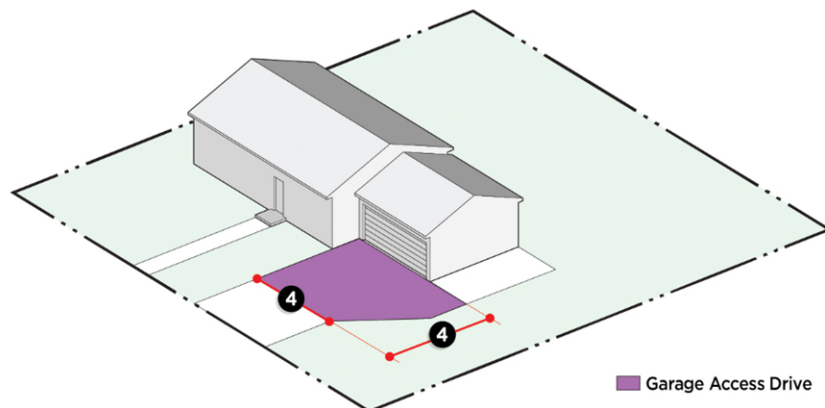
- a. Ribbons shall be a minimum of two (2) feet wide and a maximum of three (3) feet wide.
- b. Ribbons shall be a minimum of three (3) feet apart measured from their nearest edges. The space between ribbons shall be planted in turf grass or other ground cover used in the front yard.
- c. Ribbons shall be concrete including decorative concrete, patterned concrete, and exposed aggregate concrete, asphalt, concrete pavers, paving blocks, or similar materials approved by the City Engineer.

Figure 5.5: Ribbon Driveway Design Standards



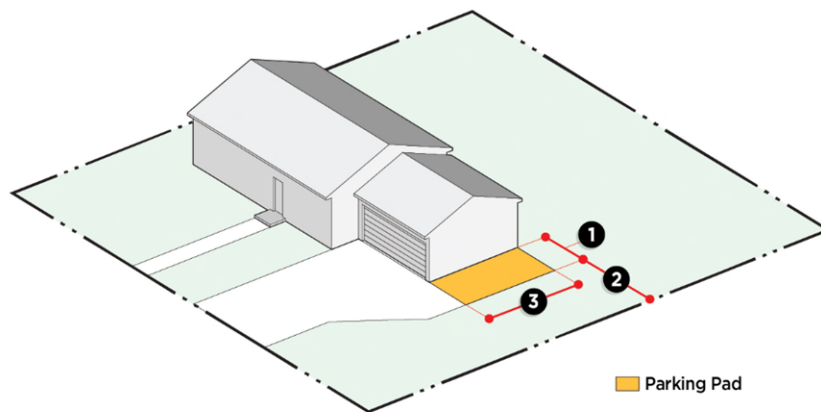
- (4) Garage Access Drive.** A garage access drive the width of the garage, as measured from the garage door(s) plus an additional three (3) feet on either side of the garage door(s), is permitted to extend for a distance of twenty (20) feet from the garage doors before tapering, within ten (10) feet, back to the maximum driveway width.

Figure 5.6: Garage Access Drive Standards



**(5) Parking Pad.**

- a. **Limit of One.** A single-family driveway may be extended to include one (1) parking pad.
- b. **Configuration.**
  1. A parking pad shall be a maximum of ten (10) feet in width.
  2. The portion of the parking pad adjacent to the driveway shall have a maximum length of twenty-five (25) feet, as measured from the front façade line of the garage. A minimum seven (7) foot taper shall be included in the twenty-five (25) foot maximum.
  3. The portion of the parking pad adjacent to the garage shall have a maximum length of twenty (20) feet, as measured from the front façade line of the garage.
- c. **Location.** The parking pad shall be set back a minimum of five (5) feet from any side property line.

*Figure 5.7: Parking Pad Standards*

- (6) **Driveway Approaches.** Driveway approaches shall meet all requirements of Chapter 6 of the Oak Creek Municipal Code.

(b) **Multifamily and Nonresidential Driveway Standards.**

(1) **Location.**

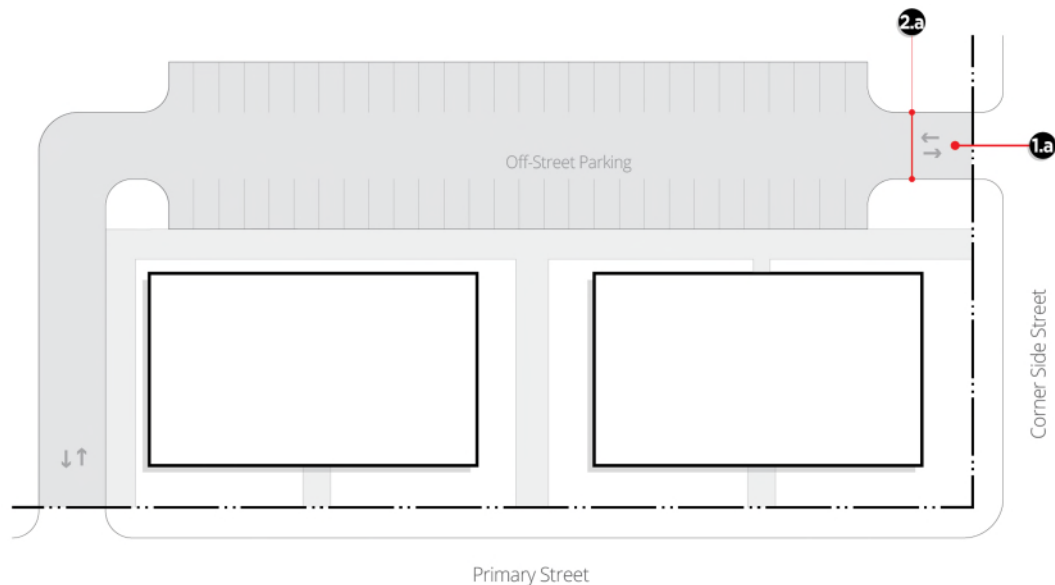
- a. Where a parking area of a corner lot abuts an alley or a corner side street, access to the parking area shall be obtained from a driveway off of the alley or corner side street. The Community Development Director or their designee may waive this requirement, if due to the particular situation of the parcel, this requirement cannot be satisfied.
- b. No lot can have multiple driveways for purposes of vehicular ingress and egress without a minimum of three hundred (300) foot separation between such curb cuts along a street. The Community Development Director or their designee may waive this requirement, if due to the particular situation of the parcel, this requirement cannot be satisfied.

(2) **Driveway Design Standards.**

- a. Driveways for multifamily uses shall not exceed thirty-two (32) feet in width at the property line.
- b. Driveways for commercial uses shall have a minimum width of twenty-four (24) feet and a maximum width of thirty-six (36) feet at the property line.
- c. Driveways for industrial uses shall have a minimum width of thirty (30) feet and a maximum width of forty-eight (48) feet at the property line.

(3) **Driveway Approaches.** Driveway approaches shall meet all requirements of Chapter 6 of the Oak Creek Municipal Code.

Figure 5.8: Multifamily and Nonresidential Driveway Standards



## Sec. 17.0504. Sidewalks

- (a) Sidewalks shall be provided along all sides of the lot that abut a public street and as directed by the City Engineer, where the existing right-of-way permits.
- (b) Existing development shall provide sidewalks along all sides of the lot that abut a public street, where the existing right-of-way permits when substantial rehabilitation, as detailed in Article 9 of this Zoning Ordinance, is done to the existing building(s) or site.
- (c) Sidewalks shall be constructed to have a minimum width equal to the width of existing or proposed abutting sidewalk or of five (5) feet, whichever is greater.
- (d) Sidewalks shall be designed and built in accordance with Americans with Disabilities Act standards.
- (e) Sidewalk layout and design specifications are subject to approval by the City Engineer.



## Sec. 17.0505. Landscape

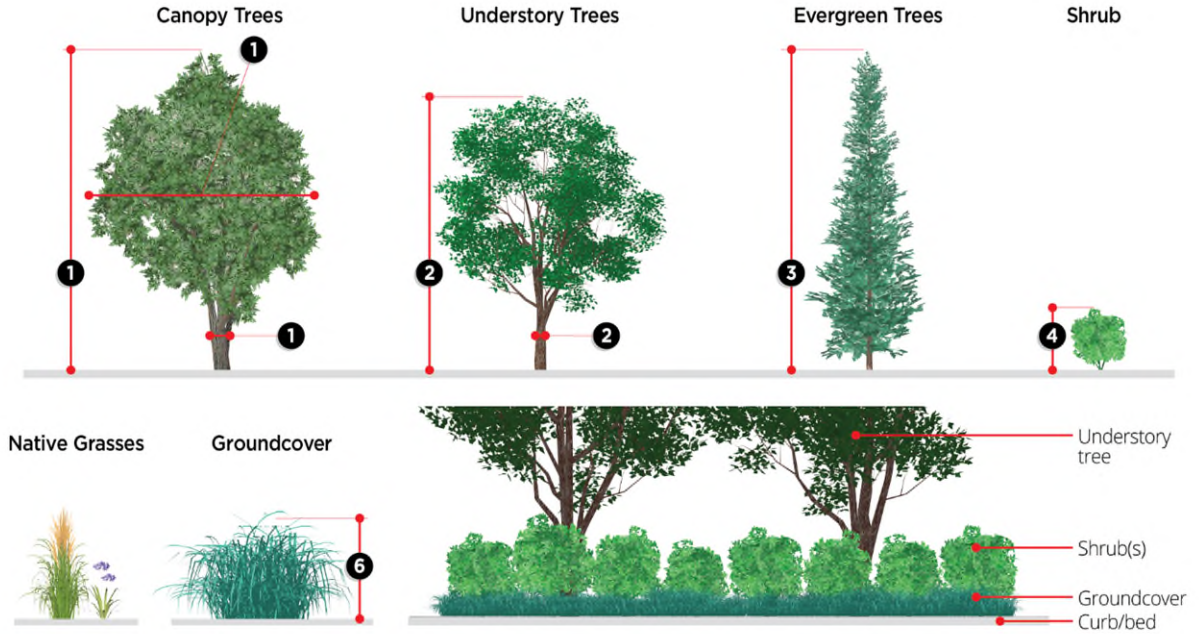
Landscape improvements required by this Section shall apply to all non-single-family development and consist of living plants in a combination of trees, shrubs, and/or groundcover. Landscape improvements required by this Section shall not be exclusive of any easements that would otherwise restrict or prohibit such landscaping nor be utilized for snow storage. Unless otherwise stated in this Section, all size specifications for plant materials shall be based upon the time of planting. When caliper is specified for tree planting, the caliper of the tree trunk shall be measured at six (6) inches above the soil level. Any plant materials used to meet the requirements of this Section shall not include any plant material identified as a Regulated Invasive Plant by the Wisconsin Department of Natural Resources pursuant to Wisconsin Administrative Code NR 40.

### (a) Planting Types.

- (1) **Canopy Trees:** A woody plant having not less than a two and one-half (2.5) inch caliper with single central axis which typically reaches a mature height of not less than forty (40) feet and a mature spread of not less than fifteen (15) feet.
- (2) **Understory Trees:** A woody plant having not less than a one and one-half (1.5) inch caliper, or six feet tall for multiple stem species, that normally attains a mature height of at least fifteen (15) feet.
- (3) **Evergreen Trees:** A tree having foliage that persists and remains green throughout the year and has a height of not less than six (6) feet at installation and maturing to a height of not less than twenty (20) feet.
- (4) **Shrub:** A woody plant (deciduous or evergreen) of low to medium height characterized by multiple stems continuous from its base and having a height of not less than two (2) feet.
- (5) **Native Grasses:** Grasses and flowering broad leaf plants that are native to, or adapted to, the State of Wisconsin, and that are commonly found in meadow and prairie plant communities, not including noxious weeds.

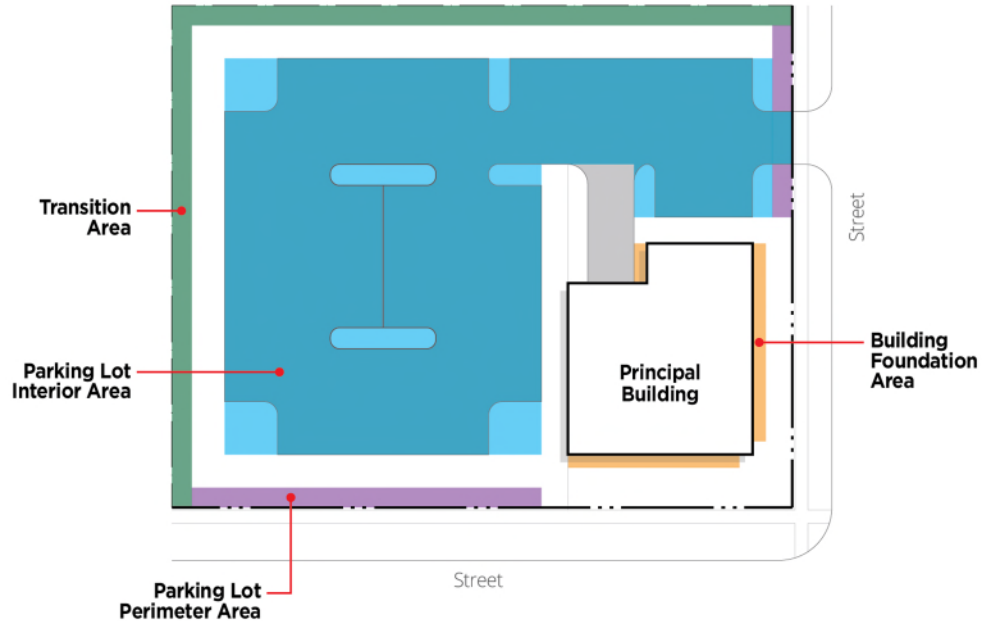
- (6) **Groundcover:** Herbaceous plants, other than turf grass, or prostrate shrubs normally reaching an average maximum height of eighteen (18) inches at maturity.

Figure 5.9: Planting Types



(b) **Required Landscape Areas.** The following graphic illustrates the location of the landscape requirements detailed in this Section.

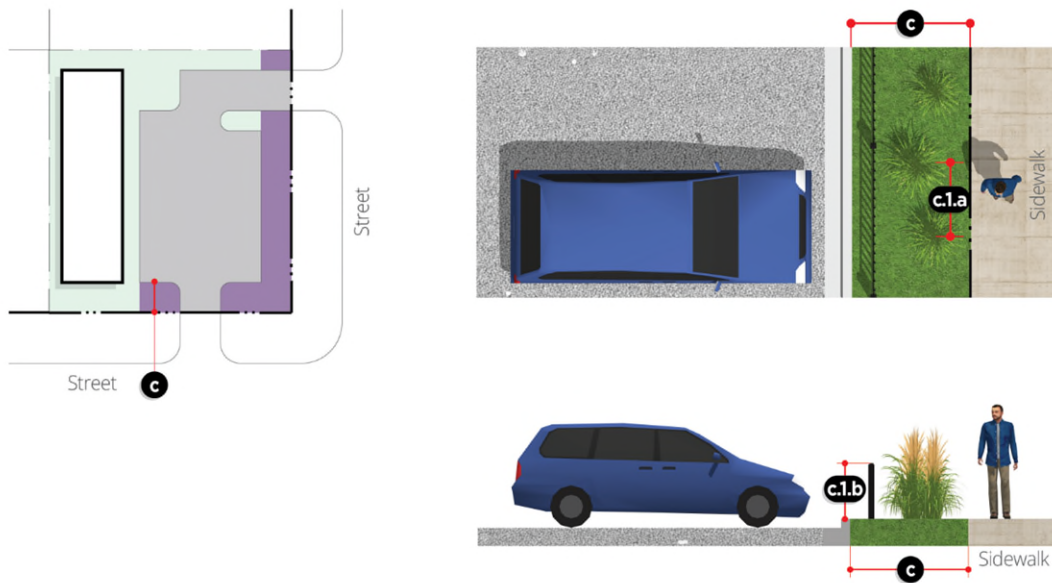
Figure 5.10: Required Landscape Areas



- (1) **Parking Lot Perimeter Area.** Trees and landscape required by this Section shall be in addition to trees and landscape required under other sections of this ordinance. It is the objective of this Section to provide screening between parking areas and right-of-way, and to provide for the integration of stormwater management with required landscaping.
- a. **Location.** All surface parking lots shall include landscape and trees located on the perimeter of parking areas along any adjacent public or private right-of-way, as required by this Section. Where a parking lot does not abut a public or private right-of-way, a landscaped area equivalent in size shall be provided within the parking area and shall comply with all regulations set forth for Parking Lot Interior Area landscape in Section 17.0505(b)(2).
  - b. **Applicability.** The parking lot perimeter landscape regulations of this Section apply to the following:
    1. The construction or installation of any new surface parking lot or vehicular use area; and
    2. The expansion of any existing surface parking lot or vehicular use area, in which case the requirements of this section apply only to the expanded area.

- c. **Requirements.** Perimeter landscape shall be established along the edge of the parking lot with a minimum depth of fifteen (15) feet as measured from the parking lot back of curb, to accommodate vehicle bumper overhang and ensure planting areas that are adequate in size.
1. The landscape treatment shall run the full length of the parking lot and shall be located between the property line and the edge of the parking lot. Landscaped areas outside of shrub and tree masses or stormwater management areas shall be planted in live groundcover. The landscaped area shall be improved as follows:
    - (a) One (1) shrub or native grasses the height of which shall not be less than three (3) feet nor greater than five (5) feet, shall be planted for every three (3) feet of landscape area length, spaced to adequately screen vehicle bumpers.
    - (b) A low masonry wall or fence the height of which provides effective screening to a maximum height of three (3) feet may be used in conjunction with required landscaping as detailed in Section 17.0505(b)(1)(c)(1)(a) above. Plant materials shall be installed between the sidewalk and the fence or wall to provide a softening effect.

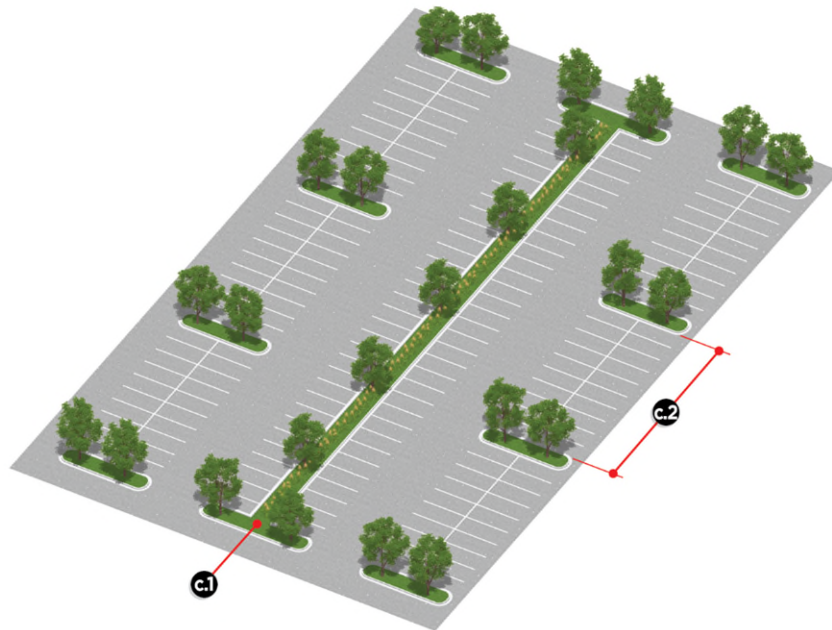
Figure 5.11: Parking Lot Perimeter Area Landscape Standards



- (2) **Parking Lot Interior Area.** All parking lots shall include landscape and trees located within the parking area as required by this Section. Trees and landscape required by this Section shall be in addition to trees and landscape required under other sections of this ordinance. It is the objective of this Section to provide shade within parking areas, break up large expanses of parking lot pavement, support stormwater management where appropriate, and provide a safe pedestrian environment.
- a. **Applicability.** The parking lot interior landscape regulations of this Section apply to the following:
1. The construction or installation of any new surface parking lot containing ten (10) or more parking stalls; and
  2. The expansion of any existing surface parking lot if the expansion would result in ten (10) or more new parking stalls, in which case the requirements of this Section apply only to the expanded area.
  3. A parking lot bay is defined as those spaces accessed from a single drive aisle.
- b. **Requirements.** For parking lots consisting of ten (10) or more spaces, interior parking lot landscape shall be required. For parking lots consisting of fewer than ten (10) spaces, all rows of parking shall be terminated by a parking lot island.

- c. **Amount.** Required parking lot interior landscape area shall be provided in the form of islands and medians.
  - 1. **Parking Lot Median Amount Requirement.** Parking lot medians shall be placed between every third bay of parking.
  - 2. **Parking Lot Island Amount Requirement.** Parking lot islands shall be located on parking bays which are not required to have parking lot medians. Parking lot islands shall be spaced not more than ninety (90) feet or more than ten (10) continuous spaces apart, and at the end of any bay of parking bordered by a drive aisle, public or private street, or pedestrian way.

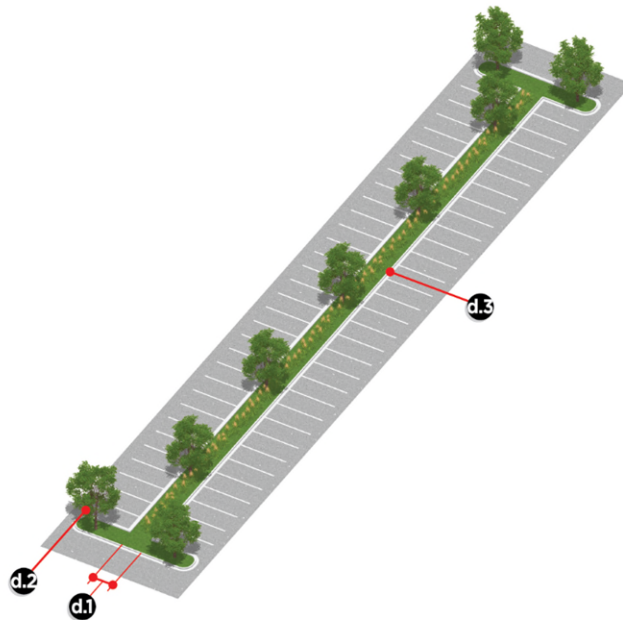
Figure 5.12: Parking Lot Interior Area Landscape Amount Standards



d. **Parking Lot Median Standards.**

1. **Size.** Parking lot medians shall have a minimum width of nine (9) feet and minimum soil depth of thirty-six (36) inches.
2. **Planting.** A minimum of one (1) canopy tree and fifteen (15) shrubs or native grasses shall be planted for each fifty (50) linear feet of parking lot median.
3. **Design.** Parking lot medians shall be protected with concrete curbing, wheel stops, or other suitable barriers. Such medians shall be properly drained or irrigated as appropriate to the site conditions to ensure survivability of plant materials and proper stormwater management function.

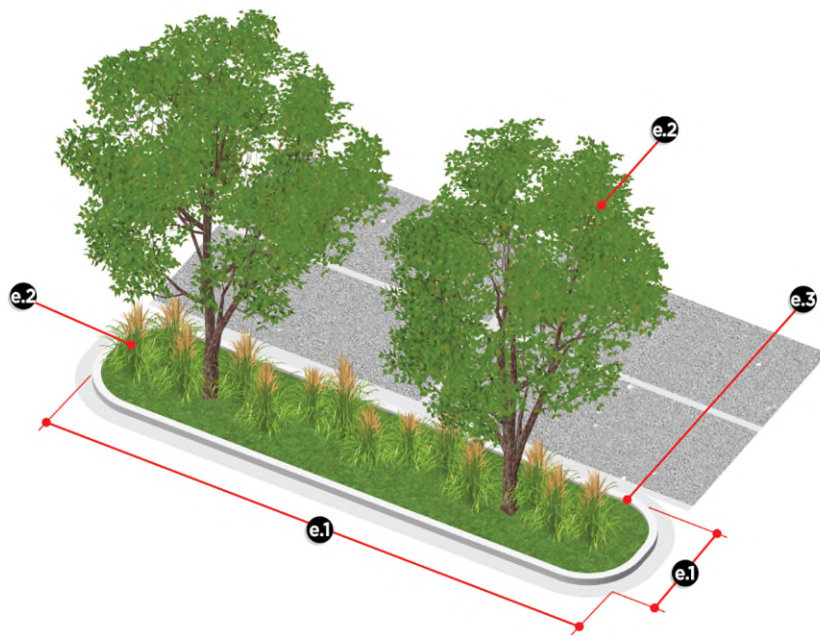
Figure 5.13: Parking Lot Median Standards



e. **Parking Lot Island Standards.**

1. **Size.** Parking lot islands shall be a minimum nine (9) feet wide by eighteen (18) feet long and shall have a minimum soil depth of thirty-six (36) inches. Double rows of parking shall provide parking lot islands opposite one another to form continuous single islands with a minimum width of nine (9) feet and a minimum length of thirty-six (36) feet.
2. **Planting.** A minimum of one (1) canopy tree shall be provided for every parking lot island. If the island extends the width of a double bay, then two (2) canopy trees shall be provided.
3. **Design.** Parking lot islands shall be protected with concrete curbing or other suitable barriers. Such islands shall be properly drained or irrigated as appropriate to the site conditions to ensure survivability of plant materials or proper stormwater management function.

Figure 5.14: Parking Lot Island Standards

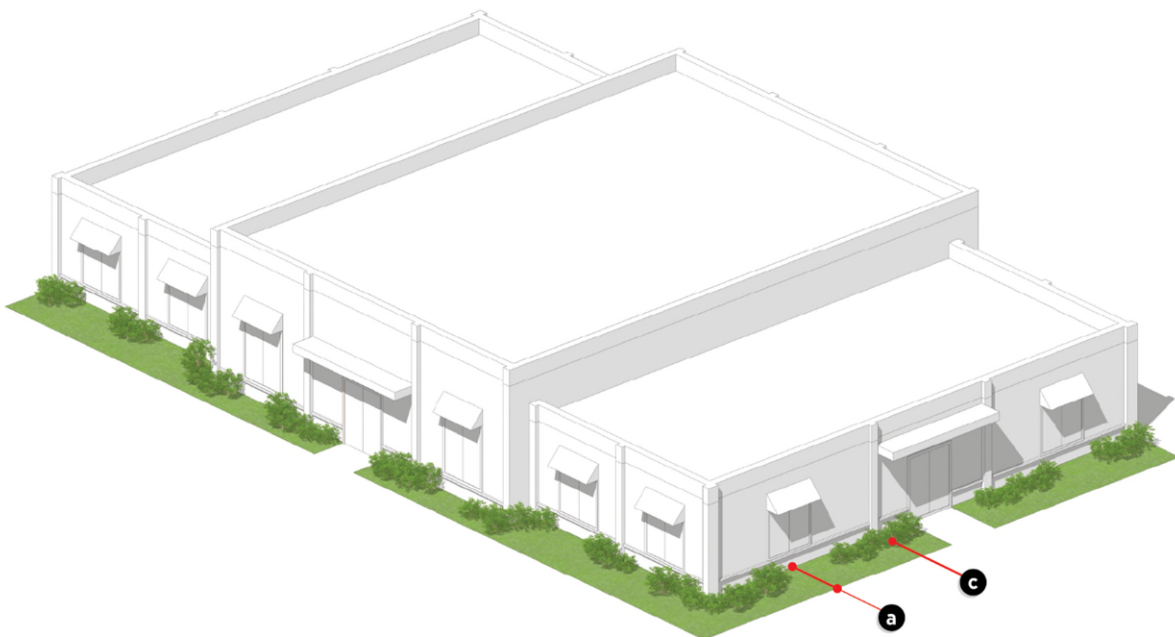




- f. **Internal Pedestrian Walkways.** Internal pedestrian walkways, as required by Section 17.0505 (b)(2)(f), shall be located along parking lot medians. The Community Development Director or their designee may waive or modify this requirement on determining that locating internal pedestrian walkways along parking lot medians is impractical due to site conditions or undesirable because it would create unsafe conditions.
- g. **Type of Landscape Material.** Except where areas are designed as vegetated stormwater management areas, canopy trees shall be the primary plant materials used in parking lot islands and medians. Understory trees, evergreen trees, shrubs, native grasses, groundcover, and other plant materials may be used to supplement the canopy tree plantings but shall not create visibility concerns for automobiles and pedestrians. If medians or islands are designed as stormwater management areas, deviations from required plantings may be approved by the Community Development Director or their designee and City Engineer.
- h. **Groundcover.** A minimum of seventy-five (75) percent of the surface area of every parking lot island and median shall be planted with living groundcover.

- (3) **Building Foundation Area.** All non-single-family development, with the exception of food processing facilities regulated by the Food and Drug Administration, shall include landscape located at the building foundation as required by this Section. Non-single family development in the DTS District built with a zero (0) foot front yard setback shall integrate required building foundation landscape into parking lot perimeter and / or interior landscape areas. Landscape required by this Section shall be in addition to landscape required under other sections of this ordinance. It is the objective of this Section to provide a softening effect at the base of buildings.
- a. A non-single family development is required to maintain a building foundation area at front and exterior side yards of seven (7) feet at a minimum.
  - b. Foundation plantings shall be designed to supplement buffer yard plantings to frame important views, while visually softening long expanses of walls.
  - c. Foundation plantings shall be installed across eighty (80) percent of the length of the façade of the building, except where walkways and driveways are located.
  - d. Foundation plantings may include trees, shrubs, native grasses, and groundcover.
  - e. Where the area between the building and parking lot or street curb is entirely paved for pedestrian use, landscaping may consist of canopy trees planted in structural soils beneath tree grates or permeable pavement, at the rate of one (1) tree per fifty (50) linear feet of building facade. Minimum structural soil volume shall be six hundred (600) cubic feet.
  - f. Above-ground stormwater planter boxes along building facades may be substituted for foundation plantings.

*Figure 5.15: Building Foundation Area Landscape Standards*



(4) **Transition Area.** Transition area landscape shall be required along interior property lines of all multiunit residential, non-residential, or mixed-use development. It is not expected that the transition area will totally screen such uses but rather will minimize land use conflicts and enhance aesthetics. Landscape required by this Section shall be in addition to landscape required under other sections of this ordinance.

a. **Applicability.** Transition area landscaping is required as follows:

1. The construction or installation of any new primary building or primary use; and
2. The expansion of any existing primary building or primary use that results in an increase in gross floor area by more than five (5) percent or one thousand (1,000) square feet, whichever is greater. In the case of expansions that trigger compliance with transition area requirements, transition area landscaping is required only in proportion to the degree of expansion. The Community Development Director or their designee is authorized to allow the transition area to be established adjacent to the area of expansion or to disperse transition area landscaping along the entire site transition area;
3. Primary buildings or uses in the DTS District shall not be required to install transition area landscape along interior side yards.

b. **Transition Area Types.** Four (4) transition area types are established in recognition of the different contexts that may exist, as shown in Table 17.0505(b)(4)(b). Transition areas may include a combination of elements including setback distances for separation, planting types, solid fencing, green walls, vegetated stormwater management areas, living groundcover, or turf.

<b>Table 17.0505(b)(4)(b): Transition Area Types</b>					
	<b>Specification</b>	Type A	Type B	Type C	Type D
1	Min. Yard Width	5 ft.	10 ft.	15 ft.	20 ft.
2	Min. Fence/Wall Height	optional	optional	6 ft.	6 ft.
<b>Min. Number of Landscape Elements (per 100 linear feet)</b>					
3	Undersory	optional	3	4	5
4	Canopy/Evergreen	4	3	4	5
5	Shrubs/Native Grasses	optional	15	25	35
(1) Required yard setbacks may be utilized for transition area landscape					

- c. **Application of Transition Area Types.** Transition areas shall be provided based on Table 17.0505(b)(4)(c), except where adjacent uses are of a similar nature, scale, and intensity. As per Table 17.0505(b)(4)(c), the type of required transition yard is dependent upon the land use type of the subject lot and the land use type of the adjacent lot(s).

<b>Table 17.0505(b)(4)(c): Application of Transition Area Types</b>													
<b>Subject Lot Land Use</b>	<b>Adjacent Lot Land Use</b>												
	<i>Agricultural</i>	<i>Single-Family Residential</i>	<i>Multifamily Residential</i>	<i>Recreational</i>	<i>Retail</i>	<i>Service</i>	<i>Lodging</i>	<i>Eating and Drinking</i>	<i>Vehicle Related</i>	<i>Office</i>	<i>Industrial</i>	<i>Medical</i>	<i>Public / Institutional</i>
<i>Agricultural</i>													
<i>Single-Family Residential</i>													
<i>Multifamily Residential</i>		B		A	A	A	A	A	B	A	D	C	B
<i>Recreational</i>		B	A		A	A	A	A	B	A	D	C	B
<i>Retail</i>		C	B	B		A	A	A	B	A	C	B	A
<i>Service</i>		C	B	B	A		A	A	B	A	C	B	A
<i>Lodging</i>		C	B	B	A	A		A	B	A	C	B	A
<i>Eating and Drinking</i>		C	B	B	A	A	A		B	A	C	B	A
<i>Vehicle Related</i>		D	C	C	B	B	B	B		B	B	B	B
<i>Office</i>		C	B	B	A	A	A	A	B		C	B	A
<i>Industrial</i>		D	D	C	C	C	C	C	B	C		B	B
<i>Medical</i>		D	D	C	C	C	C	C	B	C	C		B
<i>Public / Institutional</i>		D	D	C	C	C	C	C	B	C	C	B	

Figure 5.16: Transition Area A Standards

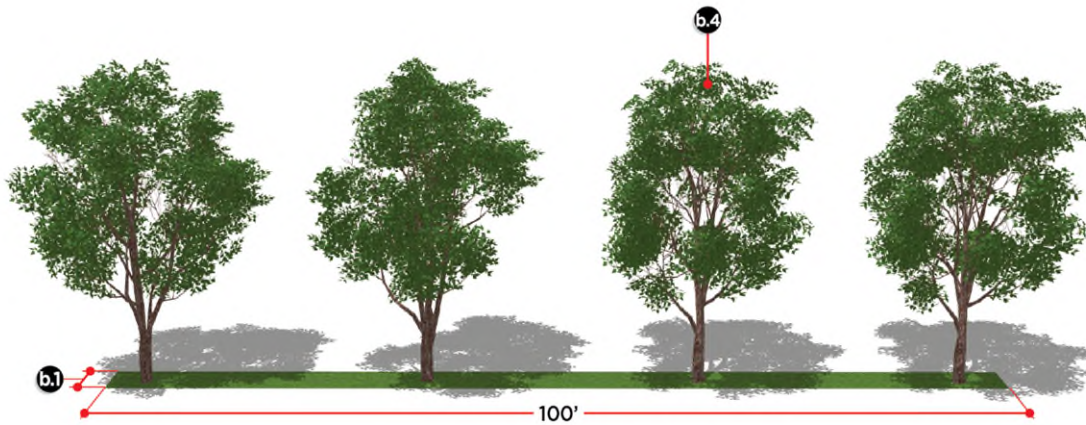


Figure 5.16: Transition Area B Standards

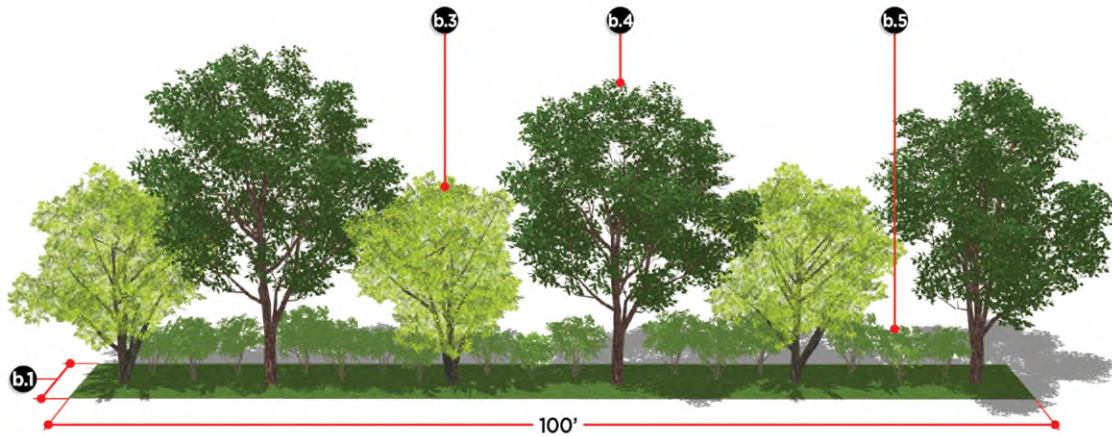


Figure 5.18: Transition Area C Standards

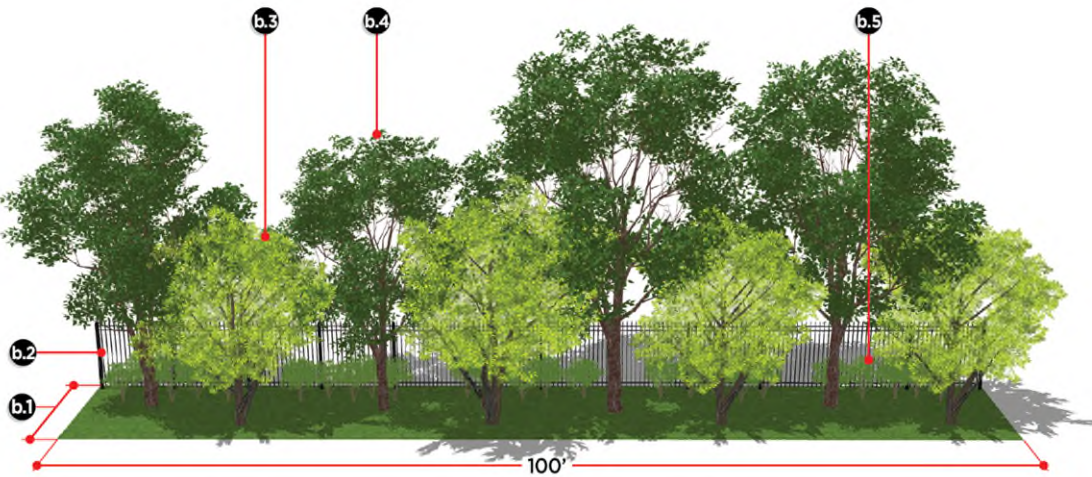


Figure 5.17: Transition Area D Standards



**(c) Species Diversity Requirements.**

- (1) A minimum of fifty (50) percent of the landscape elements utilized on a parcel that is less than one-half (0.5) acre shall be drought and salt tolerant native species.
- (2) A minimum of sixty (60) percent of the landscape elements utilized on a parcel that is between one-half (0.5) and five (5) acres shall be drought and salt tolerant native species. Total landscape elements, excluding turf, shall not be comprised of more than thirty (30) percent of any single species or fifty (50) percent of any genus.
- (3) A minimum of seventy-five (75) percent of the landscape elements utilized on a parcel that is greater than five (5) acres shall be drought and salt tolerant native species. Total landscape elements, excluding turf, shall not be comprised of more than twenty (20) percent of any single species or twenty-five (25) percent of any genus.
- (4) The percentage limits above may be varied in conjunction with approval of vegetated stormwater management areas.

(d) **Tree Preservation.**

- (1) Existing viable trees of twelve (12) inches or greater DBH shall not be removed from lots within the City without a tree preservation and removal plan prepared by a certified landscape architect and approved by the Community Development Director or their designee. DBH is diameter at breast height measured at four and a half (4.5) feet off the ground or grade level.
- (2) The tree preservation and removal plan shall include an inventory of all trees of twelve (12) inches or greater DBH on a lot.
- (3) Every reasonable effort shall be made to incorporate trees identified in the inventory into the landscape required for the proposed development. The Community Development Director or their designee must determine that one of the following criteria apply prior to granting approval to remove a mature, high quality tree:
  - a. The tree is dead, dying, diseased, or a threat to public health or safety;
  - b. The tree interferes with the provision of public services or is a hazard to traffic;
  - c. The location of the tree prevents development or redevelopment that cannot be designed to protect the tree.
  - d. The tree is an identified invasive species.
- (4) Viable trees of twelve (12) inches or greater DBH to be removed shall be replaced in accordance with the following standards.
  - a. The tree to be removed shall be replaced within one (1) year of the date of approval and guaranteed as detailed in Section 17.0505(f)(5).
  - b. Any tree designated for removal on an approved tree preservation and removal plan shall be replaced at the rate specified in Table 17.0505(d)(4). Replacement trees shall not be considered as satisfying the landscape requirements of this Section.
  - c. In the event that a tree designated for preservation is destroyed, damaged, or removed during the construction process, such tree shall be replaced at three (3) times the applicable rate specified in Table 17.0505(d)(4).
  - d. The value of a tree shall be determined by the Community Development Director or their designee in accordance with the methods developed by the Council of Tree and Landscape Appraisers in the most recent Guide for Plant Appraisal.

<b>Caliper of Tree to be Removed</b>	<b>Number of Replacement Trees Required</b>
<i>12-29 Inches</i>	3
<i>30 Inches or Greater</i>	4

**(e) Landscape Plan.**

- (1) A Landscape Plan (to scale) must be submitted which includes details of all proposed landscaping including the estimated cost of the landscaping. These plans shall be prepared by a landscape professional and show the location and dimensions of all existing and proposed structures, parking, drives, rights-of-way and any other permanent features, and all other information required by the Plan Commission, including but not limited to the following:
  - a. A plant list and coverage chart showing the location, quantity, size (at time of planting and at maturity), spacing and the scientific and common names of all landscape materials used.
  - b. The Tree Preservation and Removal Plan as detailed in Section 17.0505(b)(4)(d)(2).
  - c. The location and percent of slope of all proposed berms using one (1) foot contours.
  - d. Detailed sections showing elevations of all proposed architectural features, such as walls, lighting or water features.
  - e. Methods used in staking, mulching, wrapping or any other early tree care used.
- (2) The Plan Commission shall impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission may require appropriate sureties to guarantee that improvements will be completed on schedule; as well as the approved protection of the identified wetlands and viable trees on the approved plan.
- (3) **Modification of Standards.** The Plan Commission may modify any of the above standards by a  $\frac{3}{4}$  majority vote of those Commissioners present at a meeting, but only if supplemental design elements or improvements are incorporated into the project which compensate for the modification of the particular standard.

**(f) Installation and Maintenance of Landscape Areas.**

- (1) All installed landscape shall conform to the most recently approved American Standard for Nursery Stock (ANSI Z60.1), published by the American National Standards Institute.
- (2) The Community Development Director or their designee may approve, on a case-by-case basis, an exception to the requirement for installation of landscaping prior to approval of an Occupancy Permit for Occupancy Permit applications submitted between November 1 and April 30. Exceptions shall only be approved in accordance with the procedures and requirements below.
  - a. The applicant or their designee shall provide a written request to the Community Development Department for an exception prior to or concurrent with the submission of an Occupancy Permit application. The written request shall include an estimate for the anticipated installation (commencement and completion) and contact information.
  - b. The written request shall be submitted with all of the following:
    1. Quote from the landscape architect or landscaping professional for all landscape elements included in City-approved landscape plans AND installation/labor costs. Where landscaping



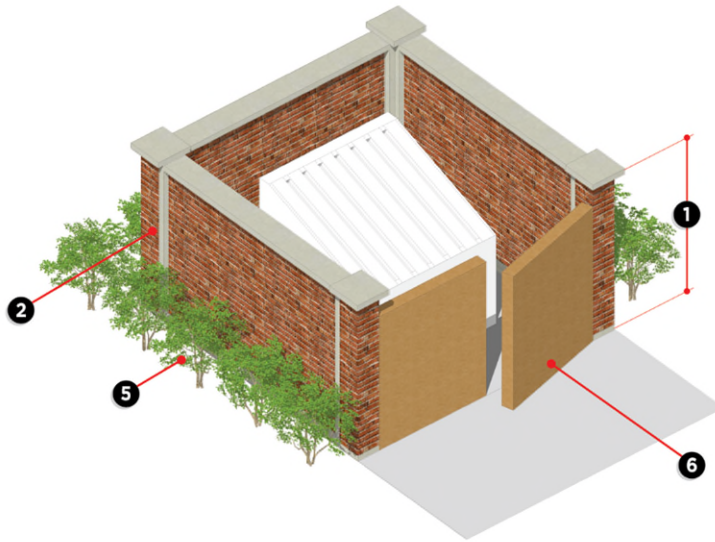
- has been partially completed, the quote shall include only the remaining elements and installation/labor costs.
2. A copy of the approved landscape plan upon which the quote is based. Where landscaping has been partially completed, the remaining elements must be clearly identified on the plans.
  3. Fee in the amount of one and one half (1.5) times the total quote. Payment to the City of Oak Creek must be made with certified funds (e.g., check). Bonds and letters of credit may not be accepted in fulfillment of this requirement per City policies.
- c. Payment shall be processed in accordance with all City procedures and policies.
  - d. Upon completion of the required landscape installation, the applicant or their designee shall contact the Community Development Department to schedule an inspection of the property as stated in the General Requirements Section above.
  - e. Within five (5) business days following the inspection, the Community Development Director or their designee shall contact the applicant or their designee for any remaining deficiencies in the landscaping discovered during the inspection or initiate the refund process in accordance with City procedures and policies. Deficiencies shall be corrected to the satisfaction of the Community Development Director or their designee prior to the release of funds.
  - f. In the event landscaping has not been installed within one (1) year of the issuance of an Occupancy Permit, the City may draw upon the funds provided as part of an approved exception to complete the required landscaping per City-approved plans. The applicant or their designee will not be entitled to refund of any remaining funds.
- (3) Dead plant materials shall be replaced within sixty (60) days taking into consideration the season of the year and shall have at least the same quantity and quality of landscape elements as initially approved. If the particular project is constructed in more than one (1) phase, the sixty (60) day timeframe shall apply to each individual phase.
  - (4) All landscape shall be maintained in a healthy, neat, trimmed, clean, and weed-free condition. With the exception of surface areas in vegetated stormwater management areas where mulch is not specified, the ground surface of landscape areas shall be covered with either turf and/or other types of pervious groundcover located beneath and surrounding trees and shrubs.
  - (5) For stormwater management areas where irrigation is not specified, all installed plantings shall be guaranteed for a period of eighteen (18) months following municipal approval of installation. During this guarantee period landowner shall supply water as necessary to promote successful establishment and growth.
  - (6) All plantings required under this ordinance, including landscaping installed pursuant to an approved landscape plan, shall be maintained perpetually and replaced if they die or are substantially weakened or damaged. If plantings succumb due to disease or environmental conditions, they shall

be replaced with more suitable or appropriate species of the same type (e.g. tree, shrub, groundcover).

## Sec. 17.0506. Screening

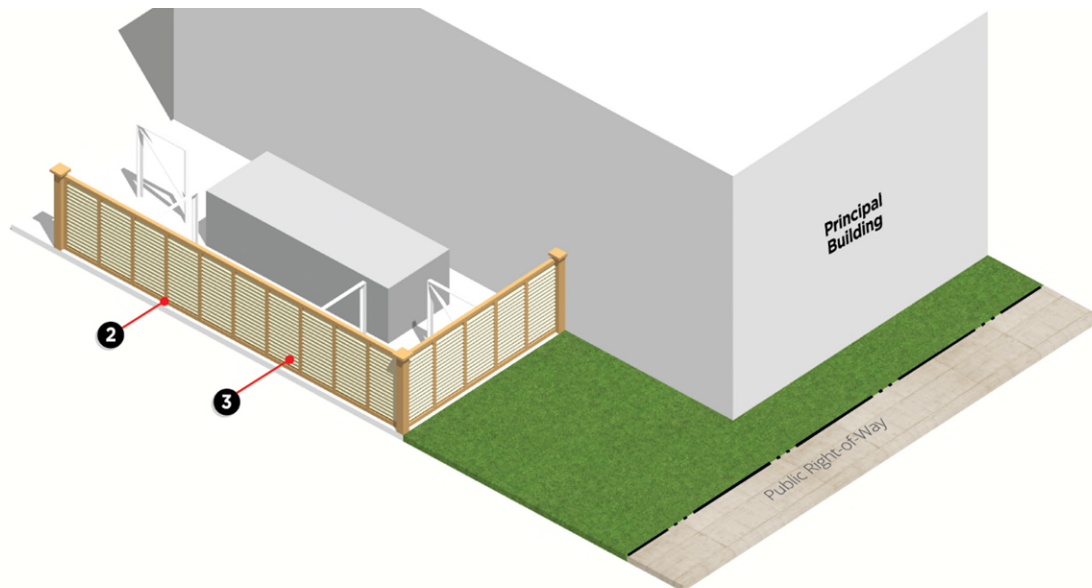
- (a) **Trash and Recycling Receptacles.** The following regulations shall apply to all multifamily and nonresidential development.
- (1) Trash and recycling receptacles shall be screened on three (3) sides with a opaque masonry wall or fence with a minimum height of six (6) feet and a maximum height of eight (8) feet. The use of materials that are not solid, such as slats in chain-link, shall only be used to meet this requirement in the I-1 District.
  - (2) Materials used for screening shall complement the architecture of the primary structure.
  - (3) Materials and elevations for enclosures that are attached to buildings shall be designed to be integrated into the primary structure.
  - (4) If enclosures are to be attached to buildings, they shall comply with applicable fire and building codes.
  - (5) Shrubs shall be installed every three (3) feet along the exterior of the enclosure, with the exception of enclosure openings, to provide a softening effect.
  - (6) Enclosure openings shall be gated with an opaque material and shall not be directly visible from a public right-of-way and/or adjoining residential areas.
  - (7) Enclosure openings shall be kept closed at all times except for when the receptacle is being accessed by a service truck.
  - (8) Property owners shall be responsible for ensuring that trash and recycling receptacles be placed in the enclosure at all times other than when it is being emptied by a service truck.
  - (9) Access drives shall be constructed of material and thickness to accommodate truck loading. Year-round access to the enclosure area for service trucks shall be maintained by the property owner or tenant.
  - (10) Enclosures shall be of an adequate size to accommodate expected containers. It is recommended that the enclosure be designed to be expandable to accommodate future additional containers.
  - (11) Enclosure structures shall be designed to protect the walls from damage by containers. Such protection may be provided by the use of barrier curbing, reinforced masonry walls, or other similar means.
  - (12) Trash and recycling receptacle enclosures shall not occupy areas used for required parking spaces.

Figure 5.18: Trash and Recycling Receptacle Screening Standards



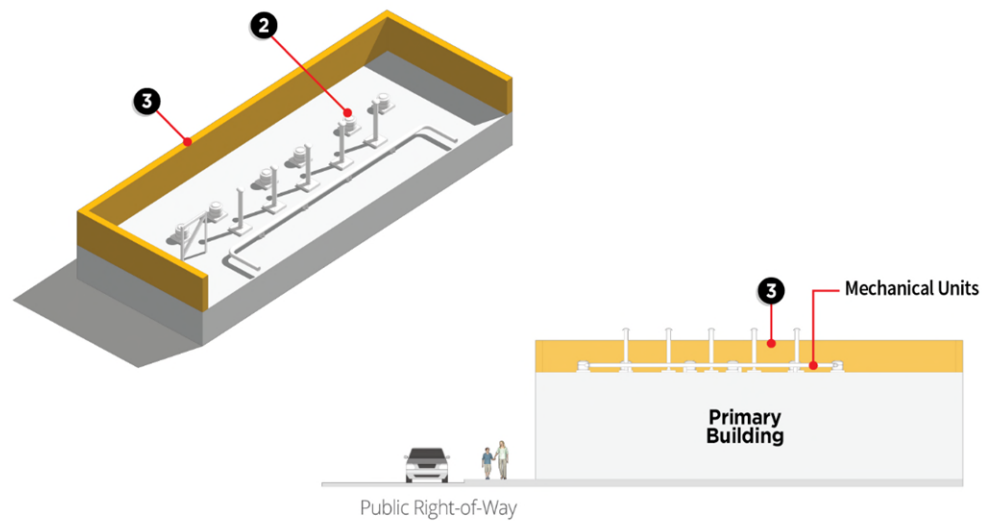
- (b) **Ground Mounted Mechanical Units.** The following regulations shall apply to all ground-mounted mechanical units, including but not limited to generators, air-conditioning condensers, heat pumps, ventilation units, computer cooling equipment, etc., and any related utility structures and equipment.
- (1) Locating mechanical units within the principal structure is strongly encouraged in order to minimize exterior visual impacts. Ground mounted mechanical units are prohibited within the front yard, regardless of whether screening is provided.
  - (2) Ground mounted mechanical units that are visible from any public right-of-way or adjacent residential property shall be screened from public view.
  - (3) Materials used for screening shall be designed and established so that the area or element being screened is no more than twenty (20) percent visible through the screen.
  - (4) Chain-link fence or slats in chain-link fence shall not be used to meet this requirement.

Figure 5.19: Ground Mounted Mechanical Unit Screening Standards



- (c) **Roof Mounted Mechanical Units.** The following regulations shall apply to all roof mounted mechanical units including, but not limited to, air-conditioning condensers, heat pumps, ventilation units, computer cooling equipment, etc., and any related utility structures and equipment which service multiunit residential, non-residential, or mixed-use developments.
- (1) Locating mechanical units within the principal structure is strongly encouraged in order to minimize exterior visual impacts.
  - (2) Roof mounted mechanical units that are visible from any public right-of-way or adjacent residential property shall be completely screened from public view.
  - (3) Materials used for screening shall be architecturally integrated with the building in the form of a parapet wall and shall be continuous, permanent, sound attenuating, and noncombustible unless otherwise approved by the Plan Commission.
  - (4) Screening shall be required when new equipment is installed and shall be provided around both new and existing roof mounted mechanical units in order to provide visual continuity. Normal maintenance of roof mounted mechanical units shall not mandate the screening requirements.
  - (5) Additional screening may be required due to topographic differences in the adjoining properties.

Figure 5.20: Roof Mounted Mechanical Unit Screening Standards



## Sec. 17.0507. Fences

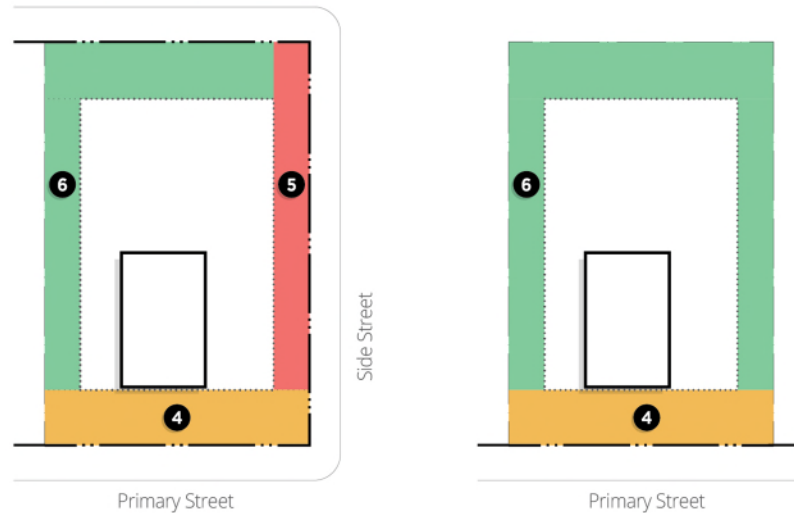
Fences are permitted in any district and may be erected provided that fences comply with the following requirements:

(a) **Single-Family Fence Standards.**

- (1) **Approved Materials.** Approved materials for fences in single-family districts include wood, wood composites, stone, brick, wrought iron, aluminum, vinyl, PVC, or hedge row. Coated chain link may be utilized in rear yards only.
- (2) **Materials.** Fences shall be of non-sight barrier construction and have a minimum opacity of fifty (50) percent. No fence in a single-family district shall be constructed of wire mesh, woven wire, dangerous materials, materials that would constitute a nuisance, razor wire, or any material that conducts electricity. Permitted fence materials in front yards and/or exterior side yards shall be only materials which are designed and intended for use in fence installations and shall be limited to
  - a. Vegetation;
  - b. Wood, chemically treated or naturally resistant to decay;
  - c. Wood Composites;
  - d. Aluminum;
  - e. Vinyl/PVC;
  - f. Wrought Iron; and
  - g. As approved by the Plan Commission.
- (3) **Fence Direction.** The face of the sign containing posts, poles, rails, hardware, and similar features shall be directed inward toward the property on which the fence is located.
- (4) **Front Yard Fences.** Fences are prohibited in front yards.
- (5) **Street Facing Side Yard Fences.** Fences are permitted in the street facing side yards of corner lots in single-family districts but shall not exceed a height of four (4) feet and shall not extend into the vision clearance triangle if located on the property line. Fences in the street facing side yards of corner lots shall not exceed a height of six (6) feet if located a minimum of ten (10) feet from the property line and improved with a landscape area between the fence and right-of-way including plant materials as required for building foundation landscape areas as detailed in Section 17.0505(3)

- (6) **Side and Rear Yard Fences.** Fences are permitted, upon the issuance of a building permit, in the side and rear yards of lots in single-family districts but shall not exceed a height of six (6) feet, and shall not extend into the front yard or street facing side yard. No fence shall be located closer than two (2) feet to any alley right-of-way line nor be located in within any easements.

Figure 5.21: Single Family Fence Standards



- (b) **Agricultural and Equestrian Fence Standards.** Electric Fences are permitted, upon the issuance of a building permit, in the A-1 Limited Agricultural District and the ER Equestrian Residential District only. Electric fences are permitted adjacent to the lot line and shall not exceed four (4) feet in height in the street yard or six (6) feet in height in the side and rear yard.
- (c) **Nonresidential Fence Standards.** Security Fences are permitted, upon the issuance of a building permit, adjacent to the side and rear property lines in all commercial districts but shall not exceed eight (8) feet in height. Security Fences are permitted, upon the issuance of a building permit, adjacent to the side and rear property lines in all industrial districts but shall not exceed ten (10) feet in height. The Plan Commission shall determine, before the issuance of a building permit, on a case-by-case basis the opacity of security fences, based upon consideration of the need to screen materials and upon safety considerations..

## Sec. 17.0508. Open Space

- (a) All new buildings, additions and uses, with the exception of one- and two-family buildings, additions, and uses shall set aside a minimum of thirty (30) percent of the site as open space.
- (b) This required open space shall be designed as an integral part of the site, and may not include those areas required for parking, loading, or other impervious surfaces.
- (c) This requirement does not apply to the redevelopment of sites, including, but not limited to, the construction of a new building, additional building, building addition or expanded parking lot, which do not meet this minimum requirement at the time of the adoption of this ordinance. In those cases, the minimum amount of open space may not be reduced beyond that which exists on the property at the time of the adoption of this ordinance.

## Sec. 17.0509. Outdoor Lighting

- (a) **Purpose and Intent.** This Section regulates all outdoor lighting installed on publicly and privately owned sites within the City of Oak Creek, with the exception of outdoor lighting on public streets, public bikeways, and public walkways. The purpose of this Section is to create standards for outdoor lighting that do not interfere with the reasonable use of publicly and privately owned sites, that prevent light trespass and conserve energy yet maintain nighttime safety. If outdoor lighting is installed, it shall be in conformance with the provisions of this Section of the Municipal Code, the building code and all other codes and regulations as applicable and under appropriate permit and inspection.
- (b) **General Requirements.**
  - (1) All outdoor lighting fixtures installed and thereafter maintained upon private or public property shall comply with the following:
    - a. The maximum allowable light trespass shall be one-half (0.5) horizontal footcandles four (4) feet above ground. The point of measurement of this offending light shall be at the property line. The measurement shall not include any ambient natural light.
    - b. All light fixtures shall have a color temperature less than or equal to five thousand (5,000) Kelvins.
    - c. All light sources, with the exception of wall mounted accent lighting, shall be full cutoff fixtures with the light source fully shielded and directed downward. Light sources adjacent to residential areas with a color temperature greater than (three-thousand five hundred) 3,500 Kelvin shall be shielded on the side of the fixture adjacent to the residential area.
    - d. Wall mounted accent lighting shall be integrated with the architectural character of the building and shall use low-luminosity lamps, with two thousand (2,000) source lumens or less. The illumination on any vertical surface shall not exceed one-half (0.5) maintained foot candle and shall not spill over roof lines or building edges.



- e. Any outdoor lighting fixture installed on a parking lot or parking structure shall use either high-pressure sodium, metal halide lamps, or LED fixtures, however new lighting technology may be used as a substitute for high-pressure sodium, metal halide lamps, or LED fixtures, upon approval by the Inspection Department.
  - f. Any outdoor lighting fixture installed on a canopy shall not exceed twenty-five (25) foot candles and shall be fully non-surface mounted or recessed. If the City Engineer deems a canopy, legally existing at the time of the adoption of the ordinance, as being structurally unfit to accommodate non-surface mounted or recessed lighting fixtures, then fixtures shall be shielded on all sides and shall have a color temperature less than or equal to 3,500 Kelvin. The City Engineer may approve an increase from the maximum color temperature up to fifteen (15) percent.
  - g. The lighting system shall be extinguished or reduced to fifty (50) percent no later than thirty minutes after the close of business for the day. The fifty (50) percent reduction shall be applied to the entire lot or structure.
  - h. All lamp types utilized for search lighting and/or spot lighting for advertising purposes shall not be operated past 11:00 PM. Outdoor lighting fixtures used to illuminate sports fields and tennis courts shall not be operated past 10:00 PM.
  - i. Flashing, flickering, and other distracting lighting, which may distract motorists is prohibited.
  - j. Light fixtures shall not be permitted within required buffer yards.
- (2) All outdoor lighting fixtures shall be maintained according to approval by the inspection division plans.
- (3) Trees and shrubbery shall not be located where they significantly reduce or block parking lot or roadway lighting.
- (4) Outdoor lighting fixtures may be used to illuminate buildings and structures; recreational areas, sports fields and tennis courts, parking lots, parking structures, garages or ramps, landscape areas, product display areas, building overheads and open canopies. Outdoor lighting fixtures may be installed to provide building and parking lot security provided they comply with all requirements of this Section.
- (c) Specific Design Requirements.**
- (1) A lighting system for parking facilities and outdoor merchandising areas throughout the City of Oak Creek shall be designed to provide the lighting intensities and uniformities described as follows:
- a. **Open Parking Facilities.** The illumination requirements of an open parking facility depends on the amount of usage the facility receives. Three (3) levels of activity shall be established as High, Medium, and Low, reflecting both traffic and pedestrian activity. The following examples are nonexclusive and include:
    - 1. **High Activity Facilities:** for athletic events or major cultural or civic events.

2. Medium Activity: shopping centers, retail parking areas, hospital and clinic parking, transportation parking (commuter lots, etc.) cultural civic or recreational events and fast food facilities.
  3. Low Activity: employee parking, educational facility, office parks and place of assembly parking.
- (2) An outdoor lighting system for illuminating buildings and structures shall have a maximum connected lighting load of five (5) watts per lineal foot. Watts shall mean lamp wattage and ballast consumption.
  - (3) Outdoor light fixtures shall be designed and installed to minimize light trespass. The uniformity ratio between the average illumination and minimum illumination shall be no greater than 4:1.
  - (4) For an outdoor merchandising area, the maximum level shall not exceed twenty (20) foot-candles.
  - (5) The maximum illumination level under an outdoor canopy, including canopies of refueling islands, shall not exceed twenty-five (25) foot-candles at any point.

## Sec. 17.0510. Performance Standards

- (a) **Compliance.** This Chapter permits specific uses in specific districts; and 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, comply with the following performance standards.
- (b) **Air Pollution.** No person or activity shall emit any fly ash, dust, particulate matter, fumes, vapors, mists, or gases in such quantities that would constitute a nuisance to surrounding property owners. Dust and other types of pollution borne by the wind from such sources as storage areas, yards, and roads within lot boundaries shall be kept to a minimum by appropriate landscaping, paving, fencing, or other acceptable means.
- (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 and approved by the City of Oak Creek Fire Chief. 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 systems. Storage of flammable and explosive material shall be in accordance with the requirement of Chapter IHLR 10 of the Wisconsin Administrative Code and the requirements of Chapter NFPA 30 of the National Fire Protection Act.
- (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) **Radioactivity and Electrical Disturbances.** No activity shall emit radioactivity or electrical disturbances outside its premises that affect the use of neighboring premises.
- (g) **Vibration.** No activity in any district shall emit vibrations, which are discernible by the Building Commissioner or a designee without instruments outside its premises.
- (h) **Noise.** At no point on the boundary of a Residence or Business district shall the sound intensity level of any individual operation (other than the operation of motor vehicles or other mobile equipment) exceed fifty-eight (58) and sixty-two (62) dBA, respectively, during normal operations.

## Article 6. Sign Standards

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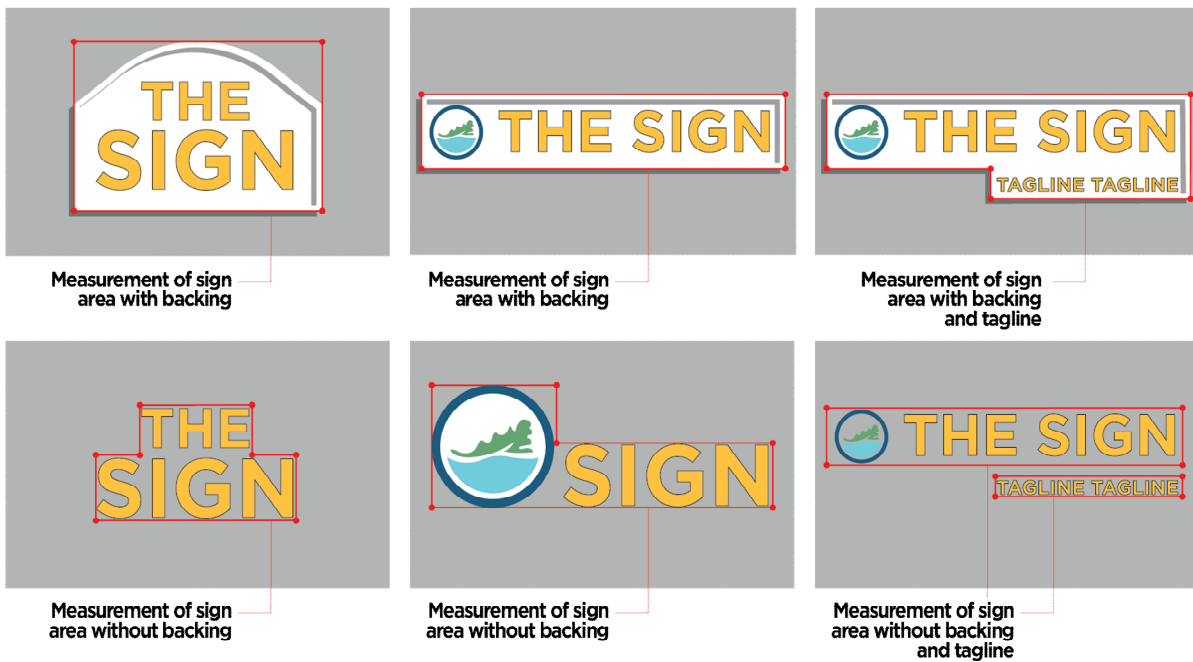
### Sec. 17.0601. Purpose, Compliance, and Applicability

- (a) **Purpose.** The intent of this Section is to provide for and regulate the location and safe construction of signs in a manner to ensure that signs are compatible with surrounding land uses, are well maintained, and express the identity of individual proprietors and the City as a whole. All sign permits, unless otherwise specified, shall be issued by the Building Commissioner or a designee after conferring with the Department of Community Development.
- (b) **Compliance.**
- (1) No sign shall be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without conforming with the provisions of this Section.
  - (2) No sign shall be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered unless a principal structure exists on the lot unless established done so by the City of Oak Creek on City owned property.
- (c) **Applicability.** The provisions of this Section shall apply to all areas of the City. Areas of the City governed by a Planned Unit Development ordinance shall comply with the provisions of this Section for all items not addressed in the Planned Unit Development ordinance.

## Sec. 17.0602. Sign Measurement

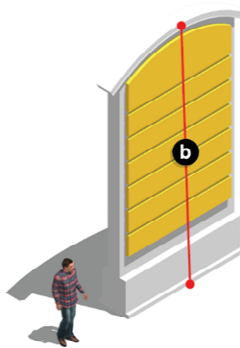
- (a) **Sign Area.** Unless otherwise defined, sign area shall be determined by the total area enclosed by a continuous perimeter along the edges of a sign, including any frame or border. The area of a sign composed of individually-affixed letters is determined by the total area of the smallest geometric shape enclosing the letters. A maximum of two geometric shapes may be utilized. The calculation for a double-faced sign shall be the area of one face only.

Figure 6.1: Sign Area Measurement



- (b) **Sign Height.** Maximum or minimum sign height shall be measured from the ground surface adjacent to the center of the bottom of the structure supporting the sign to the top of the sign structure.

Figure 6.2: Sign Height Measurement



## Sec. 17.0603. Permitted Sign Types

(a) The following key is to be used in the interpretation of Table 17.0603 below.

- (1) **Permitted Sign Types.** Sign types marked as “P” in the table shall be permitted in the respective zoning district subject to all applicable regulations of this Ordinance.
- (2) **Prohibited Sign Types.** A blank space in the table indicates that sign type is not allowed in the respective zoning district.
- (3) **Permanent and Temporary Signs Requiring a Permit.** Sign types requiring a permit shall be permitted only after the issuance of a Permanent or Temporary Sign Permit as detailed in Section 17.0803 of this Ordinance.

Table 17.0603: Permitted Sign Types by District											
Sign Type	Residential	A-1 <sup>1</sup>	DTS	B-2	B-3	B-4	B-6	Lm-1	M-1	I-1	P-1
	Districts										
<i>Permanent Signs Requiring a Permit</i>											
Wall Sign	p <sup>1</sup>	P	P	P	P	P	P	P	P	P	P
Single-Tenant Monument Sign	p <sup>1,2</sup>	P	P	P	P	P	P	P	P	P	P
Multi-Tenant Monument Sign			P	P	P	P	P	P	P	P	P
Awning or Canopy Sign		P	P	P	P	P	P			P	P
Projecting Sign		P	P	P		P	P			P	P
On-Site Traffic Directional Sign	p <sup>1</sup>	P	P	P	P	P	P	P	P	P	P
<i>Temporary Signs Requiring a Permit</i>											
Wall Mounted Banner Sign	p <sup>1</sup>	P	P	P	P	P	P	P	P	P	P
Ground Mounted Sign	p <sup>1</sup>				P	P	P	P	P	P	P
<i>Temporary Signs not Requiring a Permit</i>											
Sidewalk Sign		P	P	P	P	P	P			P	P
Window Sign	p <sup>1</sup>	P	P	P	P	P	P	P	P	P	P
Yard Sign	P	P	P	P	P	P	P	P	P	P	P
<b>Notes</b>											
1. Sign shall be permitted for nonresidential and multifamily uses only.											
2. Sign shall be permitted at entryways or gateways to subdivisions or residential neighborhoods on private property within easements where maintenance is the responsibility of a homeowner's association.											

## Sec. 17.0604. Standards for Permanent Signs Requiring a Permit

### (a) Wall Signs.

#### (1) Sign Area.

1. The maximum permitted sign area of wall signs in any residential district or the A-1, DTS, B-2, B-3, Lm-1, and P-1 Districts shall not exceed five (5) percent of the face of the wall on which the sign is to be located or thirty (30) square feet, whichever is more.
2. The maximum permitted sign area of wall signs in the B-4, B-6, M-1, and I-1 Districts shall not exceed ten (10) percent of the face of the wall on which the sign is to be located or thirty (30) square feet, whichever is more.
3. In no instance shall a wall sign in any district exceed four hundred (400) square feet unless approved as a part of a Master Sign Plan or Planned Unit Development.

(2) **Height.** No wall sign shall protrude above the highest roofline or the top of the parapet wall or mansard roof.

(3) **Projection.** A wall sign shall not extend more than twelve (12) inches from the wall of the building or structure to which it is attached and shall maintain a minimum vertical clearance of ten (10) feet.

#### (4) Number of Signs, Single-Tenant Building.

1. A maximum of one (1) primary wall sign shall be permitted per lot frontage of a single-tenant building.
2. A maximum of three (3) secondary wall signs may be authorized for buildings with lineal frontage in excess of seventy-five (75) feet by the Community Development Director or their designee provided such additional signage is:
  - a. In keeping with the overall design and architecture of the building;
  - b. A minimum of twenty (20) feet from the primary wall sign and other secondary wall signs;
  - c. A maximum of fifty (50) percent of the size of the primary wall sign;
  - d. Accessory to the building's primary wall sign; and
  - e. The total area of all primary and secondary wall signs does not exceed the maximum wall sign area as established in Section 17.0604(a)(1).

(5) **Number of Signs, Multi-Tenant Building.** Wall signs for multi-tenant buildings shall be approved as a Planned Sign Program as detailed in Section 17.0609.

(6) **Sign Copy.** All sign copy featured on wall signs shall either be individually affixed letters, appear to be individually affixed letters, or be printed, etched, or otherwise incorporated directly on the sign's backing plate. Box signs shall be prohibited.

(7) **Other Provisions.**

1. No wall sign shall cover any architectural features (architectural features shall include but not be limited to, pediment, cornice, belt course, pier, windows, pilaster, roof, decorative stone or inlay, kick plate/bulkhead, raised or colored brick pattern, and corbel) of the building to which it is affixed.
2. All buildings may display one (1) additional wall sign per tenant oriented towards the main parking area of the development and not oriented towards a street.
3. No wall sign shall be affixed to HVAC screening, elevator overrun, or other features protruding from the roof of the structure.

Figure 6.3: Wall Sign Standards

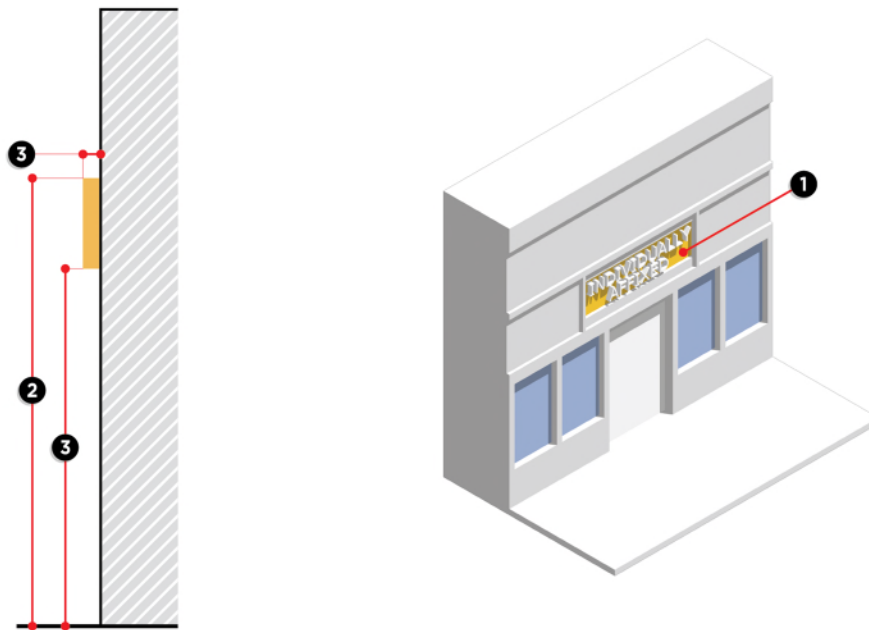
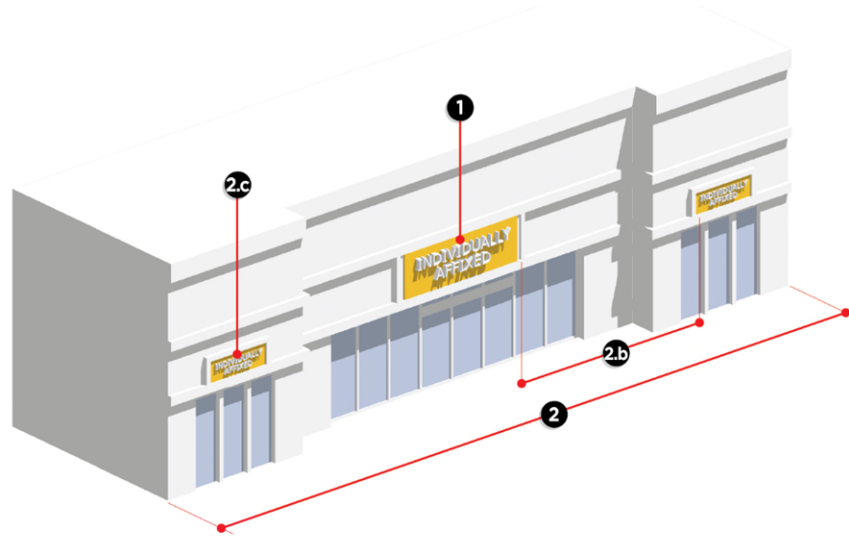




Figure 6.4: Secondary Wall Sign Standards

**(b) Single-Tenant Monument Signs.****(1) Sign Area.**

1. The maximum permitted sign area of single-tenant monument signs in any residential district or the A-1, B-2, B-3, and P-1 Districts shall not exceed twenty-five (25) square feet.
2. The maximum permitted sign area of single-tenant monument signs in the B-4, B-6, Lm-1, M-1, and I-1 Districts shall not exceed fifty (50) square feet.
3. The maximum permitted sign area of single-tenant monument signs in the DTS District shall be as permitted in the Drexel Town Square Mixed Use Planned Development District.

**(2) Height.**

1. The maximum permitted height of single-tenant monument signs in any residential district or the A-1, B-2, B-3, and P-1 Districts shall not exceed five (5) feet.
2. The maximum permitted height of single-tenant monument signs in the B-4, B-6, Lm-1, M-1, and I-1 Districts shall not exceed eight (8) feet.
3. The maximum permitted height of single-tenant monument signs in the DTS District shall be as permitted in the Drexel Town Square Mixed Use Planned Development District.

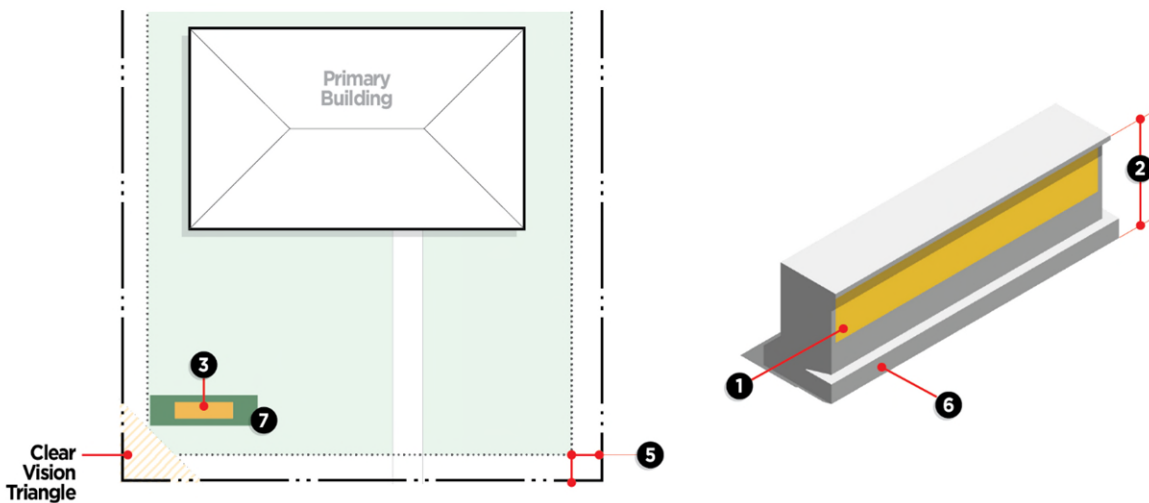
**(3) Number of Signs.** A maximum of two (2) single-tenant monument sign shall be permitted per lot and shall be displayed on different lot frontages.

**(4) Building Address.** The address of the building to which a single-tenant monument sign is associated shall be incorporated into the single-tenant monument sign. Sign area devoted to the address of the

building shall not count towards the maximum single-tenant monument sign area permitted in Section 17.0604(b)(1).

- (5) **Location.** Single-tenant monument signs shall be located a minimum of ten (10) feet from all property lines, rights-of-way, and ten (10) feet outside of utility easements; shall not block points of ingress or egress; or be placed in any sidewalk, pedestrian walkway, vision clearance triangle, floodplain, or wetland.
- (6) **Sign Base.** The base of single-tenant monument signs, including all structural components, shall extend horizontally from the sign face a minimum of ten (10) percent and a maximum of twenty-five (25) percent of the width of the sign face. The base of single-tenant monument signs shall be constructed from traditional, time and weather tested materials and techniques including masonry, stone, or similar high-quality materials in keeping with the materials and design of the principal building of the lot.
- (7) **Landscape Requirement.** All single-tenant monument signs shall be required to plant and maintain a landscape area at the base of the sign. The minimum area of the landscape area shall be equal to the square footage of the sign area of the sign it serves.

Figure 6.5: Single Tenant Monument Sign Standards



(c) **Multi-Tenant Monument Signs.**(1) **Sign Area.**

1. The maximum permitted sign area of multi-tenant monument signs in any residential district or the A-1, B-2, B-3, and P-1 Districts shall not exceed fifty (50) square feet.
2. The maximum permitted sign area of multi-tenant monument signs in the B-4, B-6, Lm-1, M-1, and I-1 Districts shall not exceed one hundred (100) square feet.
3. The maximum permitted sign area of multi-tenant monument signs in the DTS District shall be as permitted in the Drexel Town Square Mixed Use Planned Development District.

(2) **Height.**

1. The maximum permitted height of multi-tenant monument signs in any residential district or the A-1, B-2, B-3, and P-1 Districts shall not exceed ten (10) feet.
2. The maximum permitted height of multi-tenant monument signs in the B-4, B-6, Lm-1, M-1, and I-1 Districts shall not exceed sixteen (16) feet.
3. The maximum permitted height of multi-tenant monument signs in the DTS District shall be as permitted in the Drexel Town Square Mixed Use Planned Development District.

(3) **Number of Signs.** A maximum of two (2) multi-tenant monument sign shall be permitted per lot and shall be displayed on different lot frontages.

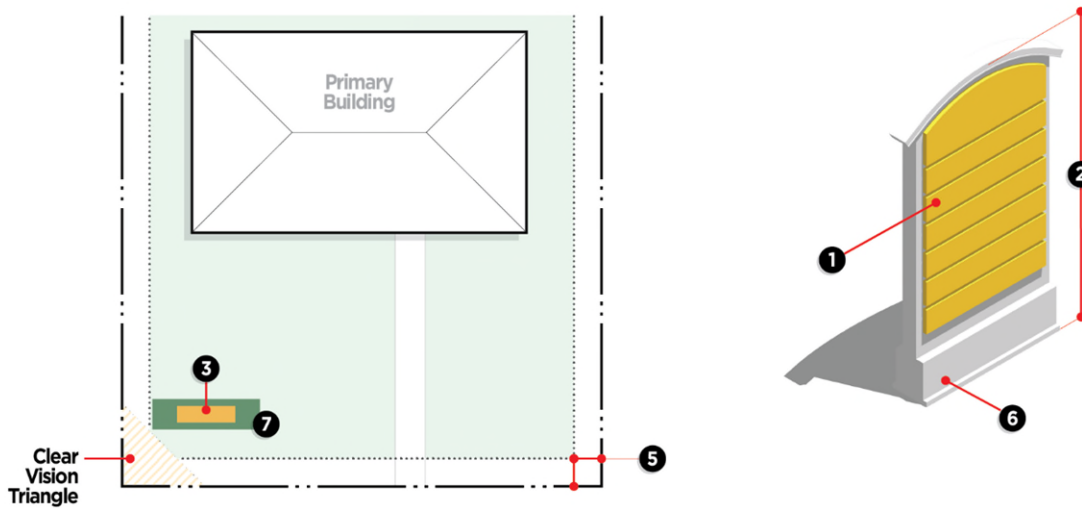
(4) **Building Address.** The address of the building to which a multi-tenant monument sign is associated shall be incorporated into the multi-tenant monument sign. Sign area devoted to the address of the building shall not count towards the maximum multi-tenant monument sign area permitted in Section 17.0604(c)(1).

(5) **Location.** Multi-tenant monument signs shall be located a minimum of ten (10) feet from all property lines, rights-of-way, and ten (10) feet outside of utility easements; shall not block points of ingress or egress; or be placed in any sidewalk, pedestrian walkway, vision clearance triangle, floodplain, or wetland.

(6) **Sign Base.** The base of multi-tenant monument signs, including all structural components, shall extend horizontally from the sign face a minimum of ten (10) percent and a maximum of twenty-five (25) percent of the width of the sign face. The base of multi-tenant monument signs shall be constructed from traditional, time and weather tested materials and techniques including masonry, stone, or similar high-quality materials in keeping with the materials and design of the principal building of the lot.

- (7) **Landscape Requirement.** All multi-tenant monument signs shall be required to plant and maintain a landscape area at the base of the sign. The minimum area of the landscape area shall be equal to the square footage of the sign area of the sign it serves.

Figure 6.6: Multi-Tenant Monument Sign Standards



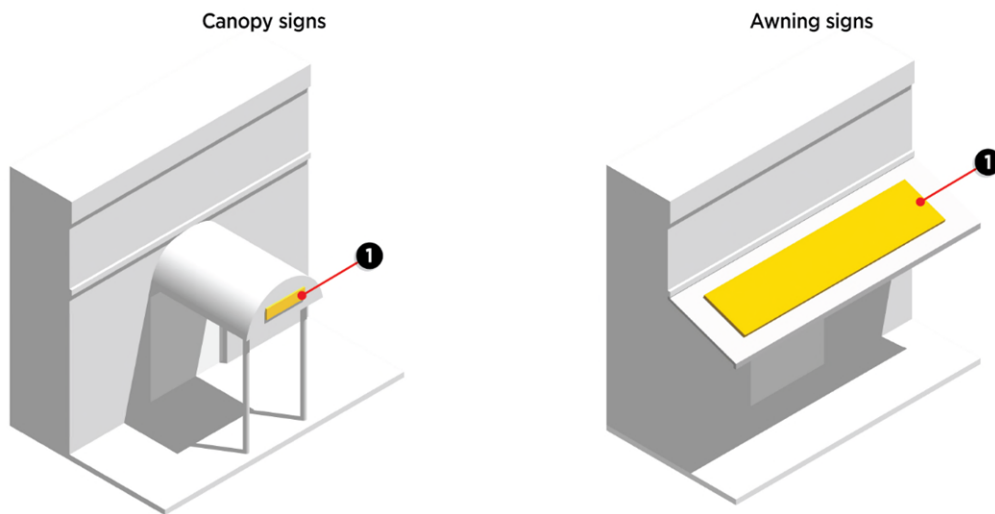
**(d) Awning or Canopy Signs.**

(1) **Sign Area.** The maximum permitted sign area of awning or canopy signs shall be thirty (30) percent of the face of the awning or canopy upon which the sign shall be printed or affixed. The area of the awning or canopy sign shall count towards the maximum amount of sign area permitted for wall signs.

**(2) Other Provisions.**

1. Awning or canopy signs shall only be permitted on awnings or canopies extending above ground floor entrances or windows.
2. Awning or canopy signs shall be centered vertically on the awning or canopy on which they are placed or otherwise incorporated.
3. Awning or canopy signs shall not be illuminated.

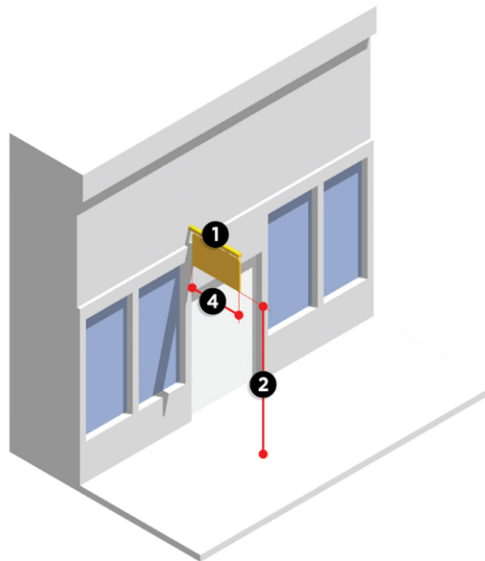
Figure 6.7: Awning or Canopy Sign Standards



**(e) Projecting Signs.**

- (1) **Sign Area.** The maximum permitted sign area of projecting signs shall be six (6) square feet.
- (2) **Height.** Projecting signs shall not extend above the roofline of the building to which it is attached, or a maximum of twelve (12) feet, whichever is less, and shall maintain a minimum vertical clearance of eight (8) feet.
- (3) **Number of Signs.** A maximum of one (1) projecting sign shall be permitted per ground floor nonresidential tenant space. A projecting sign and a wall sign may be displayed on the same building frontage. A projecting sign and an awning or canopy sign shall not be displayed on the same building frontage unless approved as part of a Planned Sign Program as detailed in Section 17.0609.
- (4) **Projection.** Projecting signs shall horizontally project a maximum of four (4) feet from the mean elevation of the building to which it is attached.
- (5) **Public Right of Way Encroachment.** Projecting signs may encroach upon, extend, or project over a public right-of-way or easement. The property owner may be required to provide a release or hold harmless to the City prior to issuing permits for any such signs.

Figure 6.8: Projecting Sign Standards

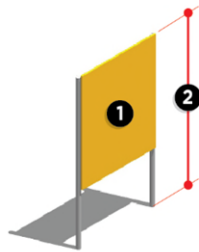


(f) **On-Site Traffic Directional Signs.**

- (1) **Sign Area.** The maximum permitted sign area of an on-site traffic directional sign shall be six (6) square feet.
- (2) **Height.** The maximum permitted height of an on-site traffic directional sign shall be four (4) feet.
- (3) **Number of Signs.** The number and placement of permitted on-site traffic directional signs shall be as necessary to assist in the safe movement of vehicular and pedestrian traffic on a property, as approved by the Community Development Director or their designee or the Plan Commission as a part of a Planned Sign Program as detailed in Section 17.0609.

*Figure 6.9: On-Site Traffic Directional Sign Standards*

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## Sec. 17.0605. Standards for Temporary Signs Requiring a Permit

(a) **General Standards for Temporary Signs in Nonresidential Districts.**

1. **Display Period.** The permitted display period of any temporary sign in nonresidential districts, with the exception of sidewalk signs, shall be fourteen (14) continuous days. A maximum of three (3) display periods shall be permitted per single-tenant building per calendar year. A maximum of one (1) display period shall be permitted per tenant of a multi-tenant building per calendar year. The Community Development Director or their designee may grant a display period extension of up to thirty (30) days. The Plan Commission may grant a display period extension in excess of thirty (30) days.

- (b) **Temporary Sign Permit.** The display of a temporary sign in a nonresidential district shall require a temporary sign permit as detailed in Section 17.0803(h).



(c) **Wall Mounted Banner Signs.**(1) **Sign Area.**

1. The maximum permitted sign area of wall mounted banner signs in any residential district or the A-1, DTS, B-2, B-3, Lm-1, M-1, and P-1 Districts shall not exceed two and one-half (2.5) percent of the total area of the face of the wall on which the sign is to be located or thirty (30) square feet, whichever is less.
2. The maximum permitted sign area of wall mounted banner signs in the B-4, B-6, and I-1 Districts shall not exceed five (5) percent of the total area of the face of the wall on which the sign is to be located or thirty (60) square feet, whichever is less.

(2) **Height.** No wall mounted banner sign shall protrude above the highest roofline or above the top of the parapet wall or mansard roof.

(3) **Number of Signs.** A maximum of one (1) wall mounted banner sign shall be permitted per lot frontage.

(4) **Location.** Wall mounted banner signs shall be affixed to a building.

(5) **Projection.** Wall mounted banner signs shall be affixed flat against the building to which they are mounted.

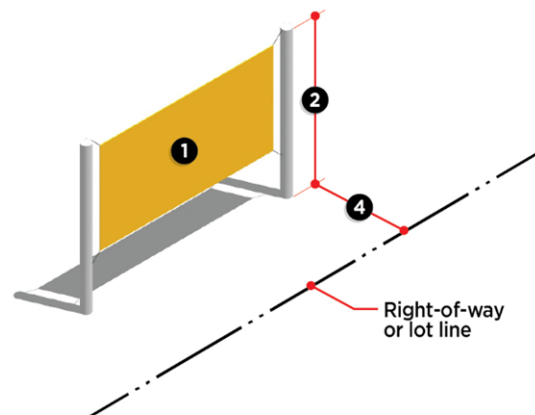
Figure 6.10: Wall Mounted Banner Sign Standards



(d) **Ground Mounted Signs.**

- (1) **Sign Area.** The maximum permitted sign area of ground mounted signs shall be thirty-two (32) square feet.
- (2) **Height.** The maximum permitted height of a ground mounted sign shall be six (6) feet.
- (3) **Number of Signs.** A maximum of one (1) ground mounted sign shall be permitted per lot.
- (4) **Location.** Ground mounted signs shall be located a minimum of ten (10) feet from all property lines, rights-of-way, and ten (10) feet outside of utility easements; shall not block points of ingress or egress; or be placed in any sidewalk, pedestrian walkway, vision clearance triangle, floodplain, or wetland.
- (5) **Other Provisions.**
  1. Ground mounted signs shall be securely anchored into the ground or secured in a portable base designed for such function.
  2. Ground mounted signs shall be maintained in good condition and shall not sag, lie on the ground, be torn, or otherwise kept in a disorderly state.
  3. The sign structure of any ground mounted sign shall be removed at the end of the display period.

Figure 6.11: Ground Mounted Sign Standards

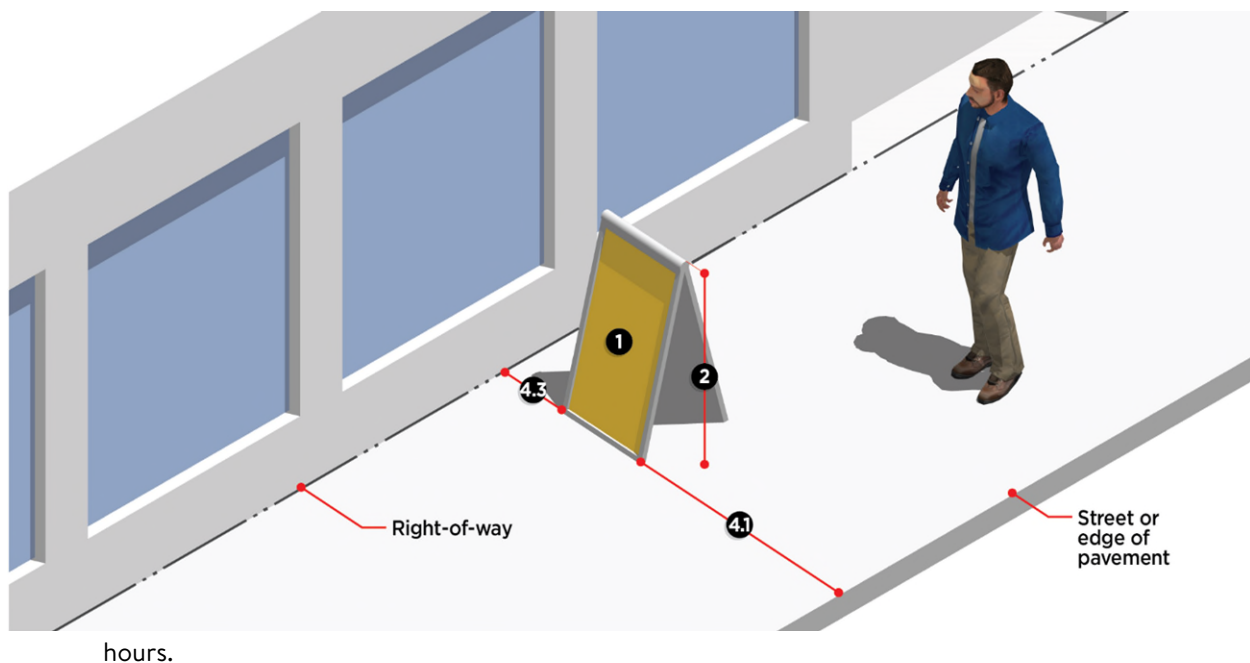


## Sec. 17.0606. Standards for Temporary Signs not Requiring a Permit

### (a) Sidewalk Signs.

- (1) **Sign Area.** The maximum permitted sign area of sidewalk signs shall be ten (10) square feet.
- (2) **Height.** The maximum permitted height of a sidewalk sign shall be four (4) feet.
- (3) **Number of Signs.** A maximum of one (1) sidewalk sign shall be permitted per lot frontage of a single-tenant building or unit of a multi-tenant building.
- (4) **Location.**
  1. Sidewalk signs shall be placed in a manner that preserves a continuous sidewalk width of a minimum of three (3) feet.
  2. No part of any sidewalk sign shall block points of ingress or egress.
  3. Sidewalk signs shall be placed no more than one (1) foot from the wall of the building or unit of a building to which the sign is associated.
  4. Sidewalk signs shall be placed no less than three (3) feet and no more than six (6) feet from the entrance of the building or unit of a building to which the sign is associated.
- (5) **Duration of Display.** The display of sidewalk signs shall only be permitted during the operating hours of the use to which the sign is associated and shall be brought indoors during non-operating

Figure 6.12: Sidewalk Sign Standards



(b) **Window Signs.**

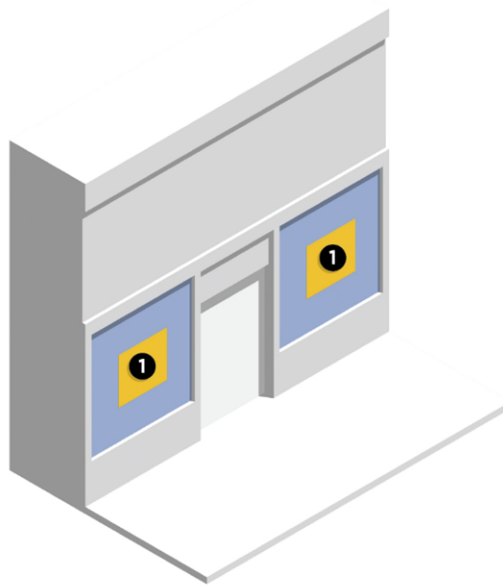
(1) **Sign Area.** The maximum allowed sign area of a window sign shall be twenty-five (25) percent of the square footage of the window on which the sign shall be located.

(2) **Other Provisions.**

1. Window signs shall be allowed on ground floor windows only.
2. Window signs shall not be located on transom windows.

Figure 6.13: Window Sign Standards

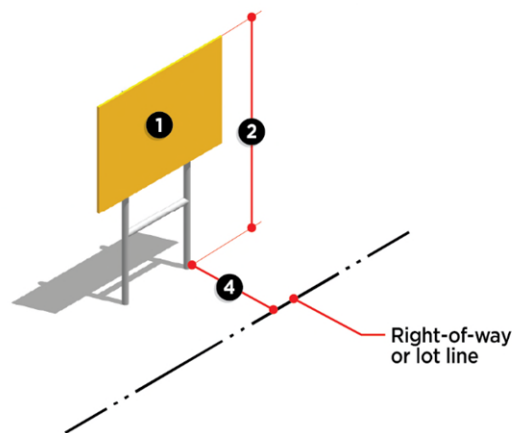
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(c) **Yard Signs.**

- (1) **Sign Area.** The maximum allowed sign area of yard signs in any district shall be four (4) square feet.
- (2) **Sign Height.** The maximum allowed height of yard signs in any district shall be five (5) feet.
- (3) **Number of Signs.**
  1. A maximum of two (2) yard signs may be displayed concurrently per lot in any residential district.
  2. A maximum of one (1) yard sign may be displayed concurrently per lot in any nonresidential or mixed-use district.
  3. An additional two (2) yard signs may be displayed within thirty (30) days before any local, state, or federal election. The additional signs shall be removed within forty-eight (48) hours of the election.
- (4) **Location.** Yard signs shall be located a minimum of ten (10) feet from all property lines, rights-of-way, and ten (10) feet outside of utility easements; shall not block points of ingress or egress; or be placed in any sidewalk, pedestrian walkway, vision clearance triangle, floodplain, or wetland.
- (5) **Other Provisions.**
  1. Yard signs shall be securely anchored into the ground or secured in a portable base designed for such function.
  2. Yard signs shall be maintained in good condition and shall not sag, lie on the ground, be torn, or otherwise kept in a disorderly state.

Figure 6.14: Yard Sign Standards



## Sec. 17.0607. General Sign Regulations

### (a) Sign Prohibitions and Limitations.

- (1) Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices.
- (2) Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices.
- (3) Signs shall not be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or opening designated by the Fire Department; and no sign shall be attached to a standpipe or fire escape unless authorized by the Fire Chief.
- (4) Signs shall not be placed so as to obstruct or interfere with traffic visibility, nor be lighted in such a way as to cause glare or impair driver visibility upon public ways.
- (5) Signs may be illuminated but non-flashing.
- (6) Signs shall not be revolving or animated.
- (7) Signs in residential districts shall not be internally illuminated.
- (8) No sign shall be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered in the FW Floodway District or in any area impacted by the flood fringe, floodplain, or by wetlands.
- (9) Off-premise signs are not permitted in any district.
- (10) Pole / pylon signs are not permitted in any district.
- (11) Roof signs are not permitted in any district.
- (12) No vehicles bearing permanently affixed signs shall be parked on public right-of-way, public property or private property in any commercial district for a period which exceeds three (3) days. All vehicles displaying permanently affixed signs shall be currently licensed, operable, parked on the property of the business owning or leasing the vehicle, and in the parking area furthest from any street right-of-way, so as to minimize the effects of additional signage on the property, except for vehicles actively in transport, or in the specific act of receiving or delivering merchandise or rendering a service.
- (13) Outline lighting is not permitted in any district.

**(b) Prohibited Content.**

- (1) The following content is prohibited without reference to the viewpoint of the individual speaker:
  1. text or graphics of an indecent or immoral nature and harmful to minors;
  2. text or graphics that advertise unlawful activity;
  3. text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action, or true threats; or
  4. text or graphics that present a clear and present danger due to their potential confusion with traffic control signs or signs that provide public safety information (for example, signs that use the words "Stop," "Yield," "Caution," or "Danger," or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).
- (2) The narrow classifications of content that are prohibited by this subsection are either not protected by the United States or Wisconsin Constitutions, or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the Common Council that each paragraph of this Subsection be individually severable in the event that a court of competent jurisdiction were to hold one or more of them to be inconsistent with the United States or Wisconsin Constitutions.

**(c) Electronic Message Boards.** Single-tenant and multi-tenant monument signs may incorporate electronic message boards in accordance with the following.

- (1) The area of the sign devoted to the electronic message board shall not exceed fifty (50) percent of the sign area of which it is a part or fifty (50) square feet, whichever is more.
- (2) The area of the sign devoted to the electronic message board shall be part of, not in addition to, the maximum permitted sign area.
- (3) The electronic message format shall conform to the following requirements:
  1. The message shall contain a static message or image only and not have movement, or the appearance of movement, during the static display period.
  2. The transition to change from one message or image to another shall be instant, dissolve, fade, or scroll. The transition to change from one message or image to another shall not be flashing, blinking, strobing, or otherwise pose as a nuisance or threat to public safety.
  3. The message shall not change more frequently than once every thirty (30) seconds.
- (4) All electronic message boards shall be equipped with a sensor or other device that automatically determines the ambient illumination and is programmed to automatically dim according to ambient light conditions.
- (5) The illumination of an electronic message board shall not exceed 0.3 footcandles.

- (d) **Signs Prohibited in the Conservancy and Floodway Districts.** No sign shall be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered in the C-1 Shoreland Wetland Conservancy District, the FW Floodway District, the FF Flood Fringe District or the GFP General Floodplain District.

## Sec. 17.0608. Construction, Maintenance, and Abandonment Standards

- (a) **Wind Pressure and Dead Load Requirements.** All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than forty (40) pounds per square foot of area; and shall be constructed to receive dead loads as required in the City Building Code or other ordinance.
- (b) **Protection of the Public.** The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated. The City Engineer shall be notified at least twenty-four (24) hours in advance of such proposed obstruction.
- (c) **Maintenance.** The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive conditions, free and clear of all obnoxious substances, rubbish, weeds, and grass. Any landscaping surrounding the sign shall be kept trimmed and in good repair. If the landscaping installed at the time of sign approval dies, said landscaping shall be replaced immediately or as soon as weather permits.
- (d) **Supporting members or braces** of all signs shall be constructed of approved materials. Signs shall be attached and supported in an approved manner. These approvals shall be given by the Building Commissioner or a designee who will review the submitted plans against acceptable engineering design standards and practices.
- (e) **No signs or any part thereof or sign anchors, braces, or guide rods** shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any such sign or any anchor, brace or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department of the City, as necessity may require.
- (f) **Electrical Signs** shall be listed by Underwriters Laboratory or other approved testing agencies, unless specifically exempted by the Wisconsin State Electrical Code.
- (g) **Sign Removal.** Sign copy shall be removed and in the case of a wall sign, the building façade shall be repaired, by the owner or lessee of the premises upon which the sign is located when the use which the sign is associated is no longer conducted on the premises. The sign copy shall be removed within thirty (30) days of when the use ceases to operate. If the owner or lessee fails to remove the sign copy, the



Zoning Administrator shall give the owner thirty (30) days written notice to remove it. Upon failure to comply with the notice, the Zoning Administrator may have the sign removed at the owner's expense.

## Sec. 17.0609. Planned Sign Program

- (a) **Intent.** The intent of the planned sign program is to set forth a theme as to the placement, lettering style, color, materials, mounting method and other related design considerations of signs.
- (b) **Applicability.** Any building or development with more than two (2) tenants shall be required to establish a City of Oak Creek planned sign program prior to the issuance of any sign permits. After the approval of a planned sign program, no sign shall be erected, placed or maintained except in conformance with the Planned Sign Program.
- (c) **Application.** When a planned sign program is required, such program shall be submitted on a form established by the Community Development Director or their designee, along with a nonrefundable fee as set forth in a resolution adopted by the Common Council. The application shall contain the following information as well as all other information required by the Community Development Director or their designee to ensure compliance with the planned sign program review criteria.
- (1) Name, address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the planned sign program shall apply.
  - (2) Name of person, firm, corporation, or association developing the planned sign program.
  - (3) Written consent of the owner or lessee of the building, structure, or land to which the proposed planned sign program is applicable.
  - (4) Scale drawing of all signs included in the planned sign program indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment. Said drawings shall be drawn at a scale no smaller than one eighth (1/8) inch equals one (1) foot and shall be prepared, signed and sealed by a registered professional engineer when required by the Building Commissioner or a designee.
  - (5) A scale drawing indicating the location and position of all signs included in the planned sign program in relation to nearby buildings or structures. Said drawing shall be at a scale no smaller than 1 inch equals 50 feet.
- (d) **Planned Sign Program Review Criteria.** Only individual tenants with their own exterior entrance shall be permitted one (1) wall sign. The Plan Commission may permit end cap tenants in multi-tenant buildings an additional wall sign if it fits in with the architectural design of the building. Individual tenants in buildings and developments with internal entrances only shall not be permitted a wall sign. One (1) wall sign shall be permitted. The area of wall signs within a planned sign program shall not exceed the amount permitted per district as detailed in Section 17.0604.
- (e) **Review and Action by the Plan Commission.** All planned sign programs shall be reviewed and approved by the Plan Commission.

- (f) **Expiration and Lapse of Approval.** A planned sign program shall become null and void, if sign permits associated with all signs included in the planned sign program have not been issued within twelve (12) months of the date of planned sign program approval.
- (g) **Appeals.** Appeals of planned sign programs denied by the Plan Commission shall be taken to the Circuit Court within thirty (30) days of the date the interpretation was rendered.

## Article 7. Planned Unit Development Standards

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### Sec. 17.0701. Intent and Purpose

The purpose of the regulations, standards, and criteria contained in this Article is to provide an alternate zoning procedure under which land can be developed or redeveloped with innovation, imagination, and creative architectural design when sufficiently justified under the provisions of this Article. The objective of the planned development is to encourage a higher level of design and amenity than is possible to achieve under otherwise applicable zoning regulations. The end result can be a product which fulfills the objectives of the Comprehensive Plan and planning policies of the City while departing from the strict application of the use and bulk and dimensional regulations as detailed in Article 3. The planned development is intended to permit and encourage such flexibility and to accomplish the following purposes:

- (a) To stimulate creative approaches to the commercial, residential, and mixed-use development of land.
- (b) To provide more efficient use of land.
- (c) To preserve natural features and provide open space areas and recreation areas in excess of that required under conventional zoning regulations.
- (d) To develop new approaches to the living environment through variety in type, design, and layout of buildings, transportation systems, and public facilities.
- (e) To unify building and structures through design.
- (f) To promote long-term planning pursuant to the City of Oak Creek’s Comprehensive Plan, which will allow harmonious and compatible land uses or combination of uses with surrounding areas.

## Sec. 17.0702. General Provisions

- (a) The following may be approved as a planned development:
  - (1) Any development greater than five (5) acres in size containing mixed-residential, multifamily residential, mixed-use, or nonresidential/mixed-residential combination with single-family detached, single-family attached, or multi-family uses.
- (b) Each planned development should be presented and judged on its own merits. It shall not be sufficient to base justification for approval of a planned development upon an already existing planned development except to the extent such planned development has been approved as part of a development master plan.
- (c) The burden of providing evidence and persuasion that any planned development is necessary and desirable shall in every case rest with the applicant.

## Sec. 17.0703. Standards for Review

Approval of development through the use of a Planned Unit Development, including modifications to conventional zoning and subdivision regulations, is a privilege and will be considered by the City only in direct response to the accrual of tangible benefits from the planned development to the City or the neighborhood in which it would be located. These benefits shall be in the form of exceptional amenities, outstanding environmental, landscape, architectural or site design, or the conservation of special man-made or natural features of the site. In reviewing an application for a planned development, the Plan Commission and/or the Common Council, as the case may be, shall be required to make certain findings based on the following standards:

- (a) **Required Findings.** No application for a planned development shall be approved unless all the following findings are made about the proposal:
  - (1) **Comprehensive Plan.** The planned development shall be consistent with the goals, objectives, and policies set forth in the Comprehensive Plan.
  - (2) **Public Welfare.** The planned development shall be so designed, located, and proposed to be operated and maintained that it will not impair an adequate supply of light and air to adjacent property and will not substantially increase the danger of fire or otherwise endanger the public health, safety, and welfare.
  - (3) **Impact on Public Facilities and Resources.** The planned development shall be so designed that adequate utilities, road access, drainage, and other necessary facilities will be provided to serve it. The planned development shall include such impact fees as may be reasonably determined by the Common Council. These required impact donations shall be calculated in reasonable proportion to impact of the planned development on public facilities and infrastructure.

- (4) **Archaeological, Historical or Cultural Impact.** The planned development shall not substantially adversely impact an archaeological, historical, or cultural resource, included on the state or federal register, located on or off the parcel(s) proposed for development.
  - (5) **Parking and Traffic.** The planned development shall have or make adequate provision to provide necessary parking and ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets and provides adequate access for emergency vehicles.
  - (6) **Adequate Buffering.** The planned development shall have adequate landscaping, public open space, and other buffering features to protect uses within the development and surrounding properties.
- (b) **Modification Standards.** In addition to the findings required above, the following standards shall be utilized in considering applications for modifications of the conventional zoning and subdivision regulations for a planned development. These standards shall not be regarded as inflexible but shall be used as a framework by the City to test the quality of the amenities, benefits to the community, and design and desirability of the proposal.
- (1) **Integrated Design.** A planned development shall be laid out and developed as a unit in accordance with an integrated overall design. This design shall provide for safe, efficient, convenient, and harmonious grouping of structures, uses and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features.
  - (2) **Beneficial Common Open Space.** Any common open space in the planned development beyond the minimum thirty (30) percent required shall be integrated into the overall design. Such spaces shall have a direct functional or visual relationship to the main building(s) and not be of isolated or leftover character. The following would not be considered usable common open space:
    - a. Areas reserved for the exclusive use or benefit of an individual tenant or owner.
    - b. Dedicated streets, alleys, and other public rights-of-way.
    - c. Vehicular drives, parking, loading and storage area.
    - d. Irregular or unusable narrow strips of land less than fifteen (15) feet wide.
  - (3) **Location of Taller Buildings.** Taller buildings shall be located within the planned development in such a way as to dissipate any material adverse impact on adjoining lower buildings within the development or on surrounding properties and shall not unreasonably invade the privacy of occupants of such lower buildings.
  - (4) **Functional and Mechanical Features.** Exposed storage areas, trash and garbage retainers, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be accounted for in the design of the planned development and made as unobtrusive as possible. They shall be subject to such setbacks, special planting or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

- (5) **Visual and Acoustical Privacy.** The planned development shall provide reasonable visual, and acoustical privacy for each dwelling unit, tenant space, and adjacent property. Fences, insulations, walks, barriers, and landscaping shall be used as appropriate for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable view or uses, and reduction of noises.
- (6) **Energy Efficient Design.** A planned development shall be designed with consideration given to various methods of site design and building location, architectural design of individual structures, and landscaping design capable of reducing energy consumption within the planned development.
- (7) **Landscape Conservation and Visual Enhancement.** The existing landscape and trees in a planned development shall be conserved and enhanced, as feasible, by minimizing tree and soil removal, and the conservation of special landscape features such as streams, ponds, groves, and landforms. The addition or use of larger trees, shrubs, flowers, fountains, ponds, special paving amenities will be encouraged to the extent of their appropriateness and usefulness to the planned development and the likelihood of their continued maintenance.
- (8) **Drives, Parking and Circulation.** Principal vehicular access shall be from dedicated public streets, and access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and limiting the number of access points to the public streets through the use of cross access connections, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, adequate provision for service by emergency vehicles, and arrangement of parking areas that are safe and convenient, and insofar as feasible, do not detract from the design of proposed buildings and structures and the neighboring properties.
- (9) **Surface Water Drainage.** Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely impact neighboring properties or the public storm drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic.

## Sec. 17.0704. Site Development Allowances

Notwithstanding any limitations on variances which can be approved as contained elsewhere in the Zoning Ordinance, site development allowances, i.e., deviations from the underlying zoning provisions set forth outside this Article may be approved provided the applicant specifically identifies each such site development allowance and demonstrates how each such site development allowance would be compatible with surrounding development, is in furtherance of the stated objectives of this Article, and is necessary for proper development of the site.

## Sec. 17.0705. Procedures

The following steps are provided to assure the orderly review of every planned development application in a timely and equitable manner:

### (a) Pre-Filing Review and Transmittal of Application

#### (1) Conference.

- a. A prospective applicant, prior to submitting a formal application for a planned development, may meet for a pre-filing conference(s) with the Community Development Director or their designee and any other City official or employee designated by the Community Development Director or their designee as a member of the Development Review Team. The purpose of the conference(s) is to help the applicant understand the Comprehensive Plan, Zoning Ordinance, site development allowances, standards by which the application will be evaluated, and the application requirements.
- b. After reviewing the planned development process, the applicant may request a waiver of any application requirement which in the applicant's judgment should not apply to the proposed planned development. Such request shall be made in writing prior to the submission of the formal application documents.
- c. All requests for waiver shall be reviewed by the Community Development Director. A final determination regarding the waiver shall be given to the prospective applicant following the decision. Denied requests may be appealed to the Common Council.
- d. The applicant, prior to submitting a formal application for a planned development, shall be required to schedule a meeting to discuss the proposed planned development and its impact on adjoining properties and area residents. The applicant shall send a written notice of the meeting via mail to the City of Oak Creek and all taxpayers of record within three hundred (300) feet of the proposed planned development. Such notice shall be mailed by the applicant not less than fifteen (15) days prior to the date of the meeting. A written summary of comments made at the meeting shall be maintained and submitted by the applicant with the application.

- (2) **Filing of Application.** Following the completion of the pre-filing conference(s), the applicant shall file an application for a planned development in accordance with this Article. The Community

Development Director or their designee shall deliver copies of the application to other appropriate City departments for review and comment.

- (3) **Deficiencies.** The Community Development Director or their designee shall determine whether the application is complete. If the Community Development Director or their designee determines that the application is not complete, a department representative shall notify the applicant in writing of any deficiencies and shall take no further steps to process the application until the deficiencies are remedied.
  - (4) **Application Review.** The Community Development Director or their designee shall work with the Development Review Team and the applicant to review and revise the application.
  - (5) **Report on Compliance.** A copy of the complete application and a written report incorporating the comments of City staff and other agencies regarding the compliance of the proposed planned development with the requirements and standards of this Article shall be delivered to the Plan Commission. The Plan Commission shall review and make a recommendation to approve or deny the application to the Common Council, which shall hold a public hearing.
  - (6) **Determination not Binding.** Neither the Community Development Director or their designee determination that an application is complete nor any comment made by the Community Development Director or their designee or City staff at a pre-filing conference or as part of the review process shall be intended or construed as a formal or informal recommendation for the approval of a planned development for the proposed planned development, or component part thereof, nor shall be intended or construed as a binding decision of the City, the Plan Commission, or any staff member.
- (b) **Plan Commission Review and Recommendation.** Upon receiving the report from the Community Development Director or their designee, the Plan Commission shall review the application, the standards and requirements established by this Article, the report of the Community Development Director or their designee, and any and all evidence and testimony received by the Plan Commission. At a regular meeting, the Plan Commission shall present its findings addressing each of the standards set forth in this Article and transmit such findings, together with a recommendation of approval, approval with conditions, or denial to the Common Council.
- (c) **Review and Action by the Common Council.**
- (1) After the receipt of the report and recommendation of the Plan Commission, the Common Council shall hold at least one (1) public hearing on the proposed planned development. Notice of the public hearing shall be provided and the public hearing shall be conducted in accordance with state law and rules of procedure adopted by the Common Council.
  - (2) The Common Council shall review the application, the standards and requirements established by this Article, the report of the Community Development Department, the recommendation of the Plan Commission, and any and all evidence and testimony received by the Common Council at the public hearing. Following the close of the public hearing and at a regular meeting, the Common Council shall either:



- a. Deny the application;
  - b. Refer the application back to the Plan Commission for further review;
  - c. Postpone further consideration pending the submittal of additional information, including any application requirement previously waived; or
  - d. Adopt an ordinance approving the planned development.
- (3) In approving a planned development, the Common Council may attach such conditions to the approval as it deems necessary to have the proposed use or combination of uses meet the standards set forth in this Article and to prevent or minimize adverse impacts on other property in the immediate vicinity. Such conditions may include, but are not limited to limitations on size, bulk, and location; requirements for landscaping, signage, outdoor lighting, provisions for adequate ingress and egress; hours of operation; and such other conditions as the Common Council may deem to be in furtherance of the objectives of this Article.

### **Sec. 17.0706. Application Requirements**

- (a) An application for a planned development may only be filed by one who has an ownership interest, or the agents thereof; or any contract purchaser or anyone holding an option to purchase the parcel of land on which the use or combination of uses is to be located.
- (b) Applications for a planned development shall be filed with the Community Development Director or their designee in such form and accompanied by such information, with sufficient copies, as shall be established from time to time by the City. Every application shall contain, at a minimum, the following information, and related data and any other plans or studies necessary to determine the potential impact of the development as determined by the City:
  - (1) The names and addresses of the owner of the subject property, the applicant, and all persons having an ownership or beneficial interest in the subject property and proposed planned development.
  - (2) A statement from the owner of the subject property, if not the applicant, approving of the filing of the application by the particular applicant.
  - (3) A survey of, and legal description and street address for the subject property.
  - (4) A statement indicating compliance of the proposed planned development with the Comprehensive Plan; and evidence of the proposed project's compliance in specific detail with each of the "Standards for Review" for planned developments.
  - (5) A scaled site plan showing the existing contiguous land uses, natural topographic features, zoning districts, public thoroughfares, transportation, and utilities.
  - (6) A design standards and concept plan document.
  - (7) The substance of covenants, easements, and other restrictions existing and any to be imposed on the use of land, including common open space, and buildings or structures.

- (8) A schedule of development showing the approximate date for beginning and completion of each stage of construction of the planned development.
  - (9) A professional traffic study acceptable to the City showing the proposed traffic circulation pattern within and in the vicinity of the area of the planned development, including the location and description of public improvements to be installed, and any streets and access easements.
  - (10) A professional economic analysis acceptable to the City, including the following:
    - a. The financial capability of the applicant to complete the proposed planned development;
    - b. Evidence of the project's economic viability; and
    - c. An analysis summarizing the economic impact the proposed planned development will have upon the City.
  - (11) Copies of all environmental impact studies as required by law.
  - (12) An analysis setting forth the anticipated demand on all City services.
  - (13) A plan showing off-site utility improvements required to service the planned development.
  - (14) A site drainage plan for the commercial planned development.
  - (15) A written summary of residents' comments, pertaining to the proposed application, from any meeting held pursuant to the requirements of this Article.
- (c) Every application must be accompanied by a fee in such amount as established in a resolution adopted by the Common Council.

### **Sec. 17.0707. Effect of Approval or Denial**

- (a) Approval of the planned development by the Common Council authorizes the applicant to proceed with any necessary applications for site plan approval, building permits, certificates of occupancy, and other permits which the City may require for the proposed planned development. The City's Community Development Director or their designee shall review applications for these permits for compliance with the terms of the planned development granted by the Common Council. No permit shall be issued for development which does not comply with the terms of the planned development.
- (b) The Common Council shall direct the Community Development Director or their designee to revise the Official Zoning Map to reflect the existence and boundaries of each planned development through the application of the Planned Unit Development Overlay District.
- (c) Subject to subsection g below, an approval of a planned development by the Common Council shall be null and void if the recipient does not file an application for a building permit relative to the proposed planned development within twelve (12) months after the date of adoption of the ordinance approving the planned development.

- (d) Subject to subsection g below, an approval of a planned development by the Common Council shall be subject to revocation if construction has not commenced within two (2) years and does not comply with the construction schedule filed with the petition.
- (e) Subject to subsection g below, an approval of a planned development with a phasing plan shall be null and void if construction has not commenced or is not completed in accordance with the terms of that phasing plan.
- (f) An extension of the time requirements stated in subsections c, d, and e, of this Section may be granted by the Common Council after recommendation by the Plan Commission for good cause shown by the applicant, provided a written request is filed with the City at least four (4) weeks prior to the respective deadline.
- (g) No application for a planned development which was previously denied by the Common Council shall be considered by the Plan Commission or the Common Council if it is resubmitted in substantially the same form and/or content within one (1) year of the date of such prior denial. In this regard:
  - (1) The Community Development Director or their designee shall review the application for a planned development and determine if the application is or is not substantially the same. An applicant has the right to request a hearing before the Common Council to appeal the determination of the Community Development Director or their designee that the application is substantially the same, provided a petition for appeal is filed in writing with the Community Development Director or their designee within ten (10) days of the Community Development Director's or their designee's determination.
  - (2) The Common Council shall affirm or reverse the determination of the Community Development Director or their designee, regarding whether the new application is in substantially the same form after receipt of a petition for appeal.
  - (3) If it is determined that the new application is not substantially in the same form, then the applicant shall be entitled to continue with the application process in accordance with the provisions of the set forth herein.

## Sec. 17.0708. Amendments and Alterations to Approved Planned Developments

- (a) Except as provided in subsection b below, any modifications to an approved planned development or any addition to or expansion of an existing planned development shall require separate review and approval under the provisions of the Zoning Ordinance.
- (b) A minor change is any change in the site plan or design details of an approved planned development which is consistent with the standards and conditions applying to the planned development and which does not alter the concept or intent of the planned development. A minor change shall not increase the planned development's density, increase the height of buildings, reduce open space, modify the proportion of housing types, change or add new parking areas, alter alignment of roads, utilities or drainage, amend final development agreements, provisions or covenants, or provide any other change inconsistent with any standard or condition imposed by the Common Council in approving the planned development. Said minor change may be approved by the Community Development Director or their designee without obtaining separate approval by the Common Council. In addition, the Common Council may, after reviewing the request for a major change made by the applicant, direct the Community Development Director or their designee to process the request as a minor change.
- (c) A major change is any change in the site plan or design details of an approved planned development which is not a minor change as detailed in subsection b above.

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### Sec. 17.0801. Administration

(a) **Community Development Director.**

- (1) **Responsibility.** The Community Development Director, or their designee, shall be responsible for interpreting and administering this Zoning Ordinance.
- (2) **Duties.** The duty of the Community Development Director, or a designee, shall be to:
  - a. Maintain permanent and current records of all approvals and other actions, including, but not limited to, all maps, zoning ordinance amendments, building permits, conditional use permits, planned unit development approvals, temporary use approvals, sign permits, site plans, certificates of compliance, variances, appeals, interpretations, and applications.
  - b. Determine that all building permit applications and their constituent plans, certificate of occupancy applications, sign permit applications and their constituent plans, and site plans comply with all the provisions of this Article.
  - c. Make interpretations regarding the provisions of this Article.
  - d. Receive, file, and forward (to the appropriate person, committee or agency) all applications for any permit or procedure provided for in this Article.
  - e. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Article.
  - f. Issue Permits per the regulations of this Article.

- g. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Article to the owner, resident, agent, or occupant of the premises.
  - h. Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by them to ensure compliance with this Article. If, however, they are refused entry after presentation of their identification, they may procure a special inspection warrant in accordance with Section 66.122 of the Wisconsin Statutes.
  - i. Prohibit the use or erection of any structure, land or water until they has inspected and approved such use or erection.
  - j. Institute, in the name of the City of Oak Creek, any appropriate action or proceeding against a Article violator, as provided by law.
  - k. Request Assistance and cooperation from the City Police Department and City Attorney as deemed necessary.
  - l. Attend all meetings of the City Plan Commission and the City Board of Housing and Zoning Appeals.
- (b) **Zoning Administrator.** The Zoning Administrator, or their designee, shall be responsible for the administration of the Floodplain Ordinance for the City of Oak Creek, Wisconsin in accordance with ss. 59.69, 59.692 or 62.23(7), Stats.
- (1) **Duties and Powers.** The Zoning Administrator shall have the following duties and powers:
- a. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
  - b. Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
  - c. Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
  - d. Keep records of all official actions, including, but not limited to:
    - 1. All permits issued, inspections made, and work approved.
    - 2. Documentation of certified lowest floor and regional flood elevations.
    - 3. Floodproofing certificates.

4. Water surface profiles; floodplain zoning maps and ordinances; nonconforming uses and structures including changes, appeals, variances and amendments.
  5. All substantial damage assessment reports for floodplain structures.
  6. List of nonconforming structures and uses.
- e. Submit copies of the following items to the Department Regional Office:
1. A copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments within 10 days of the decision;
  2. Copies of case-by-case analyses and other required information.
  3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- f. Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional Office.
- g. Submit copies of amendments to the FEMA Regional Office.
- (2) **Land Use Building Permit.** A Land Use Building Permit shall be obtained before any development; repair, modification or addition to an existing structure; 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:
- a. General Information
    1. Name and address of the applicant, property owner and contractor;
    2. Legal description, proposed use, and whether it is new construction or a modification.
  - b. Site Development Plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:
    1. Location, dimensions, area and elevation of the lot;
    2. Location of the ordinary highwater mark of any abutting navigable waterways;
    3. Location of any structures with distances measured from the lot lines and street center lines;

4. Location of any existing or proposed onsite sewage systems or private water supply systems;
  5. Location and elevation of existing or future access roads;
  6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
  7. 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);
  8. 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 Sec. 17.0307 or 17.0308 are met; and
  9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Sec. 17.0306(g). This may include any of the information noted in Sec. 17.0307(c)(1).
- c. Hydraulic and Hydrologic Studies to Analyze Development. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.
1. Zone A floodplains and in AE Zones within which a floodway is not delineated:
    - (a) Hydrology. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.
    - (b) Hydraulic modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:
      - (1) Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
      - (2) Channel sections must be surveyed.
      - (3) Minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.



- (4) A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
  - (5) The most current version of HEC-RAS shall be used.
  - (6) A survey of bridge and culvert openings and the top of road is required at each structure.
  - (7) Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
  - (8) Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
  - (9) The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- (c) Mapping. A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
- (1) If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
  - (2) If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.
2. Zone AE Floodplains.
- (a) Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.

- (b) Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:
- (1) Duplicate Effective Model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
  - (2) Corrected Effective Model. The Corrected Effective Model shall not include any man-made physical changes since the effective model date but shall import the model into the most current version of HEC-RAS for Department review.
  - (3) Existing (Pre-Project Conditions) Model. The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
  - (4) Revised (Post-Project Conditions) Model. The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
  - (5) All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - (6) Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
- (c) Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
- (1) Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

- (2) Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
  - (3) Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
  - (4) If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
  - (5) The revised floodplain boundaries shall tie into the effective floodplain boundaries.
  - (6) All cross-sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
  - (7) Both the current and proposed floodways shall be shown on the map.
  - (8) The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.
- d. Expiration. All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause. If the permitted work has not started within 180 days of the permit date, the development must comply with any regulation, including any revision to the FIRM or FIS, that took effect after the permit date.
- (3) Certificate of Compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
- a. Applicable provisions of Sec. 17.0803(d);
  - b. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
  - c. Application for such certificate shall be concurrent with the application for a permit;
  - d. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

- e. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of Sec. 17.0801(i)(4) are met.
  - f. Where applicable pursuant to Sec. 17.0309(d), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
  - g. Where applicable pursuant to Sec. 17.0309(d), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by Sec. 17.0309(d).
- (4) Other Permits. Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.
- (c) **Building Commissioner.** The Building Commissioner, or a designee, shall be responsible for the actions detailed in Section 15.01 of the Municipal Code.
- (d) **Board of Housing and Zoning Appeals.**
- (1) **Responsibilities.** The Board of Housing and Zoning Appeals, as described in Sec. 2.64 and 2.69 of the Municipal Code and as created under s. 62.23(7)(e), Stats., shall be responsible for varying the standards of this Zoning Ordinance, when all necessary standards are met, and shall review and decide appeals of administrative actions taken under this Zoning Ordinance.
  - (2) **Organization.** The Board of Housing and Zoning Appeals shall organize and adopt rules of procedure for its own governance in accordance with the provisions of Section 2.64 and 2.69 of the Municipal Code of the City of Oak Creek and this Article.
    - a. Meetings shall be held at the call of the Chairperson and shall be open to the public.
    - b. Minutes of the proceedings and a record of all actions shall be kept by the secretary, or other designated person who shall not be the Zoning Administrator, showing the vote of each member upon each question, the reasons for the Board's determination, and its findings of fact. These records shall be filed in the Office of the City Clerk and shall be a public record.
    - c. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official; grant a variance; or make an interpretation.
  - (3) **Duties.** The duties of the Board of Housing and Zoning Appeals shall be to:

- a. Review and take final action to approve, approve with conditions, or deny variance applications as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Article shall be observed and the public safety and welfare secured and substantial justice done. Use variances shall not be granted.
- b. Hear appeals of administrative decisions and take final action to uphold or overturn the administrative official's decision for all matters where appeal powers have not been specifically assigned to the Plan Commission or Common Council.
  - 1. In exercising its powers, the Board of Housing and Zoning Appeals may, in conformance with the provisions of this Zoning Ordinance reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determinations as ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken.
  - 2. In considering all appeals from rulings made under this Zoning Ordinance, the Board of Housing and Zoning Appeals shall, in making its findings on any specific case, consider any applicable plans and policies of the City, including the Comprehensive Plan, and determine the effect of the proposed change upon adjacent property, the congestion of the public streets, the public safety from fire and other hazards, and any other factors relating to the public health, safety, comfort, morals, and general welfare of the people of the City.
  - 3. Every ruling made upon any appeal to the Board of Housing and Zoning Appeals shall be accompanied by a written finding of fact based upon the testimony received at the hearing afforded by the Board and shall specify the reason for granting or denying the appeal.
- c. For the purposes of Floodplain Administration,
  - 1. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
  - 2. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
  - 3. Hear and decide, upon appeal, variances from the ordinance standards.
- d. Request assistance from other city officials, departments, commissions, and boards.
- e. Administer oaths and compel the attendance of witnesses by the Chairperson or Vice Chairperson only.

(4) **Appeals of Board of Housing and Zoning Appeals Determinations.** Determinations by the Board of Housing and Zoning Appeals may only be appealed to the Milwaukee County Circuit Court.

(e) **Plan Commission.**

- (1) **Responsibilities.** The Plan Commission, as described in Sec. 2.63 of the Municipal Code, shall be responsible for reviewing and making recommendations to the Common Council on all requests for Conditional Use Permits, Planned Unit Developments, Conditional Use Permit Amendments, Planned Unit Development Amendments, Rezoning, Zoning Text Amendments, Official Map of the City of Oak Creek Amendments, Certified Survey Maps, Minor Land Divisions, Affidavits of Correction, Final Subdivision Plats, Condominium Plats, Comprehensive Plan Amendments, and Street Right-of-Way Vacations.
- (2) **Duties.** The duties of the Plan Commission shall be to:
- a. Make and adopt a comprehensive plan for the physical development of the City. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive and explanatory matter, shall show the commission's recommendations for such physical development. The Plan Commission may from time to time amend, extend, or add to the comprehensive plan or carry any part or subject matter into greater detail.
  - b. Make reports and recommendations related to the planning and development of the City to public officials, agencies, public utility companies, civic, educational, professional and other organizations, and citizens.
  - c. Review the Official Map of the City of Oak Creek and Zoning Map amendment requests and to recommend the approval, approval with conditions, or denial of the request to the Common Council.
  - d. Review text amendment requests and to recommend the approval, approval with conditions, or denial of the request to the Common Council.
  - e. Review conditional use permit requests and to recommend the approval, approval with conditions, or denial of the request to the Common Council.
  - f. Review land subdivision requests and to recommend the approval, approval with conditions, or denial of the request to the Common Council.
  - g. Review planned unit development requests and to recommend the approval, approval with conditions, or denial of the request to the Common Council.
  - h. Review and approval of processes as detailed in Section 62.23 of Wisconsin State Statutes, including but not limited to review of the location and architectural design of any public building, the location of statues or other memorials, the location acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisitions, of land for or lease of land for any street, alley, or other public way, park, playground, airport, area for parking vehicles, or other memorial or public grounds.
  - i. For Floodplain Administration purposes, the Plan Commission shall:
    1. Oversee the functions of the Office of the Zoning Administrator; and

2. Review and advise the governing body on all proposed amendments to this ordinance, maps and text; and
  3. Publish adequate notice pursuant to Ch. 985, Stats., specifying the date, time, place and subject of the public hearing.
- j. For Floodplain Administration purposes, the Plan Commission shall not:
1. Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
  2. Amend the text or zoning maps in place of official action by the governing body.
- (f) **Common Council.**
- (1) **Responsibility.** The Common Council, as described in Section 2.20 of the Municipal Code, shall be responsible for final action regarding the text of this Zoning Ordinance and the Official Zoning Map.
  - (2) **Duties.** The duties of the Common Council shall be to:
    - a. Review Plan Commission recommendations on Official Map of the City of Oak Creek and Zoning Map amendment requests and to take final action to approve or deny the request.
    - b. Review Plan Commission recommendations on text amendment requests and to take final action to approve or deny the request.
    - c. Review Plan Commission recommendations on conditional use permit requests and to take final action to approve, approve with conditions, or deny the request.
    - d. Review Plan Commission recommendations on land subdivision requests and to take final action to approve, approve with conditions, or deny the request.
    - e. Review Plan Commission recommendations on planned unit development requests and to take final action to approve, approve with conditions, or deny the request.
    - f. **Change or supplement the floodplain zoning district boundaries and the floodplain ordinance per the procedures and requirements in [Sec. 17.0804\(f\)\(8\)](#).**

## Sec. 17.0802. General Application Provisions

- (a) **Who has Authority to File Applications.** An application for Administrative Review or Legislative Review under this Zoning Ordinance must be filed by the person having legal authority to take action in accordance with the approval sought. Unless otherwise expressly stated, that person is presumed to be the record owner, purchaser under contract from the record owner with signature from that owner, or the duly authorized agent of the record owner in the absence of satisfactory proof to the contrary. City officials are authorized to require proof of legal authority to take the action sought. The City may initiate action under this Zoning Ordinance with or without an application from the property owner.

- (b) **Where to File Applications.** Applications for Administrative Review or Legislative Review shall be submitted to the Community Development Director or their designee.
- (c) **How to File Applications.** Applications for Administrative Review or Legislative Review must be submitted on forms and in such numbers as required by the Community Development Director or their designee.
- (d) **Application Fees.** Applications must be accompanied by the nonrefundable fee established in a resolution adopted by the Common Council. Fees may be waived or modified by actions of the Common Council only, requests for which shall be submitted by the applicant in writing to the Community Development Director or their designee.
- (e) **Incomplete Applications.** Applications that do not include required information, or that are not accompanied by required fees, will be returned to the applicant as incomplete, and no further processing of the application will occur until the deficiencies are corrected. If the Community Development Director or their designee determines it is complete, the application will be processed. If the Community Development Director or their designee determines that the application is incomplete, the application will be returned to the applicant along with an explanation of the application's deficiencies.
- (f) **Application Processing Cycles.** Officials responsible for accepting applications, after consulting with review and decision-making bodies, may provide processing cycles for applications. Processing cycles may establish:
- (1) Deadlines for receipt of complete applications.
  - (2) Dates of regular meetings.
  - (3) The scheduling of staff reviews and staff reports on complete applications.
  - (4) All required steps in the application process (including public hearings, and reviews by other agencies).
  - (5) Required timeframes for action by review and decision-making bodies.
- (g) **Application Reconsideration.** Applications recommended for denial by the Plan Commission or denied by the Plan Commission and Common Council shall not be resubmitted for a period of six (6) months unless substantially altered as determined by the Community Development Director or their designee.
- (h) **Successive Applications.** Applications denied by the Common Council shall not be resubmitted for a period of twelve (12) months unless substantially altered as determined by the Community Development Director or their designee.



## Sec. 17.0803. Administrative Review and Approval

(a) **Administrative Authority.**

(1) The Community Development Director or their designee or the Building Commissioner shall have the authority to receive applications and make determinations for the following Administrative Review procedures:

- a. Letter of Interpretation
- b. Administrative Adjustment
- c. Certificate of Zoning Compliance
- d. Building Permit
- e. Certificate of Occupancy
- f. Permanent Sign Permit
- g. Temporary Sign Permit
- h. Temporary Use Permit

(2) The following table summarizes the Administrative Review procedures and lists the appropriate body for appeals of administrative determinations or decisions.

<b>Procedure</b>	<b>Section</b>	<b>Community Development Director</b>	<b>Building Commissioner</b>	<b>Board of Housing and Zoning Appeals</b>	<b>Plan Commission</b>
<i>Letter of Interpretation</i>	17.0803(b)	•		◆	
<i>Administrative Adjustment</i>	17.0803(c)	•		◆	
<i>Certificate of Zoning Compliance</i>	17.0803(d)	•		◆	
<i>Building Permit</i>	17.0803(e)		•		
<i>Certificate of Occupancy</i>	17.0803(f)		•		
<i>Permanent Sign Permit</i>	17.0803(g)		•		◆
<i>Temporary Sign Permit</i>	17.0803(h)	•			◆
<i>Temporary Use Permit</i>	17.0803(i)	•			◆
<b>• = Review and Final Determination</b>					
<b>◆ = Appeal Body</b>					

(b) **Letter of Interpretation.**

- (1) **Applicability.** A letter of interpretation, upon request, may be issued by the Community Development Director or their designee for an official interpretation of the language of this Ordinance.
- (2) **Application.** An application for a letter of interpretation shall include the following:
  - a. Identification of the part of the text of this Ordinance for which the interpretation is requested and the specific questions the applicant has regarding said text.
  - b. If the requested interpretation relates to the application of this Ordinance to a specific property, the additional following information shall be required:
    1. A map of the generalized location of the subject property in related to the City as a whole.
    2. A map of the subject property (at a minimum scale of one (1) inch equals eighty (80) feet) showing all lands for which the interpretation is requested and all other lands within two hundred (200) feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on the map as the names appear on the current records of the Register of Deeds. The map shall clearly indicate the current zoning of the subject property and its environs and the jurisdiction(s) which maintain that control. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
    3. A written description if the reason for the requested interpretation and how the proposed interpretation relates to the type of activities, buildings, and structures currently located on, and proposed for, the subject property.
  - c. If the requested interpretation relates to determination of a use not listed in Table 17.0304(b) or Table 17.0304(c) being substantially similar to a use listed Table 17.0304(b) or Table 17.0304(c), the additional following information shall be required:
    1. A narrative description of the use not listed including a definition of the use, hours of operation, external impacts and/or outdoor activity, and any other relevant information requested by the Community Development Director or their designee.
    2. A narrative comparison of the use not listed and the substantially similar use.
    3. A narrative description of the applicability of use specific standards required for the substantially similar use.

(c) **Administrative Adjustment.**

- (1) **Applicability.** Administrative adjustments, upon request, may be granted by the Community Development Director or their designee for minor departures from the regulations of this Zoning Ordinance, which would result in no discernable effects on other properties and improvements in the vicinity of the subject property. Administrative adjustments may include the following and shall only be granted to the minimum extent necessary, in order to closely maintain the intention of the standard:
  - a. Up to a ten (10) percent reduction in one (1) of the required yard setbacks established by this Zoning Ordinance, where the adjustment is the only adjustment required for the structure.
  - b. A reduction of the applicable off-street parking or bicycle parking requirements by not more than one (1) space.
  - c. An increase of the maximum building height by not more than five (5) percent beyond the limitations of the applicable regulations.
- (2) **Exception for Wheelchair Ramps.** The Community Development Director or their designee may authorize an administrative adjustment for any required yard setback for wheelchair ramps accessory to residential uses.
- (3) **Application.** An application for an administrative adjustment shall include a brief description of the requirement to be varied and any other material deemed necessary by the Community Development Director or their designee to ensure the Administrative Adjustment Review Criteria are met.
- (4) **Administrative Adjustment Review Criteria.** To approve an application for an administrative adjustment, the Community Development Director or their designee shall make an affirmative finding that the following criteria are met:
  - a. That granting the administrative adjustment will ensure the same general level of land use compatibility as the otherwise applicable standards.
  - b. That granting the administrative adjustment will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks, and other land use considerations.
  - c. That granting the administrative adjustment will be generally consistent with the purposes and intent of this Zoning Ordinance.
  - d. That the administrative adjustment granted is the minimum amount necessary for the application.
- (5) **Review and Action.** The Community Development Director or their designee shall review the application and approve, approve with conditions, or deny the application based upon the review

criteria. A written decision including the findings on the review criteria shall be rendered to the applicant.

- (6) **Appeals.** Appeal of an administrative adjustment denied by the Community Development Director or their designee shall be taken to the Board of Housing and Zoning Appeals.
- (7) **Expiration of Approval.** The applicant shall have twelve (12) months from the date of the approval of the administrative adjustment to secure any necessary permits to carry out the proposed improvements. If such permits have not been obtained within twelve (12) months of the date of approval, the approval shall expire.

(d) **Certificate of Zoning Compliance.**

- (1) **Applicability.** Whenever any existing building is occupied by a new use; before any accessory structure is erected, constructed, or placed; or before a building permit or certificate of occupancy is issued, a certificate of zoning compliance shall be required by the Community Development Director or their designee, to certify compliance with all applicable provisions of this Zoning Ordinance. Certificates of zoning compliance may also be requested when a change of use or new construction has not occurred.
- (2) **Application.** When a certificate of zoning compliance is required, such application shall be submitted on a form established by the Community Development Director or their designee.
- (3) **Certificate of Zoning Compliance Review Criteria.** To approve a certificate of zoning compliance, the Community Development Director or their designee shall make an affirmative finding that all applicable requirements of this Zoning Ordinance have been met.
- (4) **Review and Action.** The Community Development Director or their designee shall review the application and approve, approve with conditions, or deny the application based upon the review criteria. A written decision including the findings on the review criteria shall be rendered to the applicant.
- (5) **Appeals.** Appeal of a certificate of zoning compliance denied by the Community Development Director or their designee shall be taken to the Board of Housing and Zoning Appeals.
- (6) **Expiration of Approval.** The applicant shall have twelve (12) months from the date of the approval of the certificate of zoning compliance to secure any necessary permits to carry out the proposed improvements. If such permits have not been obtained within twelve (12) months of the date of approval, the approval shall expire.

(e) **Building Permit.** Building permits shall be required and issued pursuant to Section 15.12 of the City of Oak Creek Municipal Code.

(f) **Certificate of Occupancy.** Certificates of Occupancy shall be required and issued pursuant to Section 15.12 of the City of Oak Creek Municipal Code.

(g) **Permanent Sign Permit.**

- (1) **Applicability.** A permanent sign permit shall be required prior to the display, construction, erection, or alteration of a permanent sign, and its structural components, on any property. All permanent signs must comply with Article 6 of this Zoning Ordinance, and the applicable sections of the building code as adopted by the City. All electrical installations associated with the erection and installation of a sign must be performed by an electrical contractor licensed by the City.
- (2) **Application.** Applications for a permanent sign permit shall be made on forms provided by the Community Development Director or their designee and shall contain at least the following information:
  - a. Name, address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
  - b. Name of person, firm, corporation, or association erecting the sign.
  - c. Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
  - d. A scale drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment. Said drawing shall be drawn at a scale no smaller than one-eighth (1/8) inch equals one (1) foot and shall be prepared, signed and sealed by a registered professional engineer when required by the Community Development Director or their designee.
  - e. A scale drawing indicating the location and position of such sign in relation to nearby buildings or structures. Said drawing shall be at a scale no smaller than one (1) inch equals fifty (50) feet.
  - f. Copies of any other permits required.
  - g. In the case of an electrical sign, the name and address of the electrical contractor.
  - h. Signs requiring state approval shall provide a copy of such approval with the sign permit application.
  - i. Additional information as may be required by the Community Development Director or their designee or Plan Commission.
- (3) **Permanent Sign Permit Review Criteria.** To approve an application for permanent sign permit, the Community Development Director or their designee shall make an affirmative finding that all requirements of Article 17.06, the Building Code, and all other City ordinances are met.
- (4) **Review and Action by Building Commissioner.** The Community Development Director or their designee shall make a determination whether to approve, approve with conditions, or deny the permit. Any applicant denied a permit by the Building Commissioner shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Board of Housing and Zoning Appeals.

- (5) **Expiration and Lapse of Approval.** A sign permit shall become null and void, if work authorized under the permit has not been completed within six (6) months of the date of issuance.
- (6) **Appeals.** Appeals of permanent sign permits denied by the Community Development Director or their designee shall be taken to the Board of Housing and Zoning Appeals within thirty (30) days of the date the interpretation was rendered, in accordance with the procedures in Section 17.0804(h).

(h) **Temporary Sign Permit.**

- (1) **Applicability.** A temporary sign permit shall be required prior to the display or erection of a temporary sign, and its structural components, on any property. All temporary signs must comply with Sections 17.0605 and 17.0606 of this Zoning Ordinance, and the applicable sections of the building code as adopted by the City.
- (2) **Application.** Applications for temporary sign permits shall be submitted to the Community Development Director or their designee at least ten (10) days prior to the proposed start date of the temporary sign display duration period and shall be made on forms provided by the Community Development Director or their designee and shall contain at least the following information:
  - a. Name, address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
  - b. Name of person, firm, corporation, or association erecting the sign.
  - c. Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
  - d. The start and end date of the temporary sign display duration period.
  - e. Additional information as may be required by the Community Development Director or their designee.
- (3) **Temporary Sign Permit Review Criteria.** To approve an application for temporary sign permit, the Community Development Director or their designee shall make an affirmative finding that all requirements of Section 17.0605 are met.
- (4) **Review and Action by Community Development Director or their designee.** The Community Development Director or their designee shall make a determination whether to approve, approve with conditions, or deny the permit. Any applicant denied a permit by the Community Development Director or their designee shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Board of Housing and Zoning Appeals.
- (5) **Appeals.** Appeals of temporary sign permits denied by the Community Development Director or their designee shall be taken to the Board of Housing and Zoning Appeals within thirty (30) days of the date the interpretation was rendered, in accordance with the procedures in Section 17.0804(h).

(6) **Temporary Sign Removal.** Temporary signs and any structural components shall be removed upon the expiration of the display duration period.

(i) **Short-Term Temporary Use Permit.**

(1) **Applicability.** A short-term temporary use permit shall be required prior to the commencement of a temporary use identified in Sections 17.0304(b) and 17.0304(c) lasting equal to or fewer than fourteen (14) days.

(2) **Application.** An application for a short-term temporary use permit shall be submitted to the Community Development Director or their designee at least ten (10) days prior to the proposed start date of the temporary use and include the following information:

- a. Name, address, and contact information, of the applicant.
- b. Location of the proposed short-term temporary use.
- c. A written description of the proposed short-term temporary use or event, the duration of the use or event, the hours of operations, anticipated attendance, and any buildings, structures, signs or attention-attracting devices used in conjunction with the event.
- d. Proof of compliance with all applicable use specific standards as established in Article 17.04.
- e. A response to each of the criteria established in the Short-Term Temporary Use Approval Criteria below.
- f. A sketch plan showing the location of proposed structures (including on-site restrooms and trash receptacles), parking areas, activities, signs, and attention attracting devices in relation to existing buildings, parking areas, streets, and property lines.
- g. Written confirmation from the property owner agreeing to the short-term temporary use.
- h. Any additional information deemed necessary by the Community Development Director or their designee.

(3) **Short-Term Temporary Use Permit Approval Criteria.** To approve an application for a short-term temporary use, the Community Development Director or their designee shall make an affirmative finding that the following criteria are met:

- a. **Land Use Compatibility.** The temporary use must be compatible with the purpose and intent of this Zoning Ordinance and the zoning district in which it will be located. The temporary use shall not impair the normal, safe, and effective operation of a permanent use on the same site. The temporary use shall not endanger or be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the site, and its relationship to parking and access points.

- b. **Compliance with Other Regulations.** A building permit or temporary certificate of occupancy may be required before any structure used in conjunction with the temporary use is constructed or modified. All structures and the site as a whole shall meet all applicable building code, zoning district, and fire code standards and shall be promptly removed upon the cessation of the use or event. Upon cessation of the event or use, the site shall be returned to its previous condition (including the removal of all trash, debris, signage, attention attracting devices, or other evidence of the special event or use).
- c. **Hours of Operation and Duration.** The duration and hours of operation of the temporary use shall be consistent with the intent of the event or use, and compatible with the surrounding land uses. The duration and hours of operation shall be established by the Community Development Director or their designee at the time of approval of the temporary use permit. However, in no instance shall the duration of a temporary use exceed fourteen (14) days. Temporary use permits for longer periods may be issued by the Plan Commission in accordance with the provisions established in Section 17.0804(c).
- d. **Traffic Circulation.** The temporary use, as determined by the City Engineer, shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
- e. **Off-Street Parking.** Adequate off-street parking shall be provided for the temporary use, as determined by the Community Development Director or their designee, and it shall not create a parking shortage for any of the other existing uses on the site.
- f. **Public Conveniences and Litter Control.** Adequate on-site restroom facilities may be required. Adequate on-site solid waste containers may also be required. The applicant shall provide a written guarantee that all litter generated by the event or use shall be removed at no expense to the City.
- g. **Appearance and Nuisances.** The temporary use shall be compatible in intensity, appearance, and operation with surrounding land uses in the area, and it shall not impair the usefulness, enjoyment, or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
- h. **Signs and Attention-Attracting Devices.** The Community Development Director or their designee shall review all signage in conjunction with the issuance of the permit, although a Sign Permit is not required. The Community Development Director or their designee may approve the temporary use of attention-attracting devices. The number and types of signs and attention-attracting devices allowed shall be evaluated on the following criteria:
  - 1. Type and size of the proposed event or use.
  - 2. Safety considerations (sight distance setbacks, sidewalks in area, etc.).
  - 3. Lighting considerations (disturbance of nearby residents or adverse effects to traffic on adjacent streets).



4. Aesthetic concerns (appearance, illumination, number, and size of signs and attention-getting devices proposed).
- i. **Other Conditions.** The Community Development Director or their designee may establish any additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening/buffering, and guarantees for site restoration and cleanup following the temporary use. Conditions may include, but shall not be limited to:
    1. Modifications or restrictions to the hours of operation, duration of the event, size of the activity or other operational characteristics.
    2. The posting of a performance bond to help ensure that the operation of the event or use and the subsequent restoration of the site are conducted according to required stipulations.
    3. If the permit applicant requests the City to provide extraordinary services or equipment or if the Community Development Director or their designee otherwise determines that extraordinary services (e.g., traffic control or security personnel) or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the City a fee sufficient to reimburse the City for the costs of these services if not provided by the applicant. This requirement shall not apply if the event or use has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.
    4. Obtaining liability and personal injury insurance in such form and amount as the Community Development Director or their designee finds necessary to protect the safety and general welfare of the community.
- (4) **Review and Action by the Community Development Director or their designee.** The Community Development Director or their designee shall make a determination whether to approve, approve with conditions, or deny the permit. Any applicant denied a permit by the Community Development Director or their designee shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Plan Commission.
- (5) **Appeals.** Appeals of short-term temporary use permits denied by the Community Development Director or their designee shall be taken to the Plan Commission within thirty (30) days of the date the interpretation was rendered, in accordance with the procedures in Section 17.0804(h).

## Sec. 17.0804. Legislative Review and Approval

(a) **Authority to Receive Legislative Requests.**

- (1) The Community Development Director or their designee shall have the authority to receive applications for the following legislative requests to City boards, commissions, or councils including but not limited to:
  - a. Long-Term Temporary Use Permit
  - b. Variance
  - c. Conditional Use Permit
  - d. Zoning Text Amendment / Rezoning / Official Map of the City of Oak Creek Amendment
  - e. Site Plan and Architectural Review
  - f. Appeals
  - g. Planned Unit Developments
  - h. Appeals, Variances, and Boundary Disputes for Floodplains.

(2) The following table summarizes the Legislative Review procedures and lists the appropriate body for appeals of legislative determinations or decisions.

**Table 17.0804(a)(2) Summary of Legislative Review Procedures**

Procedure	Section	Board of Housing and Zoning Appeals	Plan Commission	Common Council	Milwaukee County Court
Long-Term Temporary Use Permit	17.0804(c)		•	◆	
Variance	17.0804(d)	•			◆
Planned Unit Development	17.07		■	•	
Conditional Use Permit	17.0804(e)		■	•	
Zoning Text Amendment / Rezoning / Official Map of the City of Oak Creek Amendment	17.0804(f)		■	•	
Site Plan and Architectural Review	17.0804(g)	◆	•		
Appeals	17.0804(h)	•			
• = Decision Making Body					
■ = Recommending Body					
◆ = Appeal Body					

(b) **Notice Requirements.** Applications for legislative review and approval shall be noticed and shall be mailed to all property owners within three hundred (300) feet of lands included in the application. The Alderperson of the impacted district may extend the notice boundary.

(c) **Long-Term Temporary Use Permit.**

(1) **Applicability.** A long-term temporary use permit shall be required prior to the commencement of a temporary use identified in Sections 17.0304(b) and 17.0304(c) lasting more than fourteen (14) days.

(2) **Application.** An application for a long-term temporary use permit shall be submitted to the Community Development Director or their designee and include the following information:

- a. Name, address, and contact information, of the applicant.
- b. Location of the proposed long-term temporary use.
- c. A written description of the proposed long-term temporary use or event, the duration of the use or event, the hours of operations, anticipated attendance, and any buildings, structures, signs or attention-attracting devices used in conjunction with the event.
- d. Proof of compliance with all applicable use specific standards as established in Article 4.

- e. A response to each of the criteria established in the Long-Term Temporary Use Approval Criteria below.
  - f. A sketch plan showing the location of proposed structures (including on-site restrooms and trash receptacles), parking areas, activities, signs, and attention attracting devices in relation to existing buildings, parking areas, streets, and property lines.
  - g. Written confirmation from the property owner agreeing to the long-term temporary use.
  - h. Any additional information deemed necessary by the Community Development Director or their designee.
- (3) **Long-Term Temporary Use Permit Approval Criteria.** To approve an application for a long-term temporary use, the Plan Commission shall make an affirmative finding that the following criteria are met:
- a. **Land Use Compatibility.** The temporary use must be compatible with the purpose and intent of this Zoning Ordinance and the zoning district in which it will be located. The temporary use shall not impair the normal, safe, and effective operation of a permanent use on the same site. The temporary use shall not endanger or be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the site, and its relationship to parking and access points.
  - b. **Compliance with Other Regulations.** A building permit or temporary certificate of occupancy may be required before any structure used in conjunction with the temporary use is constructed or modified. All structures and the site as a whole shall meet all applicable building code, zoning district, and fire code standards and shall be promptly removed upon the cessation of the use or event. Upon cessation of the event or use, the site shall be returned to its previous condition (including the removal of all trash, debris, signage, attention attracting devices, or other evidence of the special event or use).
  - c. **Hours of Operation and Duration.** The duration and hours of operation of the temporary use shall be consistent with the intent of the event or use, and compatible with the surrounding land uses. The duration and hours of operation shall be established by the Community Development Director or their designee at the time of approval of the temporary use permit. However, in no instance shall the duration of a temporary use exceed fourteen (14) days. Temporary use permits for longer periods may be issued by the Plan Commission.
  - d. **Traffic Circulation.** The temporary use, as determined by the City Engineer, shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
  - e. **Off-Street Parking.** Adequate off-street parking shall be provided for the temporary use, as determined by the Community Development Director or their designee, and it shall not create a parking shortage for any of the other existing uses on the site.

- f. **Public Conveniences and Litter Control.** Adequate on-site restroom facilities may be required. Adequate on-site solid waste containers may also be required. The applicant shall provide a written guarantee that all litter generated by the event or use shall be removed at no expense to the City.
- g. **Appearance and Nuisances.** The temporary use shall be compatible in intensity, appearance, and operation with surrounding land uses in the area, and it shall not impair the usefulness, enjoyment, or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
- h. **Signs and Attention-Attracting Devices.** The Community Development Director or their designee shall review all signage in conjunction with the issuance of the permit, although a Sign Permit is not required. The Community Development Director or their designee may approve the temporary use of attention-attracting devices. The number and types of signs and attention-attracting devices allowed shall be evaluated on the following criteria:
1. Type and size of the proposed event or use.
  2. Safety considerations (sight distance setbacks, sidewalks in area, etc.).
  3. Lighting considerations (disturbance of nearby residents or adverse effects to traffic on adjacent streets).
  4. Aesthetic concerns (appearance, illumination, number, and size of signs and attention-getting devices proposed).
- i. **Other Conditions.** The Plan Commission may establish any additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening/buffering, and guarantees for site restoration and cleanup following the temporary use. Conditions may include, but shall not be limited to:
1. Modifications or restrictions to the hours of operation, duration of the event, size of the activity or other operational characteristics.
  2. The posting of a performance bond to help ensure that the operation of the event or use and the subsequent restoration of the site are conducted according to required stipulations.
  3. If the permit applicant requests the City to provide extraordinary services or equipment or if the Plan Commission otherwise determines that extraordinary services (e.g., traffic control or security personnel) or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the City a fee sufficient to reimburse the City for the costs of these services if not provided by the applicant. This requirement shall not apply if the event or use has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

4. Obtaining liability and personal injury insurance in such form and amount as the Plan Commission finds necessary to protect the safety and general welfare of the community.
- (4) **Review and Action by the Plan Commission.** The Plan Commission shall make a determination whether to approve, approve with conditions, or deny the permit. Any applicant denied a permit by the Plan Commission shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Common Council.
- (5) **Appeals.** Appeals of long-term temporary use permits denied by the Plan Commission shall be taken to the Common Council within thirty (30) days of the date the interpretation was rendered.
- (d) **Variance.**
- (1) **Applicability.** The Board of Housing and Zoning Appeals is authorized to hear and grant appeals for variances as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Article shall be observed, and the public safety and welfare secured, and substantial justice done. Use variances shall not be granted.
  - (2) **Applications.** Variance applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Community Development Director or their designee. Variance applications may be submitted only after the issuance of a denial for a Building Permit or Letter of Denial by the Community Development Director or their designee. Such applications shall include the following and any other material deemed necessary by the Community Development Director or their designee to ensure the Variance Criteria are met.
    - a. Name and address of the applicant.
    - b. Plat of survey prepared by a registered land surveyor showing all of the information required under Section 17.0803 for a Building Permit when required by the Building Commissioner or a designee, Community Development Director or their designee or a sketch drawn to a recognized map scale may be submitted.
    - c. Additional information required by the City Engineer, Board of Housing and Zoning Appeals, Community Development Director or their designee, Building Commissioner, or a designee.
    - d. A filing fee, as set forth in a resolution adopted by the Common Council, shall be submitted with the application.
  - (3) **Notice to DNR.** The Board of Housing and Zoning Appeals shall transmit a copy of each application for a variance to regulations of the Floodplain or the Shoreland Wetland Conservancy Districts to the Wisconsin Department of Natural Resources (DNR). A copy of the final decision regarding variance applications related to conservancy district regulations or to floodplain district regulations shall be transmitted to the DNR.

- (4) **Variance Review Criteria.** No variance to the provisions of this Article shall be granted by the Board of Housing and Zoning Appeals unless it finds by a preponderance of the evidence that all the following facts and conditions exist and so indicates such in the minutes of its proceedings. A negative finding of fact on any of the following criteria shall require a negative vote on the application as a whole.
- a. **Preservation of Intent.** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
  - b. **Exceptional Circumstances.** There must be unique circumstances or conditions applying to the lot, parcel, or structure that do not apply generally to other properties of uses in the same zoning classification, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
  - c. **Economic Hardship and Self-Imposed Hardship not Grounds for Variance.** No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
  - d. **Preservation of Property Rights.** The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and same vicinity.
  - e. **Absence of Detriment.** No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Zoning Ordinance or the public interest.
  - f. **Additional Requirements in Floodplain Districts.** The criteria in Section 17.1050(c)(4) must be met.
- (5) **Review and Action by the Board of Housing and Zoning Appeals.** The Board of Housing and Zoning Appeals shall review major variance applications and any public comment received during the public hearing, then act to approve, approve with conditions, or deny the request within thirty (30) days after the public hearing. The Board of Housing and Zoning Appeals shall transmit a signed copy of their decision to the applicant, Building Commissioner or designee, Community Development Director or their designee, and Plan Commission. The final decision regarding the major variance application related to floodplain district regulations shall be in accordance with Section 17.0804(D)(4).
- (6) **Appeals.** Appeal of a major variance denied by the Board of Housing and Zoning Appeals shall be taken to the County Court within thirty (30) days of the date the interpretation was rendered. The court shall not stay proceedings upon the decision appealed from, but may, on application, on notice to the Board of Housing and Zoning Appeals and on due cause shown, grant a restraining order. The Board of Housing and Zoning Appeals shall not be required to return the original papers acted upon

by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

- (7) **Expiration of Approval.** Variances granted by the Board of Housing and Zoning Appeals, relating to the commencement of construction of a building or structure, shall expire within a period of time established by the Board of Housing and Zoning Appeals, but in no case shall such period exceed twelve (12) months unless a building permit has been issued pursuant to such variance. The variance shall remain valid only so long as the building permit shall remain valid. If the variance expires, it is null and void and the applicant must reapply for a variance.

(e) **Conditional Use Permit.**

- (1) **Applicability.** Uses designated under the various zoning districts herein as conditional uses are so classified because they may have site-specific impacts that require the discretionary review of the Common Council. The following procedure is established to integrate the conditional uses properly with other land uses located in the district. These uses shall be reviewed and authorized or denied according to the following procedure.
- (2) **Application.** Applications for conditional use permits shall be submitted to the Community Development Director or their designee and shall include, but not be limited to the following where pertinent and necessary for proper review by the Plan Commission.
- a. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
  - b. 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 is located.
  - c. Site plan including the information required by the Community Development Director or their designee.
  - d. Additional information as may be required by the Plan Commission, City Engineer, Building Commissioner, Plumbing Inspector, Electrical Inspector, or Fire Inspector.
- (3) **Conditional Use Permit Review Criteria.** A conditional use permit may be granted upon finding in the review of the application that all applicable use specific provisions per Article 4 of this Zoning Ordinance as well as the following criteria are met. A negative finding of fact on any of the following criteria shall require a negative vote on the application as a whole.
- a. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.



- b. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- c. Adequate utilities, access roads, drainage, parking supply, internal circulation improvements, including but not limited to vehicular, pedestrian, bicycle, and other necessary site improvements have been or are being provided.
- d. Measures have been or will be taken to provide adequate ingress and egress and designed to minimize traffic congestion and to ensure public safety and adequate traffic flow, both on-site and on the public streets.
- e. The conditional use conforms to all applicable regulations of the district in which it is located.

- (4) **First Review and Recommendation by the Plan Commission.** At the First Review and Recommendation meeting, the Plan Commission shall review the conditional use permit application against the review criteria and all other provisions of this Zoning Ordinance and recommend that the application be advanced to the Second Review and Recommendation meeting or be denied.
- (5) **Second Review and Recommendation by the Plan Commission.** At the Second Review and Recommendation meeting, the Plan Commission shall establish the conditions by which the conditional use permit shall be considered by the Common Council or recommend to the Common Council that the application be denied.
- (6) **Review and Action by the Common Council.** The Common Council shall hold a public hearing on each application giving public notice as required by this Article. The Council may subsequently approve, approve with conditions, or deny the issuance of the conditional use permit, or require the submittal of a modified application. The conditional use permit shall be granted or denied in writing.
- (7) **Conditions and Restrictions.** The City may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the Plan Commission.
- (8) **Notice to DNR.** The Plan Commission shall transmit a copy of each application for a conservancy conditional use in the C-1 Shoreland Wetland Conservancy District to the Wisconsin Department of Natural Resources (DNR) by certified mail at least ten (10) days prior to the public hearing. Final action on the application by the Common Council shall not be taken for thirty (30) days from the date the DNR receives notice of public hearing by certified mail or until the DNR has made its recommendation, whichever comes first. A copy of all shoreland conservancy conditional use decisions shall be transmitted to the DNR within ten (10) days following the decision.
- (9) **Expiration of Approval.** The conditional use permit shall expire within no less than twelve (12) months of the date of issuance of the permit if no work has commenced. The issuance of the building permit shall constitute commencement of work. The conditional use permit shall remain valid only so long as the building permit shall remain valid. The time period to commence work and to complete the project shall be determined by the Plan Commission; and both, if not complied

with, shall warrant consideration for revocation of the conditional use permit in accordance with Section 17.0804(e) of this Article.

- (10) **Amendments.** Changes subsequent to the initial issuance of a conditional use permit which would substantially affect the conditions listed this Article shall require an amendment to the conditional use permit. The process for amending a permit shall generally follow the same procedures as those required for granting a conditional use permit as set forth in this Section.
- (11) **Revocation of Conditional Use Permit.** Should a conditional use permit applicant, their heirs or assigns, fail to comply with the conditions of the permit issued by the Community Development Director or their designee or should the use, or characteristics of the use be changed without prior approval by the Common Council, the conditional use permit may be revoked. The process for revoking a permit shall generally follow the same procedures as those required for granting a conditional use permit as set forth in this Section.
- (12) **Existing Conditional Uses.** All uses existing on the effective date of this Article which would be classified as conditional uses in the particular districts concerned, if they were to be established after the effective date of this Article, are hereby declared to be conforming conditional uses. Any proposed change or expansion, including signage and parking, of the existing operation shall be subject to the conditional use procedures and regulations in this Section, as if such use were being newly established.

(f) **Zoning Text Amendment / Rezoning / Official Map of the City of Oak Creek Amendment.**

- (1) **Applicability.** The Common Council may, by Ordinance, change the district boundaries or amend, change, or supplement the regulations established by this Zoning Ordinance or amendments thereto. A text or map amendment may be initiated by the Common Council or Plan Commission or by an application of one or more of the owners, lessees, or contract purchasers of the property proposed to be changed.
- (2) **Applications.** Applications for any amendment to the district boundaries or to the text of this Zoning Ordinance shall be filed with the Community Development Director or their designee, and shall contain a legal description of the premises to be rezoned or the regulations to be amended. If the application is submitted by a contract purchaser, a copy of the offer to purchase shall be included with the application. The application shall list the reasons which justify the application, and specify the proposed use, or provide the proposed amended wording in the regulation.
- (3) **Zoning Text Amendment / Rezoning / Official Map of the City of Oak Creek Amendment Review Criteria.** The decision to amend the Zoning Text, Zoning Map, and/or Official Map of the City of Oak Creek is a matter of legislative discretion that is not controlled by any single review criterion. In making recommendations and decisions on Zoning Text Amendments / Rezonings / Official Map of the City of Oak Creek Amendments, the Plan Commission and Common Council must consider all relevant factors, including at minimum the following three (3) criteria:

- a. Whether the proposed amendment is consistent with the policy and intent of the Comprehensive Plan.
  - b. Whether the proposed amendment corrects an error or inconsistency or is necessary to meet the challenge of a changed or changing condition.
  - c. Whether the proposed amendment is deemed necessary and appropriate based on the policy and intent of City Plans, other than the Comprehensive Plan.
- (4) **Review and Recommendation by the Plan Commission.** The Plan Commission shall review all proposed text and map amendments within the corporate limits and shall recommend to the Common Council that the legislative request be approved as requested, modified and approved, or denied.
- (5) **Review and Action by the Common Council.** The Common Council shall hold a public hearing upon each application giving public notice thereof as specified in this Article, listing the time, place, and the changes of amendments proposed. The Common Council shall also give at least ten (10) days' prior written notice to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment. As soon as possible after such public hearing, and after careful consideration of the Plan Commission's recommendations, the Common Council shall act to either approve, modify, and approve, or deny the application.
- (6) **Protest.** In the event of a protest against a district change duly signed and acknowledged by the owners of twenty (20) percent or more either of the areas of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the Common Council membership present and voting on the proposed change.

**(7) Shoreland Wetland Amendments.**

- a. **Notice to DNR.** The City shall transmit a notice of any proposed change (text or map) in the C-1 Shoreland Wetland Conservancy District to the Wisconsin Department of Natural Resources (DNR). Notice requirements shall be as follows:
  1. A copy of every application for a text or map change shall be mailed within five (5) days of filing with the Director of Community Development.
  2. At least ten (10) days prior notice of any public hearing on a shoreland wetland zoning amendment shall be provided.
  3. Notice of a City Plan Commission recommendation no later than ten (10) days following the recommendation shall be provided.
  4. Notice of a Common Council decision no later than ten (10) days following the decision shall be provided.
- b. **Review Standards.** No wetland in the C-1 District shall be rezoned if the rezoning may result in a significant adverse impact on storm or floodwater storage capacity; maintenance of dry season stream flow, the discharge of groundwater from the wetland to another area, or the flow of groundwater through a wetland; filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters; shoreline protection against soil erosion; fish spawning, breeding, nursery or feeding grounds; wildlife; habitat; or areas of special recreational, scenic or scientific interest, including scarce wetland types.
- c. **DNR Objections.** If the DNR has notified the City Plan Commission that an amendment to the C-1 District may have a significant adverse impact upon any of the criteria listed in Paragraph (b) above, that amendment, if approved by the Common Council, shall contain the following provision:
  1. “This amendment shall not take effect until more than thirty (30) days have elapsed since written notice of the Common Council’s approval of this amendment was mailed to the Department of Natural Resources.

During that thirty (30) day period, the Department of Natural Resources may notify the Common Council that it will adopt a superseding shoreland ordinance for the City pursuant to Section 62.231 of the Wisconsin Statutes. If the Department does so notify the Common Council, the effect of this amendment shall be stayed until the Section 62.231 adoption procedure is completed or otherwise terminated.”

**(8) Floodplain Amendments.**

- a. Obstructions or increases 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 Sec. 17.0804(f)(8)(b).

1. In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 17.0804(f)(8)(b). Any such alterations must be reviewed and approved by FEMA and the DNR.
  2. In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Sec. 17.0804(f)(8)(b).
- b. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:
1. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
  2. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
  3. Any changes to any other officially adopted floodplain maps listed in Sec. 17.0306(e)(2);
  4. Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
  5. Correction of discrepancies between the water surface profiles and floodplain maps;
  6. Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
  7. 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.
- c. Procedures. Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats. The petitions shall include all data required by Sec. 17.0309(e) and Sec. 17.0801(b)(2). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.
1. The proposed amendment shall be referred to the Plan Commission for a public hearing and recommendation to the Common Council. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats.
  2. No amendments shall become effective until reviewed and approved by the Department.

3. All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the Common Council.

**(g) Site Plan and Architectural Review.**

- (1) **Applicability.** For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure without first obtaining the approval of detailed site and architectural plans, as set forth in this Section, prior to the issuance of a building permit. However, this process shall not be required for any single-family or two-family dwelling or in the A-1 Limited Agricultural District, the ER, Rs-1, Rs-2, Rs-3, Rs-4, and Rd-1 Residential Districts.
- (2) **Application.** When site plan and architectural review are required, such plans shall be submitted in a form established by the Community Development Director or their designee, along with a nonrefundable fee as set forth in a resolution adopted by the Common Council. The application shall contain the following information as well as all other information required by the Community Development Director or their designee to ensure compliance with the Site Plan and Architectural Review Criteria.
  - a. Plans shall be submitted as Adobe Acrobat compatible PDFs and CAD files on a USB jump drive. Security settings shall allow reviewers to mark-up digital documents, create notes, and to insert / remove sheets.
  - b. Labels for the date, scale, north point, title, name of owner, and name of person preparing the plan.
  - c. A map layout showing the location of existing boundary lines and dimensions of the legal lot(s) or tract of land, any existing easements, and utility locations. An official survey prepared by a surveyor registered in the State of Wisconsin may be required by the Community Development Director or their designee for any application, as needed to satisfy this requirement.
  - d. The location, size, and setbacks from the property lines, of all existing and proposed structures, buildings, and land improvements.
  - e. A Building Elevation Plan, showing the height, façade design, and exterior building materials (including schedule of materials and percent of the elevation upon which material shall be used) and window specifications, for all proposed buildings.
  - f. A Parking Plan, showing the location and size of existing and proposed streets and alleys, sidewalks, parking and loading spaces, ADA compliant spaces, drive aisles, driveways, vehicular and pedestrian circulation, cross-access connections, fire lanes, bumpers, curbs, wheel stops, landscaping areas, and a detail of the surfacing materials.

- g. A Landscaping Plan, as detailed in Section 17.0505(e).
- h. A Grading Plan showing existing and proposed contours, drainage features, and stormwater management and green infrastructure features.
- i. A Lighting Plan, showing the location, height, and direction of all outdoor lighting, lot boundary lines with foot-candle distribution, and light fixtures specifications.
- j. The location, size, and type of proposed signs, if known.

(3) **Site Plan and Architectural Review Criteria.** To implement and define criteria for the purposes set forth above, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

- a. No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades of surrounding properties and presents an attractive appearance to the public. Predominant exterior building materials must be of high quality. Acceptable exterior materials include split face concrete masonry, decorative block, 4-inch brick veneer, 4-inch stone veneer, cut stone panels, pre-cast concrete wall panels, and terra cotta. Proposals to use other materials, including cement fiber products or cultured stone shall require a three-fourths (3/4) majority of the Plan Commission. Materials such as smooth-faced concrete block, EIFS products (such as Dryvit) or pre-fabricated steel panels are not permitted as a primary exterior building material and shall only be allowed as an accent material comprising no more than twenty five (25) percent of the visible perimeter of the building. Material and color samples shall be submitted to the Plan Commission for review and approval. The Plan Commission has the discretion to adjust this minimum for building additions.
- b. The relative proportion of a building to its neighboring buildings or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
- c. The visual continuity of roofs of neighboring buildings and their contributing elements (parapet walls, coping, and cornices) shall be maintained wherever possible in building development and redevelopment. A flat roof appearance is not permitted in commercial or office and professional business zoning districts. There must be some type of visible roof form (parapets, overhanging eaves, sloped roofs) incorporated into the design of the building.
- d. Buildings shall be designed in such a manner that long expanses of blank wall are broken up by the use of windows, articulation or modulation of the building footprint and/or changes in building materials and colors. Visible building facades in excess of one hundred (100) feet in length must incorporate recesses and projections along the length of the façade. Windows, awnings, and arcades must be an integral part of the façade abutting a public street. Sides of a building that are visible from adjoining residential properties and/or public streets should contribute to the pleasing scale features of the building by featuring characteristics similar to

the front façade of the building. Each principal building shall have a clearly defined, highly visible customer entrance with features such as canopies or porticos, arcades, arches, wing walls, and integral planters.

- e. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions of the City.
  - f. Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The Plan Commission may require that drainage easements be executed.
  - g. Each retail or service establishment in excess of twenty-five thousand (25,000) square feet gross floor area must contribute to the establishment or enhancement of community and public spaces by providing a community amenity on the premises such as a patio/seating area, water feature, clock tower, or pedestrian plaza with benches. Retail establishments in excess of one hundred thousand (100,000) square feet gross floor area must provide at least two of these amenities.
  - h. Buildings and uses shall be provided with dumpsters and trash receptacles in a number and location appropriate for the use as determined by the Plan Commission.
  - i. Wetlands shall not be cleared, filled or drained if the development will result in significant adverse impacts to the functional values of the affected wetlands, significant adverse impacts to water quality or other environmental consequences. They shall be protected within an overall development plan for the property. In order to make this determination, the owner or developer of any property or properties that are involved with any of the following shall have any wetland on the property, as outlined on the 1987 Final Wetland Inventory Map, identified, staked and legally described:
    - 1. Rezoning
    - 2. Subdivision Plat
    - 3. Conditional Use
    - 4. Official Map Amendment
    - 5. Certified Survey Map
    - 6. Building Permit
  - j. Tree preservation requirements included in Section 17.0505(d) shall be met.
- (4) **Review Criteria Modification.** The Plan Commission may modify any of the site plan review criteria by a three-fourths ( $\frac{3}{4}$ ) majority vote of those Commissioners present at a meeting, but only if supplemental design elements or improvements are incorporated into the project which compensate for the modifications of the particular standard.



- (5) **Review and Approval by the Plan Commission.** The Plan Commission shall review and evaluate the request in light of the text of this Zoning Ordinance and any other relevant information. The Plan Commission shall impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission may require appropriate sureties to guarantee that improvements will be completed on schedule; as well as the approved protection of the identified wetlands and woodlands on the approved plan. The Plan Commission shall render an approval or approval with conditions in writing to the applicant, only when satisfied that the proposed project complies with all applicable provisions of this Zoning Ordinance and with all adopted plans and policy documents of the City. If the Plan Commission is not satisfied that the proposed project complies with all applicable provisions of this Zoning Ordinance and with all adopted plans and policy documents of the City, they shall render a denial to the applicant. The Plan Commission may grant approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into compliance with this Zoning Ordinance and adopted plans and policy documents. Any notice of denial shall state the reason for denial.
- (6) **Appeals.** Any person or persons aggrieved by any decisions of the Plan Commission related to plan review may appeal the decision to the Board of Housing and Zoning Appeals. Such appeal shall be filed with the City Clerk within thirty (30) days after the decision of the Plan Commission.

(h) **Appeals, Non-Floodplain.**

- (1) **Applicability.** The Board of Housing and Zoning Appeals is authorized to hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by any administrative official.
- (2) **Applications.** Appeals of the decision of any administrative official concerning the literal enforcement of this Article may be made by any person aggrieved or by any officer, department, or board of the City. Such appeals shall be filed with the City Clerk within thirty (30) days after receipt of written notice of the decision or order of any administrative official. Such appeals applications shall include the following:
- a. Name and address of the appellant and all abutting and opposite property owners of record.
  - b. Plat of survey prepared by a registered land surveyor showing all of the information required for a Building Permit when required by the Building Commissioner or a designee, Zoning Administrator or designee or a sketch drawn to a recognized map scale may be submitted.
  - c. Additional information required by the Plan Commission, City Engineer, Board of Housing and Zoning Appeals, Community Development Director or their designee, Building Commissioner, or a designee.
  - d. A filing fee, as set forth in a resolution adopted by the Common Council, shall be submitted with the application.
- (3) **Appeal Review Criteria.** An appeal of an administrative decision shall be sustained only if the Board of Housing and Zoning Appeals finds that the administrative official erred.

**(4) Review and Action by Board of Housing and Zoning Appeals.**

- a. The Board of Housing and Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the public hearing, any party may appear in person or by agent or by attorney.
- b. The Board of Housing and Zoning Appeals shall grant to the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.
- c. In exercising the appeal power, the Board of Housing and Zoning Appeals shall have all the powers of the official from whom the appeal is taken, and the Board of Housing and Zoning Appeals may reverse or affirm wholly or partly or may modify the decision being appealed. The Board of Housing and Zoning Appeals' decision is final.
- d. If the Board of Housing and Zoning Appeals determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence.

**(5) Effect of Appeal.** An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Housing and Zoning Appeals after the notice of appeal shall have been filed with them 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 other than by a restraining order which may be granted by the Board of Housing and Zoning Appeals or by a court of record on application and notice to the officer from whom the appeal is taken and on the cause shown.

**(i) Appeals, Variances, and Boundary Disputes for Floodplains.**

**(1) Applicability.** The Board of Housing and Zoning Appeals is authorized to hear and decide

- a. Appeals when it is alleged that there is error in any order, requirement, decision, or determination made by any administrative official regarding floodplain administration and enforcement.
- b. Disputes concerning floodplain district boundaries.
- c. Variances upon appeal.

**(2) Appeals.** Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.

- a. Appeals of Permit Denials. The Board shall review all data related to the appeal, including, but not limited to:
  1. Permit application data listed in Sec. 17.0801(b)(2);
  2. Floodway/floodfringe determination data in Sec. 17.0309(e);
  3. Data listed in Sec. 17.0307(c)(1)(b) 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;
  5. Zoning agency recommendations.
- b. Appeals, Increase in Regional Flood Elevation. 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 may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Sec. 17.0804(f)(8); and
  2. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

**(3) Variances.**

- a. The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that
  1. Literal enforcement of the ordinance will cause unnecessary hardship;
  2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  3. The variance is not contrary to the public interest; and
  4. The variance is consistent with the purpose of this ordinance in Sec. 17.0306(c).
- b. In addition to the criteria in Sec. 17.0804(i)(3)(a), to qualify for a variance under FEMA regulations, the Board must find that the following criteria have been met:
  1. The variance shall not cause any increase in the regional flood elevation;

2. The applicant has shown good and sufficient cause for issuance of the variance;
  3. Failure to grant the variance would result in exceptional hardship;
  4. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
  5. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- c. A variance shall not:
1. Grant, extend or increase any use prohibited in the zoning district;
  2. Be granted for a hardship based solely on an economic gain or loss;
  3. Be granted for a hardship which is self-created;
  4. Damage the rights or property values of other persons in the area;
  5. Allow actions without the amendments to this ordinance or map(s) required in Sec. 17.0804(f)(8); and
  6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- d. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

**(4) Floodproofing Standards.**

- a. No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to or above the flood protection elevation and submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the development standards in Sec. 17.0306(f), Sec. 17.0307, Sec. 17.0308, or Sec. 17.0309.
- b. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
  1. Certified by a registered professional engineer or architect; or

2. Meeting or exceeding the following standards
  - (a) a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - (b) the bottom of all openings shall be no higher than one-foot above grade; and
  - (c) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- c. Floodproofing measures shall be designed, as appropriate, to:
  1. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  2. Protect structures to the flood protection elevation;
  3. Anchor structures to foundations to resist flotation and lateral movement;
  4. Minimize or eliminate infiltration of flood waters;
  5. Minimize or eliminate discharges into flood waters;
  6. Place essential utilities to or above the flood protection elevation; and
  7. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - (a) The enclosed area shall be designed 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 (1) square inch for every one (1) square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
    - (b) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    - (c) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    - (d) The use must be limited to parking, building access or limited storage.
- (5) Notice and Hearing for Appeals and Variances.

- a. Notice. The Board shall
    - 1. Follow the requirements of Sec. 17.0804(h)(4)(a).
    - 2. Assure that notice shall be mailed to the parties in interest and the Department Regional Office at least 10 days in advance of the hearing.
  - b. Hearing. The Board shall:
    - 1. Resolve boundary disputes according to Sec. 17.0801(d);
    - 2. Decide variance applications according to Sec. 17.0804(i)(3)(d); and
    - 3. Decide appeals of permit denials according to Sec. 17.0804(i)(2).
- (6) Decision. The final decision regarding the appeal or variance application shall:
- a. Be made within a reasonable time;
  - b. Be a written determination signed by the chairman or secretary of the Board;
  - c. State the specific facts which are the basis for the Board's decision;
  - d. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
  - e. 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; and
  - f. Be sent to the Department Regional Office within 10 days of the decision.
- (7) Boundary Disputes. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:
- a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary.
  - b. The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and

- c. If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Sec. 17.0804(f)(8).

## Sec. 17.0805. Enforcement

- (a) **Types of Violations.** Violations of this Zoning Ordinance and of law will be subject to the remedies and penalties provided in this Zoning Ordinance, the City of Oak Creek Municipal Code, and state law. Violations of this Zoning Ordinance include but are not limited to:
  - (1) **Work Without Required Permits or Approvals.** It is a violation of this Zoning Ordinance to engage in any development, use, construction, remodeling, or other activity of any nature without obtaining all the permits, approvals, certificates, and other forms of authorization required by this Zoning Ordinance.
  - (2) **Work Inconsistent with Permit.** It is a violation of this Zoning Ordinance to engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required in order to engage in such activity.
  - (3) **Work Inconsistent with Conditions.** It is a violation of this Zoning Ordinance to violate, by act or omission, any term, condition, or qualification imposed by a decision-making body upon a required permit, certificate, or other form of authorization.
  - (4) **Work Inconsistent with Zoning Ordinance.** It is a violation of this Zoning Ordinance to erect, construct, reconstruct, remodel, alter, maintain, move, or use any building or structure or to use any land in violation or contravention of any zoning, subdivision, or other regulation of this Zoning Ordinance, or any amendment thereof.
  - (5) **Making Lots or Setbacks Nonconforming.** It is a violation of this Zoning Ordinance to reduce or diminish any lot area so that the setbacks or open spaces are smaller than prescribed by this Zoning Ordinance, except in accordance with the procedural and substantive requirements of this Zoning Ordinance.
  - (6) **Increasing Intensity of Use.** It is a violation of this Zoning Ordinance to increase the intensity of use of any land or structure, except in accordance with the procedural and substantive requirements of this Zoning Ordinance.
  - (7) **Continuing Violations.** It is a violation of this Zoning Ordinance to continue any of the violations specified in this Article. Each day that a violation continues shall be considered a separate offense.
- (b) **Responsibility for Violations.** Each person having an ownership interest in land shall be responsible for any violations of this Zoning Ordinance existing upon such land, regardless of whether such person created the violation.

- (c) **Remedies and Enforcement Powers.** The City shall have the following remedies and enforcement powers:
- (1) **Withhold Permits.**
    - a. The City may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements thereon upon which there is an uncorrected violation of this Zoning Ordinance or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City.
    - b. Instead of withholding or denying an authorization, the City may grant a permit when the work to be completed includes correction of the violation.
  - (2) **Revoke Permits.** A permit may be revoked when the Community Development Director or their designee determines that:
    - a. There is departure from the plans, specifications, or conditions as required under terms of the permit;
    - b. The plans, specifications, or conditions were obtained by false representation or was issued by mistake; or
    - c. Any of the provisions of this Zoning Ordinance are being violated.
  - (3) **Stop Work.** The City may stop work on any building or structure on any land on which there is an uncorrected violation of this Zoning Ordinance or of a permit or other form of authorization issued hereunder.
  - (4) **Revoke Plan or Other Approval.** When a violation of this Zoning Ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Common Council may, upon notice to the applicant and property owner(s) (including any holders of building permits affected) and after a public hearing, revoke the plan or other approval or condition its continuance on strict compliance, the provision of security or such other conditions as the Common Council may reasonably impose.
  - (5) **Injunctive Relief.** The City may seek an injunction or other equitable relief to stop any violation of this Zoning Ordinance or of a permit, certificate or other form of authorization granted hereunder.
  - (6) **Abatement.** The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.
  - (7) **Penalties.** The penalty for a violation of this Zoning Ordinance shall be governed by the penalty provisions of the City of Oak Creek Municipal Code.
  - (8) **Enforcement and Penalties for Floodplain Ordinance Violations.** Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the



municipality a penalty of not more than \$50.00 (fifty dollars), together with a taxable cost 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 may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

(9) **Other Remedies.** The City shall have such other remedies as are and as may be from time to time provided by Wisconsin law and other City codes for the violation of Zoning Ordinance provisions.

a. **Remedies Cumulative.** The remedies and enforcement powers established in this Zoning Ordinance are cumulative.

(d) **Enforcement Powers.**

(1) **Non-Emergency Matters.**

a. In the case of violations of this Zoning Ordinance that do not constitute an emergency, the Community Development Director or their designee shall give notice of the nature of the violation to the property owner and to any other person who is party to the agreement and to any applicant for any relevant permit, after which the persons receiving notice shall have ten (10) days, or such longer period as the Community Development Director or their designee allows, to correct the violation.

b. If the violation is not corrected within the required timeframe, the Community Development Director or their designee and City Attorney shall use all penalties, remedies and enforcement powers available under this Zoning Ordinance.

c. Notice must be given in-person, by United States Mail, or by posting notice on the premises. Notices of violation must state the nature of the violation, the time period allowed for coming into compliance, the corrective steps necessary, the nature of subsequent penalties and enforcement actions should the situation not be corrected, and the appeal procedures for the Notice of Violation.

(2) **Emergency Matters.** In the case of violations of this Zoning Ordinance that constitute an emergency, the City shall use all remedies, penalties and enforcement powers available under this Article without prior notice, but the Community Development Director or their designee must send notice simultaneously with beginning enforcement action to the property owner and to applicants for any relevant permit.

(e) **Other Enforcement Matters.**

(1) **Other Powers.** In addition to the enforcement powers specified in this Article, the City may exercise any and all enforcement powers granted to them by Wisconsin law.

(2) **Continuation.** Nothing in this Zoning Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid ordinances and laws.

## Article 9. Non-Conforming Uses, Structures, and Lots

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### Sec. 17.0901. Existing Non-Conforming Uses

The lawful non-conforming use of land, or water; or a lawful non-conforming structure; or a lawful nonconforming use on a conforming or non-conforming lot which existed at the time of the adoption or amendment of this Article may be continued although the use does not conform with the provisions of this Article; however,

- (a) Only that portion of the land or water in actual use may be so continued and the use may not be extended, enlarged, substituted or moved; and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Article.
- (b) **Discontinuance.** If such non-conforming use is discontinued or terminated for a period of twelve (12) consecutive months, any future use of the structure, land, or water shall conform to the provisions of this Article or current State Statute.
- (c) **Abolishment or Destruction.** When a nonconforming structure based on use is substantially damaged by fire, explosion, flood, or other calamity to the extent of more than fifty (50) percent of its current equalized assessed value, it shall not be restored except so as to comply with the use provisions of this Article or current State Statute.

- (d) **Substitution.** A non-conforming use of land shall not be changed to another use except a use permitted in the district in which it is located.
- (e) The owners of property claiming to have a legal non-conforming use or a lawful conditional use, have the burden to prove that such use is in fact a non-conforming use or lawful conditional use in accordance with this Article.

### **Sec. 17.0902. Conforming Structures on Non-Conforming Lots**

The use of a structure existing at the time of the adoption or amendment of this Article may be continued although the lot area or lot width does not conform to the requirements of this Article.

- (a) Additions and enlargements to the structures are permitted and shall conform with the established building setback, height, parking, loading, and access provisions of this Article or current State Statute.
- (b) Existing structures on non-conforming lots which are damaged or destroyed by fire, explosion, flood, or other calamity, may be reconstructed, and shall conform with the established building setback, height, parking, loading, and access provisions of this Article or current State Statute.

### **Sec. 17.0903. Non-Conforming Structures on a Conforming or Non-Conforming Lot**

The use of a structure existing at the time of the adoption or amendment of this Article may be continued although the structure's size or location does not conform with the established building setback, height, parking, loading, and/or access provisions of this Article.

- (a) Additions and enlargements to existing nonconforming structures are permitted and shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Article or current State Statute.
- (b) Existing non-conforming structures which are damaged by fire, explosion, flood, or other calamity to the extent that such damage is less than fifty (50) percent of the current equalized assessed value of the structure may be reconstructed and insofar as is practicable shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Article. Existing non-conforming structures which are substantially damaged or destroyed by fire, explosion, flood, or other calamity to the extent of fifty (50) percent or more of the current equalized assessed value of the structure may be reconstructed and shall conform with the established building setbacks, height, parking, loading, and access provisions of this Article or current State Statute.
- (c) Existing non-conforming structures may be moved within the same lot or onto a different lot and, shall conform with the established building setback, height, parking, loading, and access provisions of this Article.

## Sec. 17.0904. Non-Conforming Signs

- (a) All permanent signs which are in existence at the time of passage of this Zoning Ordinance, but which do not conform to one or more provisions of this Zoning Ordinance, shall be deemed to be a legal nonconforming sign and may be continued only as provided in this Zoning Ordinance.
- (b) Signs which do not conform to the provisions of this Zoning Ordinance, but which complied with all applicable ordinances, rules, and regulations in effect at the time of their erection, may remain so long as the use with which they are associated remains. No nonconforming sign shall be enlarged, reconstructed, or structurally altered or changed in any manner. Routine maintenance of nonconforming signs shall be permitted.
- (c) Any sign for which a permit has been lawfully granted prior to the effective date of this or any subsequent amendment of Article 6 and which does not comply with the provisions of such amendment may nonetheless be completed in accordance with the approved plans, provided construction of the sign is started within ninety (90) days after the passage of the ordinance amendment, and is diligently prosecuted to completion.
- (d) Whenever a nonconforming sign has been discontinued for a period of six (6) consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a nonconforming sign, such sign shall not, after being discontinued or abandoned, be reestablished, and the sign thereafter shall be in conformity with the regulations of this Zoning Ordinance.
- (e) Normal maintenance of a nonconforming sign is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming features of the sign.
- (f) No structural alteration, enlargement or extension shall be made in a nonconforming sign, except in the following situations. No structural alteration shall be permitted which reduces the amount by which a sign is nonconforming if the alteration does not bring the sign into conformity with all applicable regulations of this Zoning Ordinance.
  - (1) When the alteration is required by law; and/or
  - (2) When the alteration will actually result in eliminating the nonconforming sign.
- (g) If a nonconforming sign is damaged or destroyed by any means to the extent of fifty (50) percent or more of its replacement value at that time, the sign can be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the code. In the event the damage or destruction is less than fifty (50) percent of its replacement value, based upon prevailing costs, the sign may then be restored to its original condition and the use may be continued which existed at the time of such partial destruction until the nonconforming sign is otherwise abated by the provisions of this Zoning Ordinance. In either event, restoration or repair must be started within a period of six (6) months from the date of damage or destruction, and diligently prosecuted to completion.

- (h) Legal, permitted signs which do not meet the requirements of the minimum setback which conformed to the provisions of this article but were reduced in setback as a result of the exercise of eminent domain, the threat of the exercise of eminent domain, or acquisitions for right-of-way purposes by a governmental body and which are still located entirely upon private property and not in the twenty-five (25) foot sight triangle shall not be found to be nonconforming with the provisions of this Zoning Ordinance as a result of the loss of such territory if there is no other way to accommodate the sign on the subject parcel in accordance with the applicable provisions of Article 6.

### **Sec. 17.0905. Existing Non-Conforming Lots**

A lot which does not contain sufficient width or area to conform to the dimensional requirements of the provisions of this Article is a non-conforming lot. A non-conforming lot cannot be altered to decrease its width or area below or further below the dimensional standards applicable to that lot. A non-conforming lot may be used as a building site provided:

- (a) The use is permitted in the zoning district in which the lot is located, and the proposed building meets all other requirements of the Municipal Code, and
- (b) The lot is of record in the Register of Deeds office prior to the effective date of this Article or any amendment to this Article which affects the area or width of the lot, and
- (c) The lot abuts a dedicated street improved for and opened to the public for travel, and
- (d) The lot is:
- (1) At least fifty (50) feet wide and six thousand (6,000) square feet in area, or
  - (2) Less than fifty (50) feet wide or less than six thousand (6,000) square feet in area and the lot is owned in separate ownership from the lands abutting the lot, or
  - (3) Less than fifty (50) feet wide or less than six thousand (6,000) square feet in area and abutting lands are in the same ownership, in which event the lot and the abutting lands must be combined prior to the issuance of a building permit. The combining of lands must result in a lot which is as close to the dimensional requirements of fifty (50) feet wide and six thousand (6,000) square feet in area as is practicable in the judgment of the Common Council.

## Sec. 17.0906. Wetland Non-Conforming Uses

Notwithstanding Section 62.23(7)(h) of the Wisconsin Statutes, the repair, reconstruction, renovation, remodel, or expansion of a legal non-conforming structure, or any environmental control facility related to a legal non-conforming structure, located in the C1 Wetland Conservancy District and in existence at the time of adoption or subsequent amendment of this Article, or of an environmental control facility in existence on May 7, 1982, related to that structure is permitted pursuant to Section 62.231(5) of the Wisconsin Statutes. Section 62.23(7)(h), however, applies to any environmental control facility that was not in existence on May 7, 1982, but was in existence on the effective date of this Article or amendment.

## Sec. 17.0907. Floodland Non-Conforming Uses

### (a) General.

#### (1) Applicability.

- a. The standards in this section shall apply to all uses and buildings (structures?) that do not conform to the provisions contained within a floodplain zoning ordinance or with s. 87.30, Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 CFR 59-72. These standards shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created.
- b. As permit applications are received for additions, modifications, or substantial improvements to nonconforming buildings in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value and a list of the costs of those activities associated with changes to those buildings.

#### (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

- a. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.
- b. 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.

- c. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance.
- d. 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.
- e. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or 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 Sec. 17.0308(c)(2). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.
- f. No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or 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 Sec. 17.0308(c)(2). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- g. If on a per event basis the total value of the work being done under Sec. 17.0907(a)(2)(d) and € equals or exceeds 50% of the present equalized assessed value the work shall not be permitted 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 Sec. 17.0308(c)(2).
- h. Except as provided in **subd. (h)**, 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 equals or exceeds 50% of the structure's present equalized assessed value.

- i. For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met and all required permits have been granted prior to the start of construction:
    - 1. Residential Structures.
      - (a) Shall have the lowest floor, including basement, elevated to or above the flood protection elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Sec. 17.0804(i)(4)(b).
      - (b) Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
      - (c) Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
      - (d) In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
      - (e) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 17.0309(d).
      - (f) In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
    - 2. Nonresidential Structures.
      - (a) Shall meet the requirements of Sec. 17.0907(a)(2)(i)(1)(a)-(f).
      - (b) Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Sec. 17.0804(i)(4)(a) or (b).
      - (c) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 17.0309(d).
- (3) 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 Sec. 17.0307(c)(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with Sec. 17.0804(i)(4) are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Sec. 17.0907(a)(2)(i)(1) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic



structure and is the minimum necessary to preserve the historic character and design of the structure.

**(b) Floodway District.**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
  - a. Has been granted a permit or variance which meets all ordinance requirements;
  - b. Meets the requirements of Sec. 17.0907(a);
  - c. Shall not increase the obstruction to flood flows or regional flood height;
  - d. Any addition to the existing structure shall be floodproofed, pursuant to Sec. 17.0804(i)(4), by means other than the use of fill, to the flood protection elevation; and
  - e. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) 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, building access or limited storage.
- (2) No new onsite sewage disposal system, or addition to an existing onsite 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 the Floodway District. Any replacement, repair or maintenance of an existing onsite sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, Sec. 17.0804(i)(4)(c) and ch. SPS 383, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, Sec. 17.0804(i)(4)(c) and chs. NR 811 and NR 812, Wis. Adm. Code.

**(c) Floodfringe District.**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality and meets the requirements of Sec. 17.0308(c) except where Sec. 17.0907(c)(2) is applicable.
- (2) Where compliance with the provisions of **subd. (1)** would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in Sec. 17.0804(i)(2) and (3), may grant a variance from those provisions of **subd. (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, shall not be installed;
  - d. Flood depths shall not exceed two (2) feet;
  - e. Flood velocities shall not exceed two (2) feet per second; and
  - f. The structure shall not be used for storage of materials as described in Sec. 17.0308(c)(6).
- (3) 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, Sec. 17.0804(i)(4)(c) and ch. SPS 383, Wis. Adm. Code.
- (4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, Sec. 17.0804(i)(4)(c) and ch. NR 811 and NR 812, Wis. Adm. Code.

## Sec. 17.0908. Interpretation and Proof of Uses

The owners of property who want to alter their use that they claim is either a legal non-conforming use or a lawful conditional use should apply for the alteration of said use, or the building in which it is located, with the Community Development Director or their designee. The Community Development Director or their designee, after a review of City records, may require documentation of the applicant in support their claim. Based upon a review of the submitted documentation, the Community Development Director or their designee may approve or deny the applicant's claim. If denied, the applicant may seek an interpretation of the matter from the Board of Housing and Zoning Appeals.

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## Sec. 17.1001. Definitions “A”

- (a) **A Zones.** Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (b) **AH Zone.** See “Area of Shallow Flooding.”
- (c) **AO Zone.** See “Area of Shallow Flooding.”
- (d) **Accessory Building.** A structure which does require a building permit and is detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use.
- (e) **Accessory Dwelling.** A smaller, independent residential dwelling unit located on the same lot as a single-family detached home.
- (f) **Accessory Retail.** The use of a portion of a building for retail purposes which are customarily incidental and subordinate to the principal use of the building.
- (g) **Accessory Structure.** A structure which does not require a building permit, does not have a permanent foundation, and is detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use. For floodplain purposes, an accessory structure is a facility, structure, or building which is accessory or incidental to the principal use of a property, structure, or building and shall not be used for human habitation.
- (h) **Accessory Use.** A use or detached structure subordinate to the principal use of a structure, land, water, or air and located on the same lot or parcel and serving a purpose customarily incidental to the principal use or the principal structure. For floodplain purposes, an accessory use is a use other than human habitation that is accessory or incidental to the principal use of a property, structure, or building.
- (i) **Acute Care Center.** A building containing medical services for acute patient needs or containing an association or group of physicians, dentists, clinical psychologists, or similar professional health care practitioners, including assistants. The clinic may include a pharmacy, dental and mental laboratories, and/or x-ray facilities, but shall not include inpatient or overnight care.
- (j) **Adult Arcade.** Means a commercial establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, computer-generated or enhanced pornography, panorama, peep show, or similar machines, or other image producing machines, for personal viewing, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which provide material for individual viewing by patrons on the

premises of the business which are characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities.”

- (k) **Adult Bookstore.** Means an establishment which has a facility or facilities, including, but not limited to, booths, cubicles, rooms or stalls, for the presentation of adult entertainment, including adult oriented films, movies or live performances for observation by patrons therein; or an establishment having as a substantial or significant portion of its stock-in-trade for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to “specified anatomical areas” or “specified sexual activities”.
- (l) **Adult Entertainment Business.** Means any establishment providing adult entertainment as defined herein, including, but not limited to, adult arcade, adult bookstore, adult novelty store, adult video store, adult motion picture theater, and exotic dance studio, more specifically defined as adult arcades, adult bookstores, adult motion picture theaters, and adult retail establishments. In determining whether or not the presumption is rebutted, the Common Council may consider the following factors, which are not conclusive:
- (1) Whether minors are prohibited from access to the premises of the establishment due to the adult entertainment nature of the inventory;
  - (2) Whether the establishment is advertised, marketed, or held out to be an adult merchandising facility;
  - (3) Whether adult entertainment material is an establishment’s primary or one of its principal business purposes; or
  - (4) Whether thirty (30) percent or more of an establishment’s revenue is derived from adult entertainment material. An establishment may have other principal business purposes that do not involve the offering for sale or rental of adult entertainment materials and still be categorized as an adult retail establishment.

Such other business purposes will not serve to exempt such establishments from being categorized as an adult retail establishment so long as one (1) of its principal business purposes is offering for sale or rental, for some form of consideration, the specified adult entertainment materials. The Common Council shall have full discretion to give appropriate weight to the factors set forth above as well as other factors considered depending on the particular facts and circumstances of each application.

- (m) **Adult Entertainment Material.** Means any books, magazines, cards, pictures, periodicals, or other printed matter, or photographs, films, motion pictures, video tapes, slides, or other photographic reproductions, or visual representations, CD-ROMs, DVDs, disks, electronic media, or other such media, or instruments, devices, equipment, paraphernalia, toys, novelties, games, clothing or other merchandise or material, which are characterized, by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities.”

- (n) **Adult Entertainment.** Means any dance, amusement, show, display, merchandise, material, exhibition, pantomime, modeling or any other like performance of any type for the use or benefit of a member or members of the public or advertised for the use or benefit of a member of the public where such is characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” as defined herein, or the exhibition of “specified sexual activities,” also defined herein, or in the case of live adult entertainment performances, which emphasizes and seeks to arouse or excite the patrons’ sexual desires. For the purposes of this chapter, any patron of an adult entertainment business, as defined in this Section, shall be deemed a member of the public.
- (o) **Adult Family Home.** A private residence to which all of the following apply:
- (1) Care and maintenance above the level of room and board but not including nursing care are provided in the private residence by the care provider whose primary domicile is this residence for three (3) or four (4) adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in s. 51.01(5), or, if the residence is licensed as a foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than four (4), or more adults or children if all of the adults or all of the children are siblings.
  - (2) The private residence was licensed under s. 48.62 as a foster home for the care of the adults specified in par. (1) at least twelve (12) months before any of the adults attained eighteen (18) years of age.
- (p) **Adult Motion Picture Theater.** Means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities” are regularly shown for any form of consideration.
- (q) **Adult Retail Establishment.** Means any bookstore, adult novelty store, adult video store, or other similar commercial establishment, business, service, or portion thereof which, for money or any other form of consideration, provides as a significant or substantial portion of its stock-in-trade the sale, exchange, rental, loan, trade, transfer, and/or provision for viewing or use off the premises of the business adult entertainment material as defined in this Section. For purposes of this provision, it shall be a rebuttable presumption that thirty (30) percent or more of a business’ stock-in-trade in adult retail material, based on either the dollar value (wholesale or retail) or the number of titles of such material, is significant or substantial.
- (r) **Adult-Oriented Facilities.** Commercial establishments in which a significant portion of the business is to:
- (1) Display, sell, have in their possession for sale, offer for view, publish, disseminate, give, lease, or otherwise deal in any written or printed matter, pictures, films, sound recordings, machines, mechanical devices, models, facsimiles, or other material and paraphernalia depicting sexual conduct or nudity; and/or;

- (2) Which display for viewing any film or pictures depicting sexual conduct or nudity; and/or
- (3) In which any person appears or performs in a manner depicting sexual conduct or involving nudity.
- (s) **Agritourism.** An agriculturally based operation or activity that brings visitors to a farm or ranch.
- (t) **Alley.** A public right-of-way affording only secondary access to abutting properties and not intended for general traffic circulation.
- (u) **Alteration.** For floodplain purposes, an alteration is an enhancement, upgrade, or substantial change or modification, other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning, and other systems within a structure.
- (v) **Animal Hospital.** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.
- (w) **Antenna, Earth Station Dish.** A dish-shaped antenna designed to receive television broadcasts relayed by microwave signals from earth-orbiting communication satellites.
- (x) **Antenna, Terrestrial.** Any antenna designed to receive television and radio signals relayed from one ground location to another ground location. Such antennas are typically mounted on a tower or support on the rooftop of a structure, or on free-standing towers.
- (y) **Antenna.** A specific device the surface of which is used to receive or capture incoming and/or to transmit outgoing radio-frequency (RF) signals, microwave signals, or other communications energy transmitted from or to be received by other antennas, including, but not limited to the following:
  - (1) Directional (or “panel”) antennas, designed to receive and/or transmit signals in a directional pattern which is less than three-hundred and sixty (360) degrees, typically an arc of approximately one-hundred and twenty (120) degrees;
  - (2) Parabolic (or “dish”) antennas, generally bowl-shaped devices that are designed to receive and/or transmit signals in an approximate specific direction;
    - 1. Microwave parabolic antennas are designed to transmit and/or receive microwave signals to or from other microwave parabolic antennas;
    - 2. Satellite parabolic antennas are designed to transmit and/or receive audio and/or video or data signals from satellites orbiting the earth;
    - 3. Other devices designed for the reception and/or transmission of radio-frequency (RF) signals or other communication technologies.
- (z) **Aquaculture.** The indoor farming of fish, crustaceans, mollusks, aquatic plants, algae, and other organisms.

- (aa) **Area of Shallow Flooding.** A designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
- (bb) **Archery Range.** An outdoor facility that may include buildings or structures used for target practice with bows and arrows.
- (cc) **Art Gallery.** An establishment engaged in the sale or exhibit of art works such as paintings, sculpture, macramé, knitted goods, stitchery, or pottery. Art studios are may also be engaged in the creations of such art works and often offer instruction in their creation.
- (dd) **Arterial Highway.** A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways include City of Oak Creek 17-139 freeways and expressways, state trunk and county trunk highways, and other heavily traveled streets.
- (ee) **Artisan Manufacturing.** The application, teaching, making, and/or fabrication of crafts or products by an artist, artisan, or craft person and is often limited to light manufacturing uses, such as small-scale fabrication, small-batch bakeries, or micro-distilleries. These uses often include accessory retail space as well as live-work units.
- (ff) **Assembly.** When used in describing an industrial operation, the fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, welding, or other similar technique. Assembly shall not include the construction, stamping or reshaping of any of the component parts.
- (gg) **Audio/Video Production.** An activity, not in conjunction with adult-oriented facilities, involving the production, including scripting, recording, editing and post-production of audio and visual taped media for educational, entertainment or promotional purposes.
- (hh) **Autobody or Automotive Mechanical Repair.** Activities involving the repair, painting, or undercoating of the body or frame; or maintenance, servicing, or repair of automotive engines, power train, suspensions, and exhaust system on vehicles with a gross weight of ten thousand (10,000) pounds or less.

## Sec. 17.1002. Definitions “B”

- (a) **Base Flood.** The flood having a one (1) percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- (b) **Basement.** That portion of any structure which is below grade, or which is partly below and partly above grade but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling. For floodplain purposes, a basement is any enclosed area of a building having its floor sub-grade on all sides.



- (c) **Bed and Breakfast.** Any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12)-month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.
- (d) **Billboard.** See "Sign, Off-Premise."
- (e) **Boat Mooring and Rental.** See "Marina".
- (f) **Booths, Cubicles, Rooms, Compartments or Stalls.** Means enclosures as are specifically offered to the public or members of an adult entertainment business for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, "booth", "cubicle", "room", "compartment" or "stall" does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee.
- (g) **Breakaway Wall.** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- (h) **Brewery.** An industrial use that brews ales, beers, meads, and/or similar beverages primarily for consumption off premise.
- (i) **Bridle Path.** A trail or track used for horseback riding.
- (j) **Buffer Yard.** An area of land containing sufficient area and width, landscape plantings, earth berms, fencing, walls, or other visual and/or sound barriers intended to eliminate or minimize land use conflicts between adjacent land uses.
- (k) **Buildable Area.** The area of the lot remaining after the minimum front setback, side setbacks, rear setback, and other open space requirements, such as wetlands, have been met.
- (l) **Building.** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, vehicles, or materials.
- (m) **Building Height.** The vertical distance measured from the mean elevation of the finished lot grade along the front yard of the structure to the highest point of the roof.
- (n) **Building Setback Line.** A line within a lot or parcel of land designated, pursuant to City Zoning Code requirements, on a plat of a proposed subdivision within which, and the adjacent boundary of the street upon which the lot abuts, the erection of an enclosed structure or portion thereof is prohibited.

- (o) **Building, Principal.** The main building or structure as distinguished from a secondary or accessory building or structure. This includes a house in a residential district, a store in a business district, a factory in a manufacturing district, or farm buildings in an agricultural district. Principal building shall not include attached secondary or accessory buildings or structures.
- (p) **Building, Temporary.** Any building not designed to be permanently located in the place where it is currently located, or where it is intended to be located.
- (q) **Bulkhead Line.** A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- (r) **Bulletin Board.** See “Sign, Bulletin.”
- (s) **Business Accelerator.** Organizations that provide cohorts of selected nascent ventures seed-investment, usually in exchange for equity, and limited-duration educational programming, including extensive mentorship and structured educational components. These programs typically culminate in “demo days” where the ventures make pitches to an audience of qualified investors (International Economic Development Council. Accelerating Success: Strategies to Support Growth Oriented Companies.
- (t) **Business Incubator.** A mechanism used to encourage and support young companies until they become viable. These are typically multitenant buildings developed by local economic development entities to help “grow” new businesses by providing them with inexpensive space and common business services.

### Sec. 17.1003. Definitions “C”

- (a) **Café.** An informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.
- (b) **Campground.** Any parcel of land which is designed, maintained, intended, or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units, or which is advertised or represented as a camping area.
- (c) **Camping Unit.** Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle that is fully licensed, if required, and ready for highway use.
- (d) **Canopy.** See “Marquee.”
- (e) **Car or Truck Wash.** Any facility used for the washing of vehicles requiring the installation of special equipment.

- (f) **Carnival.** A traveling or transportable group or aggregation of rides, shows, games, or concessions or any combination thereof.
- (g) **Certificate of Compliance.** A certification that the construction and the use of land or a building, including the elevation of fill or lowest floor of a structure for floodplain purposes, is in compliance with all of the provisions of this ordinance.
- (h) **Channel.** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (i) **Chapter 980 Stats. Supervised Release.** An occupancy use of a dwelling unit pursuant to a plan of the Department of Health and Family Services, a Court order, or as may otherwise result from or be provided for under Chapter 980 of the Wisconsin Statutes, which occupancy use is the supervised release of a sexually violent person.
- (j) **Circus/Animal Show.** A temporary outdoor amusement center, bazaar, or fair either involving use of special purpose equipment, conducted by professional operators, or both, and where activities include such things as animal shows, rides, food service, or small-scale games.
- (k) **Clubhouse.** A building or group of buildings accessory to a residential development and available for common use by residents of the development.
- (l) **College/University.** An institution of higher learning that offers courses of general or specialized study leading to a degree, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers, and employees. Such institutions are certified by the state or by a recognized accrediting agency. Examples include universities, liberal arts colleges, community colleges, nursing, and medical schools not accessory to a hospital, conservatories, and seminaries.
- (m) **Co-Location.** Locating wireless communication facilities from more than one provider on a single site.
- (n) **Commercial Vehicle Sales and Service.** Any building, land area, or other premises for the display and sale of large trucks and equipment, typically used in commercial and industrial operations, and including any warranty repair work and other repair service conducted as an accessory use.
- (o) **Commercial Truck.** Trucks with a gross vehicle weight in excess of ten thousand (10,000) pounds.
- (p) **Community Garden.** A site where any kind of plant, including flowers, is grown, and several individuals or households cultivate the site. The site may be divided into individual allotments, or gardeners may work together to cultivate the entire property. The land may be publicly or privately owned. The plants are grown for personal use by the gardeners or for donation.
- (q) **Community Living, 1-15 Persons.** All facilities provided for in Sec. 46.03(22), Wis. Stats., including child welfare agencies, group homes for children, foster homes, treatment foster homes, and community based residential facilities, where care, treatment, or services above the level of room

and board but less than skilled nursing care are provided to up to fifteen (15) persons residing in the facility. Such care, treatment or services are provided as the primary function of such facility. Adult family homes, day care homes, nursing homes, general hospitals, special hospitals, prisons, jails, and foster family homes that are the primary domiciles of a foster parent and four (4) or fewer children are not community living arrangements for purposes of this ordinance.

- (r) **Community Living, 16+ Persons.** All facilities provided for in Sec. 46.03(22), Wis. Stats., including child welfare agencies, group homes for children, foster homes, treatment foster homes, and community based residential facilities, where care, treatment, or services above the level of room and board but less than skilled nursing care are provided to more than 16 persons residing in the facility. Such care, treatment or services are provided as the primary function of such facility. Adult family homes, day care homes, nursing homes, general hospitals, special hospitals, prisons, jails and foster family homes that are the primary domiciles of a foster parent and four (4) or fewer children are not community living arrangements for purposes of this ordinance.
- (s) **Community-based Residential Facility.** A place where three (3) or more unrelated adults reside in which care, treatment, or services above the level of room and board but not including nursing care are provided to persons residing in the facility as a primary function of the facility.
- (t) **Conditional Uses.** Uses of a special nature as to make impractical their predetermination as a permitted use in a district. Conditional uses have been used in zoning ordinances as flexible devices, which are designed to cover situations where a particular use, although not inherently inconsistent with the use classification of a particular zoning district, may create special problems and hazards if allowed to develop and locate as a matter of right in a particular zoning district. Conditional uses are issued to properties, not individuals, and their continued use runs with the property, not with the owner.
- (u) **Covered Parking Facilities.** Shall mean a parking facility with an overhead covering and shall include all floors, except the roof level of multilevel parking structure or ramp.
- (v) **Crawlways or Crawl Space.** An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.
- (w) **Curb Elevation.** The elevation of the established curb in front of a building or structure generally used as a reference point in establishing yard grades. Where curb has not been installed, the mean centerline elevation of the street in front of the building or structure shall be used as the reference point.

## Sec. 17.1004. Definitions “D”

- (a) **Day Care Center.** See “Family Day Care Home” and “Group Day Care Center.”
- (b) **Deck.** An unenclosed exterior structure that has no roof or sides but has a permeable floor which allows the infiltration of precipitation.

- (c) **Department.** The Wisconsin Department of Natural Resources.
- (d) **Destination Retail.** A type of store that attracts regional customers as their ultimate destination.
- (e) **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.
- (f) **Distillery.** A facility which produces, by distillation, spirits for consumption, the sales and distribution of which are subject to regulation by the Wisconsin Department of Revenue.
- (g) **District, Basic.** A part or parts of the City for which the regulations of this Chapter governing the use and location of land and buildings are uniform (such as the Residential, Commercial, and Industrial District classifications).
- (h) **District, Overlay.** Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district.
- (i) **Donation Drop Box.** A receptacle designed with a door, slot, or other opening that is intended to accept and store donated items; not including trailers where personnel are present to accept donations.
- (j) **Drive Through.** An establishment that dispenses products or services to patrons who remain in vehicles.
- (k) **Driveway.** Every way or area used for vehicular travel on private property adjacent to the street right-of-way.
- (l) **Dry Cleaner.** An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises.
- (m) **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.
- (n) **Dwelling.** A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or travel trailers.
- (o) **Dwelling Unit.** A group of rooms including at least a kitchen or kitchenette, sanitary facilities, and a bedroom; and providing, or intended to provide, living quarters for not more than one (1) family.

- (p) **Dwelling, Multifamily Building.** A residential building designed for or occupied by three (3) or more families, with the number of families in a residence not to exceed the number of dwelling units provided.
- (q) **Dwelling, Multifamily Complex.** A master planned development with more than two multifamily buildings on a lot.
- (r) **Dwelling, Single-Family Attached.** A building, also called a duplex, townhome, or rowhome, containing two (2) or more separate dwelling (or living) units with separate entrances and kitchen facilities.
- (s) **Dwelling, Single-Family Detached.** A building designed for or occupied exclusively by one (1) family, including manufactured homes.

## Sec. 17.1005. Definitions “E”

- (a) **Encroachment.** Any fill, structure, equipment, building, use or development in the floodway.
- (b) **Environmental Contractor.** Offices, laboratories and support facilities for the testing or evaluation of soil, air or water, not including any on-site storage or remediation of materials.
- (c) **Environmental Control Facility.** 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 or 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.
- (d) **Essential Services.** Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead facilities such as gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, detention basins, drainage channels, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, railroad tracks, and hydrants, but not including buildings.
- (e) **Existing Manufactured Home Park or Subdivision.** A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- (f) **Expansion to Existing Mobile/Manufactured Home Park.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

## Sec. 17.1006. Definitions “F”

- (a) **Family.** A family may consist of a person living alone or any of the following groups living together in a dwelling unit and sharing common living, sleeping, cooking and eating facilities:
- (1) Any number of people related by blood, marriage, adoption, guardianship or other duly authorized custodial relationships;
  - (2) Two (2) unrelated people.
  - (3) Two (2) unrelated people and any children related to either of them.
  - (4) A family does not include:
    1. Any society club, fraternity, sorority, association, lodge, combine, federation or other like organization.
    2. Two or more individuals whose association to each other is temporary and/or seasonal in nature; City of Oak Creek 17-142.
    3. More than one person determined to be a sexually violent person under Chapter 980, Wisconsin Statutes.
    4. Three or more people who are granted a Conditional Use Permit as a Function Family Unit, provided that a Conditional Use Permit for a Functional Family Unit shall be personal to the Functional Family Unit.
- (b) **Family Day Care Home.** A dwelling licensed as a day care center by the State of Wisconsin pursuant to Section 48.65 of the Wisconsin Statutes, where care is provided for not more than eight (8) children under the age of seven (7) years for less than twenty-four (24) hours per day.
- Farm.** A parcel of land used for agricultural activities including, but not limited to, the raising and harvesting of field crops; the raising of livestock; and the raising and harvesting of trees, orchards, or vineyards.
- (c) **Farmers Market.** The offering for sale of fresh agricultural products directly to the consumer at an open-air market.
- (d) **Federal Emergency Management Agency (FEMA).** The federal agency that administers the National Flood Insurance Program.
- (e) **Fence.** An artificially constructed barrier of any material or combination of materials erected to enclose, decorate, or screen areas of land.
- (f) **Fence, Security.** A fence intended to guard property against unauthorized entry, and to protect stored goods and products from theft and other unauthorized handling.
- (g) **Financial Institution.** See “Bank”.



- (h) **Flea Market.** Any premises where the principal use is the sale of new or used household goods, personal effects, tools, artwork, small household appliances, and similar merchandise, equipment or objects, in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser. Flea markets may be conducted within a structure or in the open air. Rummage sales and garage sales are not considered to be flea markets.
- (i) **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:
- (1) The overflow or rise of inland waters,
  - (2) The rapid accumulation or runoff of surface waters from any source,
  - (3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
  - (4) 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.
- (j) **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.
- (k) **Flood Fringe.** That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- (l) **Flood Hazard Boundary Map.** A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- (m) **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.
- (n) **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.

- (o) **Floodplain.** Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.
- (p) **Floodplain Island.** A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (q) **Floodplain Management.** Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (r) **Flood Profile.** A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (s) **Floodproofing.** Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- (t) **Flood Protection Elevation.** An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: Freeboard.)
- (u) **Flood Storage.** That area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.
- (v) **Floodway.** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (w) **Floor Area, Gross.** The sum of the gross horizontal areas of the floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.
- (x) **Floor Area, Net.** The total of all floors areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading space; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public. Very often, for ease of administration, net floor area is expressed as gross floor area minus a certain percentage. Empirically, stairwells, elevator shafts, equipment rooms, and utility rooms generally average out to about fifteen (15) percent of the gross floor area.
- (y) **Food Truck.** A large, motorized vehicle or trailer, equipped to cook, prepare, serve, and/or sell food.
- (z) **Food Truck Park.** A permanently established area designed to accommodate multiple food trucks and offering food and/or beverages for sale to the public as the main use of the property.
- (aa) **Foot-Candle.** Shall mean the illumination of a surface one-foot distant from a source of light equivalent to one candle.

- (bb) **Foster Home.** Any facility operated by a person required to be licensed by Section 48.62 that provides care and maintenance for no more than four (4) children unless all children are siblings.
- (cc) **Freeboard.** A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- (dd) **Front Lot Line.** The lot line of a parcel abutting a public right of way. In the case of a corner lot, the front lot line shall be the shorter lot line.
- (ee) **Front Setback.** A line established on a parcel of land for the purpose of identifying the nearest point a principal or accessory structure may be placed to a lot line or right-of-way line. The minimum required horizontal distance between the front property line and the nearest foundation wall of a principal or accessory building, excluding overhangs, uncovered steps and stoops, gutters and awnings. Where the street line is an arc, the setback shall be measured from the arc.
- (ff) **Front Yard.** A regulated area on a developed parcel of land that extends the full length of the parcel along the front lot line.
- (gg) **Frontage.** The dimension of a lot abutting a public street measured along the street right-of-way line. For lots abutting a lake or stream, the dimension measured along the shoreline.
- (hh) **Fuel Sales.** Any building, land area, or other premises, or portion thereof, used or intended to be used for the retail dispensing and sales of fuel for passenger vehicles.
- (ii) **Fueling Plaza.** Any building, land area, or other premises, or portion thereof, used or intended to be used for the retail dispensing and sales of fuel for passenger and commercial vehicles.
- (jj) **Functional Family Unit.** In RS-1, RS-2, RS-3, and RS-4, single family residential zoning districts, and RD-1, RM-1 and agricultural zoning districts, a functional family unit shall consist of a group of individuals living together in a single dwelling unit and functioning as a family with respect to those characteristics that are consistent with the purposes of zoning restrictions in single family residential neighborhoods. In determining whether or not a group of unrelated individuals is a functional family unit under this definition, the following criteria must be used:
- (1) The occupants must share the entire dwelling unit. A unit in which the various occupants act as separate roomers cannot be deemed to be occupied by a functional family unit.
  - (2) The following factors shall be considered in determining whether a functional family exists:
    1. The presence of minor dependent children regularly residing in the household;
    2. Evidence of shared household expenses;

3. Whether or not different members of the household have the same address for purposes of voter registrations, drivers' licenses, motor vehicle registrations, summer or other residences and the filing of taxes;
4. Enrollment of dependent children in local schools;
5. Any other evidence reasonably related to whether or not the group or persons have functioned as a family unit as defined in this ordinance.

## Sec. 17.1007. Definitions “G”

- (a) **Garage Sale.** See “Rummage Sale.”
- (b) **Garage, Private.** An accessory building primarily intended for and used for storage of the resident upon the premises or landowner.
- (c) **Garage, Public or Commercial.** A structure, or portion thereof, other than a private garage, used primarily for the parking and storage of motor vehicles and available to the general public. A public garage may or may not charge a fee for such use.
- (d) **Garage, Repair.** See “Autobody or Automotive Mechanical Repair”.
- (e) **General Retail.** Any establishment whose primary activity is the provision of products, as opposed to assistance, to individuals. Any retail use otherwise listed in Section 17.0304 or defined herein shall not be considered a general retail use.
- (f) **General Service.** Any establishment whose primary activity is the provision of assistance, as opposed to products, to individuals. Any service use otherwise listed in Section 17.0304 or defined herein shall not be considered a general service use.
- (g) **Golf Course.** A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards.
- (h) **Golf Course, Miniature.** A novelty version of golf played with a putter and a golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels.
- (i) **Governmental Use.** A facility owned, operated, or occupied by a governmental agency to provide a governmental service to the public.
- (j) **Green Space:** An area with a dimension of not less than six (6) feet in any direction that refers to natural or manmade bodies of water or areas of vegetation on a lot or parcel, including grass, trees, shrubs, flower beds, bioretention, wetlands, streams, ponds, and lakes.
- (k) **Grocery Store.** A retail establishment of at least twenty-five thousand (25,000) square feet in area, where food products and related household products are sold.

- (l) **Group Day Care Center.** An establishment providing care and supervision for four or more persons under the age of seven and licensed by the State of Wisconsin pursuant to Section 48.65 of the Wisconsin Statutes.
- (m) **Group Home.** Any facility operated by a person required to be licensed by the State of Wisconsin pursuant to Section 48.62 of the Wisconsin Statutes for the care and maintenance of five (5) to eight (8) children.

## Sec. 17.1008. Definitions “H”

- (a) **Habitable Structure.** Any structure or portion thereof used or designed for human habitation.
- (b) **Hard Paved Surface.** An area covered wholly by bituminous asphalt or Portland cement concrete.
- (c) **Health, Athletic, or Recreation Facility.** A building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities, operated for profit or not-for-profit and which can be open only to bona fide members and guests of the organization or open to the public for a fee.
- (d) **Hearing Notice.** Publication or posting meeting the requirements of Ch. 985, Stats. and this Ordinance.
- (e) **Heavy Manufacturing.** The manufacturing, predominately from materials prepared on site, of products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, inclusive of basic industrial processing and custom manufacturing. Manufacturing activities are primarily contained within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely on site or mitigated.
- (f) **Height of Tower.** The vertical distance measured in feet from the average existing level of the ground surrounding the tower and within ten feet thereof to the topmost point of the tower including any antenna or other appurtenances. The existing elevation shall mean the actual or approved elevations of the property at the time of application.
- (g) **Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (h) **High Flood Damage Potential.** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- (i) **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.

- (j) **Home Occupation.** Any occupation for financial gain or support conducted entirely within the premises by resident occupants, which is customarily incidental to the principal use of the premises. Home occupation shall not include the performance of a regular job function remotely from the place of the employer's physical location.
- (k) **Hospital.** An institution providing health, medical and surgical facilities, for diagnostic, mental, and medical treatment (both surgical and nonsurgical) to inpatients with any of a wide variety of medical conditions. These establishments maintain inpatient beds, provide patients with food services and an organized staff of physicians and other medical personnel to provide patient care services. These establishments commonly provide other services, such as outpatient, diagnostic, clinical laboratory, and pharmacy services.
- (l) **Hotel.** An establishment that provides lodging for periods of less than one (1) week to the public in rooms accessed from a common lobby. Hotels shall contain the following amenities; indoor pools, fitness centers, breakfast/pantry/market areas, outdoor patio seating, 24-hour on-premise staff, and available daily housekeeping. Self-service guest laundry facilities shall be prohibited. Hotels do not include a dwelling unit that serves as the owner or renter's primary residence but is leased or rented for short-term lodging, such as vacation rentals or homestays, via web-based home or room sharing services such as AirBNB, VRBO, and HomeAway.
- (m) **Hotel, Extended Stay.** A hotel as defined in this ordinance in which lodging is provided to the public for one (1) week or more.
- (n) **Housing for the Elderly.** A dwelling unit or units designed and constructed to be occupied by elderly persons and their spouses. An elderly person is a person who is sixty-two (62) years of age or older on the date such person intends to occupy the premises.

## Sec. 17.1009. Definitions "I"

- (a) **Increase in Regional Flood Height.** A calculated upward rise in the regional flood elevation, equal to or greater than one-hundredth (0.01) of a foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- (b) **Incubator (alternate definition).** A space, building, or facility dedicated for providing technical, financial, managerial, technological, legal, and other support or assistance to start-up and/or growing businesses.

- (c) **Indoor Commercial Recreation Facilities.** A commercial use, with or without seating for spectators, conducted entirely within a building for recreational activities including, but not limited to, playgrounds, miniature golf courses, driving ranges, batting cages, gymnasiums, tennis courts, volleyball courts, basketball courts, trampoline parks, swimming pools, billiard or pool halls.
- (d) **Inspection Unit.** Shall mean the building inspection unit.
- (e) **Installation.** Shall mean the attachment or assembly, whether or not connected to a power source, of any outdoor light fixture affixed to the ground, a building, a pole or any other supporting structure or device.

### Sec. 17.1010. Definitions “J”

- (a) **Junk or Salvage Yard.** An area consisting of buildings, structures, or premises where junk, waste, and discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards and house wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

### Sec. 17.1011. Definitions “K”

- (a) **Kennel.** Any structure or premises in which animals are kept, boarded, bred, or trained for commercial gain.
- (b) **Kennel, Private.** A place where no more than two dogs are housed for personal use.

### Sec. 17.1012. Definitions “L”

- (a) **Laboratory.** A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.
- (b) **Land Use.** Any nonstructural use made of unimproved or improved real estate. (Also see Development.)
- (c) **Legal Nonconforming Structure.** A building or structure lawfully existing at the time of adoption of the Zoning Ordinance which houses a use which is permitted in the district, but does not comply with all the applicable area, height, yard, and/or parking requirements of the district in which it is located.
- (d) **Legal Nonconforming Use.** Any use of land, or land and buildings in combination, lawfully existing at the time of adoption of the Zoning Ordinance, which does not comply with the use regulations for the district in which it is located.

- (e) **Light Manufacturing.** The manufacturing, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building.
- (f) **Light Trespass.** Shall mean stray light or spill light flowing onto adjacent property or into the street.
- (g) **Lighting Source.** Shall mean any lamp or manufactured device emitting energy that is capable of exciting the retina and producing a visual sensation. The energy emitted falls within the electromagnet spectrum to a length of between three-hundred and eighty (380) and seven-hundred and seventy (770) nanometers. Such devices shall include, but are not limited to incandescent, fluorescent, carbon arc, quartziodine/tungsten halogen, low-pressure sodium, high-pressure sodium, metal halide and mercury vapor lamps.
- (h) **Living Area.** The total area bounded by the exterior walls of a building at the floor levels, but not including basement, garages, porches, breezeways, and unfinished attics.
- (i) **Loading Area.** A completely off-street space or berth on the same lot as the principal use it serves for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley. Lot. A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon.
- (j) **Lot Area, Gross.** The total area within the lot lines of a lot, including any street rights-of-way.
- (k) **Lot Area, Net.** The total area within the lot lines of a lot, excluding any street rights-of-way.
- (l) **Lot Coverage.** That portion of the lot that is covered by buildings, structures, and paved surfaces. This is often expressed as a percentage of the lot. Only the ground floor of each building is used in making the lot coverage calculation.
- (m) **Lot Width.** The horizontal distance between side lot lines of a lot measured at right angles to its depth along a straight line and parallel to the front lot line, or its chord if on a curve. Lot widths may vary in width, especially on cul-de-sac lots and lots on curved streets, from the front of the lot to the back of the lot. A lot is not considered buildable unless the minimum lot width required for the district in which the lot is located is maintained at the front setback line and for a distance of thirty (30) feet immediately behind the front setback line.
- (n) **Lot, Corner.** A lot situated at the junction of and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one-hundred and thirty-five (135) degrees.
- (o) **Lot, Double Frontage.** A parcel of land, other than a corner lot, with frontage on more than one street or with frontage on a street and a navigable body of water.



- (p) **Lot, Interior.** A lot abutting a single street, and which is bounded by adjacent lots along its side and rear lot lines.
- (q) **Lowest Adjacent Grade.** Elevation of the lowest ground surface that touches any of the exterior walls of a building.
- (r) **Lowest Floor.** For floodplain purposes, the lowest floor of the lowest enclosed area (including basement).

### Sec. 17.1013. Definitions “M”

- (a) **Maintenance.** For floodplain management purposes, the act or process of ordinary upkeep and repairs, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
- (b) **Manufactured Dwelling.** Any structure or component thereof which is intended for use as a dwelling and (1) is of closed construction and fabricated or assembled on site or off site in manufacturing facilities for installation, connection or assembly and installation on the building site; or (2) is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation on the building site and for which certification is sought by the manufacturer pursuant to the Wisconsin Uniform Dwelling Code. A single or double width manufactured (mobile) home is not considered a manufactured dwelling.
- (c) **Manufactured Home.** A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term “manufactured home” includes a mobile home but does not include a “mobile recreational vehicle.”
- (d) **Manufacturing.** Activities involving the mechanical or chemical transformation of materials or substances into new products.
- (e) **Marina.** Waterfront establishments whose business is offering the sale or rental of boats and marine sporting equipment and the servicing, repair, or storage of same. Such establishments may also provide travel lift services, slip rental, gasoline, sanitary pump out service and food, drink and transient lodging accommodations.
- (f) **Marquee.** A roof-like structure of a permanent nature which projects from the wall of a building and may overhang the street right-of-way. A marquee may also be called a canopy or an awning.
- (g) **Microbrewery.** A small facility that brews ales, beers, meads, and/or similar beverages primarily for consumption on premise and may include a standard restaurant, bar, or tasting room allowing customers to sample products produced on-site. Also known as a craft brewery.
- (h) **Mobile/Manufactured Home Park.** A parcel (or contiguous parcels) of land which has been developed for the placement of mobile homes and is owned by an individual, firm, trust, partnership,

public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.

- (i) **Mobile Home.** A vehicle designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid un-collapsible construction. A mobile home exceeding statutory size limits under Section 348.07(2) of the Wisconsin Statutes shall be considered a primary housing unit. A mobile home not exceeding the statutory size under Section 348.07(2) shall be considered a touring or recreational vehicle. [SOURCE: Section 340.01(29), Wis. Stat.]
- (j) **Mobile Recreational Vehicle.** A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of “mobile recreational vehicles.”
- (k) **Model, Corrected Effective.** A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
- (l) **Model, Duplicate Effective.** A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
- (m) **Model, Effective.** The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- (n) **Model, Existing (Pre-Project).** A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
- (o) **Model, Revised (Post-Project).** A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- (p) **Modification.** A departure from the rules and regulations set forth in this Chapter where a particular use is not required to meet the stated requirements of the Ordinance. Examples would include not requiring steeples and antenna to comply with the stated building height requirements for principal buildings; or not requiring roof overhangs, fences, or accessory buildings to comply with side or rear setback requirements for principal buildings. The Ordinance may limit the amount of modification from the stated requirements for given structures or uses.

- (q) **Motel.** An establishment that provides lodging to the public in rooms accessed from an outdoor gangway or parking lot. This does not include a dwelling unit that serves as the owner or renter's primary residence but is leased or rented for short-term lodging, such as vacation rentals or homestays, via web-based home or room sharing services such as AirBNB, VRBO, and HomeAway.
- (r) **Motor Freight Terminal.** A building or area in which freight brought by motor truck is assembled or stored for routing in intrastate or interstate shipment by motor truck.
- (s) **Motor Home.** A vehicle designed to be operated upon a highway or as a temporary or recreational dwelling and having the same internal characteristics and equipment as a mobile home.
- (t) **Multitenant Shopping Center.** A group of retail and other commercial establishments that is planned, owned, and managed as a single development.
- (u) **Municipality or Municipal.** The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

## Sec. 17.1014. Definitions "N"

- (a) **NAVD or North American Vertical Datum.** Elevations referenced to mean sea level datum, 1988 adjustment.
- (b) **Navigable Water.** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all rivers, 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.
- (c) **Neighborhood Retail.** A general retail establishment with no more than two-thousand five-hundred (2,500) square feet of gross floor area.
- (d) **Neighborhood Service.** A general service establishment with no more than two-thousand five-hundred (2,500) square feet of gross floor area.
- (e) **Net Acre.** The total buildable area of a given lot. The net acreage is the total lot area minus the areas that are unbuildable due to applicable floodplain protection or other other constraints.
- (f) **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.
- (g) **NGVD or National Geodetic Vertical Datum.** Elevations referenced to mean sea level datum, 1929 adjustment.

- (h) **Nonconforming Structure.** An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this Chapter. (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.)
- (i) **Nonconforming Use.** An existing lawful use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- (j) **Non-Flood Disaster.** A fire or an ice storm, tornado, windstorm, mudslide or other destructive act of nature, but excludes a flood.
- (k) **Non-Shielded or Non-Cutoff Lighting Fixtures.** Shall mean all types of outdoor lighting fixtures other than shielded or cutoff lighting fixtures and includes any lighting fixture that employs an adjustable bracket, refractorizing glassware or lenses, non-shielding lamp or light source and distributes light at any angle less than four degrees above horizontal.
- (l) **Nudity.** The showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaqued covering of any portion thereof below the top of the areola, or the human male genitals in a discernible turgid state even if completely or opaquely covered.

## Sec. 17.1015. Definitions “O”

- (a) **Obstruction to Flow.** Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- (b) **Office, General.** A building or portion of a building wherein professional services are performed involving predominantly administrative, professional, or clerical services.
- (c) **Office, Medical or Dental.** An office for health care providers including but not limited to, dentists, physicians, counselors, and surgeons.
- (d) **Official Floodplain Zoning Map.** The map, adopted and made part of this ordinance which has been approved by the Department and FEMA.
- (e) **Open Parking Facilities.** Shall mean a parking facility without an overhead covering and shall include the roof level of a multilevel parking structure or ramp.
- (f) **Open Space, Usable.** Outdoor or unenclosed area on the ground, or on a roof, balcony, deck, porch, or terrace designed and accessible for outdoor living, recreation, pedestrian access, or landscaping, including wetlands or ponds, but excluding parking facilities, driveways, utility or service areas, or any required front or street side yard, and excluding any space with a dimension of less than six (6) feet in any direction

- (g) **Open Space Use.** Those uses having a relatively low flood damage potential, such as agriculture, recreation, parking or storage yards and not involving structures.
- (h) **Ordinary Highwater Mark.** The point on the bank or shore of a body of water 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.
- (i) **Outdoor Activity/Operation, Temporary.** The use of a zoning lot for outdoor use for less than three continuous months, such as a lot used for the seasonal sale of pumpkins and gourds or Christmas trees.
- (j) **Outdoor Canopy.** Shall mean a free-standing roof structure without side walls which may or may not be attached to the roof of an adjacent building and shall include but not be limited to canopies over gas stations or canopies at convenience stores.
- (k) **Outdoor Lighting Fixtures.** Shall mean lighting sources, which are electrically powered illuminating devices, lighted or reflective surface lamps and similar devices permanently installed or portable used for illumination or for advertisement. Such device shall include, but not be limited to searchlights, spotlights, floodlights, streetlights, sign lights, security lights, wall lights, porch lights, area lights, parking lights and sign panels.
- (l) **Outdoor Merchandising.** Shall mean car sales lots, equipment sales lot, retail gasoline stations, garden centers and other similar areas where products are permanently displayed or dispensed outdoors.
- (m) **Outlot Retail Building.** An area located within a multitenant shopping center as defined in this Chapter that shares a common parking lot with the other buildings and establishments within said multitenant shopping center, but which is separated from the principal building and establishment by a parking area.
- (n) **Outdoor Storage, Temporary.** The outside storage or display of materials, supplies, goods or manufactured products, equipment, machinery, vehicles, and pallets for more than a twenty-four hour period but for a continuous period of less than three months.

## Sec. 17.1016. Definitions “P”

- (a) **Parking Lot.** An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles. Parking lots include rows of parking spaces, the aisles from which motor vehicles enter and leave the spaces. Ingress and egress drives from the parking lot to the public street are not part of the parking lot.
- (b) **Performance Standard.** A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, glare or heat, and lighting intensity or spill-over generated by or inherent in uses of land and buildings.
- (c) **Person.** Shall mean any individual, tenant, lessee, owner operator, or any public, private, nonprofit or commercial entity including, but not limited to, a firm, business, partnership, joint venture, association, corporation, municipality, agency or governmental agency.
- (d) **Place of Assembly.** A building or outdoor area wherein individuals or groups of people gather for an attraction or service, such as but not limited to, community centers, fraternal or civic organizations, lodges, libraries, museums, municipal buildings, auditoriums, or religious institutions.
- (e) **Planning.** Shall mean the City Department of Community Development.
- (f) **Plant Nursery/Greenhouse.** A retail business whose principal activity is the selling of plants grown on the site.
- (g) **Portable Storage Structure.** A structure to be used, or intended to be used, for private noncommercial, nonindustrial storage by a residential property owner on a temporary basis.
- (h) **Premises.** A lot, parcel, tract or plot of land together with the buildings and structures thereon.
- (i) **Principal Use.** See “Use, Principal.”
- (j) **Private Sewage System.** A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (k) **Public Utilities.** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

## Sec. 17.1017. Definitions “Q”

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## Sec. 17.1018. Definitions “R”

- (a) **Rear Setback.** A line established on a parcel of land for the purpose of identifying the nearest point a principal or accessory structure may be placed to a lot line or right-of-way line. The minimum required horizontal distance between the rear internal lot line and a line parallel thereto through the nearest foundation wall of the principal or accessory structure, excluding overhangs, uncovered steps and stoops, gutters and awnings.
- (b) **Rear Yard.** A regulated area on a developed parcel of land. The yard area bounded by the rear lot line, the side lot lines and the rear foundation wall of the principal structure, excluding overhangs, uncovered steps and stoops, gutters, and awnings.
- (c) **Reasonably Safe from Flooding.** Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (d) **Regional Flood.** A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one (1) percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (e) **Religious Institutions.** A place of worship or religious assembly including churches, synagogues, mosques, temples, and similar designations, with related facilities such as offices for administration of the institution, fellowship halls, parish halls, and similar buildings used for meetings, religious education, and similar functions, but excluding licensed child or adult daycares, playgrounds, or cemeteries.
- (f) **Residential Site.** Shall mean a single parcel in a residential zone containing a residential structure with one or more dwelling units with parking areas for one or more cars.
- (g) **Restaurant, Delivery/Carry Out Only.** An establishment which by design of physical facilities or by service or packaging procedures permits or encourages the purchase of prepared, ready-to-eat foods intended to be consumed off the premises.
- (h) **Restaurant, Fast Casual.** An establishment whose principal business is the sale of rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises.
- (i) **Restaurant, Sit Down.** An establishment whose food is available to the general public primarily for consumption within a structure on the premises, where at least fifty (50) percent of the gross floor area of the establishment is devoted to patron seating.
- (j) **Right-of-Way.** A strip of land acquired by a public entity and intended to accommodate a specific public purpose or use.
- (k) **Roadside Stand.** An accessory structure for the seasonal retail sale of food products grown or produced on site.

- (l) **Rummage Sale.** The occasional sale of personal property at a residence conducted by one or more families in a neighborhood. Rummage sales are also known as “garage sales.” Flea markets, defined elsewhere in this Section, are not rummage sales.

## Sec. 17.1019. Definitions “S”

- (a) **School.** A public, private, or parochial educational institution, including instructional and recreational uses, with or without other incidental facilities for students, teachers and employees, providing educational or instructional services to students in preschool through grade twelve (12).
- (b) **Seat and Seating.** Furniture upon which to sit having a linear measurement not less than twenty-four (24) inches across the surface used for sitting.
- (c) **Seasonal Sales.** Temporary sales, which typically recur on an annual basis, such as holiday trees, pumpkins, and similar.
- (d) **Self Service Laundry.** A business that provides self-service type washing, drying, and ironing facilities.
- (e) **Self-Service Storage / Mini-Warehouse.** A facility consisting of a building or a group of buildings where individual units are leased or rented to the general public for dead storage. The use of the premises shall be limited to storage only, and shall not be used for any auction (except where required by law), sales (except as provided below), or any other commercial or industrial activity; for the assembly, fabrication, processing, servicing, or repair of any vehicle, boat, trailer, appliance, or similar item; for practice (music) rooms, meeting rooms, residential purposes, or kennels; or for the operation of power tools, compressors, kilns, spray painting equipment, table saws, lathes, welding equipment, or other similar equipment. Limited sales to tenants of products and supplies incidental to the principal use (e.g., packing materials, identification labels, rope, locks, tape, etc.) may be allowed within the retail/leasing office as approved by the Plan Commission. The storage of combustible or flammable liquids, combustible or explosive materials, salvage or toxic/hazardous materials are expressly prohibited.
- (f) **Senior Housing, Assisted Living.** An apartment / condominium facility intended for the elderly including assisted living facilities, congregate housing facilities, continuing care communities, independent living communities, or similar.
- (g) **Senior Housing, Nursing Care.** An apartment / condominium facility intended for the elderly including continuing care communities, convalescent homes, hospice care facilities, memory care facilities, nursing homes, or similar.
- (h) **Senior Housing, Total Life Care.** An apartment / condominium facility intended for the elderly including both assisted living and nursing care services.



- (i) **Service Station.** Any building, land area, or other premises, or portion thereof, used or intended to be used for the sale and installation of lubricants, tires, batteries, and similar accessories. Contemporary service stations may specialize in a singular service such as providing fast oil changes.
- (j) **Setback.** The minimum required horizontal distance between an internal lot line or the street right-of-way and the regulated structure or item. (See also “front setback,” “side setback,” and “rear setback.”)
- (k) **Seven-County Southeastern Wisconsin Region.** The region of Wisconsin comprised of Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha counties.
- (l) **Sexual Conduct.** Acts or simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breasts.
- (m) **Shielded or Cutoff Lighting Fixtures.** Shall mean outdoor lighting fixtures that utilize flat, clear lenses with no refactorizing elements, and which operates in a horizontal position with nonadjustable elements which operate in a horizontal position with nonadjustable mounting hardware or brackets. Such fixtures distribute light by means of an internal reflector only. The light source is totally concealed by fixture housing of an internal reflector only. The light source is totally concealed by the fixture housing when the position of observation is at an angle less than fifteen degrees above horizontal. No light is permitted at an angle less than four degrees above horizontal.
- (n) **Shooting Range.** Any building or premises where there are facilities of any sort for the firing of handguns, rifles, or other firearms.
- (o) **Shorelands.** Those lands lying within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and three hundred 300 feet from a river or stream; or to the landward side of the floodplain, whichever distance is greater. Shorelands shall not include those lands adjacent to farm drainage ditches where (a) such lands are not adjacent to a navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were non-navigable streams before ditching or had no previous stream history; and (c) such lands are maintained in non-structural agricultural use.
- (p) **Side Setback.** A line established on a parcel of land for the purpose of identifying the nearest point a principal or accessory structure may be placed to a lot line or right-of-way line. The minimum required horizontal distance between the side internal lot line and a line parallel thereto through the nearest foundation wall of the principal or accessory structure, excluding overhangs, uncovered steps and stoops, gutters, and awnings.
- (q) **Side Yard.** A regulated area on a developed parcel of land. The yard area bounded by the side lot line, the side foundation wall of the principal structure, excluding uncovered steps and stoops, gutters and awnings, the front yard and the rear yard.
- (r) **Sign.** Any object, device, display, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution,

organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, religious, fraternal, or civic organization; also merchandise and pictures or models of products or services incorporated in a window display, works of art which in no way identify a product, or scoreboards located on athletic fields. Traffic control and other public agency signs located within a right-of-way are not included within this definition and are not regulated by the provisions of this Chapter.

- (s) **Sign Copy.** The message or advertisement, and any other symbols on the face of a sign.
- (t) **Sign Face.** The area or display surface used for the message.
- (u) **Sign, Abandoned.** Any sign which has been discontinued for a period of twelve (12) consecutive months which sign advertises or identifies an activity that has been discontinued for twelve (12) consecutive months shall be considered abandoned.
- (v) **Sign, Awning or Canopy.** A sign that is mounted, painted or attached to an awning or other window or door canopy or otherwise to the side of the building. Any projecting canvas or other material over a structural framework used for a small amount of shelter or shade on a facade that has signage displayed on the visible surface. Such signs are counted as a projecting sign.
- (w) **Sign, Banner.** A temporary advertising sign which is not attached to a permanently mounted backing. Banner signs may be ground-mounted or wall-mounted.
- (x) **Sign, Billboard.** Any sign advertising a land use, business, product or service, not located or available upon the premises whereon the sign is located. These signs are distinguished from other off-premise signs by their larger than otherwise permitted size and typical location along State Highways and major arterial roadways. Additionally, billboards are often erected to attract attention to land uses, businesses, products, and/or services that may be utilized by motorists unfamiliar with area-wide land uses, businesses, products and/or services, such as tourists and out-of-state visitors.
- (y) **Sign, Box.** A sign which includes a frame or box-like external structure which encloses the functional elements of the sign, including internal illumination, where the sign content is affixed on a face or panel.
- (z) **Sign, Feather.** A flexible or rigid pole to which one side of a flexible fabric, generally in the shape of a feather or similar shape, is attached, and which upon which temporary sign copy is displayed. Such banners are also known and sold under names which include, but are not limited to, "quill sign," "banana banner," "blade banner," "flutter banner," "flutter flag," "bowflag," "teardrop banners," and others. The definition includes functionally similar display devices.
- (aa) **Sign, Message.** The thought or idea conveyed or expressed by the words, letters, insignia, figures, designs, fixtures, colors, motion, illumination, sound or projecting images or any combination thereof.

- (bb) **Sign, Mobile or Portable.** A sign mounted on a frame or chassis designed to be easily relocated, including vehicles and/or trailers whose principal commercial use is for signage.
- (cc) **Sign, Monument.** A freestanding sign, other than a pylon sign, in which the entire bottom is in contact with or close to the ground.
- (dd) **Sign, On-Site Traffic Directional.** A sign on a lot that directs the movement or placement of pedestrian or vehicular traffic with or without reference to, or inclusion of, the name of a product sold or service performed on the lot or in a building, structure or business enterprise occupying the same.
- (ee) **Sign, Projecting.** A sign, other than a wall sign which is attached to and projects more than one foot (1'), generally perpendicular from a structure or building face.
- (ff) **Sign, Pylon/Pole.** A sign that is mounted on a freestanding pole or other supports so that the bottom edge of the sign face is eight feet or more above grade.
- (gg) **Sign, Sidewalk.** A type of portable sign that is intended to be placed on a hard surface, most commonly a sidewalk. These signs include A-frame signs, signs that are suspended from the top member of an A-frame, signs with weighted bases, and comparable signs.
- (hh) **Sign, Roof.** A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
- (ii) **Sign, Temporary.** A sign or advertising display intended to be displayed for a certain period of time. Included in the definition of "temporary signs" are retailers' signs temporarily displayed for the purpose of informing the public of a "sale" or special offer. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be considered as temporary. A mobile or portable sign shall not be considered a temporary sign or used for such a purpose.
- (jj) **Sign, Wall.** A sign mounted parallel to a building facade or other vertical building surface.
- (kk) **Sign, Window.** A sign which is applied or attached to the exterior of a window, or applied to, attached to, or located within one foot (1') of the interior of a window, which can be seen through the window from the exterior of the structure.
- (ll) **Sign, Yard.** A temporary portable sign constructed of paper, vinyl, plastic, wood, metal or other comparable material, and designed or intended to be displayed for a short period of time.
- (mm) **Solar Energy Collection, Farm.** A site on which the primary land use is an array of multiple solar collectors on ground-mounted racks or poles that harvest and convert solar energy into thermal, chemical or electrical energy and transmit the same.
- (nn) **Solar Energy Collection System.** All equipment required to harvest solar energy to generate electricity, including storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items.

- (oo) **Solar Energy Collection System, Canopy.** A solar energy collection system consisting of elevated solar panels installed above parking lots, carports and other paved areas.
- (pp) **Solar Energy Collection System, Ground Mounted.** A solar energy collection system and associated mounting hardware that is affixed to or placed upon the ground including but not limited to fixed, passive, or active tracking racking systems.
- (qq) **Solar Energy Collection System, Roof Mounted.** A solar energy collection system that is structurally mounted to the roof of a building or other permitted structure, including limited accessory equipment associated with system which may be ground mounted. It is installed parallel to the roof with a few inches gap.
- (rr) **Specified Anatomical Areas.** Means: a) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus, or female breast below a point immediately above the top of areolae; or Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (ss) **Specified Sexual Activities.** Means: a) The caressing, touching, fondling or other intentional or erotic touching of male genitals, female genitals, pubic region, buttocks, anus, or female breasts of oneself or of one person by another; or b) Sex acts, normal or perverted, actual or simulated, including masturbation, intercourse, oral copulation, flagellation, sodomy, bestiality, or any sexual acts which are prohibited by law; or c) Human genitals in a state of sexual stimulation, arousal or tumescence or visual state of sexual stimulation, arousal or tumescence, even if completely and opaquely covered.
- (tt) **Sport Court.** Any hardscape area including, but not limited to, tennis courts, basketball courts and racquetball courts, but excluding pools and driveways used exclusively for access to a garage.
- (uu) **Start of Construction.** For floodplain management purposes, “start of construction” means 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 that alteration affects the external dimensions of the building.
- (vv) **Street.** A public right-of-way not less than fifty (50) feet wide providing primary vehicular access to abutting properties.

- (ww) **Street Setback.** A line established on a parcel of land for the purpose of identifying the nearest point a principal or accessory structure may be placed to a lot line or right-of-way line. The minimum required horizontal distance between the right-of-way line of the second street of a corner lot and a line parallel thereto through the nearest foundation wall of the principal or City of Oak Creek 17-149 accessory structure, excluding overhang, uncovered steps and stoops, gutters and awnings.
- (xx) **Street Yard.** A regulated area on a developed parcel of land. The yard area bounded by the second street right-of-way of a corner lot, the front yard, the foundation wall of the principal structure and the lot line opposite the front lot line.
- (yy) **Structural Alterations.** Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.
- (zz) **Structure.** Anything erected or constructed, such as buildings, prefabricated or pre-built buildings, towers, masts, poles, booms, signs, bridges, culverts and carports. Appurtenances constructed at or below grade such as patios, driveways, or sidewalks are not considered to be structures. For floodplain management purposes, any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (aaa) **Subdivision.** Has the meaning given in s. 236.02(12), Wis. Stats.
- (bbb) **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 fifty (50) percent of the equalized assessed value of the structure before the damage occurred.
- (ccc) **Substantial Improvement.** Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (ddd) **Sustained Yield Forestry.** Management of forested lands to provide annual or periodic crops of forest products.

## Sec. 17.1020. Definitions "T"

- (a) **Tasting Room.** A facility operated by a brewery, microbrewery, winery or distillery in which customers may sample, purchase and consume wine, beer or spirits on the premises.

- (b) **Tattoo Studios.** An establishment that offers or performs any method of placing ink or other pigment into the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa.
- (c) **Tower.** A structure that is intended to support equipment used to receive and/or transmit electromagnetic waves. Design examples of towers include (a) self-supporting lattice, (b) guyed and (c) monopole.
- (d) **Truck Sales and Service.** See “Commercial Vehicle Sales and Service.”
- (e) **Turning Lane.** An existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

### Sec. 17.1021. Definitions “U”

- (a) **Uniformity Ratio.** Shall mean the ratio between the average illumination and the minimum illumination as determined by measurements taken on a four-foot grid throughout the area to be lighted.
- (b) **Unnecessary Hardship.** The circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purpose of this Chapter. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.
- (c) **Use.** The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.
- (d) **Use, Principal.** The main use of land, or land and buildings in combination, as distinguished from a secondary or accessory building, including, but not limited to, a house in a residential district, a store in a business district, a factory in a manufacturing district, or crops or farm buildings in an agricultural district. Within the zoning districts in this Chapter, the principal use is also referred to as the “permitted use.”
- (e) **Utilities.** Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, municipal warehouses, municipal shops, and municipal storage yards.
- (f) **Utilities, Major.** Utilities, as defined herein, that have negative off-site impacts associated with air quality, fire and explosive hazard, glare and heat, water quality, radioactivity and electrical disturbances, vibration, noise, or outdoor lighting.

- (g) **Utilities, Minor.** Utilities, as defined herein, that have no negative off-site impacts associated with air quality, fire and explosive hazard, glare and heat, water quality, radioactivity and electrical disturbances, vibration, noise, or outdoor lighting.

### Sec. 17.1022. Definitions “V”

- (a) **Variance.** An authorization granted by the Zoning Board of Appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this Chapter. A variance may not permit the use of a property that is otherwise prohibited by this Chapter. No variance may be granted to allow any floor below the regional flood elevation.
- (b) **Vehicle Sales and Rental.** The use of any building or portion thereof, or other premises or portion thereof, for the display, sale, rental, or lease of new motor vehicles, or used motor vehicles as an ancillary use of a zoning lot, and any warranty repair work and other repair service conducted as an accessory use.
- (c) **Veterinary Clinic / Animal Hospital.** An establishment for the care and treatment of the diseases and injuries of animals and where animals may be boarded only during their convalescence.
- (d) **Violation.** The failure of a structure or other development to be fully compliant with this Chapter. 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.
- (e) **Vision Clearance Triangle.** A triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.
- (f) **Vocational/Employment Training.** An educational institution primarily engaged in offering trade or technical training in a variety of technical subjects and trades. The training often leads to job-specific certification and may include the use of simulators and simulation methods.

### Sec. 17.1023. Definitions “W”

- (a) **Warehouse, Distribution.** A facility where goods are received and temporarily stored for delivery to the ultimate customer at remote locations.
- (b) **Warehouse, Storage.** A facility where goods are received and stored for extended periods of time for delivery to the ultimate customer at remote locations.
- (c) **Watershed.** The entire region contributing runoff or surface water to a watercourse or body of water.

- (d) **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.
- (e) **Well.** An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.
- (f) **Wetland.** An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.
- (g) **Wholesale.** An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This is not considered a general retail use.
- (h) **Winery.** An agricultural processing facility used for: (1) the fermenting and processing of fruit juice into wine; or (2) the refermenting of still wine into sparkling wine.
- (i) **Wireless Telecommunication Services.** Licensed wireless telecommunication services including, but not necessarily limited to, cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio City of Oak Creek 17-150 (ESMR), paging and similar services that are marketed to the general public.
- (j) **Wireless Telecommunication Site.** A facility operated by a licensed wireless telecommunication service provider, which consists of the equipment and structures involved in receiving or transmitting electromagnetic waves associated with wireless telecommunication services.
- (k) **Woodland.** An area of wooded land at least one acre in size and containing deciduous or coniferous trees; that, at least fifty (50) percent of which, are either twenty (20) feet or more in height or have a trunk diameter, six (6) inches above the ground, of at least four (4) inches.

## Sec. 17.1024. Definitions “X”

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## Sec. 17.1025. Definitions “Y”

- (a) **Yard.** An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. Front yards and rear yards extend the full width of the lot. (Also see “Front Yard,” “Rear Yard,” “Side Yard,” and “Setback”)

## Sec. 17.1026. Definitions “Z”

RESERVE