

13 Zoning

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13.1 Zoning Code

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ARTICLE A

Introduction

13.1.1 AUTHORITY.

This Chapter is adopted under the authority granted by Sections 62.23(7) and 87.30 of the Wisconsin Statutes and amendments thereto.

State Law Reference: Sections 61.35 and 62.23(7), Wis. Stats.

13.1.2 TITLE.

This Chapter shall be known as, referred to and cited as the "Zoning Code, City of Glendale, Wisconsin" and is hereinafter referred to as the "Code" or "Chapter."

13.1.3 GENERAL PURPOSE.

The purpose of this Chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics and general welfare of the people of the City of Glendale, Wisconsin.

13.1.4 INTENT AND PURPOSES IN VIEW.

The general intent and purposes in view of this Chapter are to regulate and restrict the use of all structures, lands and waters and to:

- (a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and [general welfare of the people;
- (b) Divide the City into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- (c) Protect the character and the stability of the residential, business, manufacturing and other districts within the City and to promote the orderly and beneficial development thereof;
- (d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
- (e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
- (f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;

- (h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the City;
- (i) Preserve and protect the beauty of the City of Glendale;
- (j) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
- (k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- (l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
- (m) Further the maintenance of safe and healthful water conditions;
- (n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (o) Provide for and protect a variety of suitable commercial and industrial sites;
- (p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the City of Glendale;
- (r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

13.1.5 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

13.1.6 INTERPRETATION.

In theft 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 construed to be a limitation or repeal of any other power now possessed by the City of Glendale.

13.1.7 SEVERABILITY AND NON-LIABILITY.

- (a) 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.
- (b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

- (c) The City does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the City of Glendale, its agencies or employees for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

13.1.8 REPEAL AND EFFECTIVE DATE.

All other ordinances or parts of ordinances of the City inconsistent or conflicting with this Chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

13.1.9 SMART GROWTH PLAN.

Pursuant to Section 66.1001(4)(f)(d) of the Wisconsin Statutes, the Smart Growth Plan, as prepared and approved by the City Plan Commission, as part of the Comprehensive Plan of the City, together with all amendments, referenced adopted plans, supporting documents, maps, charts, and other descriptive/explanatory materials that together comprise the Comprehensive Plan, is hereby approved and adopted.

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ARTICLE B

General Provisions

13.1.10 JURISDICTION AND GENERAL PROVISIONS.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the City of Glendale.
- (b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.
- (c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.
- (d) **One Main Building per Lot.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one (1) main building on one (1) lot, unless otherwise approved by the Plan Commission.

13.1.11 USE REGULATIONS.

Only the following uses and their essential services may be allowed in any zoning district:

- (a) **Permitted Uses.** Permitted uses, being the principal uses, specified for a zoning district.
- (b) **Accessory Uses.** Accessory uses and structures as specified are permitted in any district but not until their principal structure is presented or under construction. Home occupations are permitted as an accessory use subject to the definition and limitations as set forth in Section 13.1.200(a)(45) of the Glendale Code.
- (c) **Conditional Uses.**
 - (1) Classes of Conditional Uses. Conditional uses may be either denominated "regular" or "limited."
 - (2) General Conditional Use Provisions. Provisions applicable to conditional uses generally:
 - a. Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Plan Commission in accordance with Article E of this Chapter excepting those existent at time of adoption of the Zoning Code.
 - b. Those existing uses which are classified as "conditional uses" for the district(s) in which they are located at the time of adoption of this Code require no action by the Plan Commission for them to

continue as valid conditional uses, and the same shall be deemed to be "regular" conditional uses.

- c. Proposed change from permitted use in a district to a conditional use shall require review, public hearing and approval by the Plan Commission in accordance with Article E of this Chapter.
 - d. Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Plan Commission in accordance with Article E of this Chapter.
 - e. Provisions in this Chapter relating generally to Conditional Uses shall, except when in conflict with specific provisions relating to either regular or limited conditional uses (which specific provisions would then control) shall be deemed to be applicable to both regular and limited conditional uses.
- (3) Specific Regular Conditional Use Provisions. Provisions applicable specifically to regular conditional uses:
- a. Regular conditional uses, either allowed by action of the Plan Commission or existent at time of adoption of this Code, shall be non-lapsing, shall survive vacancies and change of ownership of the properties where located and be subject to substitution with other conditional use(s) of same or similar type with Plan Commission approval. Change to conditional use of other than same or similar type shall require " procedures and approval in accordance with Article E.
 - b. See Subsection (c)(2)a above as to conditional uses existent at time of adoption of this Code being deemed to be regular conditional uses.
- (4) Specific Limited Conditional Use Provisions. Provisions applicable specifically to limited conditional uses:
- a. Limited conditional uses authorized by Plan Commission resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
 - b. Limited conditional uses authorized by the Plan Commission shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, with Plan Commission approval and the procedures required in Article E of this Chapter.
- (d) **Uses Not Specified in Code.**
- (1) Uses not specified in this Chapter which are found by the Plan Commission to be sufficiently similar to specified permitted uses for a district shall be allowed by Zoning Administrator.
 - (2) Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Plan Commission after public hearing and approval in accordance with Article E of this Chapter.

- (e) **Agricultural Uses.** In addition to those prohibited uses as specified in each district, agricultural uses are prohibited in all zoning districts.

13.1.12 SITE REGULATIONS.

- (a) **Street Frontage.** To be buildable, a lot shall comply with the frontage requirements of the zoning district in which it is located, subject to the provisions of Section 13-1-17.
- (b) **Principal Structures.** All principal structures shall be located on a lot with a minimum street frontage of thirty (30) feet. Only one (1) principal structure shall be located, erected or moved onto a lot. The Plan Commission may permit as a conditional use more than one (1) principal structure per lot in any district where more than one (1) such structures needed for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
- (c) **Dedicated Street.** Zoning approval shall only be issued for a lot, which abuts a public street, dedicated to its proposed width.
- (d) **Lots Abutting More Restrictive Districts.** Lots abutting more restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard setbacks in the less restrictive district shall be modified for a distance of not less than sixty (60) feet from the more restrictive district boundary line so such street yard setbacks shall be no less than the average of the street yards required in both districts.
- (e) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Common Council, upon the recommendation of the Plan Commission, by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Plan Commission, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability when making its recommendation to the Common Council.
- (f) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than three (3) horizontal to one (1) vertical, within a distance of ten (10) feet from the property line, and with the approval of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining

property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion. Retaining walls shall be considered only with Plan Commission approval.

- (g) **Decks.** For purposes of this Chapter, decks and porches shall be considered a part of a building or structure, except that decks constructed after the primary building or structure shall require a separate building permit as provided in Section 13-1-140 of this Code of Ordinances.
- (h) **Special Use Regulations.**
- (1) Temporary Buildings. Temporary buildings and uses for construction purposes for a period not to exceed one (1) year shall be permitted in any district provided that such uses do not alter the character of the premises in respect to their use for the purpose permitted in such respective district.
 - (2) Service Stations; Garages; Parking Lots. No service station, mechanical garage or public parking lot shall be erected, operated or maintained where an entrance or exit for motor cars is located on the same side of the street within two hundred (200) feet of a pedestrian entrance or exit from a public or private school, park, parkway, playground, public library, church, hospital, home for children or the aged or other public or semi-public institution, unless otherwise approved by the Plan Commission.
 - (3) Laundry and Dry Cleaning Establishments. No premises or part thereof shall be used for the operation of a self-service, fast-service or coin operated type of clothes cleaning store for laundry or dry cleaning which deals directly with the consumer and not including the collection or delivery of clothes or fabrics as distinguished from a commercial laundry or dry cleaning establishment unless the following requirements are met:
 - a. The plan of operation of said self-service clothes cleaning store has been submitted and approved by the Plan Commission.
 - b. The premises or portion thereof set apart for such self-service dry cleaning or laundry shall contain the minimum floor area of five hundred (500) square feet for the exclusive use of such operation, only one-half (1/2) of said minimum floor area to be occupied by cleaning or laundry equipment.
 - c. The premises in which such operation is carried on shall be adequately lighted in accordance with standards submitted to and approved by the Plan Commission.
 - d. Adequate toilet facilities for the use of patrons are provided and maintained.
 - e. Any use of a steam boiler shall be limited to a low-pressure boiler, except in the M-1 Commercial and Light Manufacturing District and the M-2 Industrial District.
 - f. No coin-operated machines, other than cleaning, drying, pressing and laundering machines or for the dispensing of refreshments or the making of change shall be permitted on the premises.
 - g. An attendant over the age of twenty-one (21) shall be on the premises at all times when the same is open for business.

- h. The premises shall not be open to the public at large but only to patrons of the laundry or dry cleaning machines.
- i. The premises shall not be open to the public between the hours of 10:00 p.m. and 7:00 a.m.

13.1.13 HEIGHTS AND AREA EXCEPTIONS.

- (a) **Height.** The district height limitations stipulated elsewhere in this Chapter may be exceeded, but such modification shall be in accord 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.
 - (2) Special structures, such as elevator penthouses, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers and flagpoles are exempt from the height limitations of this Chapter.
 - (3) Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Chapter.
 - (4) Public or semi-public facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.
- (b) **Yards.** The yard requirements stipulated elsewhere in this Chapter may be modified as follows:
 - (1) Uncovered stairs, landings, porches and fire escapes may project into any yard but not to exceed four (4) feet and not closer than three (3) feet to any lot line.
 - (2) Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments, may project into any required yard; but such projection shall not exceed two (2) feet.
 - (3) Essential services, utility electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter
 - (4) Landscaping and vegetation are exempt from the yard requirements of this Chapter, with the exception that any landscaping or vegetation shall be subject to the restrictions in Section 13-1-90.
 - (5) Required street yards may be decreased to the average of the existing street yards of the abutting structures on each side but in no case less than fifteen (15) feet.
 - (6) No gasoline pumps shall be located closer than twelve (12) feet (measured from the centerline of said pumps) to the nearest lot line or line of established street or highway where the width of such street or highway has been established pursuant to the provisions of Sec. 80.64, Wis. Stats. On a corner lot when a gasoline pump or series of pumps is placed in a pump island parallel to the lot line or at an angle to the lot line, the end

pump nearest to the street shall be located no closer than twenty (20) feet (measured along the axis of said pump island) to the street line of said street.

- (c) **Existing Lots.** Any lot shown upon a recorded subdivision or any lot for which a deed is of record in the office of the Register of Deeds of Milwaukee County or any lot for which a contract of sale is in full force and effect at the time this Chapter was originally adopted may be used as a building site.
- (d) **Adjoining Lot Setback Differences.** Where the building line requirements of this Chapter differ for two (2) adjoining lots or where the side yard of one (1) lot is less than the front yard required along the same street for an adjoining lot, the side line of the second lot being formed partially or wholly by the rear line of the first-mentioned lot, the lot on which the deeper building line is required shall be modified for a distance of not more than sixty (60) feet from the line of the adjoining lot, to lie half way between the lesser and the greater of the two (2) required building lines.
- (e) **Setbacks with Conversion to Residential Uses.** When the use of a building in the B-1 Local Business, M-1 Commercial and Light Manufacturing or M-2 Industrial District is changed from a use other than residential to a residential use, adequate provisions shall be made for light and air for the portion of the building to be used for residential purposes. If the building is not provided with minimum side yards as required in the R-7 Residence District, then adequate courts shall be provided.

13.1.14 REDUCTION OR JOINT USE.

No lot, yard, parking area, building area or other space shall be reduced in area or dimensions so as not to meet the provisions of this Chapter. No part of any lot, yard, parking area or other space required for a structure or use shall be used for any other structure or use.

13.1.15 SCREENS AND BUFFERS.

- (a) **Required Screens and Buffers.** Where screens or buffers are required by this Chapter or the Plan Commission to reduce the impact of proposed uses on adjacent properties, the following standards shall be followed. Buffer yards and screens may be required jointly or separately.
- (b) **Buffer Yards.** Buffer yards are horizontal separations along lot lines that are intended to increase the physical separation between incompatible uses. The width of the required buffer yard shall be determined by the Plan Commission or Zoning Administrator. The minimum width shall be ten (10) feet.
- (c) **Screens.** Screens are barriers located in a limited space [ten (10) feet or less] intended to perform a buffering effect, particularly for noise reduction or visual screening. Screens may consist of existing or planted vegetation, fences, walls, earth berms or similar techniques. Plant screens shall be sufficient to provide a year-round screen within three (3) years of installation. Walls or earth berms shall be required where noise reduction is necessary. Screen plantings shall be

permanently maintained by the owner of the property, and any plant materials, which do not live, shall be replaced within six (6) months.

13.1.16 MINIMUM BUILDING AREA.

- (a) No building to be used exclusively for residential purposes shall be erected or moved to a new building site, unless said building complies with the minimum exterior area requirements applicable to it as follows:
 - (1) In areas where the Zoning Code requires a minimum lot width of seventy-five (75) feet or in areas where the minimum lot width is in excess of seventy-five (75) feet, but where an existing lot constitutes a building site within the provisions of this Zoning Code, but such existing lot is at least seventy-five (75) feet in width, the following shall be applicable:
 - a. For one (1) story buildings, a minimum of one thousand two hundred (1,200) square feet of floor area.
 - b. For split-level buildings, a minimum of one thousand three hundred (1,300) square feet of floor area.
 - c. For one and one-half (1-1/2) story buildings, a minimum of one thousand (1,000) square feet for the first floor and a total minimum of one thousand four hundred (1,400) square feet of floor area for such building.
 - d. For two (2) story buildings, a minimum of eight (800) square feet for the first floor area and a total minimum of one thousand six hundred (1,600) square feet of floor area for such building.
- (b) In areas where the Zoning Code requires a minimum lot width of one hundred (100) feet, the following shall be applicable:
 - (1) For one (1) story buildings, a minimum of one thousand three hundred fifty (1,350) square feet of floor area.
 - (2) For split-level buildings, a minimum of one thousand four hundred fifty (1,450) square feet of floor area.
 - (3) For one and one-half (1-1/2) story buildings, a minimum of one thousand two hundred (1,200) square feet for the first floor and a total minimum of one thousand six hundred (1,600) square feet of floor area for such building.
 - (4) For two (2) story buildings, a minimum of nine hundred (900) square feet for the first floor area and a total minimum of one thousand eight hundred (1,800) square feet of floor area for such building.
- (c) In all other areas not covered by Subsections (a) and (b) above or where an existing lot constitutes a building site, but such existing lot is less than seventy-five (75) feet in width, the following shall be applicable:
 - (1) For single-family dwellings not exceeding one (1) story in height, a minimum of one thousand (1,000) square feet of first floor area shall be required.
 - (2) For single-family dwellings more than one (1) story in height, a minimum of eight hundred (800) square feet of first floor area shall be required.

- (3) For two (2) family dwellings, a minimum area of eight hundred (800) square feet of floor area per living unit shall be required.

**13.1.17 ADDITIONAL RESTRICTIONS; BUILDING SITE AREA;
REGULATIONS AND POPULATION DENSITY LIMITATIONS.**

- (a) Except as provided in the R-7A and the R-8 Residence Districts, all homes constructed in the City of Glendale shall be limited to single-family detached dwellings.
- (b) In addition to the limitations set forth elsewhere in this Chapter, no building shall be erected or structurally altered on a lot which:
- (1) If lying south of Silver Spring Drive, provides less than sixty (60) feet of lot width and an area of seven thousand two hundred (7,200) square feet.
 - (2) If lying north of Silver Spring Drive and south of the Chicago and Northwestern Railroad Company's right-of-way (which lies south of and parallel with Mill Road and the extension thereof), or if lying north of the Chicago and Northwestern Railroad right-of-way to the south line of Kletzsch Park from North Green Bay Avenue to North Bridgewood Lane, or if lying between West Mill Road and the Chicago and Northwestern Railway right-of-way from one hundred eighty (180) feet west of North Green Bay Avenue to the centerline of North Pine Shore Drive extended south to said Railroad right-of-way, or if lying between North Bridgewood Lane and North Milwaukee River Parkway from the Chicago and Northwestern Railroad right-of-way northerly two hundred sixteen (216) feet, provides less than seventy-five (75) feet of lot width and an area of nine thousand (9,000) square feet.
 - (3) If lying north of the aforesaid Chicago and Northwestern Railway Company's right-of-way, except for lots lying north of the Chicago and Northwestern Railroad right-of-way to the south line of Kletzsch Park from North Green Bay Avenue to North Bridgewood Lane, or if lying between West Mill Road and the Chicago and Northwestern Railway right-of-way from one hundred eighty (180) feet west of North Green Bay Avenue to the centerline of North Pine Shore Drive extended south to said Railroad right-of-way, or if lying between North Bridgewood Lane and North Milwaukee River Parkway from the Chicago and Northwestern Railroad right-of-way northerly two hundred sixteen (216) feet, provides less than one hundred (100) feet of lot width and an area of fifteen thousand (15,000) square feet.

13.1.18 THROUGH 13-1-19

RESERVED FOR FUTURE USE.

ARTICLE C

Zoning Districts

13.1.20 ESTABLISHMENT OF DISTRICTS.

- (a) Districts. For the purpose of this Chapter, present and future, provision is hereby made for the division of the City of Glendale into the following eighteen (18) basic zoning districts:
- (1) R-1 Residence District
 - (2) R-2 Residence District
 - (3) R-3 Residence District
 - (4) R-4 Residence District
 - (5) R-5 Residence District
 - (6) R-6 Residence District
 - (7) R-7 Residence District
 - (8) R-7A Residence District
 - (9) R-8 Residence District
 - (10) P-1 Parking District
 - (11) B-1 Local Business District
 - (12) B-2 Community Business District
 - (13) B-3 Shopping Center District
 - (14) B-4 Office Research Service Business District
 - (15) S-1 Special (Institutional) District
 - (16) M-1 Commercial and Light Manufacturing District
 - (17) M-2 Industrial District
 - (18) PD Planned Unit Development District (See Article D)

13.1.21 VACATION OF STREETS; ANNEXATIONS.

- (a) **Vacation of Streets.** Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (b) **Annexations.** Annexations to or consolidations with the City subsequent to the effective date of this Chapter shall be placed in the R-1 Single-Family District, unless the annexation ordinance places the land in another district. Within one (1) year, the Plan Commission shall evaluate and recommend a permanent district classification to the Common Council.

13.1.22 ZONING MAP.

- (a) The City of Glendale is hereby divided into Zoning Districts as shown upon a map designated as the Official Zoning Map of the City of Glendale, as amended, and made a part of this Chapter. The Official Zoning Map and all the notations, references and other information shown thereon are a part of this Zoning Code and shall have the same force and effect as if the matters and information set

forth by said map were fully described herein. The Official Zoning Map shall be properly attested and kept on file along with the text of the Official Zoning Regulations in the office of the City Clerk of the City of Glendale.

- (b) The District Boundaries shall be determined by measurement from and as shown on the Official Zoning Map, and in case of any question as to the interpretation of such boundary lines, the Plan Commission shall interpret the map according to the reasonable intent of this Zoning Code. Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the centerlines of streets, highways, railways or alleys.

13.1.23 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following City boundaries shall be construed as following municipal boundaries.
- (d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (e) Boundaries indicated as following shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
- (f) Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

13.1.24 R-1 RESIDENCE DISTRICT

- (a) **Uses Permitted**
 - (1) Single-family detached dwellings.
 - (2) Public parks
 - (3) Municipally owned buildings
 - (4) Customary home occupations engaged in by the occupant of a dwelling not involving the conduct of a business on the premises, including also a professional office when situated in the same dwelling occupied by such person as his or her private dwelling.
 - (5) Accessory buildings and uses customarily incident to any of the above uses, including private garages. No accessory building shall be erected unless the main building to which the accessory building is an incidental

use has been erected or will be erected simultaneously with said accessory building.

- (b) **Building Height Limit.** Not to exceed forty (40) feet.
- (c) **Building Site Area Required.** The minimum lot or building site area shall be forty thousand (40,000) square feet. No building with its accessory buildings shall occupy in excess of thirty-five percent (35%) of the area of an interior lot, nor in excess of forty percent (40%) of the area of a corner lot.
- (d) **Front Yard Requirements.** No building or structure shall be erected or structurally altered whose front wall is closer than thirty-five (35) feet to the street line or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than sixty-five (65) feet to the centerline of the street or highway upon which the building site fronts.
- (e) **Side Yard Requirements.** There shall be a side yard on each side of the building of not less than twenty-five (25) feet. (f) **Rear Yard Requirements.** There shall be a rear yard having a depth of not less than twenty-five (25) feet. (g) **Population Density limitation** No building shall be erected or structurally altered on a lot which provides less than forty thousand (40,000) square feet of land area and less than one hundred twenty (120) feet of lot width per family or housekeeping unit.

13.1.25 R-2 RESIDENCE DISTRICT.

- (a) **Uses Permitted.** All uses permitted in the R-1 Residence District as set forth in Section 13-1-24 of this Chapter.
- (b) **Building Height Limit.** Not to exceed forty (40) feet.
- (c) **Building Site Area Required.** The minimum lot or building site area shall be twenty thousand (20,000) square feet. No building with its accessory buildings shall occupy in excess of thirty-five percent (35%) of the area of an interior lot, or in excess of forty percent (40%) of the area of a corner lot.
- (d) **Front Yard Requirements.** No building or structure shall be erected or structurally altered whose front wall is closer than thirty (30) feet to the street line or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than sixty (60) feet to the centerline of the street or highway upon which the building site fronts.
- (e) **Side Yard Requirements.** There shall be a side yard on each side of the building of not less than fifteen (15) feet.
- (f) **Rear Yard Requirements.** There shall be a rear yard having a depth of not less than twenty-five (25) feet.
- (g) **Population Density Limitation** No building shall be erected or structurally altered on a lot which provides less than twenty thousand (20,000) square feet of land area and less than one hundred (100) feet of lot width per family or housekeeping unit.

13.1.26 R-3 RESIDENCE DISTRICT.

- (a) **Uses Permitted.** All uses permitted in the R-1 Residence District as set forth in Section 13-1-24 of this Chapter.
- (b) **Building Height Limit.** Not to exceed forty (40) feet.
- (c) **Building Site Area Required.** The minimum lot or building site area shall be in conformity with Section 13-1-17. No building with its accessory buildings shall occupy in excess of thirty-five percent (35%) of the area of an interior lot, or in excess of forty percent (40%) of the area of a corner lot.
- (d) **Front Yard Requirements.** No building or structure shall be erected or structurally altered whose front wall is closer than thirty (30) feet to the street line or from lot line. If the property is unplatted and no street or lot line is of records then no building shall be erected or structurally altered whose front wall is nearer than sixty (60) feet to the centerline of the street or highway upon which the building site fronts.
- (e) **Side Yard Requirements.** There shall be a side yard on each side of the building of not less than ten (10) feet.
- (f) **Rear Yard Requirements.** There shall be a rear yard having a depth of not less than twenty-five (25) feet.
- (g) **Population Density Limitation** No building shall be erected or structurally altered on a lot which provides less than the requirements set forth in Section 13-1-17.

13.1.27 R-4 RESIDENCE DISTRICT.

- (a) **Uses Permitted.** All uses permitted in the R-1 Residence District as set forth in Section 13-1-24 of this Chapter.
- (b) **Building Height Limit.** Not to exceed forty (40) feet.
- (c) **Building Site Area Required.** The minimum lot or building site area shall be in conformity with Section 13-1-17. No building with its accessory buildings shall occupy in excess of thirty-five percent (35%) of the area of an interior lot, or in excess of forty percent (40%) of the area of a corner lot.
- (d) **Front Yard Requirements.** No building or structure shall be erected or structurally altered whose front wall is closer than twenty-five (25) feet to the street line or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than fifty-five (55) feet to the centerline of the street or highway upon which the building site fronts.
- (e) **Side Yard Requirements.** There shall be a side yard of not less than five (5) feet on one (1) side of the building and not less than ten (10) feet on the other side of the building.
- (f) **Rear Yard Requirements.** There shall be a rear yard having a depth of not less than twenty (20) feet.
- (g) **Population Density limitation.** No building shall be erected or structurally altered on a lot which provides less the requirements set forth in Section 13-1-17.

13.1.28 R-5 RESIDENCE DISTRICT.

- (a) **Uses Permitted.** All uses permitted in the R-1 Residence District as set forth in Section 13-1-24 of this Chapter.
- (b) **Building Height Limit.** Not to exceed thirty-five (35) feet.
- (c) **Building Site Area Required.** The minimum lot or building site area shall be in conformity with Section 13-1-17. No building with its accessory buildings shall occupy in excess of thirty-five percent (35%) of the area of an interior lot, or in excess of forty percent (40%) of the area of a corner lot.
- (d) **From Yard Requirements.** No building or structure shall be erected or structurally altered whose front wall is closer than twenty-five (25) feet to the street line or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than fifty-five (55) feet to the centerline of the street or highway upon which the building site fronts.
- (e) **Side Yard Requirements.** There shall be a side yard on each side of the building: on the north or west side, a yard of not less than three (3) feet; on the south or east side, a yard of not less than seven (7) feet.
- (f) **Rear Yard Requirements.** There shall be a rear yard having a depth of not less than fifteen (15) feet.
- (g) **Population Density limitation.** No building shall be erected or structurally altered which provides less than the requirements set forth in Section 13-1-17.

13.1.29 R-6 RESIDENCE DISTRICT.

- (a) **Uses Permitted.** All uses permitted in the R-1 Residence District as set forth in Section 13-1-24 of this Chapter.
- (b) **Building Height Limit.** Not to exceed forty (40) feet.
- (c) **Building Site Area Required.** The minimum lot or building site area shall be in conformity with Section 13-1-17. No building with its accessory buildings shall occupy in excess of thirty-five percent (35%) of the area of an interior lot, or in excess of forty percent (40%) of the area of a corner lot.
- (d) **Front Yard Requirements.** No building or structure shall be erected or structurally altered whose front wall is closer than twenty-five (25) feet to the street line or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than fifty-five (55) feet to the centerline of the street or highway upon which the building site fronts.
- (e) **Side Yard Requirements.** There shall be a side yard on each side of the building: on the north or west side, a yard of not less than five (5) feet; on the south or east side, a yard of not less than ten (10) feet.
- (f) **Rear Yard Requirements.** There shall be a rear yard having a depth of not less than twenty (20) feet.
- (g) **Population Density Limitation-** No building shall be erected or structurally altered on a lot which provides less than the requirements set forth in Section 13-1-17.

13.1.30 R-7 RESIDENCE DISTRICT.

- (a) **Uses Permitted.** All uses permitted in the R-1 Residence District as set forth in Section 13-1-24 of this Chapter.
- (b) **Building Height Limitations.** Not to exceed forty (40) feet.
- (c) **Building Site Area Required.** The minimum lot or building site area shall be in conformity with Section 13-1-17. No building shall occupy in excess of thirty-five percent (35%) of the area of an interior lot, or in excess of forty percent (40%) of the area of a corner lot. Accessory buildings may not exceed ten percent (10%) of the area of an interior of a corner lot.
- (d) **Front Yard Requirements.** No building or other structure shall be erected or structurally altered whose front wall is closer than twenty-five (25) feet to the street line or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than fifty-five (55) feet to the centerline of the street or highway upon which the building site fronts.
- (e) **Side Yard Requirements.** There shall be a side yard on each side of the building on the north or west side, a yard of not less than three (3) feet for a building fifty (50) feet or less in length and two and one-half (2-1/2) stories or less in height; on the south or east side, a yard of not less than seven (7) feet for a building fifty (50) feet or less in length and two and one-half (2-1/2) stories or less in height. For each additional story, each side yard shall be increased one (1) foot in width, and for each additional eight (8) feet or part thereof in length of building, each side yard shall be increased one (1) foot in width.
- (f) **Rear Yard Requirements.** There shall be a rear yard of not less than fifteen (15) feet.
- (g) **Population Density Limitation-** No building shall be erected or structurally altered on a lot which provides less than the requirements set forth in Section 13-1-17.

13.1.31 R-7A RESIDENCE DISTRICT.

- (a) **Uses Permitted**
 - (1) All uses permitted in the R-1 Residence District as prescribed in Section 13-1-24.
 - (2) A single-family semi-detached dwelling or a two (2) family detached dwelling shall be permitted to be erected on any lot of record as of the date of the adoption of this Chapter from which there is available a public sanitary sewer connection in the street and conforming to or with one of the following requirements as of the effective date of this Chapter, to wit:
 - (a) The building site shall be of a minimum width of forty (40) feet and a minimum area of four thousand eight hundred (4,800) square feet. Any such dwelling erected thereon shall provide a minimum front yard of twenty-five (25) feet and, as to an interior lot, a minimum side yard of three (3) feet on the north or west side and

seven (7) feet on the south or east side. As to a corner lot, the minimum side street setback shall be eight (8) feet; the minimum rear yard shall be fifteen (15) feet; and there shall be provided a minimum area of two thousand four hundred (2,400) feet per housekeeping unit.

- (b) The building site shall be situated in a block in which forty percent 40% or more of the frontage is occupied by two (2) family dwellings.
 - (c) A building site of a maximum width of one hundred (100) feet shall lie between two (2) building sites, each of which is occupied by a two (2) family dwelling.
 - (d) A building site which is located adjacent to a building site presently occupied by a two (2) family dwelling shall have a maximum distance of sixty (60) feet between the existing two (2) family dwelling and the proposed two (2) family dwelling.
 - (e) A building site which is located in any block or in any distance of six hundred (600) feet in unplatted property. where there are four (4) or more building sites containing two (2) family dwelling units.
- (b) **Parking** In case of any of the premises set forth in Subsection (a) hereof are so used for a single-family semi-detached dwelling or a two (2) family detached dwelling, proper provisions shall be made for the parking of two (2) automotive vehicles on the same lot.
 - (c) **Building Height Limitation.** Front, side and rear yard requirements, Section 13-1-30(b) through (f) of the Glendale Zoning Code shall apply to this Section. See also Section 13-1-17 for minimum lot sizes.

13.1.32 R-8 RESIDENCE DISTRICT.

- (a) **Uses Permitted.**
 - (1) All uses permitted in R-1 Residence District as set forth in Section 13-1-24 of this Chapter.
 - (2) Two (2) family detached dwellings.
 - (3) Single-family semi-detached dwellings.
 - (4) Multiple-family dwellings, but not to exceed four (.4) families in any one (1)
- (b) **Building Height Limitations.** Not to exceed fifty (50) feet.
- (c) **Site Building Area Required.** The minimum lot or building site area shall be in conformity with Section 13-1-17. No building with its accessory buildings shall occupy in excess of thirty-five percent (35%) of the area of an interior lot, or in excess of forty percent (40%) of the area of a corner lot.
- (d) **Front Yard Requirements.** No building or other structure shall be erected or structurally altered whose front wall is closer than twenty-five (25) feet to the street line or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than fifty-five (55) feet to the centerline of the street or highway upon which the building site fronts.

- (e) **Side Yard Requirements.** There shall be a side yard on each side of the building: on the north or west side, a yard of not less than ten (10) feet; on the south or east side, a yard of not less than ten (10) feet.
- (f) **Rear Yard Requirements.** There shall be a rear yard having a depth of not less than fifteen (15) feet.
- (g) **Population Density Limitation.** No building shall be erected or structurally altered on a lot which provides less than three thousand six hundred (3,600) square feet of land area per family or housekeeping unit, and less than sixty (60) feet of lot width. per building; such lot shall also be in conformity with the requirements set forth in Section 13-1-17.
- (h) **Parking.** In the R-8 Residence District, there shall be provided on the same lot with any multiple-family dwelling for more than two (2) families a graveled, surfaced or paved parking area or garage space sufficient in size to accommodate one (1) motor vehicle for each family unit provided for in the building, together with provisions for ingress and egress from and to the public street, highway or alley. Such parking area shall not be leased but shall be for the sole use of the occupants of such building and the visitors thereto. A minimum of one hundred forty-four (144) square feet of parking space (exclusive of ingress and egress provisions shall be provided for each motor vehicle.

13.1.33 P-1 PARKING DISTRICT.

- (a) **Definition** A P-1 Parking District is a district wherein there is permitted the parking of automotive vehicles in connection with a use on premises constituting a single building site located partially in another use district and partially in such P-1 Parking District.
- (b) **Uses Prohibited.** Any use other than the parking of automotive vehicles in strict conformance with the regulations and restrictions of this Section is prohibited. (c) Regulations and Restrictions.
 - (1) The parking of automotive vehicles must be in connection with the uses permitted on the building site of which the P-1 Parking District is a part and must be in conformity with the uses permitted, exclusive of any non-conforming uses on said building site.
 - (2) No repairing, servicing, selling, storage, sale or the display for sale or dismantling of automotive vehicles shall be permitted therein.
 - (3) The parking of commercial motor vehicles exceeding one and one-half (1-1/2) tons rated capacity is prohibited in a parking district constituting part of a building site located in a residential district.
 - (4) No parking in said district shall be permitted without first obtaining a use and occupancy permit from the Zoning Administrator. In applying for such permit, the owner or occupant shall file a plat plan, development plan and pay the required fee for such permit.
 - (5) The following setbacks shall be applicable to premises zoned P-1 Parking District:
 - a. A minimum street setback of ten (10) feet where the parking facilities are used in conjunction with a residential use.

- b. A minimum street setback of three (3) feet where the parking facilities are used in conjunction with other than a residential use.
 - c. A minimum side yard setback of three (3) feet shall be provided when said side lot line of the parking district site is adjacent to a residence district.
 - d. There shall be provided, whenever a parking district abutting a public street is located adjacent to a residence district abutting on the same public street, a transitional setback. Such transitional setback shall consist of a side yard setback of twenty-five (25) feet for a distance of twenty-five (25) feet from the street line and a side yard of five (5) feet, commencing at a point twenty-five (25) feet from the street line and extending therefrom a distance of thirty-five (35) feet.
- (6) The physical layout of any parking lot in a P-1 Parking District shall have the following maximum requirements:
- a. Each parking stall shall have one hundred sixty-five (165) square feet of space and nine (9) feet of width. Driving lanes shall be sixteen (16) feet in width and shall have access to a public right-of-way.
 - b. Bumper strip curbing, along the street, alley and the sides of the property shall be provided and maintained, except for driveways. Such bumper strip curbing shall be located so as to prevent any part of parked vehicles from extending beyond the minimum setback lines prescribed by this Section.
 - c. Appropriate signs indicating entrances and exits shall be provided where reasonably required for the safe and expeditious movement of traffic into and off of public rights-of-way.
 - d. All lighting shall be approved by the Building Inspector and shall be installed and maintained so as to preclude reflection or glare or the beaming of excessive lighting into the public rights-of-way or adjacent residential areas.
 - e. All setback areas, as herein prescribed, shall be landscaped with grass and shrubs, provided, however, that driving lanes may project into setback areas if approved by the Plan Commission.
 - f. In an individual case and upon a proper showing of undue hardship or practical difficulty and that the public safety and welfare will not be adversely affected, the Plan Commission may approve a setback or a physical layout varying from those prescribed by Subsections (c)(5) and (6) of this Section.

13.1.34

B-1 BUSINESS AND COMMERCIAL DISTRICT.

- (a) The intent of the B-1 business and commercial district is to provide appropriate zoning for a multitude of properties throughout the City of Glendale so as to provide for quality and character of urban sites employed for general business and commercial businesses. The City has determined that the redevelopment,

preservation, and optimal use and enjoyment of City's diverse commercial and business areas is important to the health, safety, general welfare, and economic well-being of the City. It is intended that the requirements of this zoning district be implemented in specific sub-areas consistently with the City's master plan, as from time-to-time amended. To that end, the B-1 District shall include sub-areas, and the Council shall denominate areas zoned B-1 with the appropriate sub-area so as to create a harmony of use consistent with the City of Glendale Vision Plan, "Glendale 2021 – Our Vision," and the B-1 Land Use and Zoning Review, as adopted and from time-to-time amended.

(b) Due to the special importance of these sub-areas to the City, the Plan Commission shall review all applications within the boundaries of this District.

(c) **Permitted Uses.**

(1) **B-1, Sub-Area "A-1" – Permitted Principal Uses.** The following uses are permitted within the B-1 sub-area "A-1" district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):

- a. Professional services and administrative offices
- b. General corporate headquarters offices
- c. Medical and dental offices
- d. Research establishments
- e. Sales offices
- f. Financial, insurance and real estate offices

Note: Multi-family residences (12-15 units per acre) will be considered only under PD-Planned Development District zoning, with a minimum land area of five (5.0) acres.

- g. Any other uses found to be a similar use by the Plan Commission or Community Development Authority.

(2) **B-1, Sub-Area "A-2" – Permitted Principal Uses.** The following uses are permitted within the B-1 sub-area "A-2" district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):

- a. Professional services and administrative offices
- b. General corporate headquarters offices
- c. Medical and dental offices
- d. Research establishments
- e. Sales offices
- f. Financial, insurance and real estate offices

- g. Any other uses found to be a similar use by the Plan Commission or Community Development Authority.

(3) **B-1, Sub-Area "B" – Permitted Uses.** The following uses are permitted within the B-1 sub-area "B" district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):

- a. Specialty retail shops and stores (no drive-through service)
- b. Restaurants: seated dining, full waiting service (no drive-through service)

- c. Studios for photography, painting, music, sculpture, dance or other recognized fine arts
- d. Professional services and administrative offices
- e. General corporate headquarters offices
- f. Medical and dental offices
- g. Sales offices
- h. Financial, insurance and real estate offices
- i. Office services and supplies, including employment agencies, blueprinting, duplicating and similar functions
- j. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application

Hotel/Convention Centers will be considered only under PD-Planned Development District zoning.

- (4) **B-1, Sub-Area “C-1” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “C-1” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):

- a. Professional services and administrative offices
- b. General corporate headquarters offices
- c. Medical and dental offices
- d. Research establishments
- e. Sales offices
- f. Financial, insurance and real estate offices
- g. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application.

A minimum area of five (5.0) acres is required for office and research uses.

Multi-family residences at 15+ units per acre will be considered only under PD-Planned Development District zoning, with a minimum land area of fifteen (15) acres. Hotel/Convention Centers will be considered only under PD-Planned Development District zoning, with a minimum land area of fifteen (15) acres.

- (5) **B-1, Sub-Area “C-2” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “C-2” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):

- a. Utilities
- b. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application.

- (6) **B-1, Sub-Area “D-1” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “D-1” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):

- a. Specialty retail shops and stores (no drive-through service)
- b. Studios for photography, painting, music, sculpture, dance or other recognized fine arts

- c. Professional services and administrative offices
 - d. General corporate headquarters offices
 - e. Medical and dental offices
 - f. Sales offices
 - g. Financial, insurance and real estate offices
 - h. Office services and supplies, including employment agencies, blueprinting, duplicating and similar functions
 - i. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application.
- (7) **B-1, Sub-Area “D-2” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “D-2” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Specialty retail shops and stores (no drive-through service)
 - b. Restaurants: seated dining, full waiting service (no drive-through service)
 - c. Studios for photography, painting, music, sculpture, dance or other recognized fine arts
 - d. Professional services and administrative offices
 - e. General corporate headquarters offices
 - f. Medical and dental offices
 - g. Sales offices
 - h. Financial, insurance and real estate offices
 - i. Office services and supplies, including employment agencies, blueprinting, duplicating and similar functions
 - j. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application.
- Hotel/Convention Centers will be considered only under PD-Planned Development District zoning.
- (8) **B-1, Sub-Area “E” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “E” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Specialty retail shops and stores (no drive-through service) (1st and 2nd level)
 - b. Restaurants: seated dining, full waiting service (no drive-through service)
 - c. Studios for photography, painting, music, sculpture, dance or other recognized fine arts
 - d. Professional services and administrative offices (2nd level and above)
 - e. General corporate headquarters offices (2nd level and above)
 - f. Medical and dental offices (2nd level and above)
 - g. Sales offices (2nd level and above)
 - h. Financial, insurance and real estate offices (2nd level and above)
 - i. Single-family residences

- j. Multi-family residences (15+ per acre) (2nd level and above)
 - k. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (9) **B-1, Sub-Area “F-1” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “F-1” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Specialty retail shops and stores (no drive-through service)
 - b. Restaurants: seated dining, full waiting service (no drive-through service)
 - c. Studios for photography, painting, music, sculpture, dance or other recognized fine arts
 - d. Professional services and administrative offices
 - e. General corporate headquarters offices
 - f. Medical and dental offices
 - g. Sales offices
 - h. Financial, insurance and real estate offices
 - i. Office services and supplies, including employment agencies, blueprinting, duplicating and similar functions
 - j. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (10) **B-1, Sub-Area “F-2” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “F-2” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Professional services and administrative offices
 - b. General corporate headquarters offices
 - c. Medical and dental offices
 - d. Sales offices
 - e. Financial, insurance and real estate offices
 - f. Office services and supplies, including employment agencies, blueprinting, duplicating and similar functions
 - g. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (11) **B-1, Sub-Area “G-1” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “G-1” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Professional services and administrative offices
 - b. General corporate headquarters offices
 - c. Medical and dental offices
 - d. Sales offices
 - e. Financial, insurance and real estate offices
 - f. Hotel/Convention Centers
 - g. Specialty retail shops and stores (no drive-through service) with offices above the first level.

- h. Restaurants: seated dining, full waiting service (no drive-through service) with offices above the first level.
 - i. Studios for photograph, painting, music, sculpture, dance or other recognized fine arts, with offices above the first level.
 - j. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (12) **B-1, Sub-Area “G-2” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “G-2” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Professional services and administrative offices
 - b. General corporate headquarters offices
 - c. Medical and dental offices
 - d. Sales offices
 - e. Financial, insurance and real estate offices
 - f. Any other uses found to be a similar use by the Plan Commission
- (13) **B-1, Sub-Area “H-1” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “H-1” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Professional services and administrative offices
 - b. General corporate headquarters offices
 - c. Medical and dental offices
 - d. Sales offices
 - e. Financial, insurance and real estate offices
 - f. Specialty retail shops and stores (no drive-through service) with offices above the first level
 - g. Restaurants: seated dining, full waiting service (no drive-through service) with offices above the first level
 - h. Studios for photograph, painting, music, sculpture, dance or other recognized fine arts, with offices above the first level
 - i. Grocery stores
 - j. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (14) **B-1, Sub-Area “H-2” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “H-2” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), and 13.1.34(g):
- a. Parking to serve a nearby business upon such conditions as set by the Plan Commission
 - b. Professional services and administrative offices
 - c. General corporate headquarters offices
 - d. Medical and dental offices
 - e. Sales offices
 - f. Financial, insurance and real estate offices

- g. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (15) **B-1, Sub-Area “I-1” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “I-1” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Specialty retail shops and stores (no drive-through service)
 - b. Studios for photograph, painting, music, sculpture, dance or other recognized fine arts
 - c. Professional services and administrative offices
 - d. General corporate headquarters offices
 - e. Medical and dental offices
 - f. Sales offices
 - g. Financial, insurance and real estate offices
 - h. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (16) **B-1, Sub-Area “I-2” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “I-2” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Professional services and administrative offices
 - b. General corporate headquarters offices
 - c. Medical and dental offices
 - d. Sales offices
 - e. Financial, insurance and real estate offices
 - f. Any other uses found to be similar use by the Plan Commission or Community Development Authority upon review of application
- (17) **B-1, Sub-Area “J” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “J” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Professional services and administrative offices
 - b. General corporate headquarters offices
 - c. Medical and dental offices
 - d. Sales offices
 - e. Financial, insurance and real estate offices
 - f. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (18) **B-1, Sub-Area “K” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “K” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Professional services and administrative offices
 - b. General corporate headquarters offices
 - c. Medical and dental offices

- d. Research establishment
 - e. Sales offices
 - f. Financial, insurance and real estate offices
 - g. Hotel/convention centers
 - h. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (19) **B-1, Sub-Area “L” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “L” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. New motor vehicle sales
 - b. Professional services and administrative offices
 - c. General corporate headquarters offices
 - d. Medical and dental offices
 - e. Sales offices
 - f. Financial, insurance and real estate offices
 - g. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (20) **B-1, Sub-Area “M” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “M” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Retail Sales and Service
 - b. Professional services and administrative offices
 - c. General corporate headquarters offices
 - d. Medical and dental offices
 - e. Sales offices
 - f. Financial, insurance and real estate offices
 - g. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (21) **B-1, Sub-Area “N” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “N” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. All uses allowed in the R-7 Residence District
- (22) **B-1, Sub-Area “O” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “O” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- a. Professional services and administrative offices
 - b. General corporate headquarters offices
 - c. Medical and dental offices
 - d. Sales offices
 - e. Financial, insurance and real estate offices
 - f. Specialty service businesses with showrooms

- g. Studios for photography, painting, music, sculpture, dance or other recognized fine arts, with offices above the first level
 - h. Any other uses found to be a similar use by the Plan Commission or Community Development Authority upon review of application
- (23) **B-1, Sub-Area “P” – Permitted Uses.** The following uses are permitted within the B-1 sub-area “P” district upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g)::
- a. Professional services and administrative offices
 - b. General corporate headquarters offices
 - c. Medical and dental offices
 - d. Sales offices
 - e. Financial, insurance and real estate offices
 - f. Specialty breweries with accessory retail sales
 - g. Any other uses found to be similar use by the Plan Commission or Community Development Authority upon review of application
- (d) **Special Definition – Retail Uses.** Retail uses, which uses contemplate specialty retail shops and stores, as those terms are employed in this code, shall mean only those retail uses that the Plan Commission has determined qualify as such, considering the following, without limitation by enumeration herein:
- (1) The quality, or safety of the commodity sold.
 - (2) The impact of the retail operation on the public health, welfare and safety, particularly whether or not the products or the nature of the retail operation might contribute to crime or delinquency.
 - (3) The economic vitality of the contemplated business and its positive impact on the City’s tax base.
 - (4) The shops or stores impact on local commerce with an emphasis upon the sale of items for consumption by Glendale residents or within the corporate limits of the City of Glendale.
- (e) **Prohibited Uses.**
- (1) All uses prohibited in the B-2, B-3, B-4, and M-1 zoning districts or any uses not specifically authorized by subsection (c) above. Notwithstanding any of the foregoing all retail stores, which stores have a gross interior space available for retail sales in excess of 50,000 square feet, shall be prohibited unless specifically approved as part of a planned unit development. If a retail store in excess of 50,000 square feet shall discontinue use for a period of 12 months, such structure shall be deemed abandoned and the structure shall be deemed non-conforming subject to such future use regulations as may be authorized by the Common Council.
 - (2) Cabaret entertainment establishments.
- (f) **Required Application Materials.** The requirements for a conditional use permit under the procedures specified in Section 13-1-60 through 13-1-66 of this Zoning Code, all proposed development within the B-1 Business and Commercial District, whether permitted or conditional, requires the submittal of the following plans for review by the Plan Commission:

- (1) Site Improvement Plan at a scale of 1" = 10' (10 scale) including the number and location of standard and physically disabled parking spaces, and access routes for physically disabled persons.
- (2) Architectural Plans prepared by a registered architect shall include:
 - a. Architectural rendering (color exhibit)
 - b. Exterior building elevations (color exhibit) of all exterior building surfaces and screening walls clearly annotating all building elements, materials, colors and textures (1/4"=1'-0").
 - c. Floor plans for each story (1/8"=1'-0" scale).
 - d. Roof plan depicting any mechanical equipment (1/8"=1'-0" scale).
 - e. Materials sample board(s) depicting samples of all proposed exterior materials and colors.
 - f. Exterior lighting plan depicting all exterior lighting fixtures and related details including, but not limited to, pole, ground and wall-mounted lighting, including photometric analysis.
 - g. Landscape plan prepared by a registered landscape architect depicting the entire site and pertinent adjacent areas that identifies the location, quantity, common name, botanical name, size when planted, root condition of all plants and sod/seeded lawn areas. The landscape plan shall also include the total site area in acres and square feet, the landscaped area in acres and square feet, the percentage of the site that is landscaped. Any existing trees should be accurately located and the species and size indicated (color exhibit, 1/8"=1'-0" scale).
 - h. Sign plan including, but not limited to, all ground and wall-mounted signs (color exhibit).
- (g) **Site Requirements and Urban Design Standards.** Site requirements related to height, density, set back and parking, and urban design standards, shall be determined from time-to-time by the Common Council, or by the Plan Commission at its designation, through resolution which shall from time-to-time be amended so as to conform with the intent of the City's comprehensive master plan, the City of Glendale Vision Plan, "Glendale 2021 – Our Vision," and the B-1 land use and zoning review prepared for the City of Glendale by the Community Development Planning Department, and adopted by the Common Council.
- (h) **Zoning Map.** The sub-areas as described, defined and depicted in the B-1 Land Use and Zoning Review, Volumes I and II and addendum thereto are incorporated herein and are hereby adopted, and the City Zoning Map shall be so amended.

13.1.35 B-2 COMMUNITY BUSINESS DISTRICT.**(a) Uses Permitted.**

- (1) Retail business establishments for the sale of new merchandise, excepting those set forth in Subsection (b), or where personal or business services are rendered wholly within an approved structure. With the right to store merchandise being offered for sale, to repair merchandise sold at retail from the same premises, to sell merchandise received in trade on new merchandise at the same site and to sell genuine antiques and works of art, excepting, however, as hereinafter provided.
- (2) Permitted only as an accessory use to uses otherwise permitted in this District shall be enclosed as well as screened areas for the storage of materials other than explosive or flammable materials as defined in Section 5-4-2.

(b) Conditional Uses.

- (1) The following uses shall not be permitted unless approved by the Plan Commission in accordance with the requirements of Article E of this Chapter, subject, however, to Subsection (b)(2) below:
 - a. Car wash or automobile laundry.
 - b. Mechanical garage (minor repairs only).
 - c. Restaurant/cocktail lounge.
 - d. Hotel/motel.
 - e. Job print shop.
 - f. Theater.
 - g. Meeting hall.
 - h. Lodge or society quarters and meeting rooms.
 - i. Auction gallery.
 - j. Gymnasium or swimming pool.
 - k. Dance, music or physical health studio.
 - l. Undertaking parlor.
 - m. Coin-operated dispensers of food, drink, merchandise, recreation, exercise, amusement or a service, when not attached to a main building which is located on the same building site and such operation is the principal use.
 - n. Grocery store.
 - o. Drug store/pharmacy.
 - p. Convenience store.
 - q. Establishments where drive-through services are offered.
 - r. Any other use found to be a similar use by the Plan Commission on application by the building permit applicant.
- (2) The following uses may be limited to an operation within a building or, if the neighborhood conditions permit and without interference to the general welfare of the community, such use may be permitted outside of a building by imposing all the necessary conditions for the protection of the rights of the neighborhood and community.

- a. Automobile service station.
- b. Commercial recreation and/or amusement uses.
- c. New motor vehicle sales agency.
- d. Commercial motor vehicle storage, structure or lot.
- e. Monument sales and displays.
- f. Model building display for sales purposes only [with nine (9) months maximum limit per building] on display site.
- g. Utility distribution substation.
- h. Child care, day care centers or preschool centers, licensed by the State of Wisconsin, and in continuous compliance with all applicable state and local regulations, and which will likely provide child care services to contiguous or nearby City residential districts.
- i. Any other use found to be a similar use by the Plan Commission on application by the building permit applicant.

(c) **Uses Prohibited.**

- (1) Drive-in establishments where food, drink or refreshments are served or sold and the nature of the business operation is such, or the facilities are designed to, in any way, encourage the consumption of the same on any part of the premises used for automobile parking or other unapproved area of the building site.
- (2) Trailer or mobile home rental, sales or service agency, as a prime operation.
- (3) Automotive vehicle storage, parking lots or the rental of space for trucks, buses, all fleet trucks, contractors' trucks and other heavy mobile equipment.
- (4) Building and/or contractors' materials and equipment storage.
- (5) Used automobile parts storage.
- (6) Outside storage of merchandise not being displayed for sales purposes.
- (7) Outside storage of refuse and nonsalable items unless located within an approved enclosure.
- (8) Tourist Homes
- (9) Drive-in theater.
- (10) Mechanical garage for major automotive repair and/or automobile body and fender repair, unless an incidental use to a main use.
- (11) Machine shop.
- (12) Commercial radio, television towers, or wireless communications towers.
- (13) Single-family residence, except for watchman or caretaker.
- (14) Two (2) family residence.
- (15) Multiple-family residence.
- (16) Apartment hotel.
- (17) Boarding or lodging house.
- (18) Automotive vehicle washing and cleaning establishments employing an automatic or semi-automatic operation or a mechanical conveyor system for the movement of vehicles or any commercial self-service operation where the customer does all or part of the work.

- (19) Buildings for the storage of goods and materials, other than hazardous materials as defined in Section 5-4-2, where such buildings are subdivided into more than three (3) multiple warehouse and storage facilities containing less than one thousand five hundred (1,500) square feet each and are available for sublease.
- (20) All other uses that are not in conflict with Subsections (a) and (b) above.
- (21) Pawn shops, and any retail sales operation deriving its merchandise primarily from lending operations in exchange for consigned collateral.
- (22) Check cashing institutions which are not part of a state or federally licensed and regulated bank, thrift, savings and loan or credit union.
- (23) Resale shops, in which fifty percent (50%) or more of the gross volume of sales is derived from the sale of used, trade-in or consigned merchandise, except as provided for as a conditional use in Section 13.1.39(d)(13).
- (24) All uses prohibited in the B-2, B-3, B-4, and M-1 zoning districts or any uses not specifically authorized by subsection (c) above. Notwithstanding any of the foregoing all retail stores, which stores have a gross interior space available for retail sales in excess of 50,000 square feet, shall be prohibited unless specifically approved as part of a planned unit development. If a retail store in excess of 50,000 square feet shall discontinue use for a period of 12 months, such structure shall be deemed abandoned and the structure shall be deemed non-conforming subject to such future use regulations as may be authorized by the Common Council.
- (25) Cabaret entertainment establishments.
- (d) **Building Height Limitation.** Not to exceed fifty (50) feet.
- (e) **Building Site Area Required.** The minimum lot area and width of the building site shall conform with Section 13-1-17. The buildings contained on the building site shall not occupy in excess of sixty percent (60%) of the area of the building site.
- (f) **Front Yard Requirements.**
 - (1) The minimum setback of ten (10) feet shall be provided from the street line or setback base line. Where no street line presently exists, the setback shall be measured from the street line extended or as indicated on the official map as designated by the City Engineer.
 - (2) On corner lots, side street setbacks shall be the minimum of ten (10) feet as measured from the street line in accordance with the regulations indicated.
 - (3) Buildings used for residential purposes shall conform with the requirements of the R-7 Residence District.
- (g) **Side Yard Requirements.** Interior lot line -- None excepting where a window opening is located in the side wall of a building. A minimum setback of three (3) feet shall be provided. Buildings used for residential purposes shall conform with the requirements of the R-7 Residence District.
- (h) **Rear Yard Requirements.** The minimum setback of ten (10) feet shall be provided. Buildings used for residential purposes shall conform with the requirements of the R-7 Residence District.

13.1.36

B-3 SILVER SPRING DRIVE COMMERCIAL DISTRICT.

- (a) **Intent.** The intent of the B-3 District is to provide appropriate zoning for the properties along that portion of Silver Spring Drive located in the City of Glendale from its corporate boundary on the west to N. Green Bay Avenue on the east. The City has determined that the redevelopment of this corridor, which serves as the principal entry to the City, is important to the protection of the health, safety and general welfare of the

- City. It is intended that this zoning district only be used in the area specified herein and not be imposed on any other area of the City.
- (b) **Permitted Uses.** The following uses are permitted within the B-3 District upon review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):
- (1) Professional and administrative offices.
 - (2) Banks and financial institutions.
 - (3) General corporate headquarters offices.
 - (4) Medical and dental offices.
 - (5) Research establishments and laboratories.
 - (6) Sales offices.
 - (7) Office services and supplies, including employment agencies, blueprinting, duplicating and similar functions.
 - (8) Real estate, insurance, financial or tax consulting offices.
 - (9) Studios for photography, painting, music, sculpture, dance or other recognized fine arts.
 - (10) Seated dining, full-service restaurants.
 - (11) Multi-family residences.
 - (12) Any other use found to be a similar use by the Plan Commission upon review of application.
 - (13) Permitted only as an accessory use to uses otherwise granted conditional use approval in this District shall be enclosed as well as screened areas for the storage of materials other than explosive or flammable materials as defined in Section 5-4-2.
- (c) **Prohibited Uses.**
- (1) All uses prohibited in the B-2, B-3, B-4, and M-1 zoning districts or any uses not specifically authorized by subsection (c) above. Notwithstanding any of the foregoing all retail stores, which stores have a gross interior space available for retail sales in excess of 50,000 square feet, shall be prohibited unless specifically approved as part of a planned unit development. If a retail store in excess of 50,000 square feet shall discontinue use for a period of 12 months, such structure shall be deemed abandoned and the structure shall be deemed non-conforming subject to such future use regulations as may be authorized by the Common Council.
 - (2) Cabaret entertainment establishments.
- (e) **Site Requirements.** Site requirements related to height, density, setbacks and parking shall be determined by recommendation of the Planning Commission on a case by case basis in a manner that will conform with the intent of the City's Comprehensive Plan and the design guidelines adopted for this zoning district.

13.1.37

B-4 OFFICE-RESEARCH-SERVICE BUSINESS DISTRICT.

- (a) **Intent.** The intent of the B-4 Office-Research-Service Business District is to provide for office, research and service business uses consistent with the Glendale Comprehensive Plan, as from time-to-time amended. The City has determined that the redevelopment, preservation, and optimal use and enjoyment of City's diverse commercial and business areas is important to the health, safety, general welfare, and economic well-being of the City. It is further intended that office and research uses predominate in this district, that the district will create a harmony of use consistent with the City of Glendale Vision Plan, "Glendale 2021 – Our Vision," and the Land Use Plan for the North Green Bay Avenue

Corridor, as adopted and from time-to-time amended, and that the district will result in an environment that is of the highest architectural and landscaping quality and character.

(b) **Permitted Uses.** The following uses are permitted within the B-4 district upon issuance of review by the Plan Commission for conformance with the standards established in Section 13.1.34(d), 13.1.34(e), 13.1.34(f), and 13.1.34(g):

- (1) Professional services and administrative offices
- (2) General corporate headquarters offices
- (3) Medical and dental offices and centers
- (4) Research establishments
- (5) Sales offices
- (6) Financial, insurance and real estate offices
- (7) Business and office equipment, supplies and services
- (8) Restaurants: seated dining, full waiting service (no drive-through service)
- (9) Studios for photography, painting, music, sculpture, dance or other recognized fine arts
- (10) Any other uses found to be similar use by the Plan Commission or Community Development Authority upon review of application
- (11) Motor vehicle sales auto dealerships approved and in existence prior to January 2002.

(c) **Prohibited Uses.**

- (1) All uses prohibited in the B-2, B-3, B-4, and M-1 zoning districts or any uses not specifically authorized by subsection (c) above. Notwithstanding any of the foregoing all retail stores, which stores have a gross interior space available for retail sales in excess of 50,000 square feet, shall be prohibited unless specifically approved as part of a planned unit development. If a retail store in excess of 50,000 square feet shall discontinue use for a period of 12 months, such structure shall be deemed abandoned and the structure shall be deemed non-conforming subject to such future use regulations as may be authorized by the Common Council.
- (2) Cabaret entertainment establishments.

(d) **Required Application Materials.** In addition to the requirements for a conditional use permit under the procedures specified in Section 13-1-60 through 13-1-66 of this Zoning Code, all proposed development within the B-4 Office-Research-Service Business District requires the submittal of the following plans for review by the Plan Commission:

- (1) Site Improvement Plan at a scale of 1" = 10' (10 scale) including the number and location of standard and physically disabled parking spaces, and access routes for physically disabled persons.
- (2) Architectural Plans prepared by a registered architect shall include:
 - a. Architectural rendering (color exhibit)
 - b. Exterior building elevations (color exhibit) of all exterior building surfaces and screening walls clearly annotating all building elements, materials, colors and textures (1/4"=1'-0").
 - c. Floor plans for each story (1/8"=1'-0" scale).
 - d. Roof plan depicting any mechanical equipment (1/8"=1'-0" scale).
 - e. Materials sample board(s) depicting samples of all proposed exterior materials and colors.
 - f. Exterior lighting plan depicting all exterior lighting fixtures and related details including, but not limited to, pole, ground and wall-mounted lighting, including photometric analysis.
 - g. Landscape plan prepared by a registered landscape architect depicting the entire site and pertinent adjacent areas that identifies the location,

quantity, common name, botanical name, size when planted, root condition of all plants and sod/seeded lawn areas. The landscape plan shall also include the total site area in acres and square feet, the landscaped area in acres and square feet, the percentage of the site that is landscaped. Any existing trees should be accurately located and the species and size indicated (color exhibit, 1/8"=1"-0" scale).

- h. Sign plan including, but not limited to, all ground and wall-mounted signs (color exhibit).
- (e) **Site Requirements and Urban Design Standards.** Site requirements related to height, density, set back and parking, and urban design standards, shall be determined from time-to-time by the Common Council, or by the Plan Commission at its designation, through resolution which shall from time-to-time be amended so as to conform with the intent of the City's comprehensive master plan, the City of Glendale Vision Plan, "Glendale 2021 – Our Vision," and the Land Use Plan for the North Green Bay Avenue Corridor, as adopted and from time to time amended.

13.1.37.5 B-5 BUSINESS-OFFICE ZONING DISTRICT

- (a) **Purpose.** The intent of the B-5 District is to provide appropriate zoning for the properties along the south side of West Mill Road from the west corporate boundary to North Green Bay Avenue. The City Plan Commission, by adoption of the Mill Road Land Use Plan, has determined that the zoning of this area is important to the protection and maintenance of the health, safety, general welfare, and economic well being of the surrounding neighborhood and the City. It is intended that this zoning district only be used in the area specified herein and not be imposed in any other area of the City. This district is established to provide West Mill Road with an area where non-retail commercial uses such as professional and administrative offices, and general business offices with accessory uses (light manufacturing) may be located. Such uses will be developed in a manner that creates and results in architectural and functional harmony in relationship to the nearby residential and school uses.
- (b) **Permitted Uses.**
 - (1) Professional services and administrative offices.
 - (2) General corporate headquarters offices.
 - (3) Medical and dental offices.
 - (4) Sales offices.
 - (5) Financial services, insurance, and real estate offices.
 - (6) Financial Institution Offices or Headquarters without customer banking.
 - (7) General business offices with common accessory uses (light manufacturing) not exceeding 60% of the gross floor area of the primary structure.
 - (8) Any other use found to be a similar use by the Plan Commission upon review of application.
- (c) **Prohibited Uses.**
 - (1) All uses prohibited in the B-2, B-3, B-4, and M-1 zoning districts or any uses not specifically authorized by subsection (c) above. Notwithstanding any of the foregoing all retail stores, which stores have a gross interior space available for retail sales in excess of 50,000 square feet, shall be prohibited unless specifically approved as part of a planned unit development. If a retail store in excess of 50,000 square feet shall discontinue use for a period of 12 months, such structure shall be deemed abandoned and the structure shall be deemed non-

conforming subject to such future use regulations as may be authorized by the Common Council.

- (2) Cabaret entertainment establishments.
- (d) **Required Application Materials.** In addition to the requirements for a conditional use permit under the procedures specified in Section 13-1-60 through 13-1-66 of this Zoning Code, proposed development within the B-5 Business-Office District requires the submittal of the following plans for review by the Plan Commission:
- (1) Site Improvement Plan at a scale of 1" = 10' (10 scale) including the number and location of standard and physically disabled parking spaces, and access routes for physically disabled persons.
 - (2) Architectural Plans prepared by a registered architect shall include:
 - a. Architectural rendering (color exhibit)
 - b. Exterior building elevations (color exhibit) of all exterior building surfaces and screening walls clearly annotating all building elements, materials, colors and textures (1/4"=1'-0").
 - c. Floor plans for each story (1/8"=1'-0" scale).
 - d. Roof plan depicting any mechanical equipment (1/8"=1'-0" scale).
 - e. Materials sample board(s) depicting samples of all proposed exterior materials and colors.
 - f. Exterior lighting plan depicting all exterior lighting fixtures and related details including, but not limited to, pole, ground and wall-mounted lighting, including photometric analysis.
 - g. Landscape plan prepared by a registered landscape architect depicting the entire site and pertinent adjacent areas that identifies the location, quantity, common name, botanical name, size when planted, root condition of all plants and sod/seeded lawn areas. The landscape plan shall also include the total site area in acres and square feet, the landscaped area in acres and square feet, the percentage of the site that is landscaped. Any existing trees should be accurately located and the species and size indicated (color exhibit, 1/8"=1'-0" scale).
 - h. Sign plan including, but not limited to, all ground and wall-mounted signs (color exhibit).
- (e) **Site Requirements and Urban Design Standards.** Site requirements related to height, density, set back and parking, and urban design standards, shall be determined from time-to-time by the Common Council, or by the Plan Commission at its designation, through resolution which shall from time-to-time be amended so as to conform with the intent of the City's comprehensive master plan, the City of Glendale Vision Plan, "Glendale 2021 – Our Vision," and the adopted Mill Road Land Use Plan prepared for the City of Glendale by the Community Development Planning Department.

13.1.38 S-1 SPECIAL (INSTITUTIONAL) DISTRICT.

- (a) **Uses Permitted.**
- (1) Single-family detached dwellings, if permitted by the Plan Commission.
 - (2) Private clubs, fraternities, lodges, excepting those the major activity of which is a service customarily carried on as a business.
 - (3) Boarding and lodging houses.
 - (4) Public parks.

- (5) Professional office of a doctor of dentistry or of a doctor of medicine where such office is located on a building site abutting on a major thoroughfare having a minimum width of one hundred twenty (120) feet.
- (6) Churches.
- (7) Schools, colleges and universities.
- (8) Community and public buildings.
- (9) Institutions of a philanthropic or charitable nature, including hospitals, sanitariums and clinics for humans, but not including correctional institutions.
- (10) Accessory buildings and uses customarily incident to any of the above uses.
- (b) **Building Height Limitations.** Fifty (50) feet.
- (c) **Building Site Area Required.** The minimum lot or building site area shall be twenty thousand (20,000) square feet. No building with its accessory building shall occupy in excess of twenty-five percent (25%) of the area of a lot.
- (d) **Front Yard Requirements.** No building or structure shall be erected or structurally altered whose front wall is closer than thirty-five (35) feet to the street line or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than sixty-five (65) feet to the centerline of the minor street or highway upon which the building site fronts and ninety-five (95) feet from the centerline of a major street or highway upon which the building site fronts.
- (e) **Side Yard Requirements.**
 - (1) Except where Subsection (e)(2) is applicable, there shall be a side yard on each side of the building of not less than twenty-five (25) feet; on corner lots, twenty-five (25) feet from the side street lot line.
 - (2) On premises not adjacent to any premises located within the single-family residence district and which are owned and operated for school purposes by any school district formed and operating pursuant to Chapter 120, Wisconsin Statutes, a structure, not constituting a building as defined in Subsection (e)(3) hereof and which structure is designed and to be used for educational or recreational purposes may be located no closer than ten (10) feet from the lot line.
 - (3) The term "building" as used in Subsection (e)(2) shall mean a structure designed for or capable of being occupied by human beings, either permanently, temporarily or intermittently, or for the storage of property.
- (f) **Rear Yard Requirements.**
 - (1) Except where Subsection (b) is applicable, there shall be a rear yard having a depth of not less than twenty-five (25) feet.
 - (2) On premises not adjacent to any premises located within the single-family residence district and which are owned and operated for school purposes by any school district formed and operating pursuant to Chapter 120, Wisconsin Statutes, a structure, not constituting a building as defined in Subsection (f)(3) hereof and which structure is designed and to be used for educational or recreational purposes, may be located no closer than ten (10) feet from the rear lot line.
 - (3) The term "building" as used in Subsection (f)(2) shall mean a structure designed for or capable of being occupied by human beings, either permanently, temporarily or intermittently, or for the storage of property.
- (g) **Population Density Limitation.** No building shall be erected or structurally altered on a lot which provides less than twenty thousand (20,000) square feet of land area and less than one hundred (100) feet of lot width per family or housekeeping unit.

- (h) **Auto Parking.** No building or structure shall be erected or structurally altered on land used for purposes permitted by this Section which will cause a substantial number of people, such as employees, customers, visitors, patients and the like, to park their vehicles of transportation unless adequate space for such auto parking, as determined by the Plan Commission, is provided and maintained on the premises operated for such use, or on another permitted nearby premises provided and maintained by the proprietor for such use.

13.1.39 M-1 WAREHOUSE, LIGHT MANUFACTURING, OFFICE AND SERVICE DISTRICT.

- (a) **Intent.** The M-1 Warehouse, Light Manufacturing, Office and Service District is intended to provide for the development of compatible groupings of warehouse, light manufacturing, and office uses. The physical and operational characteristics of uses in this District are based on performance standards which would not be detrimental to the public health, safety or welfare or detrimental to the surrounding area as a result of noise, vibration, external lighting, odor, particulate emissions, other visible emission, hazardous pollutants, traffic, physical appearance, or other similar factors. All uses in this District must comply with applicable local, state and federal codes and standards. Uses in the M-1 District are also intended to provide ample off-street parking and loading areas, and landscaped planting screens in those areas adjacent to or abutting residential or other non-commercial uses, to prevent adverse effects upon the adjoining areas.
- (b) **Permitted Principal Uses.** Except as herein provided, no building, structure, or land in this District shall be used, erected, altered, or enlarged except for the uses specified below:
- (1) Uses involving the manufacture and fabrication of goods within the confines of a building and in which any noise, vibration, heat, flash, or odor produced in any process is confined within the building, and in which the manufacture, fabrication, processing or operation does not regularly employ, use, or consume materials as defined in Section 5-4-2 of this Code of Ordinances.
 - (2) Buildings for the storage of goods and materials, other than hazardous materials as defined in Section 5-4-2, where such goods or materials are stored inside a building, provided such building is not subdivided into more than three (3) multiple warehouse and storage facilities containing less than one thousand five hundred (1,500) square feet each and are available for sublease.
 - (3) Uses providing a service in which noise, vibration, heat, flash, or odor produced on the premises by such service uses is confined within a building.
 - (4) Business, professional, clerical, or general offices.
 - (5) Indoor sports and recreational facilities, excepting and excluding any recreational activity involving the use of weaponry, provided adequate off street parking is available for any customers, users, or employees not accommodated by onsite facilities.
 - (6) Research laboratories.
- (c) **Permitted Accessory Uses.**
- (1) Off-street parking and loading areas for facilities located wholly within the City of Glendale.
 - (2) Sales of products integral to the service or manufacturing business, which sales promote the product as manufactured, and are limited to not more than 10% of gross receipts and 20% of the total interior building space on the premises. Such retail sales shall further be limited to not more than 40 hours per week, and shall

not emit any noise, odor, or emissions of any nature, or spillover lighting as otherwise prohibited by the Glendale Code..

- (3) Garages or buildings used for the storage of vehicles used in conjunction with the operation of a warehouse or industrial use which are located wholly within the City of Glendale.
- (d) **Conditional Uses.** The following uses may be permitted only if approved by the Plan Commission in accordance with the provisions of Sections 13-1-38(a)(2) through (4) and Article E of this Chapter, which provisions are standards to guide the Plan Commission in determining whether or not to grant approval of such uses:
 - (1) Caretaker or guard's quarters.
 - (2) Contractor's yards and the outdoor storage of construction equipment.
 - (3) Child care, day care centers or preschool centers licensed by the State of Wisconsin and in continuous compliance with all applicable state and local regulations, and counseling centers, indoor recreational or fitness centers, instructional clinics, study centers or similar institutional uses which serve the needs of the work force of an industrial or commercial use within the M-1 Zoning District, and which are located within or upon the premises occupied by such existing industrial or commercial use.
 - (4) Light rail facilities and stations.
 - (5) Landscape contractors and landscape services.
 - (6) Medical clinics.
 - (7) Restaurants with inside seating only.
 - (8) Veterinary offices and small animal hospitals.
 - (9) The accessory storage of new automobiles, provided all areas employed for storage are within one thousand (1,000) feet from any boundary to the nearest boundary of the location of operation, and provided the principal user is a new car dealership in the City of Glendale, a new car dealership being a business involved in the retail sale of new automobiles, not previously titled, and which sales involve a transfer of title as opposed to leasing.
 - (10) Commercial radio, television towers or wireless communication towers, and antennas whether requiring an independent mounting system or affixed to an existing structure.
 - (11) Enclosed as well as screened areas for the storage of materials other than explosive or flammable materials as defined in Section 5-4-2.
 - (12) Auto Repair Shops in existence in the City of Glendale as of January 1, 2009.
 - (13) Resale shops, in which fifty percent (50%) or more of the gross volume of sales is derived from the sale of used, trade-in, or consigned merchandise in existence in the City of Glendale as of January 1, 2009.
- (e) **Prohibited Uses.** The following uses are specifically prohibited in the M-1 District:
 - (1) Automobile wrecking yards, junk yards, storage or salvage yards, gasoline and vehicle service stations, auto or boat or vehicle repair shops, body shops, or similar uses, except as provided above under conditional uses in subsection (d)(12).
 - (2) Churches, synagogues, schools, or similar institutional uses or places of religious worship, unless such use is consistent with and secondary to such uses contained in Section 13-1-39(b)(d).
 - (3) Drop forges, foundries, grain elevators, refineries, tanneries, or similar use.
 - (4) Dairies, cheese factories, stockyards, and rendering plants.
 - (5) Fertilizer storage or packaging.
 - (6) Uses involving the storage, utilization, or manufacture of materials or products which decompose by detonation.

- (7) All retail uses and wholesale buying clubs, except as allowed by subsection (c)(2).
 - (8) Drive-in and fast food restaurants.
 - (9) All waste disposal, dumping, incineration and related or similar waste management uses.
 - (10) All types of residential uses, except caretaker or guard's quarters as a conditional use.
 - (11) Buildings for the storage of goods and materials, other than hazardous materials as defined in Section 5-4-2, where such buildings are subdivided into more than three (3) multiple warehouse and storage facilities containing less than one thousand five hundred (1,500) square feet each and are available for sublease.
 - (12) Buildings for the storage, manufacture, fabrication, processing or regular use of goods and materials, which materials are hazardous materials as defined in Section 5-4-2 of this Code of Ordinances.
 - (13) Use by or for the benefit of municipalities, political corporations, governmental entities or subdivisions thereof when such use shall serve to exempt the property from real or personal property taxation, unless such use shall be for the substantial direct benefit of the City of Glendale.
 - (14) Pawn shops, and any retail sales operation deriving its merchandise primarily from lending operations in exchange for consigned collateral.
 - (15) Check cashing institutions which are not part of a state or federally licensed and regulated bank, thrift, savings and loan or credit union.
 - (16) Resale shops, in which fifty percent (50%) or more of the gross volume of sales is derived from the sale of used, trade-in or consigned merchandise, except as provided under conditional uses in subsection (d)(13).
 - (17) All Organizations or uses exempt from property taxation as set forth in Section 70.11 Wisconsin Statutes.
 - (18) Agricultural use, farming, raising crops, or any other form of farming or agricultural use.
- (f) **Performance Standards.** Uses in the M-1 District shall comply with the provisions for performance standards set forth in Article I of this Chapter.
- (g) **Dimensional and Area Requirements.**
- (1) Minimum setback along major thoroughfares one hundred (100) feet or more in width: Fifty (50) feet.
 - (2) Minimum setback along all other streets: Twenty-five (25) feet.
 - (3) Minimum side yard: Ten (10) feet.
 - (4) Minimum rear yard: Ten (10) feet.
 - (5) For side and rear yards on lots abutting a more restrictive district, see Section 13-1-12.
 - (6) Maximum lot coverage by buildings (of total lot area): Eighty percent (80%).
 - (7) Maximum building height: Sixty (60) feet.
 - (8) Minimum lot area and minimum lot width are as required in Section 13-1-17.
- (h) **Parking and Loading Requirements.** Parking and loading areas shall be provided in accord with provisions in Article G which establishes design guidelines and standards for such facilities.
- (i) **Outdoor Storage.** Any outdoor storage area shall occupy no larger an area than permitted by the Plan Commission and shall be screened from view by an approved solid wall, opaque fence, or evergreen landscaped planting screen as described in Section 13-1-15.
- (j) **Building Materials and Design.** Principal and accessory buildings proposed for construction in the M-1 District presented for review shall be designed so as to

compatibly integrate architectural style, size, shape, building materials, color, and texture. Buildings shall be designed to be individually pleasing and of a design and material to provide lasting value.

- (k) Site Plan Approval Required. Before a building permit is issued for any use in the M-1 District, a site plan shall be submitted to and approved by the Plan Commission and the applicant is required to submit the following data as part of the site plan approval:
- (1) Evidence of all environmental permits and approvals required by applicable state or federal agencies.
 - (2) Proposed use of the site.
 - (3) Certified survey map or plat.
 - (4) Building plan.
 - (5) Parking and loading areas.
 - (6) Lighting.
 - (7) Signs.
 - (8) Driveway location.
 - (9) Highway access.
 - (10) Traffic pattern.
 - (11) Outside storage areas.
 - (12) Landscaping plan.
 - (13) Drainage plan.
 - (14) Public utilities available.
 - (15) Grades.
 - (16) Proposed operational plan.
 - (17) Long-range development plan.
 - (18) Additional pertinent data required by the Plan Commission.
 - (19) Economic impact on City operations and services.
 - (20) Fencing.
 - (21) Security plans, including the existence or location of camera systems, alarm systems, deterrent or safety devices, safety mechanisms, and security personnel, if any.

13.1.40 C-1 CONSERVANCY DISTRICT.

- (a) Intent.
- (1) The C-1 Conservancy District is intended to prevent the destruction of valuable natural resources and, in particular, woodlands, wetlands, wildlife habitat areas, perennial and intermittent streams, major lakes, floodlands and shorelands, significant water recharge and discharge areas, prairies, recreational and scenic areas, natural scientific areas, areas with poor soils high groundwater, and areas of steep topography. Regulation of these areas -- including environmental corridors, should serve to control erosion and sedimentation, and to protect the natural resource base and promote and maintain the natural beauty of the area, as well as the health, safety and welfare of City residents.
 - (2) The District is intended to be used in those areas of the City identified as having significant combinations of natural features or features not conducive to development, and is to be applied in primary environmental corridors, secondary environmental corridors, and isolated natural areas as delineated in the City of Glendale Master Plan, or any component thereof, or as identified on plats and approved plans or shown on soils maps.
- (b) **Principal Uses.**
- (1) Preservation of scenic, historic and scientific areas.
 - (2) Controlled studies of ecosystems for educational purposes.

- (3) Forest and game management.
- (4) Hiking, fishing, swimming, and boating, unless prohibited by other ordinances and laws.
- (5) Natural stormwater management.
- (6) Park, open space and recreation areas.
- (7) Recreational trails, bicycle trails, cross-country skiing trails.
- (8) Wildlife and plant life preserves.
- (c) **Accessory Uses.**
 - (1) Essential services and utilities.
 - (2) Essential easements.
- (d) **Conditional Uses.** None permitted.
- (e) **Conservancy Lands Used for Density Calculation.** Where a lot is located partially within a C-1 Conservancy District and partially within an adjoining use district, or a lot adjoins and abuts a lot in the C-1 Conservancy District, that area of the parcel in the C-1 district may be used to meet the minimum lot area requirements of the adjoining use district or abutting and adjoining parcel provided that:
 - (1) The C-1 area must be contiguous, adjoining and made a permanent part of the development.
 - (2) A specific conservancy area can only be used one (1) time and count toward one (1) property for the purpose of calculating area and open space requirements.
 - (3) The C-1 Conservancy District may be employed in conjunction with and subject to the approval process of PUD Zoning of the parcel benefited by using a C-1 Conservancy District area to meet minimum lot and density requirements.
 - (4) In the event a parcel zoned C-1 Conservancy is employed as allowed by this Subsection, the Plan Commission, and/or the Common Council, may set conditions for allowing the parcel in the C-1 District to be so used. Such conditions may include, without limitation, all conditions and criteria applicable to the granting of a conditional use, all conditions which may be applicable to the creation of a planned unit development district, and in addition may include landscaping requirements, maintenance requirements, or other requirements as necessary to reasonably assure the health, welfare, and safety of frequenters upon the Conservancy District parcel.
- (f) **Parcels owned by Milwaukee County.** Any parcel that is owned by Milwaukee County in a C-1 Conservancy District is considered to be zoned as a park for the purposes of Wisconsin Statutes Section 59.17(2)(b)(3).

13.1.41 THROUGH 13.1.49 RESERVED FOR FUTURE USE.

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PD Planned Unit Development District

13.1.50 PURPOSE OF THE PD PLANNED UNIT DEVELOPMENT DISTRICT.

- (a) **Establishment.** There is herewith established a "use district" to be known as the "PD Planned Development District."
- (b) **Application to Existing Use Districts.** This Article shall operate as a conditional use and as an alternative to the permitted uses and regulations applicable to existing districts and shall be applicable to particular lands only when such lands are zoned PD Planned Unit Development by action of the Common Council.
- (c) **Purpose.** The purpose of the PD Planned Unit Development District" and the regulations applicable to the same are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations and to accomplish a well balanced, aesthetically satisfying city and economically desirable development of building sites within a PD Planned Unit Development District. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this Chapter and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public service and to encourage and facilitate preservation of open lands.
- (d) **Definitions.**
 - (1) **Basic Zoning Regulations.** By basic zoning regulations is meant such zoning regulations as are applicable to the use district other than the regulations set forth in this Section.
 - (2) **Building Site.** A building site is a tract of land not divided by public streets or into lots, excepting for single-family dwelling purposes, and which will not be so subdivided or where the tract of land if so divided is in single ownership or is owned by a condominium group. The site must be located on a major public street or highway or have direct access over a private right-of-way having the minimum width of one hundred twenty (120) feet, unless the Plan Commission and Common Council agree, alter an evaluation of the development, that the traffic created by and for the project will not adversely affect the neighborhood or the City in general if access is allowed over a lesser street or highway.
- (e) **Uses Permitted.**

- (1) Such uses as permitted under the ordinance adopted by the Council in zoning the subject property, or as permitted under any development agreement entered into with the City of Glendale, or any other use approvals as specifically granted by action of the Common Council, or any combination thereof, or as granted by such amendment of the Development Agreement as may occur from time to time.
- (2) Such uses or mixture of uses which are deemed by the Plan Commission and approved by the Common Council to qualify under this Section. Provided however, that on a site wholly located in a single-family residence district no Planned Unit Development shall be permitted unless the site abuts on a major thoroughfare, in which event such development shall be permitted only after a favorable recommendation of the Plan Commission and the approval by a majority of at least two-thirds (2/3) of the members of the Common Council.
- (3) No predetermined precise building location height, building size, floor area, lot size, density or open space requirements shall be applicable to uses or structures in a planned unit development, but such requirements as are made a part of an approved precise development plan shall be, along with the plan itself, construed to be and enforced as a part of this Chapter.

13.1.51

GENERAL PROVISIONS FOR PD DISTRICT.

- (a) **Engineering Design Standards.** Normal standards or operational policy regarding right-of-way widths, provision for sidewalks, street lighting and similar environmental design criteria shall not be mandatory in a Planned Unit Development, but precise standards satisfactory to the City, pursuant to the criteria as set forth in Section 13-1-52 hereof shall be made a part of the approved plan and shall be enforceable as a part of this Chapter.
- (b) **Guarantees.** The developer shall enter into an appropriate contract or agreement with the City to guarantee the development and operation in accordance with the terms and conditions established between the City and the developer for the development project. Any changes or additions to the original approved development site, structures or plans of operation shall require resubmittal and approval by the Plan Commission; and if such changes or additions are substantial in the opinion of the Plan Commission, approval shall also be required by the Common Council.
- (c) **Failure to Comply.** Failure to comply with the conditions, commitments, guarantees or the recommendations established in the approval of such development project shall be cause for rescinding the approval of the same. Upon notice given by the Zoning Administrator, the developer then shall be required to appear before the Plan Commission at its next meeting to explain any such failure to comply. The Plan Commission at such public hearing may set a time limit for compliance or recommend specific steps to be taken to rescind the approval of the project, including the termination of the construction of any

buildings on such site upon thirty (30) days' notice in writing to the developer at his last-known address.

- (d) **Minimum Valuation.** Planned development zoning shall be reserved for projects, which upon completion and stabilization, are of a minimum fair market value of one million five hundred thousand dollars or more. The Council may require that such minimum valuation be guaranteed through a development agreement.

13.1.52 CRITERIA FOR APPROVAL

As a basis for determining the acceptability of a Planned Unit Development District application to the Plan Commission and Common Council, the following criteria shall be applied to the application for such district with specific consideration as to whether or not it is consistent with the spirit and intent of this Chapter, is consistent with the policies of the City development plan, has been prepared with professional advice and guidance and produces significant benefits in terms of environmental design:

- (a) **Character and Intensity of land Use.** In a Planned Unit Development District, the uses proposed and their intensity and arrangement on the site shall be of a visual and operational character which:
- (1) Are compatible to the physical nature of the site with particular concern for preservation of natural features, tree growth and open space.
 - (2) Would produce an attractive environment of sustained aesthetic and ecological desirability, economic stability and functional practicality compatible with the general development plans for the area as established by the community.
 - (3) Would not adversely affect the anticipated provision for school or other municipal services.
 - (4) Would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.
- (b) **Economic Feasibility and Impact** The proponents of a Planned Unit Development District application shall provide evidence satisfactory to the Plan Commission and Common Council of its economic feasibility, of available adequate financing, and that it would not adversely affect the economic prosperity of the City or the values of surrounding properties.
- (c) **Engineering Design Standards.** The width of street rights-of-way, width of paving, width and location of street or other paving, outdoor lighting, location of sewer and water lines, provision for storm water drainage or other similar environmental engineering consideration shall be based on standards necessary to implement the specific function in the specific situation, provided, however, in no case shall standards be less than those necessary to insure the public safety and welfare as determined by the City designated engineer.
- (d) **Preservation and Maintenance of Open Space.** In a Planned Unit Development District, adequate provisions shall be made for the permanent preservation and maintenance of "open space" either by private reservation or dedication to the public.
- (1) In the case of private reservation, the open area to be reserved shall be protected against building development by conveying to the City as part of the conditions for project approval an open space easement over such open areas restricting the area against any future building or use except as consistent with that of providing landscaped open space for the aesthetic and recreational satisfaction of the surrounding residences.

Buildings or uses for noncommercial, recreational or cultural purposes compatible with the open space. objective may be permitted only where specifically authorized as part of the development plan or, subsequently, with the express approval of the Common Council following approval of building, site and operational plans by the Plan Commission.

- (2) The care and maintenance of such open space reservations shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be included in any contractual agreement with the City and shall be included in the title to each property.
 - (3) Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the City and made a part of the conditions of the plan approval.
- (e) **Implementation Schedule.** The proponents of a Planned Unit Development District shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Common Council, including suitable provisions for assurance that each phase could be brought to completion in a manner which would not result in an adverse effect upon the community as a result of termination at that point.

13.1.53 PROCEDURAL REQUIREMENTS FOR A PLANNED UNIT DEVELOPMENT DISTRICT.

- (a) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a Planned Unit Development District, the owner or his agent making such petition should meet with the Plan Commission or its staff to discuss the scope and proposed nature of the contemplated development. Unless it otherwise specifies, when the Common Council approves a particular project to be under-taken by the Community Development Authority, all the powers, functions and jurisdiction of the Plan Commission shall, for such project, be vested in and performed by the said Authority instead of the Plan Commission.
- (b) **Petition for Approval.** Following the pre-petition conference, the owner or his agent may file a petition with the City Clerk for approval of a Planned Unit Development District. Such petition shall be accompanied by required review fee of Five Hundred Dollars (\$500.00). The following information shall be filed by the applicant with the City Clerk with the petition for rezoning:
 - (1) Informational Statement. A statement which sets forth the relationship of the proposed PUD to the City's adopted master (comprehensive land use and thoroughfare plan) plan, neighborhood plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:
 - a. Total area to be included in the PD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.

- b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
 - c. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
 - d. Any proposed departures from the standards of development as set forth in the City zoning regulations, land subdivision ordinance, other City regulations or administrative rules, or other universal guidelines.
 - e. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.
 - f. Appropriate statistical data on the size of the development, residential density in the various parts of such development, ratio of land uses, percentages of multi-family units by number of bedrooms, economic analysis of the development, expected staging and any other plans or data required by the Plan Commission or Common Council.
 - g. Architectural drawings and sketches illustrating the design and character of proposed structures.
- (2) A General Development Plan Including:
- a. A legal description of the boundaries of the subject property included in the proposed PD and its relationship to surrounding properties.
 - b. The location of public and private roads, driveways, sidewalks and parking facilities.
 - c. The size arrangement and location of any individual building sites and proposed building groups on each individual site.
 - d. The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
 - e. The type, size and location of all structures.
 - f. General landscape treatment.
 - g. The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
 - h. The existing and proposed location of all private utilities or other easements.
 - i. Characteristics of soils related to contemplated specific uses.
 - j. Existing topography on the site with contours at no greater than two (2) foot intervals.
 - k. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
 - l. If the development is to be staged, a staging plan.
 - m. A plan showing how the entire development can be further subdivided in the future

- (c) **Plan Commission Hearing.** After receipt of a petition and the filing of all the required data and fees, with the necessary study and investigation, the Plan Commission shall hold a minimum of one (1) public hearing before making its recommendations to the Common Council.
- (d) **Common Council Hearing:** Upon receipt of the recommendations of the Plan Commission, the Common Council shall hold a minimum of one (1) public hearing on whether or not to give final approval to the proposed project.
- (e) **Effect of Approval of Plan Commission and Common Council** Approval of the project does not constitute approval for the construction of new buildings or structures on the site. Separate approval shall be required for each building or structure upon application for a building permit.

13.1.54 **BASIS FOR APPROVAL OF THE PETITION FOR PLANNED UNIT DEVELOPMENT.**

- (a) **Proposed Construction Schedule.** The Plan Commission and Common Council, in making their respective recommendation and determination, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PD, commencement of the physical development within one (1) year of approval being deemed reasonable.
- (b) **Residential PD, Considerations.** The Plan Commission and Common Council, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:
 - (1) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.
 - (2) The total net residential density within the planned unit development will be compatible with the City master plan (comprehensive land use and thoroughfare plan), neighborhood plan, or components thereof, and shall be compatible with the density of the district wherein located.
 - (3) Structure types will be generally compatible with other structural types permitted in the underlying basic use district.
 - (4) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.
 - (5) Provision has been made for adequate, continuing fire and police protection.
 - (6) The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 - (7) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.

- (c) **Commercial PD, Considerations.** The Plan Commission and Common Council, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:
- (1) The economic practicality of the proposed development can be justified.
 - (2) The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.
 - (3) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.
 - (4) The locations of entrances and exists have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - (5) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (d) **Industrial PD, Considerations.** The Plan Commission and Common Council, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:
- (1) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
 - (2) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water sanitary sewer and storm water drainage and maintenance of public areas.
 - (3) The Proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
 - (4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.
- (e) **Mixed Use PD, Considerations.** The Plan Commission and Common Council, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:
- (1) The proposed mixture of uses creates a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.
 - (2) The various types of uses conform to the general requirements as herein before set forth, applicable to projects of such use and character.
 - (3) The proposed development shall be adequately provided with and shall not impose any undue burden on public set races and facilities, such as

fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

- (f) **Factors and Requirements to be Considered by the Plan Commission and Common Council for all Requests.** In determining recommendation and in deciding whether or not to give final approval, the Common Council shall consider all the requirements, factors and other matters contained herein.
- (1) Heights of structures.
 - (2) Auto parking facilities.
 - (3) Screening.
 - (4) Landscaping.
 - (5) Setbacks.
 - (6) Open space reservations.
 - (7) The site itself as it relates to neighborhood environment, general characteristics and drainage.
 - (8) The nature and use of the proposed structures thereon as design features for given uses, architecture and materials.
 - (9) Compatibility to existing neighborhood use.
 - (10) The proposed parking areas as to adequacy of traffic pattern and appearance.
 - (11) Proposed landscape treatment, driveways and walk locations.
 - (12) Highway access to the site, number of openings and location of same.
 - (13) Traffic generation, number of vehicles parked and rate of turnover per hour.
 - (14) Drainage runoff capacities.
 - (15) Capacities required for sewer, water and other necessary utilities.
 - (16) Proposed methods and hours of operation.
 - (17) Neighborhood environmental acceptance and reasons for its acceptability.
 - (18) Educational capacity capabilities -- number of families and school load.
 - (19) Economic impact on the City, its inducements and attractions.
 - (20) Type of construction.
 - (21) Fencing.
 - (22) Lighting.
 - (23) Increased yards.
 - (24) Total open space required.
 - (25) Operational control.
 - (26) Highway access.
 - (27) Commencement and completion dates.
 - (28) Highway dedication.
 - (29) Deed restrictions and sureties deemed necessary to protect the health, safety and welfare of the community.
 - (30) Preliminary approval by the Building Board of the architectural design, quality, proportion and orientation of the buildings and structures as a whole within the project shall be made concerning its compatibility with the general character and standards of the community prior to the time of the recommendations of the Plan Commission to the Common Council. It is

intended that this preliminary approval shall in no way affect required site plan approval.

- (31) Such other limitations, conditions or special requirements, characteristic to the use as may be deemed necessary to protect the health, safety or welfare of the City.

13.1.55 RECORDING AND IMPLEMENTATION PLAN.

- (a) **Recording.** Upon final approval of the application and adoption of a zoning change to the Planned Unit Development District by the Common Council, the building, site and operational plans for the development, as approved, as well as all other commitments and contractual agreements with the City offered or required with regard to components, project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans shall be recorded by the developer within ten (10) days in the Milwaukee County Register of Deeds' office. Unless and until all of said plans and documents have been recorded, no building permit shall be issued for any construction within said Planned Unit Development District. Detailed construction and engineering plans need not necessarily be completed at the time the zoning is approved, but the approval and recording of the above plans shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as the development progresses.
- (b) **Specific Implementation Plan After Approval of Zoning.** The applicant shall file with the Plan Commission:
- (1) A precise plan of development.
 - (2) Proof of financing capability.
 - (3) A scale map of the area.
 - (4) A final plat of the entire development are showing detailed lot layout and the intended use of each lot or parcel of land, public dedications, public and private streets, driveways, walkways and parking facilities.
 - (5) The location and treatment of open space areas and recreational or other special amenities.
 - (6) The arrangement of building groups, other than single-family residences and all final landscape plans.
 - (7) Architectural drawings and sketches illustrating the design and character of proposed structures.
 - (8) Location of all utility installations.
 - (9) A development schedule indicating:
 - a. The approximate date when construction of the project can be expected to begin;
 - b. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;
 - c. The anticipated rate of development;
 - d. The approximate date when the development of each of the stages will be completed; and

- e. The area and location of open space that will be provided at each stage.
- (10) Agreements, bylaws, provisions or covenants which govern the organizational structure, use, maintenance and continued protection of the Planned Unit Development and any of its common services, open areas or other facilities.
- (11) Any other plans, documents or schedules required by the Plan Commission or Common Council.
- (c) **Development Contract.** Before any building permit shall be issued, the applicant and the owner shall enter into an appropriate contract with the City to guarantee the implementation of the development according to the terms and conditions established as a part of the Specific Implementation Plan. The City shall have the right, if deemed appropriate, to require the inclusion of a performance bond satisfactory to the City Attorney. Such contract shall be recorded by the developer in the County Register of Deeds' office within ten (10) days after its execution. Any subsequent change of use of any lot or parcel of land or addition or modification of the plans shall first be submitted for approval to the Plan Commission and if, in the opinion of the Plan Commission, such change or modification constitutes a substantial alteration of the original plans, the procedure provided in Sections 13-1-53 and 13-1-54 above and, in this Sub-section, shall be required before the use is changed or the plans modified. If, in the opinion of the Plan Commission, such change or modification does not constitute a substantial alteration of the original plans and if such change or modification is recommended by the Plan Commission, the change or modification may be made with the approval of the Common Council.

13.1.56 ALTERNATIVE PLANNED UNIT DEVELOPMENT FOR A TRADITIONAL NEIGHBORHOOD DEVELOPMENT - GENERAL PROVISIONS.

- (a) **Statutory Authorization.** This ordinance is adopted pursuant to the authority contained in sections 62.23 and 66.1027 of the Wisconsin Statutes.
- (b) **Purpose.** The purpose of this ordinance is to allow the optional development and redevelopment of land in Glendale consistent with the design principles of traditional neighborhoods. A traditional neighborhood:
 - (1) Is compact;
 - (2) Is designed for the human scale;
 - (3) Provides a mix of uses, including residential, commercial, civic, and open space uses in close proximity to one another within the neighborhood;
 - (4) Provides a mix of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes;
 - (5) Incorporates a system of relatively narrow, interconnected streets with sidewalks, bikeways, and transit that offer multiple routes for motorists, pedestrians, and bicyclists and provides for the connections of those streets to existing and future developments;

- (6) Retains existing buildings with historical features or architectural features that enhance the visual character of the community;
- (7) Incorporates significant environmental features into the design;
- (8) Is consistent with the Glendale's comprehensive plan.
- (c) **Applicability.** The traditional neighborhood development ordinance is an alternative set of standards for development within the City for new development of 15 acres or more contiguous to existing development, redevelopment or infill development of 10 acres or more.
- (d) **Fees.** The Common Council may, by resolution, establish fees for the administration of this ordinance.

13.1.57 **ALTERNATIVE PLANNED UNIT DEVELOPMENT FOR A TRADITIONAL NEIGHBORHOOD DEVELOPMENT - DEFINITIONS.**

The following definitions shall be observed and applied, except when the context clearly indicates otherwise. Words used in the present tense shall include the future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular. The word "shall" is mandatory and the word "may" is permissive.

- (a) **Accessory Building** - a detached subordinate structure, the use of which is incidental to that of the principal structure and located on the same lot.
- (b) **ADT** - average daily traffic volumes of vehicles on a street.
- (c) **Affordable housing** - housing in which mortgage, amortization, taxes, insurance, and condominium and association fees, if any, constitute no more than 28 percent of gross household income for a household of the size which may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30 percent of gross annual household income for a household of the size that may occupy the unit.
- (d) **Alley** - a public or private way permanently reserved as a secondary means of access to abutting property.
- (e) **Arterial** - a major street for carrying a large volume of through traffic in the area, normally controlled by traffic signs and signals.
- (f) **Block** - a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.
- (g) **Building Height** - the limit to the vertical extent of a building. The building height may be prescribed as a maximum number of stories or as a dimension from sidewalk grade to the eave. The height limit shall not apply to attics, raised basements, chimneys, machine rooms, or similar structures.
- (h) **Building Scale** - the relationship between the mass of a building and its surroundings, including the width of street, open space, and mass of surrounding buildings. Mass is determined by the three-dimensional bulk of a structure: height, width, and depth.

- (i) **Building Setback, Front** - the distance from the street right-of-way line to the closest point of the foundation of a building or projection thereof.
- (j) **Collector** - a street designed to carry moderate volumes of traffic from local streets to arterial streets or from arterial to arterial.
- (k) **Common Open Space** - squares, greens, neighborhood parks, City parks, and linear environmental corridors owned and maintained by the City.
- (l) **Curb Radius** - the curved edge of streets at an intersection measured at the outer edge of the street curb or of the parking lane.
- (m) **Lot** - a parcel of land occupied or intended for occupancy by a use permitted in this ordinance, including one main building, together with any accessory buildings, open spaces, and parking spaces required by this ordinance and having its principal frontage upon a street or upon an officially approved place.
- (n) **Lot Line** - the property lines bounding the lot.
- (o) **Lot Width** - the horizontal distance between side lot lines measured at the front setback.
- (p) **Net acre** - an acre of land excluding street rights-of-way and other publicly dedicated improvements such as parks, open space, and stormwater detention and retention facilities.
- (q) **Principal Building** - a building in which the primary use of the lot on which the building is located is conducted.
- (r) **Queuing** - the use of one travel lane on local streets with parking, usually an intermittent parking pattern, on both sides.
- (s) **Secondary Dwelling Unit** - An additional dwelling unit located within the principal dwelling on the lot, in a freestanding building or above a residential garage.
- (t) **Story** - a space in a building between the surface of any floor and the surface of the next floor above, or if there is no such floor above, then the space between such floor and the ceiling or roof above.
- (u) **Street** - a strip of land, including the entire right-of-way, publicly or privately owned, serving as a means of vehicular travel, and furnishing access to abutting properties, which may also be used to provide space for sewers, public utilities, shade trees, and sidewalks.
- (v) **Traditional Neighborhood** - a compact, mixed-use neighborhood where residential, commercial and civic buildings are within close proximity to each other.

**13-1-58 ALTERNATIVE PLANNED UNIT DEVELOPMENT FOR A
TRADITIONAL NEIGHBORHOOD DEVELOPMENT -
APPLICATION PROCEDURE AND APPROVAL PROCESS.**

Prior to the issuance of any permits for development within a Traditional Neighborhood Development, the following steps shall be completed according to the procedures outlined in this section:

- (1) the applicant shall have had an initial conference;

- (2) a General Implementation Plan and a zoning map amendment to a Traditional Neighborhood Development District shall be approved by the Common Council;
 - (3) a Specific Implementation Plan shall be approved by the Common Council.
- (a) **Initial conference.** Before submitting an application for a Traditional Neighborhood Development project, the applicant shall schedule an appointment and meet with the municipal staff to discuss the procedure for approval of a Traditional Neighborhood Development project, including submittal requirements and design standards.
- (b) **General Implementation Plan**
- (1) **General Implementation Plan Process.** Following the initial conference, the applicant shall submit a general implementation plan to the City planner or municipal staff together with an application for a zoning map amendment to a Traditional Neighborhood Development District.
 - a. Within 20 days, the Plan Commission shall conduct a public hearing to consider the zoning map amendment request and to consider a recommendation for approval or disapproval of a general implementation plan. At this public hearing, the Plan Commission shall receive a report from the City planner or municipal staff recommending approval, disapproval or approval with specified modifications. Within 20 days, the Plan Commission shall recommend the Common Council either:
 - i. approve the General Implementation Plan and zoning map amendment,
 - ii. approve the General Implementation Plan and zoning map amendment with modifications, or
 - iii. deny the General Implementation Plan and zoning map amendment.
 - b. The Common Council shall receive the recommendation from the Plan Commission and a report from the municipal staff. Upon due consideration, the Common Council shall either:
 - i. approve the General Implementation Plan and zoning map amendment,
 - ii. approve the General Implementation Plan and zoning map amendment with modifications, or
 - iii. deny the General Implementation Plan and zoning map amendment.
 - (2) **General Implementation Plan Submittal Requirements.** The purpose of the general implementation plan is to establish the intent, density, and intensity for a proposed development. The General Implementation Plan shall include the following:
 - a. A general location map of suitable scale, but no less than one inch = 200 feet, which shows the location of the property within the community and adjacent parcels including locations of any public

streets, railroads, major streams or rivers and other major features within 1000 feet of the site.

- b. A site inventory and analysis to identify site assets or resources, and constraints, including but not limited to floodplains, wetlands and soils classified as “poorly drained” or “very poorly drained,” soils with bedrock at or within 42 inches of the surface, utility easements for high-tension electrical transmission lines (>69KV), steep slopes greater than 15%, and brownfields.
- c. A conceptual site plan, at a scale of no less than one inch = 100 feet, which indicates topography in two foot contours for sites with 15 feet or more of local relief, or one foot contours for local sites with less than 15 feet of local relief, consisting of a map with proposed features and existing site features and uses that will remain. These features should include building outlines, location of streets, transit stops, drives and parking areas, pedestrian and bicycle paths, service access areas for receiving material and trash removal, and other impervious surfaces. The location of proposed and existing to remain trees and shrubs should also be included, along with any other significant features.
- d. A conceptual storm water management plan identifying the proposed patterns of major stormwater runoff, locations of stormwater infiltration areas, and other significant stormwater best management practices.
- e. Identification of the architectural style(s) of the Traditional Neighborhood Development and the accompanying site design style(s). The design style of the Traditional Neighborhood Development shall be conveyed with drawings or computer simulations of typical proposed building elevations, including dimensions of building height and width, and facade treatment.
- f. A written report that provides general information about the covenants, conservation easements, or agreements which will influence the use and maintenance of the proposed development. The report shall also describe the site conditions and the development objectives.
- g. Any other information deemed necessary by the City in order to evaluate plans.
- h. Five copies of the above information shall be submitted plus one reduced set no larger than 8-1/2 inches by 11 inches.

(c) **Specific Implementation Plan.** The purpose of the Specific Implementation Plan is to establish a detailed development proposal. The Specific Implementation Plan can be proposed, reviewed, and acted upon as whole or in part or phases.

- (1) **Specific Implementation Plan Process.** Following approval of the General Implementation Plan, the applicant shall submit a Specific Implementation Plan to the Plan Commission.

- a. Within 30 days following receipt of the Specific Implementation Plan, the Plan Commission shall receive a report from the municipal staff recommending approval, disapproval or approval with specified modifications. The Plan Commission shall determine that the proposed Specific Implementation Plan is in substantial conformance with the approved General Implementation Plan. Upon due consideration, the Plan Commission shall recommend that the Common Council either:
 - i. approve the Specific Implementation Plan as being in substantial conformance with the General Implementation Plan;
 - ii. approve the Specific Implementation Plan as being in substantial conformance with the General Implementation Plan with specified modifications; or
 - iii. deny the Specific Implementation Plan.
 - b. Following Plan Commission recommendation, the Common Council shall receive the recommendation from the Plan Commission and the report from the planner or municipal staff. Upon due consideration, the Common Council shall either:
 - i. approve the Specific Implementation Plan as being in substantial conformance with the General Implementation Plan;
 - ii. approve the Specific Implementation Plan as being in substantial conformance with the General Implementation Plan with specified modifications; or
 - iii. deny the Specific Implementation Plan.
- (2) **Specific Implementation Plan Submittal Requirements.** The applicant shall submit a series of plans, maps, and written materials which include the following information:
- a. A general location map of suitable scale which shows the boundaries and dimensions of the property within the context of the city and adjacent parcels, including locations of any public streets, railroads, major streams or rivers and other major features within 1000 feet of the site, along with a legal description of the property.
 - b. A site inventory and analysis to identify site assets or resources, and constraints, including but not limited to floodplains, wetlands and soils classified as “poorly drained” or “very poorly drained,” soils with bedrock at or within 42 inches of the surface, utility easements for high-tension electrical transmission lines (>69KV), slopes greater than 15%, and brownfields.
 - c. A site plan, including proposed topographic contours at one foot intervals, with the following information:
 - i. the location of proposed structures and existing structures that will remain, with height and gross floor area noted;
 - ii. the location of street and pedestrian lighting, including lamp intensity and height;

- iii. the location of proposed open space;
 - iv. the circulation system indicating pedestrian, bicycle, and motor vehicle movement systems, including existing and proposed public streets or right-of-ways; transit stops; easements or other reservations of land on the site; the location and dimensions of existing and proposed curb cuts, off-street parking and loading spaces, include service access for receiving and trash removal; sidewalks and other walkways;
 - v. location of all trees, shrubs, and ground cover, proposed or existing, to remain on the site.
- d. A stormwater management plan for the site. The grading plan shall show existing and proposed ground elevations with contours (one-foot contour interval) and spot elevations at significant high points, low points, and transition points. The grading plan shall also note the finished ground floor elevations of all buildings. The plan shall also show the locations of all storm drainage sewers and structures, and infiltration or detention/retention structures; and all wetlands on the site, using the Federal Manual For Identifying and Delineating Jurisdictional Wetlands, and copies of documents completed in making the wetlands identification.
- e. Detailed elevations of all proposed commercial buildings and typical elevations of residential buildings. Scaled elevations should identify all signs, building materials and percentage of ground floor commercial facade in windows; the location, height and material for screening walls and fences, including outdoor trash storage areas, electrical, mechanical and gas metering equipment, storage areas for trash and recyclable materials, and rooftop equipment.
- f. A utilities plan showing underground and aboveground lines and structures for sanitary sewers, electricity, gas, telecommunications, etc.
- g. A written report which completely describes the proposal and indicates covenants or agreements that will influence the use and maintenance of the proposed development. The report also shall describe the analysis of site conditions and the development objectives.
- h. Phasing plans, where applicable.
- i. Any other information deemed necessary by the Common Council in order to evaluate plans.
- j. Five copies of the above information shall be submitted, plus one reduced set no larger than 8-1/2 inches by 11 inches.
- (d) **Amendments to the Specific Implementation Plan.** Minor changes to the Specific Implementation Plan adopted by the Common Council may be approved by the Planning Department, provided that the changes do not involve:
- (1) Increases or decreases of less than 10% in floor area of structures or number of dwelling units.

- (2) Change in exterior building material.
- (3) Alteration of any conditions attached or modification to the Specific Implementation Plan made by the Common Council.

A major change to a Specific Implementation Plan which is less restrictive than any conditions of approval for the initial Specific Implementation Plan, shall require approval by a majority vote of all members of the Common Council.

- (e) **Subdivision of Land.** If the Traditional Neighborhood Development involves the subdivision of land as defined in the City's subdivision ordinance, the applicant shall submit all required land division documents in accordance with the requirements of the subdivision ordinance and Chapter 236 of the Wisconsin Statutes. If there is a conflict between the design standards of the subdivision ordinance and the design guidelines of this ordinance, the provisions of this ordinance shall apply.
- (f) **Ownership and Maintenance of Public Space.** Provision shall be made for the ownership and maintenance of streets, squares, parks, open space, and other public spaces in a Traditional Neighborhood Development by dedication to the City.
- (g) **Recording of Documents.** The following documents need to be filed by the applicant in the County Register of Deeds Office within 10 days after approval of the document by the Common Council: a certified copy of the zoning ordinance amendment designating a tract of land as a Traditional Neighborhood Development; the general implementation plan; and the specific implementation plan.

13-1-59 **TRADITIONAL NEIGHBORHOOD DEVELOPMENT DESIGN STANDARDS**

- (a) **Neighborhood Uses.** In order to achieve the proximity necessary to make neighborhoods walkable, it is important to mix land uses. A traditional neighborhood development should consist of a mix of residential uses, a mixed use area, and open space as provided below:
 - (1) **A mix of residential uses** of the following types can occur anywhere in the traditional neighborhood development. For infill development, the mix of residential uses may be satisfied by existing residential uses adjacent to the Traditional Neighborhood Development.
 - a. Single-family detached dwellings, including manufactured homes;
 - b. Single-family attached dwellings, including duplexes, townhouses, row houses;
 - c. Multifamily dwellings, including senior housing;
 - d. Secondary dwelling units ("granny flats");
 - e. "Special needs" housing, such as community living arrangements and assisted living facilities.
 - (2) **Mixed use area**, of commercial, residential, civic or institutional, and open space uses as identified below. All residents should be within approximately 1/4 mile or a 5-minute walk from existing or proposed

commercial, civic, and open space areas. Individual businesses should not exceed 6000 square feet in size.

- a. Commercial uses.
 - i. Food services (neighborhood grocery stores; butcher shops; bakeries; restaurants, not including drive-throughs; cafes; coffee shops; neighborhood bars or pubs);
 - ii. Retail uses (florists or nurseries; hardware stores; stationery stores; book stores; studios and shops of artists and artisans);
 - iii. Services (day care centers; music, dance or exercise studios; offices, including professional and medical offices; barber; hair salon; dry cleaning);
 - iv. Accommodations (bed and breakfast establishments, small hotels or inns).
- b. Residential uses.
 - i. Single-family attached dwellings, including duplexes, townhouses, row houses;
 - ii. Multifamily dwellings, including senior housing;
 - iii. Residential units located on upper floors above commercial uses or to the rear of storefronts;
 - iv. "Live/work" units that combine a residence and the resident's workplace;
 - v. "Special needs" housing, such as community living arrangements and assisted living facilities.
- c. Civic or institutional uses.
 - i. Municipal offices, fire stations, libraries, museums, community meeting facilities, and post offices;
 - ii. Transit shelters;
 - iii. Places of worship;
 - iv. Educational facilities.
- d. Open space uses.
 - i. Central square;
 - ii. Neighborhood park;
 - iii. Playground.

(3) **Open space** uses identified below should be incorporated in the traditional neighborhood development as appropriate. Large outdoor recreation areas should be located at the periphery of neighborhoods rather than central locations.

- a. Environmental corridors;
- b. Protected natural areas;
- c. Community parks;
- d. Streams, ponds, and other water bodies;
- e. Stormwater detention/retention facilities.

(b) **Development units.** The number of residential dwelling units and the amount of nonresidential development, excluding open spaces, shall be determined as follows:

- (1) In areas devoted to mixed residential uses:
 - a. The number of single-family attached and detached units permitted shall be 5 – 8± dwelling units per net acre;
 - b. The number of multi-family units shall be 15 - 40 dwelling units per net acre.
 - c. Secondary dwelling units shall be permissible in addition to the number of dwelling units authorized under this section.. However, the total number of secondary dwelling units shall not be more than 10 percent of the total number of single-family attached and detached units.
 - d. For each affordable housing unit provided under this section, one additional dwelling unit shall be permitted, up to a maximum 15 percent increase in dwelling units.
- (2) In mixed-use areas:
 - a. The number of single-family and multi-family dwelling units permitted shall be calculated the same as above plus an additional number of units not to exceed 10 percent of the amount permitted above.
 - b. All dwelling units constructed above commercial uses shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of dwelling units shall not be increased by more than 10 dwelling units or 10 percent, whichever is greater.
 - c. The total ground floor area of nonresidential development uses, including off-street parking areas, shall not exceed 25 percent of the traditional neighborhood development.
- (c) **Open Space.** At least 10-20 percent of the gross acreage of the Traditional Neighborhood Development must be open space. Open space may include undevelopable areas such as steep slopes and wetlands, and stormwater detention and retention basins. At least 25 percent of the open space must be common open space dedicated to the public for parkland. 90 percent of the lots within the areas devoted to mixed residential uses shall be within a 1/4 mile or a 5 minute walk from common open space.
- (d) **Stormwater Management.** The design and development of the traditional neighborhood development should minimize off-site stormwater runoff, promote on-site filtration, and minimize the discharge of pollutants to ground and surface water. Natural topography and existing land cover should be maintained/protected to the maximum extent practicable. New development and redevelopment shall meet the following requirements:
 - (1) Untreated, direct stormwater discharges to wetlands or surface waters are not allowed.
 - (2) Post development peak discharge rates should not exceed pre-development peak rates.
 - (3) Erosion and sediment controls must be implemented to remove 80% of the average annual load of total suspended solids.

- (4) Areas for snow storage should be provided unless the applicant provides an acceptable snow removal plan.
 - (5) Redevelopment stormwater management systems should improve existing conditions and meet standards to the extent practicable.
 - (6) All treatment systems or BMPs must have operation and maintenance plans to ensure that systems function as designed.
- (e) **Lot and Block Standards.**
- (1) **Block and lot size diversity.** Street layouts should provide for perimeter blocks that are generally in the range of 200-400 feet deep by 400-800 feet long. A variety of lot sizes should be provided to facilitate housing diversity and choice and meet the projected requirements of people with different housing needs.
 - (2) **Lot Widths.** Lot widths should create a relatively symmetrical street cross section that reinforces the public space of the street as a simple, unified public space.
 - (3) **Building Setback, Front - Mixed Use Area.** Structures in the mixed-use area have no minimum setback. Commercial and civic or institutional buildings should abut the sidewalks in the mixed-use area.
 - (4) **Building Setback, Front - Areas of Mixed Residential Uses.** Single-family detached residences shall have a building setback in the front between 0 and 25 feet. Single-family attached residences and multifamily residences shall have a building setback in the front between 0 and 15 feet.
 - (5) **Building Setback, Rear - Areas of Mixed Residential Uses.** The principal building on lots devoted to single-family detached residences shall be setback no less than 30 feet from the rear lot line.
 - (6) **Side Setbacks.** Provision for zero lot-line single-family dwellings should be made, provided that a reciprocal access easement is recorded for both lots and townhouses or other attached dwellings, provided that all dwellings have pedestrian access to the rear yard through means other than the principal structure.
- (f) **Circulation Standards.** The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed use area, and open space of the traditional neighborhood development and shall be connected to existing and proposed external development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes, especially off street bicycle or multi-use paths or bicycle lanes on the streets, control through traffic, limit lot access to streets of lower traffic volumes, and promote safe and efficient mobility through the traditional neighborhood development.
- (1) **Pedestrian Circulation.** Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the Traditional Neighborhood Development. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced. All streets, except for alleys, shall be bordered by sidewalks

on both sides in accordance with the specifications listed in Table 1. The following provisions also apply:

- a. Sidewalks in residential areas. Clear and well-lighted sidewalks, 3-5 feet in width, depending on projected pedestrian traffic, shall connect all dwelling entrances to the adjacent public sidewalk.
 - b. Sidewalks in mixed-use areas. Clear and well-lighted walkways shall connect building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum of 5 feet in width.
 - c. Disabled Accessibility. Sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act.
 - d. Crosswalks. Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be well lit and clearly marked with contrasting paving materials at the edges or with striping.
- (2) **Bicycle Circulation.** Bicycle circulation shall be accommodated on streets and/or on dedicated bicycle paths. Where feasible, any existing bicycle routes through the site shall be preserved and enhanced. Facilities for bicycle travel may include off-street bicycle paths, generally shared with pedestrians and other non motorized users, and separate, striped, 4-foot bicycle lanes on streets. If a bicycle lane is combined with a lane for parking, the combined width should be 14 feet.
- (3) **Public Transit Access.** Where public transit service is available or planned, convenient access to transit stops shall be provided. Where transit shelters are provided, they shall be placed in highly visible locations that promote security through surveillance, and shall be well-lighted.
- (4) **Motor Vehicle Circulation.** Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as “queuing streets,” curb extensions, traffic circles, and medians may be used to encourage slow traffic speeds.
- a. Street Hierarchy. Each street within a traditional neighborhood development shall be classified according to the following (arterial streets should not bisect a traditional neighborhood development):
 - i. Collector. This street provides access to commercial or mixed -use buildings, but it is also part of the city's major street network. On-street parking, whether diagonal or parallel, helps to slow traffic. Additional parking is provided in lots to the side or rear of buildings.
 - ii. Subcollector. This street provides primary access to individual residential properties and connects streets of lower and higher function. Design speed is 25 mph.
 - iii. Local Street. This street provides primary access to individual residential properties. Traffic volumes are relatively low, with a design speed of 20 mph.
 - iv. Alley. These streets provide secondary access to residential properties where street frontages are narrow, where the

street is designed with a narrow width to provide limited on-street parking, or where alley access development is desired to increase residential densities. Alleys may also provide delivery access or alternate parking access to commercial properties.

b. Street Layout. The traditional neighborhood development should maintain the existing street grid, where present, and restore any disrupted street grid where feasible. In addition:

- i. Intersections shall be at right angles whenever possible, but in no case less than 75 degrees. Low volume streets may form three-way intersections creating an inherent right-of-way assignment (the through street receives precedence) which significantly reduces accidents without the use of traffic controls.
- ii. Corner radii. The roadway edge at street intersections shall be rounded by a tangential arc with a maximum radius of 15 feet for local streets and 20 feet for intersections involving collector or arterial streets. The intersection of a local street and an access lane or alley shall be rounded by a tangential arc with a maximum radius of 10 feet.
- iii. Curb cuts for driveways to individual residential lots shall be prohibited along arterial streets. Curb cuts shall be limited to intersections with other streets or access drives to parking areas for commercial, civic or multifamily residential uses. Clear sight triangles shall be maintained at intersections, as specified below, unless controlled by traffic signal devices:

<u>intersection of:</u>	<u>minimum clear sight distance:</u>
local street and collector	120 feet
collector and collector	130 feet
collector and arterial	50 feet

- iv. The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when there is a connection to the pedestrian and bicycle path network at the terminus.

c. Parking requirements. Parking areas for shared or community use should be encouraged. In addition:

- i. In the mixed-use area, any parking lot shall be located at the rear or side of a building. If located at the side, screening shall be provided as specified in section 4.8.
 - ii. A parking lot or garage may not be adjacent to or opposite a street intersection.
 - iii. In the mixed-use area, a commercial use must provide one parking space for every 500 square feet of gross building area.
 - iv. Parking lots or garages must provide not less than one bicycle parking space for every 10 motor vehicle parking spaces.
 - v. Adjacent on-street parking may apply toward the minimum parking requirements.
 - vi. In the mixed residential areas, parking may be provided on-site. One off-street parking space with unrestricted ingress and egress shall be provided for each secondary dwelling unit.
 - vii. Multi-family uses must provide one parking space for every dwelling unit and 0.5 parking space for each additional bedroom.
- d. Service access. Access for service vehicles should provide a direct route to service and loading dock areas, while avoiding movement through parking areas.
 - e. Paving. Reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas such as remote parking lots and parking areas for periodic uses.
- (g) **Architectural Standards**. A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character.
- (1) **Guidelines for Existing Structures**
 - a. Existing structures, if determined to be historic or architecturally significant, shall be protected from demolition or encroachment by incompatible structures or landscape development.
 - b. The U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Properties shall be used as the criteria for renovating historic or architecturally significant structures.
 - (2) **Guidelines for New Structures**
 - a. Height. New structures within a Traditional Neighborhood Development shall be no more than 3 stories for single-family residential, or 5 stories for commercial, multi-family residential, or mixed use.
 - b. Entries and Facades
 - i. The architectural features, materials, and the articulation of a facade of a building shall be continued on all sides visible from a public street.

- ii. The front facade of the principal building on any lot in a Traditional Neighborhood Development shall face onto a public street.
 - iii. The front facade shall not be oriented to face directly toward a parking lot.
 - iv. Porches, pent roofs, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences.
 - v. For commercial buildings, a minimum of 50 percent of the front facade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior.
 - vi. New structures on opposite sides of the same street should follow similar design guidelines. This provision shall not apply to buildings bordering civic uses.
- (3) **Guidelines for garages and secondary dwelling units.** Garages and secondary dwelling units may be placed on a single-family detached residential lot within the principal building or an accessory building provided that the secondary dwelling unit shall not exceed 800 square feet.
- (4) **Guidelines for exterior signage.** A comprehensive sign program is required for the entire Traditional Neighborhood Development which establishes a uniform sign theme. Signs shall share a common style, as to size, shape, and material. In the mixed-use area, all signs shall be wall signs or cantilever signs. Cantilever signs shall be mounted perpendicular to the building face and shall not exceed 8 square feet.
- (5) **Guidelines for lighting.**
- a. Street lighting shall be provided along all streets. Generally more, smaller lights, as opposed to fewer, high-intensity lights, should be used. Street lights shall be installed on both sides of the street at intervals of no greater than 75 feet. Street lighting design shall meet the minimum standards developed by the Illumination Engineering Society.
 - b. Exterior lighting shall be directed downward in order to reduce glare onto adjacent properties.
- (h) **Landscaping and Screening Standards.** Overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed contiguous planting areas shall be preferred to smaller, disconnected areas. Where screening is required by this ordinance, it shall be at least 3 feet in height, unless otherwise specified. Required screening shall be at least 50 percent opaque throughout the year. Required screening shall be satisfied by one or some combination of: a decorative fence not less than 50 percent opaque behind a continuous landscaped area, a masonry wall, or a hedge.
- (1) Street trees. A minimum of one deciduous canopy tree per 40 feet of street frontage, or fraction thereof, shall be required. Trees can be

clustered and do not need to be evenly spaced. Trees should preferably be located between the sidewalk and the curb, within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete. If placement of street trees within the right-of-way will interfere with utility lines, trees may be planted within the front yard setback adjacent to the sidewalk.

(2) Parking area landscaping and screening.

- a. All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:
 - i. A landscaped area at least 5 feet wide along the public street or sidewalk.
 - ii. Screening at least 3 feet in height and not less than 50 percent opaque.
 - iii. One tree for each 25 linear feet of parking lot frontage.
- b. Parking area interior landscaping. The corners of parking lots, "islands," and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can include turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
- c. In large parking lots containing more than 200 spaces, an additional landscaped area of at least 300 square feet shall be provided for each 25 spaces or fraction thereof, containing one canopy tree. The remainder shall be covered with turf grass, native grasses or other perennial flowering plants, vines or shrubs.

(3) Installation and Maintenance of Landscaping Materials.

- a. All landscape materials shall be installed to current industry standards.
- b. Maintenance and replacement of landscape materials shall be the responsibility of the property owner. Landscape maintenance should incorporate environmentally sound management practices, including the use of water- and energy-efficient irrigation systems such as drip irrigation, and pruning primarily for plant health and public safety, replacing dead materials annually.

(4) Materials. All plant materials must meet the minimum standards set by the American National Standards Institute in ANSI Z60.1 American Standard for Nursery Stock. Landscape species shall be indigenous or proven adaptable to the climate, but shall not be invasive species. Plant materials shall comply with the following standards:

- a. Minimum plant size shall be as specified as follows (for the purpose of determining tree trunk size, the diameter shall be measured 6 inches above ground level):

Plant Type	Minimum Size
Evergreen tree	6 feet in height
Deciduous canopy tree	22 inches caliper at dbh*
Small deciduous tree	12 inches caliper at dbh*
Evergreen or deciduous shrubs	18 - 24 inches in height

*dbh = diameter at breast height

- b. Landscape materials shall be tolerant of specific site conditions, including but not limited to heat, drought and salt.
- c. Existing healthy plant material may be utilized to satisfy landscaping requirements, provided it meets the minimum plant size specified above.
- d. Landscape materials that are used for screening shall be of a size that allows growth to the desired height and opacity within 2 years.

Table 1: Attributes of Streets in a Traditional Neighborhood Development

	Collector	Subcollector	Local Street	Alley
Average Daily Trips	750 or more	750-1500	Less than 250	Not Applicable
Right-of-Way	76-88 feet	58-72 feet	35-50 feet	12-16 feet
Auto travel lanes	two or three 12 foot lanes	Two 10 foot lanes	Two 10 foot lanes, or one 14 foot (queuing) lane	Two 8 foot lanes for two-way traffic, or one 12 foot lane for one-way traffic
Bicycle lanes	Two 6 foot lanes combined with parking lanes	4 foot lanes with no parking, or 6 foot lanes combined with parking lanes	None	None
Parking	Both sides, 8 feet	None, one, or both sides, 8 feet	None or one side, 8 feet	None (access to individual drives & garages outside right-of-way)
Curb and Gutter	Required	Required	Required	
Planting Strips	Minimum 6 feet	Minimum 6 feet	Minimum 6 feet	None
Sidewalks	Both sides, 5 feet minimum	Both sides, 3-5 feet	Both sides, 3-5 feet	None

ARTICLE E

Conditional Uses

13.1.60 STATEMENT OF PURPOSE - CONDITIONAL USES.

The development and execution of this Article is based upon the division of the City into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

13.1.61 AUTHORITY OF THE PLAN COMMISSION; REQUIREMENTS.

- (a) The Plan Commission may authorize the Zoning Administrator to issue a conditional use permit for either regular or limited conditional use after review and public hearing, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of a limited conditional use, the Plan Commission in its findings shall further specify the eliminating reason(s) or factors which resulted in issuing limited rather than regular conditional use. Such Plan Commission resolution, and the resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Plan Commission shall request such review and await the highway agency recommendation or a period not to exceed twenty (20) days before taking final action.
- (c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or

parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.

- (d) Compliance with all other provisions of this Chapter, such as lot width and area, yards: height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

13.1.62 INITIATION OF CONDITIONAL USE.

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses in the zoning district in which such land is located.

13.1.63 APPLICATION FOR CONDITIONAL USE.

- (a) Required Application Materials. An application for a conditional use, or zoning approval requiring Plan Commission Review, shall be filed in duplicate on a form prescribed by the City. Such applications shall be forwarded to the Plan Commission on receipt by the Plan Commission. Such applications shall include where applicable:
- (1) A statement, in writing, by applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-66 hereinafter.
 - (2) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within one hundred (100) feet.
 - (3) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees and the zoning district within which the subject site lies.
 - (4) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and existing and proposed landscaping.
 - (5) Additional information as may be required by the Plan Commission or other boards, commissions or officers of the City. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high water mark and ground water conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
 - (6) Fee receipt in the amount of Three Hundred Dollars (\$300.00) for standard conditional use permits, or zoning applications requiring Plan Commission

Review, and One Hundred Twenty-Five Dollars (\$125.00) for minor conditional use permits (e.g., residential accessory buildings, zero lot line, etc.).

- (b) **Plans.** In order to secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a building permit, the following information:
- (1) A plan of the area showing contours, soil types, high water mark, ground water conditions, bedrock, slope and vegetation cover;
 - (2) Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting;
 - (3) Plans for buildings, sewage disposal facilities, water supply systems and arrangements of operations;
 - (4) Specifications for areas of proposed filling, grading, lagooning or dredging; Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter.

13.1.64 HEARING ON APPLICATION.

All requests for conditional uses shall be to the Plan Commission or the Plan Commission can, on its own motion, apply conditional uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Common Council, on its own motion, from referring the request for conditional use to the Plan Commission. Upon receipt of the application and statement referred to in Section 13-1-63 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by such Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

13.1.65 NOTICE OF HEARING ON APPLICATION.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 Notice under the Wisconsin Statutes in the official City newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Board of Appeals and Plan Commission, and the owners of record as listed in the office of the City Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least five (5) days prior to the date of such public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

13.1.66 STANDARDS - CONDITIONAL USES.

No application for a conditional use shall be granted by the Plan Commission or granted by the Board of Appeals on appeal unless the following conditions are present:

- (a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
- (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (f) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
- (g) That the proposed use does not violate flood plain regulations governing the site.
- (h) That, when applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission and Board of Appeals shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- (i) That, in addition to passing upon a Conditional Use Permit, the Plan Commission and/or Board of Appeals shall also evaluate the effect of the proposed use upon:
 - (1) The maintenance of safe and healthy conditions.
 - (2) The prevention and control of water pollution including sedimentation.
 - (3) Existing topographic and drainage features and vegetative cover on the site.
 - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
 - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
 - (6) The location of the site with respect to existing or future access roads.
 - (7) The need of the proposed use for a shoreland location.
 - (8) Its compatibility with uses on adjacent land.
 - (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

13.1.67 DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT.

When a decision of denial of a conditional use application is made, the Plan Commission shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Commission has used in determining that each standard was not met.

13.1.68 APPEALS.

Any action of the Plan Commission in granting or denying a conditional use permit may be appealed to the Board of Appeals, if a written request for an appeal is filed within ten (10) days after the date of the Plan Commission's action in granting or denying the permit. Such request for appeal shall be signed by the applicant or by the owners of at least twenty percent (20%) of the land area immediately adjacent extending one hundred (100) feet therefrom or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land. The request shall be filed with the Zoning Administrator who shall submit it to the Board of Appeals at its next meeting, together with any documents and other data used by the Plan Commission in reaching its decision. The Board of Appeals may consider the matter forthwith, refer the matter to a subsequent meeting or set a date for a public hearing thereon. In the event the Board of Appeals elects to hold a public hearing, notice thereof shall be given by mail to the known owners of the lands immediately adjacent thereto and directly opposite any street frontage of the lot or parcel in question and by publication of a Class I notice in the official newspaper at least ten (10) days before the date of the hearing. The Board of Appeals may either affirm or reverse in whole or in part the action of the Plan Commission and may finally grant or deny the application for a conditional use permit.

13.1.69 CONDITIONS AND GUARANTEES.

The following provisions shall apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Plan Commission, or the Board of Appeals on appeal, may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-66 above. In all cases in which conditional uses are granted, the Plan Commission and Board of Appeals shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:
- (1) Landscaping;
 - (2) Type of construction;
 - (3) Construction commencement and completion dates;
 - (4) Sureties;
 - (5) Lighting;
 - (6) Fencing;
 - (7) Operational control;
 - (8) Hours of operation;
 - (9) Traffic circulation;
 - (10) Deed restrictions;
 - (11) Access restrictions;

- (12) Setbacks and yards;
 - (13) Type of shore cover;
 - (14) Specified sewage disposal and water supply systems;
 - (15) Planting screens;
 - (16) Piers and docks;
 - (17) Increased parking; or
 - (18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (b) **Site Review.** In making its decision, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operational use.
- (c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Plan Commission.
- (d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Plan Commission may require the use of certain general types of exterior construction materials and/or architectural treatment.
- (e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
- (f) **Conditional Uses to Comply with Other Requirements.** Conditional uses shall comply with all other provisions of this Chapter such as lot width and area, yards, height, parking and loading. No conditional use permit shall be granted where the proposed use is deemed to be inconsistent or conflicting with neighboring uses for reasons of smoke, dust, odors, noise, vibration, lighting, health hazards or possibility of accident.

13.1.70 VALIDITY OF CONDITIONAL USE PERMIT.

Where the Plan Commission has approved or conditionally approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the Commission's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The

Plan Commission may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the City at least thirty (30) days before the expiration of said permit.

13.1.71 COMPLAINTS REGARDING CONDITIONAL USES.

The Plan Commission shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-66 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-65 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-66 or conditions previously imposed by the Plan Commission, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. Additionally, the offending party may be subjected to a forfeiture as set forth in this Chapter and Section 1-1-7. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-66 will be met, the Plan Commission may revoke the subject conditional approval and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Plan Commission shall be furnished to the current owner of the conditional use in writing stating the reasons therefor. An appeal from a decision of the Plan Commission under this Section may be taken to the Board of Appeals.

13.1.72 THROUGH 13.1.79 RESERVED FOR FUTURE USE.

ARTICLE F

Nonconforming Uses, Structures and Lots

13.1.80 **EXISTING NONCONFORMING USES AND STRUCTURES.**

- (a) The lawful nonconforming use of a structure or land, including but not limited to fences, parking and zoning setbacks existing at the time of the adoption or amendment of this Chapter may be continued although the use does not conform with the provisions of this Chapter. However, only that portion of the land in actual use may be so continued 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 Chapter.
- (b) If no structural alterations are made, a nonconforming use of a building may be changed to any use permitted in the same use district as that in which the use existing is permitted according to the provisions of this Chapter; provided when a use district is changed, any existing, nonconforming use in such changed district may be continued or changed to a use permitted in the same use district as that in which the existing use is permitted; provided all other regulations governing the new use are complied with.
- (c) Substitution of new equipment may be permitted by the Board of Zoning Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

13.1.81 **ABOLISHMENT OR REPLACEMENT.**

- (a) **Termination-** If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this Chapter.
- (b) **Building Destroyed by Fire.** Where a building located in a district restricted against its use has been destroyed by fire or other calamity to the extent at not more than fifty percent (50%) of its fair market value, the same may be rebuilt; but where such a building is destroyed to the extent of more than fifty percent (50%) of its fair market value, a building permit, following specific Common Council approval, may be granted for its reconstruction within twelve (12) months from the date of such fire or other calamity, except any public utility located in a restricted district shall be permitted to rebuild, alter or enlarge in any business or industrial district as the interest of the public demands.

13.1.82 **EXISTING NONCONFORMING STRUCTURES.**

The lawful nonconforming structure existing at the time of the adoption or amendment of this Chapter may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Chapter. However, it shall not be extended, enlarged, reconstructed, moved or structurally

altered except when required to do so by law or order or so as to comply with the provisions of this Chapter.

13.1.83 CHANGES AND SUBSTITUTIONS.

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

13.1.84 LOTS OF NONCONFORMING WIDTH.

- (a) On a lot less than forty (40) feet wide and more than thirty-five (35) feet wide, the north or west side yard may be reduced to three (3) feet in width and the south or east side yard may be reduced to five (5) feet in width.
- (b) On a lot thirty-five (35) feet or less in width, the north or west side yard may be reduced to three (3) feet in width and the south or east side yard may be reduced to four (4) feet in width.
- (c) The front yards, rear yards and percentage of lot occupied by buildings and all other requirements must comply with the district in which the lot or lots are situated.
- (d) For a lot or lots existing at the time of passage of this Chapter and less in width than required in the district in which the lot is located, the side yards must comply with the same side yard requirements as would be required for a district of such lesser lot width.
- (e) Where an existing lot is divided in the opening of a public street or highway and the new lot width is not less than the original lot width and the minimum lot area requirements of the district are adhered to, then such new lot may be used as a building site.

13.1.85 UNDERSIZED BLOCKS.

Where, in any block, six hundred (600) feet or less in length in a recorded subdivision or in any distance of six hundred (600) feet in unplatted property:

- (a) **In Residence Districts.** In Residence Districts where four (4) or more buildings, except those that are nonconforming in use, exist at the time of passage of this Chapter, the average of the distance of the front walls of the buildings from the street line or the center of the street or highway shall determine the established building line, provided that no building shall be required to set back more than is specified in the front yard requirements for each of the respective districts established by this Chapter, also, provided that a minimum setback or front yard (measured from the street line) or twenty-five (25) feet in the R-1, R-2, R-3, R-7 and R-8 Residence Districts shall be observed.
- (b) **In B-1 Local Business Districts.**

- (1) The Board of Appeals, after a public hearing and a finding by it that the public health, safety and welfare will be promoted, may reestablish the front setback of any building in a B-1 Local Business District which abuts upon an expressway right-of-way where four (4) or more buildings, existing on April 17, 1951, in the same block, have a front setback of less than the minimum required and further conditioned upon adequate automobile parking space between such building and the expressway right-of-way being provided.
- (2) In no case shall any of the above provisions be construed to permit any building or structure to be placed within or between the building setback base lines as provided for in Article B, but such building or structure shall be placed so as not to encroach on the area within or between said setback base lines.

13.1.86 YARD OR BUILDINGS SETBACK LINE EXCEPTIONS FOR MAJOR STREETS AND HIGHWAYS.

- (a) For the purpose of promoting the public health, safety, convenience, comfort and general welfare, and the lessening or avoidance of congestion in major streets and highways and extensions thereof by establishing building setback base lines, there are shown encircled figures on the Zoning Map of the City mentioned in Section 13-1-22, establishing building setback base lines from which the front yard or side yard (building setback) is to be measured. The distance between such setback base lines constitutes the established width of the particular street or highway and apply for its entire length and any extension thereof. Unless otherwise indicated on said map, one-half (1/2) of the width of the street or highway lies on each side of the centerline thereof. The provisions of this Subsection shall be observed in all cases except those in which the front yards or setbacks are to be determined. All permanent notations, references and other information shown on said map shall be as much a part of this Chapter as if all the matter and information set forth by said map were fully described herein.
- (b) As of the effective date of this Chapter, the major streets or highways, as shown on the Zoning Map of the City, and their respective widths are as follows:
 - (1) West Bender Road from North Green Bay Avenue to East City Limits-- ninety (90) feet;
 - (2) West Green Tree Road--ninety (90) feet;
 - (3) West Henry Clay Street -- ninety (90) feet;
 - (4) North Range Line Road – one hundred (100) feet;
 - (5) West Mill Road from North Green Bay Avenue to West City limits -- one hundred ten (110) feet;
 - (6) North Green Bay Avenue--one hundred twenty (120)feet; North Port Washington Road -- one hundred twenty (120) feet; West Silver Spring Drive -- one hundred twenty (120) feet; West Good Hope Road -- one hundred sixty (160) feet.

**13.1.87 FRONTAGE AND SETBACK PROVISIONS FOR LOTS
ABUTTING THE MILWAUKEE RIVER.**

Where a lot abuts the Milwaukee River, the river frontage of said lot shall be considered as lot frontage. When such lot has both street and river frontage, said lot shall be treated as having double frontage. On such double front lot, detached accessory buildings shall be permitted on any part thereof, subject, however, to the setback regulations established for the main building. On the river frontage line of said lot, no building shall be erected, altered or moved so as to encroach upon the area lying between the normal water line (the shoreline of the Milwaukee River, under average normal water conditions) and a line twenty-five (25) feet (measured at right angles toward the inside of the lot) from the said normal water line, provided, however, that an accessory building used only as a boat house may be erected with a minimum setback of ten (10) feet from the river frontage line and ten (10) feet from the side lot line not exceeding ten (10) feet in height, and of a maximum width of twenty-four (24) feet as measured along the river frontage line. All buildings erected on such a lot shall conform to the front yard setback provisions as to the front street side of said lot.

13.1.88 AND 13.1.89 RESERVED FOR FUTURE USE.

ARTICLE G

Traffic Visibility, Loading, Parking and Access

13.1.90 TRAFFIC VISIBILITY.

No obstructions such as structures, parking or vegetation shall be permitted in any district between the heights of two and one-half (2-1/2) feet and ten (10) feet above the plane through the mean curb grades within a triangular space at the street corner of a corner lot or at the intersection of a public alley with a street. Such space shall be determined by measuring twenty (20) feet each way from the corner lot at the street intersection on each street lot line or, in the case of an alley, by measuring ten (10) feet along the street line and ten (10) feet along the alley line and forming a triangle by striking an imaginary line between said points of measurement.

13.1.91 LOADING REQUIREMENTS.

- (a) **Loading Space Requirements.** Subject to the review of the Plan Commission, on every lot on which a business, commercial or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:
- (1) Berth "A" shall provide the minimum space of ten (10) feet in width by thirty-three (33) feet in length and have a vertical clearance of fourteen (14) feet.
 - (2) Berth "B" shall provide the minimum space of ten (10) feet in width by fifty (50) feet in length and have a vertical clearance of fourteen (14) feet.
 - (3) For buildings containing the gross area of ten thousand (10,000) square feet to twenty thousand (20,000) square feet, one (1) Berth "B" loading berth shall be provided.
 - (4) For buildings containing the gross floor area of twenty thousand (20,000) square feet to fifty thousand (50,000) square feet and for each additional fifty thousand (50,000) square feet or fraction thereof, one (1) Berth "B" loading berth shall be provided.
- (b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- (c) **Location** Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street.
- (d) **Surfacing** All open off-street loading berths shall be improved with a compacted gravel base, not less than seven (7) inches thick, surfaced with not less than four

- (4) inches of asphalt or treated with some comparable all-weather dust-less material.
- (e) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any Residential District.
- (f) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- (g) **Central Loading.** Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:
- (1) Each zoning lot served shall have direct access to the Central Loading Area without crossing streets or alleys at grade.
 - (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.
 - (3) No zoning lot served shall be more than three hundred (300) feet removed from the Central Loading Area.
 - (4) The tunnel or ramp connecting the Central Loading Area with the zoning lot served shall be not less than seven (7) feet in width and have a clearance of not less than seven (7) feet.

13.1.92 PARKING REQUIREMENTS.

A site plan, including layout of parking spaces and water drainage, of any parking area for more than five (5) vehicles shall be submitted to the City Engineer for approval prior to commencement of construction. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, there shall be provided at the tune any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) **Access.** Adequate access to a public street shall be provided for each parking space.
- (b) **Design Standards.** Parking space shall be a space provided on the same building site occupied by a permitted use for the parking of an automotive vehicle for use by its customers, employees, visitors, occupants and owners. Each parking space shall contain the minimum area of one hundred sixty-eight (168) square feet with access lanes to a public right-of-way, with the access lanes having a minimum width of sixteen (16) feet. In a parking facility, a minimum overall criteria, including parking space and access lanes, shall be two hundred forty (240) square feet.
- (c) **Location.**
 - (1) Location to be on the same lot as the principal use or not over two hundred (200) feet from the principal use.
 - (2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence districts but shall not be closer than five (5) feet to a nonresidential side lot line, right-of-way line or rear lot line. No parking space or driveway, except in residential districts,

shall be closer than twenty-five (25) feet to a residential district lot line or a street line opposite a residential district shall be set back ten (10) feet from said right-of-way line.

- (3) Off-street parking in the single-family and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line, providing the driveway conforms to the requirements in Section 6-3-1 of this Code of Ordinances.
- (d) **Surfacing.** All off-street parking areas, except two (2) parking spaces accessory to a single-family dwelling, shall be surfaced with a dust-less all-weather material capable of carrying a wheel load of four thousand (4,000) pounds (normally, three inches of bituminous concrete on an eight [8] inch base or five [5] inches of concrete will meet this requirement). Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked for handicapped and customer/employee parking. Surfacing shall be completed before an occupancy permit is issued, except that between November 1 and April 1 the property owner and City may enter into an agreement that required surfacing be completed no later than June 1st.
- (e) **Landscaping.**
 - (1) Accessory Landscape Area. All public and private off-street parking areas which serve four (4) vehicles or more, are located within fifteen (15) feet of any lot line or public right-of-way and are created or redesigned and rebuilt subsequent to the adoption of this Code shall be provided with accessory landscape areas totaling not less than ten percent (10%) of the surfaced area. The minimum size of each landscape area shall not be less than one hundred (100) square feet.
 - (2) Location. Location of landscape areas, plant materials and protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Zoning Administrator.
 - (3) Plans. All plans for such proposed parking areas, at the discretion of the Zoning Administrator, shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.
 - (4) Special residential requirements. Those parking areas for five (5) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density or other effective means, built and maintained at a minimum height of five (5) feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five (5) feet from said lot line. Said fence shall be located a minimum of one (1) foot from the said lot line.
 - (5) Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in Residence Districts.

- (6) **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) foot-candles measured at the lot line.
- (7) **Street. Setback Area.** No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area as to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.
- (f) **Curbs.** Curbs or barriers shall be installed a minimum of four (4) feet from a property line so as to prevent the parked vehicles from extending over any lot lines
- (g) **Number of Stalls.** The Zoning Administrator shall recommend to the Plan Commission minimum off-street parking facilities to be provided and, in determining such minimums, shall use the following standards, provided, however, that where an occupancy permit is sought to an existing building for the purpose of operating a recreation facility in the whole or part of such building and (1) such existing building is located partially in the City of Glendale and partially in another municipality; (2) the principal means of vehicular access to the building site is located within the other municipality; and (3) the time of day during which such recreation facility is to be operated is such that it will not create a hardship, burden or nuisance to adjacent lands, or overload the available parking space for such existing building, the Plan Commission, upon application to it, may grant special exception to the foregoing minimum parking standards applicable to such building by averaging the parking requirements of the two (2) municipalities on the basis of the percentage of the site of the area located in each. It may grant a terminable occupancy permit for a period of one (1) year, which shall be automatically extended after such year for successive periods of one (1) year. Such terminable occupancy permit shall not be so extended unless the time of the day during which such recreational facility has been operated is such that it has not created a hardship, burden or nuisance to adjacent lands and has not overloaded the available parking space for the existing building.

<u>Use</u>	<u>Minimum Parking Standards</u>
Dwellings: Single-family Two-family	1 stall for each dwelling unit 3 stalls (total)
Dwellings: Multi-family	1-1/2 stalls for each dwelling unit
Housing for the elderly	0.75 space for each dwelling with one-half of these spaces to be built before occupancy and the balance of which spaces shall be reserved until such time as the Plan Commission may order them installed

Hotels, motels	1 stall for each guest room plus 1 stall for each 2 employees
Sororities, dormitories, rooming and boarding houses	1 for each sleeping room plus 1 for each 2 employees
Retirement homes, orphanages, convents and monasteries	1 stall per 2,000 feet of principal floor area
Hospitals, sanitariums, institutions, rest and nursing homes	1 stall for each 2 beds plus 1 stall for each 2 employees
Medical and dental clinics	1 stall for each employee, plus 2 spaces for each examining and treating room
Theaters, auditoriums, community centers, sports arenas and other places of public assembly	1 stall for each 5 seats
Colleges, secondary and elementary schools	1 stall for each 2 employees plus 1 stall for each 5 students of 16 years of age or more
Restaurants	1 stall for each 50 square feet of floor area, or equal to 3 chair seats, whichever requires the greatest number of spaces
Bars and taverns	1 stall for each 50 square feet of floor area and/or equal to 2 chair seats
Office buildings and professional offices	1 parking space per 200 square feet of floor area or per 3 employees, whichever requires the greatest number of spaces
Drive-in establishments	At least 1 parking space for each 15 square feet of floor area in the building
Manufacturing and processing plants (including meat and food processing), laboratories and warehouses	1 stall for every 3 employees; number of employees shall be construed to mean the maximum number on the premises at one time
Libraries, museums, art galleries,	1 for each 3 employees, plus 1 for each

etc.	4 seats, plus 1 for each 500 square feet of floor area not having seats
Washing and cleaning establishments	1 for each 2 employees, plus 1 space for every wash machine or 1 for each 200 square feet of floor area, whichever is greater
Funeral homes, mortuaries and similar-type uses	1 for each 200 square feet of floor area in parlors or assembly rooms
Retail stores	1 for each 200 square feet of first floor area; 1 space per 300 square feet of all other gross floor area
Other business and commercial uses	1 for each 300 square feet of floor area
Churches and other places of religious assembly	1 for each 5 seats or 1 for each 90 lineal inches of pew space
Cartage, express and parcel delivery, freight terminals	1 for each 2 employees (on the largest shift for which the building is designed) plus 1 for each motor vehicle maintained on the premises
Elementary and junior high schools	2 for each classroom plus 1 for every 8 seats in auditoriums or assembly halls
High schools, colleges, universities and other institutions of higher learning	1 for every 6 students plus 1 for each teacher, administrator and employee
Business, technical and trade schools	1 for each 5 students plus 1 for each 2 employees
Financial institutions	1 stall for each 100 square feet of floor area
Private studios and schools	1 stall for each 5 students
Motor vehicle sales (new and used)	1 space for each 500 square feet of floor area used plus one space for each 300 square feet of outdoor display area for each motor vehicle to be displayed.

(This requirement does not include service garages -- see above.)

Repair shops, retail and service stores	1 space for each 150 square feet of net floor space
Automobile repair garages and service stations	1 space for each employee plus 1 space for each service bay
Bowling alleys	7 spaces for each alley, plus additional spaces for affiliate uses
Recreational facility (pool tables, archery, etc.)	1 space for each facility
Other uses (recreational facility)	1 space for each 5 seats or 1 space for each 10 square feet of floor area

- (h) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.
- (i) **Combined Uses.** Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use. Two (2) or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided such uses are not operated during the same hours. The following conditions must be met for any joint use:
- (1) The proposed joint parking space is within five hundred (500) feet of the use it will serve.
 - (2) The applicant shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.
 - (3) A properly drawn legal instrument approved by the Common Council, executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the City Clerk. Said instrument may be a three (3) party agreement, including the City and all private parties involved. Such instrument shall first be approved by the City Attorney.
- (j) **Handicapped parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.
- (k) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of twenty-five

percent (25%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of fifty percent (50%) or more in the floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.

(l) **Off-lot Parking**

- (1) Required off-street parking spaces shall be located on the same lot with the principal use, or when this requirement cannot be met, such parking spaces may be located off-lot provided the parking spaces are located in the same district and not over two hundred (200) feet from the principal use. In cases where off-street parking facilities are permitted on land other than the same lot as the principal use, such facilities shall be in the same possession as the lot occupied by the use to which the parking facilities are necessary or in the possession of the controller of the principal use to which the parking facilities are accessory. Such possession shall be by deed whereby the owner of the land on which the parking facilities are to be located shall be bound by a covenant filed and recorded in the Office of the County Register of Deeds requiring such owner, his heirs or assigns to maintain the required facilities for the duration of the use served.
 - (2) Off-lot parking spaces for residential uses shall be within two hundred (200) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within four hundred (400) feet of the entrance of the establishment.
 - (3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or
 - (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.
- (m) **Signs.** Signs located in parking areas necessary for orderly operation of traffic movement shall be permitted in addition to others permitted in this Chapter.
- (n) **Lighting.** Lighting used to illuminate off-street parking shall have no direct source of light visible from a street or adjacent land.
- (o) **Reduction of Parking Areas.** Off-street parking spaces shall not be reduced in number unless said number exceeds the requirement set forth herein.

13.1.93 HIGHWAY ACCESS.

- (a) Highway Access. No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance

- ramps). No driveway openings shall be permitted within one hundred (100) feet of the intersection of an arterial street right-of-way line.
- (b) Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
 - (c) Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

13.1.94 THROUGH 13.1.99 RESERVED FOR FUTURE USE.

ARTICLE H

13.1.100 THROUGH 13.1.119 RESERVED FOR FUTURE USE.

ARTICLE I

Performance Standards -- Industrial and Commercial Uses

13.1.120 ARTICLE INTENT.

It is the intent of this Article to describe performance standards for the regulation of industrial and commercial uses to establish an objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards.

13.1.121 VIBRATION.

- (a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- (b) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

13.1.122 EXTERNAL LIGHTING, GLARE AND HEAT.

No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of an Industrial District. Operations producing light, glare, or heat shall be conducted within an enclosed building. External lighting shall be shielded so that light rays do not adversely affect adjacent uses.

13.1.123 CONTROL OF ODORS.

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Ch. NR 429, Wis. Adm. Code.

13.1.124 CONTROL OF PARTICULATE EMISSIONS AND DUST.

- (a) Operations or activities which emit into the ambient air from any direct or portable source any particulate emissions shall perform in accord with the limitations and procedures established in Ch. NR 415, Wis. Adm. Code, or in other applicable Chapters which regulate particulate emission.
- (b) Fugitive dust and other types of emissions and air pollution from sources such as storage areas, outdoor operation yards, and roads or parking lots within any lot

shall be kept to a minimum by appropriate paving, spraying/watering, application of suitable chemicals, landscaping, or other acceptable and environmentally safe methods in accord with Ch. NR 415.04, Wis. Adm. Code.

13.1.125 CONTROL OF HAZARDOUS AIR POLLUTANTS AND EMISSIONS.

Operations or activities which emit into the ambient air from any direct or portable source any matter that will affect air quality shall perform in accord with the limitations and procedures established in Ch. NR 400 through NR 449, Wis. Adm. Code. Hazardous pollutants are specifically controlled in accord with NR 445.

13.1.126 WATER QUALITY STANDARDS.

- (a) No activity shall locate, store, 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 runoff, 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.
- (b) In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate water quality.

13.1.127 NOISE.

No operation or activity shall transmit any noise beyond the property line of the source so that it does not become a nuisance or adversely affect adjacent uses.

13.1.128 CONTROL OF FIRE AND EXPLOSIVE HAZARDS.

- (a) All uses involving the manufacturing, utilization, processing, or storage of flammable and 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 as may be required and approved by the Glendale Fire Department. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.
- (b) The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the Glendale Fire Department and in accord with their requirements to minimize fire and explosive hazards.

13.1.129 RESERVED FOR FUTURE USE.

ARTICLE J

Satellite Earth Stations; Television or Radio Antenna Towers; Wind Energy Systems

13.1.130 REGULATION OF SATELLITE, RADIO AND TELEVISION ANTENNAS.

(a) **Definitions.**

- (1) "Satellite television antenna" is an apparatus capable of sending or receiving communications from a transmitter or a transmitter relay located in planetary orbit.
- (2) "Usable satellite signal" is a satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to the picture quality of a signal received from local commercial television stations by way of a television antenna which conforms with the zoning ordinance and all other applicable ordinances of the City of Glendale.
- (3) "Conventional radio and television antenna" is any antenna, other than a satellite television antenna, that is located outside of a main or accessory building and which is capable of sending communications or receiving communications from a transmitter or a transmitter relay located in planetary orbit.
- (4) "Antenna" is a surface that sends and/or receives wireless audio or video signals.
- (5) "Equipment Cabinet" is an enclosed mobile home, shed or box at the base of or near a mount within which are housed, among other things, batteries, electrical power supply components, or electrical equipment, connected to the antenna by cable. Equipment Cabinets shall include base transceiver stations.
- (6) "Mount" is a self-supporting structure of metal, concrete, or other comparable material, the purpose of which is to support an antenna.
- (7) "Monopole" is a type of mount that is self-supporting with a single shaft of metal or concrete or other similar material.
- (8) "Tower" is a type of mount that is self-supporting, and which shall be greater than 5 feet in height, and which may or may not be supported by cables or other wiring attached to the ground or some other surface for the purpose of support, and the purpose of which is to support an antenna.
- (9) "Security Barrier" is a locked wall or fence that completely seals a mount or antenna area from unauthorized entry or trespass.

All mounts, monopoles, towers, and antennas, shall be deemed regulated as satellite television antennas for purposes of Article J, Title 13, Chapter 1, of this code.

(b) **Conventional Radio or Television Antennas.**

- (1) No conventional radio or television antenna shall be erected or constructed in the City of Glendale without the review of the Building Board. The owner or occupant of the lot must procure a building permit from the Glendale Building Inspector for such antenna after approval has been granted from the Building Board.
- (2) No conventional radio or television antennas may be placed in the front yard of any lot in the City of Glendale, and for the corner lots such antennas may not be placed in either of the yards that face a street.
- (3) All conventional radio and television antennas must be erected or constructed at a location in conformance with the set-back requirements of the Zoning Ordinances of the City of Glendale.

(c) **Permit for Construction of Satellite Television Antennas.**

- (1) All satellite television antennas shall be considered structures and be subject to the provisions below and to the review of the Plan Commission, with the exception of satellite television antenna dishes less than twenty (20) inches in diameter which shall be subject only to the review of the Community Development Planner. The owner or occupant of the lot must procure a building permit from the Building Inspector for such antenna after approval has been granted from the Plan Commission or Community Development Planner.
- (2) This Section shall govern the erection or construction of all satellite television antennas, the erection or construction of which has not been substantially commenced prior to the enactment of the ordinance creating this Section.
- (3) Any person, firm or corporation making application for a permit for any type of satellite television antenna shall set out in such application the full name and residence of the applicant, if an individual, and if a firm or corporation, the name and residence of each of its members and officers. Such application shall also set out the location at which it is intended to construct a satellite television antenna. At least two (2) weeks prior to the Plan Commission meeting at which the application for all satellite television antennas, except dishes less than twenty (20) inches in diameter, will be considered, the City Clerk shall notify the applicant, who in turn shall notify all property owners situated wholly or in part within two hundred (200) feet of the boundaries of the property if in a residential district, and within five hundred (500) feet of the property in any other zoning district. Prior to the Plan Commission meeting at which such application will be considered, the applicant shall file with the Clerk, as an addendum to such application, written confirmation of such neighborhood notice. Such addendum shall include a summary and copies of the written and signed neighborhood responses which set forth the position of each such neighbor responding. Upon receipt of such application, the permit may be issued upon payment to the City Treasurer of any fee prescribed. The issuing authority may, in its discretion, consider the objections of

other property owners, if any, in making its determination to grant or deny the application.

(d) **Satellite Television Antenna Location.**

- (1) Satellite television antennas may be placed on a lot in the City of Glendale only in the following manner:
 - a. If a usable satellite signal can be received with the antenna located in the rear yard, the antenna may be located only in the rear yard.
 - b. If the antenna cannot receive a usable satellite signal in the rear yard but can receive such a signal while located in a side yard, the antenna may be located only in the side yard. For corner lots, a side yard is only a yard that does not face a street.
 - c. If the antenna cannot receive a usable satellite signal from either the rear or side yards, the antenna may be located only on the roof of any main or accessory building on the lot. Attachment to the roof shall be subject to the engineering calculations being prepared by a registered professional engineer certifying that the proposed satellite television antenna installation is structurally sound.
 - d. In no event may the antenna be placed in the front yard of the lot.
 - e. The determination of whether a signal constitutes a usable satellite signal shall be based on evidence provided by the person seeking a permit to erect or construct the antenna.
- (2) All satellite television antennas must be erected or constructed at a location in conformance with the set-back requirements of the Zoning Ordinances of the City of Glendale.
- (3) No satellite television antenna may be erected over a sewer pipe or other underground conduit, wire or apparatus.

(e) **Size and Number of Antennas.**

- (1) No ground-mounted satellite television antenna or conventional radio and television antenna may exceed eleven (11) feet in height, as measured from the ground to the highest point of the antenna, unless permission is granted by the Plan Commission to exceed such height. Such permission shall be granted consistent with the intent and purpose of these regulations or as pertains to commercial establishments, as provided by Section 13-1-130(g) of the Zoning Code.
- (2) It is the intent and purpose of this Section that, whenever practicable, no roof-mounted or combination roof-ground satellite television antenna or conventional radio and television antenna may exceed, at its highest point, the highest point of the highest surrounding roof line upon the premises, and that the diameter of a satellite television antenna shall not exceed ten (10) feet for a ground-mounted antenna and eight (8) feet for a roof-mounted antenna.
- (3) At any one time, no lot may have existing or erected more than one (1) antenna, unless granted permission by the Building Board.

(f) **Miscellaneous, Satellite Television Antenna.**

- (1) The color of any satellite television antenna shall be such that it blends into its surrounding.

- (2) All ground-mounted satellite television antennas shall be landscaped so as to screen them from the view of people on streets and surrounding lots. Said screening is not required to be so complete that it interferes with the reception of the antenna.
 - (3) Satellite television antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to this installation, the owner of the satellite television antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
 - (4) All satellite television antennas shall be grounded against direct lightning strikes.
 - (5) All satellite television antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) miles per hour.
 - (6) All wiring necessary for the use of the antenna between any ground-mounted antenna and a building or between the building on which the antenna is located and any other building on the lot shall be buried underground.
 - (7) The installation and use of every satellite television antenna shall be in conformity with the Cable Communications Policy Act of 1984 and regulations adopted thereunder.
 - (8) No portable or trailer-mounted satellite earth station shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section. Failure to comply shall result in a citation being issued for violation of this Section. Any person making such temporary placement shall give written notice to the Zoning Administrator of the date when such placement shall begin and end.
 - (9) No form of advertising or identification, sign or mural is allowed on the dish or framework other than the customary manufacturer's identification plates.
- (g) **Exception for Commercial Establishments.** The City of Glendale finds as a fact that the regulations of antennas as set forth in this Section in residential neighborhoods is necessary for the protection of health, safety, and aesthetic preservation of neighborhoods and residential areas. The City finds that a commercial establishment, including, but not limited to, a hotel, motel, office park, shopping center, restaurant, club, bar or tavern, may have need or use for an antenna of greater size, dimension and capability than allowed for by the provisions of this Section. Application by such an establishment for permission to exceed the size and height restrictions of this Section shall be construed and considered as a request for a conditional use and shall be subject to all

applicable rules, governing standards and procedures applicable thereto and shall be subject to grant or denial by the Plan Commission.

13.1.131 SPECIAL USE PERMITS REQUIRED -- WIND ENERGY SYSTEMS.

- (a) **Approval Required.** No owner shall, within the City, build, construct, use or , place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (b) **Separate Permit Required for each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (c) **Basis of Approval.** The Common Council and Plan Commission shall base their determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the City and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- (d) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

13.1.132 PERMIT PROCEDURE -- WIND ENERGY SYSTEMS.

- (a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the City. The application shall include the following information:
 - (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties. to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
 - (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.

- (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
 - (6) Any other information which the Zoning Administrator, Common Council or Building Inspector may deem to be necessary to the proper review of the application.
 - (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Common Council.
- (b) **Hearing.** Upon referral of the application, the Common Council shall schedule a public hearing thereof following the procedures for conditional use permits in Article E.
 - (c) **Determination.** Following public hearing and necessary study and investigation, the Common Council shall, as soon as practical, render its decision and a copy be made a permanent part of the Council's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Common Council may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
 - (d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Common Council following a public hearing thereon.
 - (e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Common Council and if, in the opinion of the Council, such change or addition constitutes a substantial alteration, a public hearing before the Common Council shall be required and notice thereof be given.
 - (f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

13.1.133 **SPECIFIC REQUIREMENTS REGARDING WIND ENERGY SYSTEMS.**

- (a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more

than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

- (c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- (d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
- (e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

13.1.134 THROUGH 13.1.139 RESERVED FOR FUTURE USE.

ARTICLE K

Accessory Uses and Structures; Fences and Hedges; Portable Storage Structures and Donation Drop-Off Boxes

13.1.140 **ACCESSORY USES OR STRUCTURES; PORTABLE STORAGE STRUCTURES AND DONATION DROP-OFF BOXES.**

- (a) **Building Permit Required.** No owner shall, within the City of Glendale, build, construct, use or place any type of an accessory building or structure, including prefabricated accessory buildings and decks, until a building permit shall have first been obtained. Application for an accessory building permit shall be made in writing to the Community Development Planner. With such application, there shall be submitted a fee pursuant to the City Building Code and a complete set of plans and specifications, including a plot plan or drawing accurately showing the location of the proposed accessory building with respect to adjoining alleys, lot lines and buildings. The Community Development Planner shall review the permit application and shall determine whether it can be approved without further review, whether it should be forwarded to the Building Inspector for further review and approval, or whether it should be forwarded to the Architectural Review Board for review and approval. In general, any permit application for the construction of or addition to garages, and any proposed additions to principal buildings, with the exception of decks, must be approved by the Architectural Review Board. For a review by the Architectural Review Board, the applicant shall pay a review fee of Fifty Dollars (\$50.00). If such application meets all requirements of this Section, the application shall be approved.
- (b) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (c) **Placement Restrictions -- Residential District.** An accessory use or structure in a residential district may be established subject to the following regulations:
- (1) Accessory Building or Structure Number Limits. In any residential district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building or structure and one (1) children's play structure may be placed on a lot. Excluded from this calculation shall be retaining walls, small landscape amenities, and fixtures integral to the primary structure.
 - (2) Attached Accessory Buildings or Structures. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
 - (3) Detached Accessory Buildings -- Height and Area. No detached accessory building shall occupy any portion of the required front or side yard. Garages and other detached accessory buildings shall be less than fifteen (15) feet in height. No detached accessory building shall occupy more than fifty percent (50%) of the required rear yard.

- (4) Additional Standards for Detached Accessory Buildings. Detached accessory buildings in Residence Districts shall conform to the following regulations:
- a. In the case of an interior lot abutting upon one (1) street, no detached accessory building shall be erected, altered or moved so as to encroach upon the front half of the lot.
 - b. In the case of an interior lot abutting on two (2) or more streets, no accessory building shall be erected, altered or moved so as to place the street wall of the accessory building closer to the street line or lot line than the street wall of the main building is to the front street line or front lot line.
 - c. In the case of a corner lot abutting upon two (2) streets, no accessory building shall be erected, altered or moved so as to encroach upon the area between such respective streets and lines drawn parallel to such streets respectively in a manner to divide the lot into two (2) equal areas, the two (2) parallel lines being at all times equidistant from the respective street lines.
 - d. In the case of a corner lot abutting on more than two (2) streets, no detached accessory building shall be erected, altered or moved so as to be nearer the street line on the long side of the lot than one-fifth (1/5) of the width of the lot and so as to be nearer the street line on the ends of the lot than one-fifth (1/5) of the length of the lot.
 - e. No detached accessory building shall be erected, altered or moved so as to be within five (5) feet of the side line of the front half of an adjacent lot.
 - f. No accessory building shall be placed nearer than eighteen (18) inches from any side or rear lot line or in any case nearer than five (5) feet to an alley, provided that an accessory building having no entrance on an alley may be placed eighteen (18) inches from the alley line.
 - g. Notwithstanding any requirements of Subsection (c)(4)c above, the foregoing shall not require any detached accessory building to be more than seventy-five (75) feet from the street bounding the lot.
 - h. In the R-1 to R-8 Residence Districts, inclusive, no buildings, except those designed, used or intended to be used for dwelling purposes shall occupy in excess of twenty percent (20%) of the area of the lot.
- (d) **Use Restrictions-Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined herein and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes. Temporary structures or buildings shall not be permitted for a period exceeding 30 days unless permitted elsewhere by this code.
- (e) **Placement Restrictions-Nonresidential Districts.** An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall not be nearer than three (3) feet to any side or rear lot line.

- (f) **Landscaping Uses.** Accessory vegetation used for landscaping and decorating may be placed in any required yard area. Permitted vegetation include trees, shrubs and flowers and gardens. Under no circumstances may a tent be used as a dwelling or an accessory structure.
- (g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- (h) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- (i) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, sun dials, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.
- (j) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.
- (k) **Terrace Area Restrictions.** In addition to the definitions and restrictions contained in Sections 6-2-8 and 6-4-2(f) of this Code of Ordinances, no person shall place any accessory structure or use, including landscaping ornaments, stones and basketball backboard/hoops, in the terrace area.
- (l) **Portable Storage Structures and Donation Drop-Off Boxes.**
 - (1) Definitions.
 - a. "Portable Storage Structure" is any container, storage unit, shed-like container or other portable structure, other than an accessory building or shed complying with all building codes and land use requirements, that can or is used for the disposal or storage of personal property of any kind and which is located for such purposes outside an enclosed building.
 - b. "Donation Drop-Off Box" is any container, storage unit or structure, other than an accessory building or shed complying with all building codes and land use requirements, that can or is used for the holding of charitable or for profit donations with collection of these donations made at a later date or time and which is located for such purposes outside an enclosed building.
 - (2) Portable Storage Structure.
The use of portable storage structures are allowed under the following conditions:
 - a. There must be no more than one (1) portable storage structure per property.
 - b. The portable storage structure must be no larger than ten (10) feet wide, twenty (20) feet long and ten (10) feet high.

- c. A portable storage structure must not remain at a property in any zoning district in excess of thirty (30) consecutive days, and must not be placed in any one property in a zoning district in excess of thirty (30) days in a twelve (12) month period.
 - d. The portable storage structure must be placed within the buildable area of the lot.
 - e. The portable storage structure must be placed on an asphaltic concrete surface.
 - f. Portable storage structures associated with construction at a site where a building permit has been issued are permitted for the duration of construction and must be removed from the site within fourteen (14) days of the end of construction. Portable storage structures associated with construction are exempt from the aforementioned conditions.
- (3) Donation Drop-Off Boxes.
 Donation drop-off boxes are prohibited on all public and private property in the City except under the following conditions:
- a. Donation drop-off boxes are allowed on property where the primary structure is used by a not for profit organization, as defined by the Wisconsin State Statutes and the box is used exclusively to support said organization.
 - b. The drop box must be placed within the buildable area of the lot in a side or rear yard and screened from view of any public right of way.
 - c. All donations must be fully enclosed in a donation drop-off box. Donations that are not fully enclosed in a donation drop-off box are considered a public nuisance and subject to removal by the City of Glendale.

13.1.141 OUTSIDE STORAGE OF FIREWOOD.

- (a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.
- (b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.
- (c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.
- (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.

- (e) Not more than twenty percent (20%) of the side and rear yard may be used for storage of firewood at any one (1) time.

13.1.142 FENCES AND HEDGES.

- (a) **Definitions.** Definitions for the purpose of this Section are the following:
- (1) **Fence.** A non-seasonal structure erected around or by the side of any open space to prevent passage or view, usually constructed of posts carrying boards, rails, pickets, slats or wire or vertical or horizontal bars or grillwork.
 - (2) **Windbreak.** A structure or device other than a tree, bush, shrub or natural planting used to deflect or stop air currents.
 - (3) **Wall.** A structure of stone, brick or other solid substance intended to separate or enclose a lot or given area of land.
- (a) **Compliance Required.** No fence, wall or windbreak, opaque or non-opaque, shall be erected or maintained on any lot or parcel of land in the City of Glendale, except in compliance with the requirements of this Section.
- (b) **Height Regulations.** The height of fences, walls or windbreaks shall not exceed six (6) feet in residential-zoned side yards and rear yards; deviations from these height restrictions are subject to Subsection (f). No fence, other than decorative or a split-rail type, shall be permitted in residential-zoned front yards. In commercial and manufacturing zoned areas, the maximum permitted height shall be eight (8) feet.
- (c) **Construction.** All fences, walls and windbreaks shall have the structural components, including posts and stringers, facing the inside of the lot for and on which the same are located.
- (d) **Prohibited Types.** No fence shall be erected or maintained which is electrified. No fence in residential-zoned areas shall be erected or maintained which contains unknuckled ends or barbed wire. Snow fences (a fence which is designed and in place for the purpose of alleviating drifting of snow) and winter landscaped protection (a fence or screen used to protect trees, shrubs and other vegetation from winter rodent and animal damage) are permitted only during the period from December 1 to March 31 of the following year. Absent extreme impracticality or difficulty, two (2) fences shall not be placed back to back along a common property line. Every effort shall be required to utilize an existing fence or wall. In the event such is not possible, there shall be either no separation between the two (2) fences, or a minimum separation of (3) three feet between fences or walls and the ground area between them. Determination of impracticality under this provision shall be made by the Director of Community Development, the Planning and Zoning Administrator, or their designate. Their determination shall be subject to review by the Architectural Review Board.
- (e) **Fence Permit Required.**
- (1) Prior to the erection or placement of a fence, wall or windbreak in excess of three and one-half (3-1/2) feet, the responsible party shall make application to the Community Development Planner for a permit, furnishing all necessary information, and shall not begin construction of any fence, wall or windbreak until a permit has been issued by the Community Development Planner.

- (2) The Community Development Planner shall review all applications for a fence, wall or windbreak, and at least two (2) weeks prior to issuing any permit, the Community Development Planner shall notify all abutting property owners of the proposed fence, wall or windbreak and of the date and time by which objections to the proposed fence, wall or windbreak must be filed with his/her office, unless the applicant provides the Community Development Planner with signed waivers of abutting property owners indicating their approval of the application for the fence, wall or windbreak.
 - (3) No permit shall be issued unless it has been found as a fact by the Community Development Planner after a view of the site, an examination of the application for the permit and after considering the objections of any abutting property owners, that the existence of the fence, wall or windbreak, its location on the site, its height or its architectural appeal and functional plan when erected will not cause a substantial depreciation in property values of the subject property and/or abutting properties. The application for the permit shall include exterior elevations of the proposed structure and a statement as to its height.
- (f) **Fence in Subdivisions with Deed Restrictions.**
- (1) Where the erection of a fence is proposed in a recorded subdivision having a deed restriction or covenant prohibiting such fence or restricting or limiting the same, the Plan Commission shall take into consideration such deed restriction or covenant as competent evidence that such fence would cause a substantial depreciation in property values of the subject property, or abutting properties or properties in such recorded subdivision, in making the findings of fact. Such evidence, however, is subject to rebuttal.
 - (2) The applicant for such permit in a recorded subdivision shall file with the application a copy of the deed restriction or covenant containing such prohibition, restriction or limitation on fences or, if none, a statement to that effect. Where there is such a deed restriction or covenant, notice shall be given to the subdivision association, architectural board or similar body in addition to the notices provided to abutting owners herein. Any owner of a parcel of land in such subdivision shall have the same rights to be heard before the Plan Commission and to appeal as an abutting property owner.
- (g) **Nonconforming Fence, Wall and Windbreak.** All fences, walls and windbreaks which exist at the time of the adoption of this Chapter and do not conform to this Section may be maintained, but no alteration, modification or improvement of such nonconforming fence, wall or windbreak shall be permitted unless, as a result of such alteration, modification or improvement, such nonconforming structure shall be made to comply with this Section.
- (h) **Appeals.**
- (1) Appeals from the determination of the Community Development Planner shall be in accordance with Board of Appeals procedures under this Chapter.
 - (2) Appeals may be filed to the Board of Appeals only by an aggrieved applicant or abutting property owner.

13.1.143 SWIMMING POOLS.

- (a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than one and one-half (1-1/2) feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and by family, and by friends invited to use such a structure. "Swimming pool" includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- (b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of fifteen (15) inches, and which are so constructed that it may be readily disassembled for storage and reassembled to such pool's original integrity, are exempt from the provisions of this Section.
- (c) **Permit Required.** Before work is commenced on the construction or erection of private or residential swimming pools, or on any alterations, additions, remodeling or other improvements, an application for a swimming pool building permit to construct, erect, alter, remodel or add must be submitted in writing to the Building Inspector. Plans, specifications and other pertinent explanatory data shall be submitted to the Building Inspector at the time of application. No work shall be commenced until a written permit is obtained by the applicant. The minimum building permit fee, pursuant to the City Building Code, shall accompany such application.
- (d) **Architectural Review Board Review.** The Building Inspector shall refer all permit applications to the Architectural Review Board for its review. The applicant shall pay a review fee of Fifty Dollars (\$50.00). Such review shall be limited to aesthetic considerations, with the exception that the Architectural Review Board shall note any failure in the plans and specifications to comply with the requirements of this Chapter. The Architectural Review Board may impose reasonable conditions to assure aesthetic compatibility with the surrounding characteristics of the area, and may further direct that plans and specifications be amended to correct any deficiencies in such plans that fail to comply with the provisions of this Chapter. The Architectural Review Board shall not be allowed to vary from the requirements of this Chapter in any way which would reduce its requirements, but may impose increases in setback or fencing requirements to the limited extent necessary to effectuate aesthetic objectives necessary to ensure compatibility with surrounding properties.
- (e) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction, as provided in Subsection (c), unless the following construction requirements are observed:
 - (1) All materials and methods employed in the construction, alteration, installation, addition, remodeling or other improvements to a swimming pool shall be in accord with all state rules, regulations and code and with

any and all ordinances of the City in effect at the time of construction or modification.

- (2) All plumbing work performed during the construction and installation, alteration, addition, remodeling or other improvements made to a swimming pool shall be in accordance with all applicable ordinances of the city and all state rules, regulations and codes.
 - (3) All electrical installations provided for, installed and used in conjunction with the private swimming pool, including but not limited to the lighting and heating of said pool, shall be in accordance with all applicable ordinances of the City and all state rules, regulations and codes governing electrical installations.
 - (4) Swimming pools shall not be constructed directly under or over electric transmission lines.
 - (5) No dirt bottom pools or pools have a permeable wall or floor surface may be constructed.
- (f) **Setbacks and Other Requirements.**
- (1) Private swimming pools shall be located, erected or constructed on a rear or side lot only, and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot on which a swimming pool is erected or constructed shall not be considered vacant if the contiguous lot is owned by the same person and is occupied by a principal building.
 - (2) No swimming pool shall be located, erected or constructed closer to any side or rear lot line than is permitted for an accessory building in the Glendale Zoning Code, and in no case shall the water line of any pool be less than five (5) feet from any lot line, or fifteen (15) feet from any adjacent residence, garage, or accessory building.
 - (3) There shall be maintained an unobstructed area around all pools of at least three (3) feet in width.
- (g) **Mandatory Pool Enclosure.**
- (1) Swimming pools governed by this Section which are not enclosed by a permanent building shall be completely enclosed by a fence or wall of sufficient strength to prevent access to the pool. Such fence or wall shall not be less than four (4) feet in height and shall be constructed so as not to have voids, holes or openings larger than four (4) inches in any one (1) dimension. Any gates or door openings in such fence or wall shall be kept securely closed at all times while unattended, and shall be equipped with a self-closing and self-latching device located on the pool side of the fence designed to keep the gate or door securely closed. The sidewalls of above-ground pools which are at least four (4) feet high may be used in lieu of a fence or wall if a tip-up ladder has been installed and is in working order.
 - (2) A pool enclosure may not be required if the pool is installed above ground and has a raised deck around the entire perimeter with an attached, enclosed railing that is a minimum of thirty-six (36) inches high on the top,

and if the deck complies with all other City ordinances regulating such structures.

- (h) **Compliance.** Any swimming pool existing at the time this Section of the Glendale Code of Ordinances is enacted that is not satisfactorily enclosed, as provided in Subsection (g), shall be brought into immediate compliance with the enclosure requirements of Subsection (g).
- (i) **Draining and Approval Thereof.** A private swimming pool shall be constructed so as to prevent water contained therein from draining into any sanitary sewer, septic tank or navigable body of water. Water from a private swimming pool shall not overflow upon or cause damage to any adjoining property. No private swimming pool shall be allowed to overflow or drain so as to create temporary standing water conditions in public right-of-ways or on public grounds without the prior approval of the Director of Public Works. Provisions may be made for draining the contents of any swimming pool into a storm sewer only with the prior approval of the Director of Public Works.
- (j) **Filter System Required.** All private swimming pools within the meaning of this Section must have some form of filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.
- (k) **Noise.** Heating units, pumps and filter equipment which cause noise spillover onto adjacent properties shall be adequately housed and muffled in such a manner so as not to violate the Glendale Noise Ordinance in Section 11-2-9. (1) **Safety Devices.** Every swimming pool governed by this Section shall be equipped with at least one (1) life preserver and/or other safety devices, including a reach pole of sufficient length to allow access from the ground to an individual located in any portion of the pool.

13.1.144 GARBAGE STORAGE FACILITIES, PORTABLE LAVATORIES, SITE MAINTENANCE, AND DUMPSTERS.

- (a) **Purpose.** In order to protect the health, safety and welfare of the residents of the City of Glendale, and to maintain the desirability, amenities and property values of the residential, commercial and industrial neighborhoods of the City, it shall be the responsibility of the owner, occupant or lessee of any premises to conform to the following standards.
- (b) **Definitions.** For purposes of this Section, the following terms shall mean:
 - (1) **Non-Residential Area.** All areas which are not zoned residential and areas which are zoned residential if the total number of dwelling units on an individual parcel is more than four (4).
 - (2) **Screen.** Barriers intended to perform a buffering effect. Screens shall be visually impervious, and may consist of existing or planted vegetation, fences, walls, earth berms or similar techniques.
 - (3) **Residential Area.** All areas zoned residential with a total number of dwelling units of four (4) or less.
- (c) **Litter, Garbage and Refuse Control.** Outdoor litter, refuse and garbage collection and storage areas shall be maintained in a clean and odor-free

condition and all litter, refuse and garbage on the premises shall at all times be placed in a tightly or securely covered container, including dumpsters.

- (d) **Location, Size and Screening of Outdoor Litter, Refuse and Garbage Collection and Storage Areas.** All existing litter, refuse and garbage collection and storage areas shall be subject to the provisions of this Subsection at the time a change in ownership, use, exterior modification or renovation, or occupancy of the premises occurs. Approvals as to the location, size and screening of such areas shall be obtained from the Director of Community Development or his/her designee in accordance with the provisions of this Section:

- (1) Location and Size. Permanent storage areas shall not be visible from the street where at all practical. All designated outdoor litter, refuse and garbage collection and storage areas shall be of sufficient size to accommodate the necessary litter, refuse and garbage containers for the premises and provide a minimum of three (3) feet clearance on each side of the container(s).
- (2) Screening. Landscape screens are preferred and shall provide a year round screen within two (2) years of installation. Landscape screen plantings shall be permanently maintained by the owner of the property, and any plant materials which do not live shall be replaced within six (6) months. Visually impervious fencing is allowed in areas wherein the layout of the lot, property lines, and location of buildings make landscape screening impracticable.
- (3) Mandoor Openings. Storage areas under this Section shall provide a door for the entry of individual persons, which door, whenever reasonably practicable shall be separate from the gate providing access to dumpsters or containers therein, and which shall be on the side or rear of the enclosure so as to minimize street, alley, or pedestrian visibility.
- (4) Signage. All enclosures shall be required to have a sign on the access gate, not less than 140 square inches, that reads: "Gates must be closed and secured at all times."
- (5) Design Review. All enclosures or screenings are subject to design review and approval by the Director of Community Development.
- (6) Appeals. Any person aggrieved by a decision of the Director of Community Development or his/her designee must appeal that decision to the Board of Appeals within ten (10) days of receipt of such decision. When considering an appeal under this Section, the Board of Appeals shall allow only such variances as will not substantially alter or deviate from the requirements of the foregoing provisions and which shall promote the purpose and intent of this Section.

- (e) **Location and Regulation of Dumpsters in Residential Zoning Districts.**

- (1) Definitions.
 - a. For purposes of this subsection, "Residential Districts" shall mean all areas zoned residential with a total number of dwelling units of four (4) or less.
 - b. For purposes of this subsection, "Dumpster" shall mean a container, of any nature, having a load capacity of 2 or more cubic

yards, which can be used for the disposal of debris, garbage, yard waste, refuse, litter, or discarded personal property of any nature, and which is located outside an enclosed building, and is not employed on a permanent basis for debris, garbage, yard waste, refuse, litter, or discarded personal property control in compliance with subsection (c), (d), and (e) of this section.

- (2) **Compliance Required.** No dumpster, as specifically defined in Section (1) above, may be maintained in a residential zoning district for more than 30 days in any 12 month period.
- (3) **Exceptions.**
- a. A dumpster employed at a multi-unit residential dwelling for permanent refuse disposal may be maintained for more than 30 days provided it complies with all sections of this code.
 - b. A dumpster for construction, renovation, or remodeling purposes, may be present on premises for a period greater than 30 days, but only as long as is reasonably necessary to accommodate such construction, renovation, or remodeling, and in no event more than 14 days after the completion thereof.
- (4) **Regulation of Placement.** At no time shall a dumpster be maintained on any property unless it is placed entirely on the property owner's premises, does not invade the public right-of-way, does not interfere with ingress or egress to the premises or adjacent premises, is located on a portion of the premises which minimizes interference with the aesthetics and function of adjacent properties, and whenever possible is on a hard or graveled surface. Such dumpster shall be maintained so as to avoid the removal or consumption of materials contained therein by animals, and to avoid inadvertent removal of material due to natural elements such as wind or rain.
- (f) **Location and Screening of Portable Lavatories.** Portable lavatories may be permitted on a temporary basis, during construction or when permanent facilities are not available or adequate, and shall be located as close to buildings as will allow reasonable and practical access, and shall be located and screened in such fashion as to minimize visibility from streets and adjacent sites.
- (g) **Penalties.** Any person violating any provision of Section 13-1-144 shall, upon conviction hereof, be subject to the penalties as prescribed in Section 1-1-7 of this Code.

13.1.145 REGULATION OF OUTDOOR FIXTURES.

Outdoor fixtures on all privately owned property in the City of Glendale, excluding any type of live plants, fences, signs, or any other item regulated elsewhere in the Glendale Code, which outdoor fixtures are greater than one (1) foot in width, two (2) feet in height, or two (2) feet in length, or which number, individually or in similar kind or style, greater than two (2), are deemed a conditional use, and shall be prohibited except as authorized by conditional use permit under the provisions of Article E of this Chapter.

13.1.146 THROUGH 13.1.149 RESERVED FOR FUTURE USE.

ARTICLE P

Sexually-Oriented Uses and Businesses

13.1.150 PROHIBITED USES.

The following uses of land are specifically prohibited in any district, except as provided under this Article:

- (a) Sexually oriented bookstores.
- (b) Sexual devices stores.
- (c) Motion pictures, including coin-operated motion picture devices showing sex movies.
- (d) Cabarets or any places featuring nude or semi-nude dancers, performers, strippers or similar-type entertainment.

13.1.151 PURPOSE AND INTENT OF ARTICLE.

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

13.1.152 DEFINITIONS.

- (a) For the purpose of this Article, "specified sexual activities" is defined as:
 - (1) Human genitals in a state of sexual stimulation or arousal;
 - (2) Acts of human masturbation, sexual intercourse or sodomy;
 - (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (b) For the purpose of this Article, "specified anatomical areas" is defined as:
 - (1) Less than completely and opaquely covered:
 - a. Human genitals pubic region;
 - b. Buttock;

- c. Female breast below a point immediately above the top of the areola.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

13.1.153 BOOK SALES.

No person, firm or corporation shall establish any bookstore or book department of a store in which a substantial or significant portion of its stock in trade is in books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," except as provided in Section 1-1-157 hereof.

13.1.154 MOTION PICTURE AND MINI-MOTION DISPLAYS.

- (a) **Mini-Motion Displays.** No person, firm or corporation shall offer for viewing through coin-operated motion picture devices any movie or other form of display which has significant displays of specified sexual activities or specified anatomical areas, except as provided in Section 13-1-157 hereof.
- (b) **Sexually-Oriented Motion Pictures.** No person, firm or corporation shall offer for viewing any motion picture, television or other electronic device or video tape of any movie or other form of display which has significant displays of specified sexual activity or specified anatomical areas except as provided in Section 13-1-157.

13.1.155 CABARETS.

No person, firm or corporation shall feature or permit topless dancers, bottomless dancers, exotic dancers, strippers or persons engaged in specified sexual activities or similar entertainers, except as otherwise provided in Section 13-1-157 hereof.

13.1.156 SEXUAL DEVICES STORES.

No person, firm or corporation shall operate any sexual devices store for the display or sale of sex-stimulating devices, aids to sexual gratification or devices to perform the functions of male or female genitals or other similar articles or devices, except as provided in Section 13-1-157.

13.1.157 EXCEPTIONS TO REQUIREMENTS OF THIS ARTICLE.

- (a) Such use or uses as prohibited in this Article may be waived, provided that such building is not located within five hundred (500) feet of any residential dwelling, rooming unit, school, hospital, church or stores which may be frequented by children under the age of eighteen (18). This prohibition may be waived off the person applying for the waiver files with the Common Council a petition of the proposed regulated use signed by fifty-one percent (51%) of the persons owning,

residing or doing business within a radius of five hundred (500) feet of the location of the proposed use. The petitioner shall attempt to contact all eligible locations within this radius and must maintain a list of all addresses at which no contact was.. made. A minimum of one hundred (100) responses is required. In the event that the five hundred (500) feet radius is not sufficiently populated to provide one hundred (100) residences and/or business places eligible to respond, the radius will be increased in increments of one hundred (100) feet until there is an area large enough to contain one hundred (100) eligible residences and/or business places. In addition to these conditions, such use shall be subject to final approval by the Zoning Board of Appeals in the same respect as a special use permit.

- (b) Any person dissatisfied with the action of the Zoning Board of Appeals under this Section may appeal the decision to the Common Council for the City of Glendale. The Common Council shall hear the matter in a quasi-judicial capacity, at which hearing parties may present evidence, cross-examine witnesses and, in other ways, be afforded the .rights of due process. Appeal from the Common Council decision in its quasi-judicial capacity shall be to the Circuit Court of Milwaukee County.

13.1.158 THROUGH 13.1.169 RESERVED FOR FUTURE USE.

ARTICLE M

Administration

13.1.170 GENERAL ADMINISTRATIVE SYSTEM.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and recommendation by the Plan Commission and ultimate action by the Common Council. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

13.1.171 ZONING ADMINISTRATOR.

The Common Council shall designate the Zoning Administrator who, under the direction of the City Administrator, shall serve as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further:

- (a) Maintain records of all permits issued, inspections made, work approved and other official actions.
- (b) Record the lowest floor elevations of all structures erected, moved, altered or improved in the floodland districts.
- (c) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- (d) Inspect all structures, lands and waters as often as necessary to assure compliance with this Chapter.
- (e) 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 Chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the City Attorney in a manner specified by him.
- (f) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection.
- (g) Request assistance and cooperation from the Police Department and City Attorney as deemed necessary.

13.1.172 ROLE OF SPECIFIC CITY OFFICIALS IN ZONING ADMINISTRATION.

- (a) **Plan Commission.** The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the City to the Common Council, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have

such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Chapter, its functions are primarily recommendatory to the Common Council, except for issuance of conditional use permits, pursuant to guidelines set forth in this Chapter as to various matters and, always, being mindful of the intent and purposes of this Chapter. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing.

- (b) **Common Council.** The Common Council, the governing body of the City, subject to recommendations by the Plan Commission and the holding of public hearings by said Council, has ultimate authority to grant planned unit development conditional uses, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this Chapter. The Common Council may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this Chapter.
- (c) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article O of this Chapter for detail provisions.

13.1.173 CERTIFICATE OF COMPLIANCE REQUIRED

- (a) **Certificate Required.** No vacant land hereafter developed; no building hereafter erected, relocated, moved, reconstructed or structurally altered; and no floodlands hereafter filled, excavated or developed shall be occupied or used until a certificate of compliance has been issued by the Zoning Administrator. Such certificate shall show that the structure, premises or use is in conformity with the provisions of this Chapter.
- (b) **Application for Certificate of Compliance.** Application shall be made in the same manner as for a zoning permit pursuant to Section 13-1-173 and coincidental with application for zoning and/or building permit. Application for a certificate of compliance in the floodland districts shall include certification by a registered professional engineer or land surveyor that the plans therefor will fully comply with the floodland regulations set forth in this Chapter; before certificate shall issue, further such certification by an engineer or surveyor shall also be filed to the effect that the project does, indeed, so comply.
- (c) **Existing Uses.** Up. on written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this Chapter, certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.
- (d) **Nonconforming Uses.**
 - (1) Non-conforming use shall be maintained, renewed or changed until a certificate of compliance has been issued by the Zoning Administrator.

- (2) Certificates of compliance for the continued occupancy of nonconforming uses existing at the time of the passage of this Chapter shall be issued by the Zoning Administrator and the certificate shall state that the use is a nonconforming one and does not conform with the provisions of this Chapter. The Zoning Administrator shall notify the owner(s) of the property being used as nonconforming use.

13.1.174 SITE PLAN APPROVAL.

- (a) **Site Plan Approval.** All applications for Zoning Permits for any construction, reconstruction, expansion or conversion, except for one (1) and two (2) family residences in Residential Districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this Section.
- (b) **Application.** The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.
- (c) **Administration-** The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Plan Commission within ten (10) days. The Plan Commission shall review the application and may refer the application and plans to any expert consultants selected by the Common Council to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within thirty (30) days of its receipt of the application, the Commission shall authorize the Zoning Administrator to issue or refuse a Zoning Permit.
- (d) **Requirements.** In acting on any site plan, the Plan Commission shall consider the following:
- (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
 - (3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
 - (4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section

- (e) **Effect on Municipal Services.** Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the City Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Common Council and shall not issue final approval until the Common Council has entered into an agreement with the applicant regarding the development of such facilities.

13.1.175 VIOLATIONS AND PENALTIES.

- (a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Common Council, the Zoning Administrator, the Plan Commission or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.
- (b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, the resident agent or occupant of the premises, the Common Council, the Zoning Administrator or the City Attorney may institute appropriate legal action or proceedings.
- (c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-7 of this Code of Ordinances.

13.1.176 THROUGH 13.1.179 RESERVED FOR FUTURE USE.

ARTICLE N

Changes and Amendments to the Zoning Code

13.1.180 **AUTHORITY.**

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Common Council may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or mend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

13.1.181 **INITIATION OF CHANGES OR AMENDMENTS.**

The Common Council, the Plan Commission, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this Chapter to the District boundaries hereby established or by amendments hereto in the accompanying zoning map made a part of this Chapter and/or the Supplementary Floodland Zoning Map to be made a part of this Chapter by reference.

13.1.182 **PROCEDURE FOR CHANGES OR AMENDMENTS.**

- (a) Required Information Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Common Council and shall be filed with the City Clerk, describe the premises to be rezoned or the portions of text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:
- (1) Plot plan, drawn to a scale of one (1) inch equals one hundred (100) feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned.
 - (2) Owners' names and addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.
 - (3) Fee receipt from the City Clerk in the amount of Two Hundred Fifty Dollars (\$250.00).
 - (4) Together with additional information as may be required by the Plan Commission or Common Council
- (b) **Recommendations.** The Common Council or the Clerk shall cause the petition to be forwarded to the Plan Commission for its consideration and

recommendation. The Plan Commission shall review all proposed amendments to the text and zoning map(s) within the corporate limits and shall recommend in writing that the petition be granted as requested, modified or denied. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation. In arriving at its recommendation, the Commission may on occasion, of its own volition, conduct its own public hearing on proposed amendment(s).

(c) **Hearings.**

- (1) (a) The Common Council, following receipt of recommendation the Plan Commission, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes.
 - (b) At least ten (10) days' prior, written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.
 - (c) Written notice of the hearing shall also be sent by regular mail to the owners of land included in such proposed amendment, to owners of land immediately adjacent extending two hundred (200) feet therefrom, and to owners of the land directly opposite thereto extending two hundred (200) feet from the street frontage of such opposite land, except in those cases in which the zoning ordinance is proposed to be changed to enact permanent zoning classifications of property annexed to the City. In such instances, the notice of the proposed amendments shall be provided as required in Sec. 62.23(7)(d), Wis. Stats.
 - (2) The Common Council may delegate to the Plan Commission the responsibility to hold public hearings as required under this Section.
- (d) Council's Action. Following such hearing and after consideration of the Plan Commission's recommendations, the Common Council shall vote on the proposed ordinance effecting the proposed change or amendment.

13.1.183 PROTEST.

- (a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage to such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Common Council membership provided that the street right-of-way doesn't extend more than one hundred (100) feet from the property affected by the proposed zoning change or amendment; owners outside this area shall not have standing to

protest. A protest may be filed any time after the first publication of the notice of hearing but may be filed not later than the time the Council first considers the Plan Commission's recommendation. All protests shall be filed with the City Clerk.

- (b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Common Council membership to adopt such amendment.

13.1.184 THROUGH 13.1.189 RESERVED FOR FUTURE USE.

ARTICLE O

Appeals

13.1.190 APPEALS TO THE ZONING BOARD OF APPEALS.

- (a) **Scope of Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee of Two Hundred Fifty Dollars (\$250.00). The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appealed from was taken.
- (b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (c) **Meetings.**
- (1) Open to Public. All meetings and hearings of the Board of Appeals shall be open to the public, except that the Board may go into executive session to deliberate after a hearing or an appeal. The final vote on an appeal shall be taken in open session by roll call vote, recorded and open for public inspection in the Board's office. Public notice of all regular and special meetings shall be given to the public and news media as required by the Wisconsin Open Meeting Law.
 - (2) Special Meetings. Special meetings may be called by the Chairman or by the Secretary of the Board of Appeals at the request of two (2) members. Notice of a special meeting shall be mailed to each member at least forty-eight (48) hours prior to the time set for the meeting, or announcement of the meeting shall be made at any meeting at which all members are present.
 - (3) Hearings. Hearings may be held at any regular or special meeting at the time set by the Chairman.
 - (4) Quorum. A quorum for any meeting or hearing shall consist of four (4) members, but a lesser number may meet and adjourn to a specified time.
- (d) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:

- (1) Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator, Department of Inspection or other administrative official in the enforcement of the Zoning Code or any ordinance adopted under Sections 62.23 or 62.231 (wetlands), 87.30 or 144.26 (flood plains) or Chapter 91 (farmland preservation), Wis. Stats. .
 - (2) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured.
 - (3) Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
 - (4) Substitution. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 - (5) Unclassified Uses. To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Plan Commission has made a review and recommendation.
 - (6) Temporary Uses. To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.
- (e) **Board Action-** In exercising the powers under Subsection (d), the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.
- (f) Voting.
- (1) **Personal Interest.** No Board of Appeals member shall participate in the decision of or vote upon any case in which the member is financially interested, directly or indirectly, but the Chairman shall direct an alternate member to act instead. Disqualification of a member for interest shall not decrease the number of votes required for acting upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.

- (2) Record of Vote. The Secretary shall record the vote of each member on every question in the minutes or, if the member is absent or falls to vote, shall indicate such fact in the record of the proceedings.

13.1.191 APPLICATIONS FOR HEARINGS.

- (a) Time of Appeal Appeals shall be filed within thirty (30) days after the date of receipt of the written decision or order from which the appeal is taken by filing in duplicate a notice of appeal with the Zoning Administrator. The date of receipt of the decision shall not be counted in determining the time for filing of the appeal. Sundays and holidays shall be counted, except if the last day falls on a Saturday, Sunday or legal holiday, the time for filing shall be extended to the next secular day.
- (b) **Who May Appeal.** Appeals or applications to the Board may be made by:
- (1) The owner, mortgagee, purchaser under a land contract, optionee or occupant under a written lease for one (1) year or more of the property for which relief is sought.
 - (2) Any officer (other than the Zoning Administrator), department, board or bureau affected by a decision or order of the Zoning Administrator.
 - (3) Any person aggrieved and whose use and enjoyment of property within the City is directly and adversely affected by a decision or order of the Department of Inspection, Zoning Administrator or the requested Board action.
- (c) **Appeal and Application Forms.** Every appeal or application shall be made upon forms furnished by the Zoning Administrator which have been approved by the Board of Appeals. A scale drawing shall accompany each form showing the location and size of the property, existing improvements, all abutting properties and improvements thereon and change or addition requested. The applicant or appellant shall provide all information requested on the form and any additional information requested in writing by the Chairman or Secretary of the Board of Appeals which is necessary to inform the Board of the facts of the appeal. Failure to supply such information shall be grounds for dismissal of the appeal or application.
- (d) **Election to have Appeal or Application.** The appellant or applicant shall file the required appeal form in duplicate with the Zoning Administrator. The Zoning Administrator shall deliver one (1) copy to the officer or body from whose decision an appeal is taken. Upon receipt of an appeal, the Zoning Administrator or other officer or body responsible for the original determination shall transmit to the Secretary of the Board of Appeals all notes or papers relating to the order or decision from which the appeal is being taken.
- (e) **Election to Have Appeal or Application Handled as a Contested Case.** The applicant or appellant may elect to have the appeal or application handled as a contested case. The appeal or application form shall explain that a contested case includes the right of all parties to cross-examine witnesses, to object to improper evidence and to have a record of the proceedings made by a court

reporter or qualified stenographer or by tape recording. Election to have the matter treated as a contested case must be made in writing at the time of filing of the appeal or application.

- (f) **Fee.** All appeals and applications filed with the Zoning Administrator shall be accompanied by payment of a required fee of Two Hundred Fifty Dollars (\$250.00). If the appellant or applicant elects the contested-case method, he or she shall also pay the amount determined by the Board of Appeals to cover the additional administrative costs involved.
- (g) **Insufficient Notice.** No appeal or application shall be considered by the Board of Appeals unless it is made on the required form. Upon receipt of any communication purporting to be an appeal or application, the Zoning Administrator shall supply the applicant with the proper forms which must be filed within ten (10) days, in addition to the thirty (30) days specified in Subsection (a), in order to be considered by the Board of Appeals.

13.1.192 HEARINGS.

- (a) **Notice of Hearing.** Notice of the time, date and place of the hearing of an appeal or application shall be given in the following manner:
 - (1) By mail or personal service to the appellant or applicant and to the Zoning Administrator or other administrative official or body from whose decision an appeal is taken and Secretary of the Plan Commission not less than ten (10) days prior to the date of the hearing.
 - (2) In every case involving a variance, conditional use, exception, planned unit development or public utility exception, the City Clerk shall mail notice to the owners of record of all land within the area included in the application and within one hundred (100) feet of any part of the building or premises affected not less than ten (10) days prior to the hearing. Names and last known addresses of such owners shall be furnished by the applicant at the time of filing the appeal or application.
 - (3) By publication of a Class 2 notice under Chapter 985, Wis. Stats.
 - (4) Notice of an application for construction of a building in the bed of a future street, highway or parkway shall be published in the official newspaper not less than fifteen (15) days prior to the hearing.
 - (5) Notice of an application for a proposed special exception in a shoreland, wetland district shall be mailed to the district office of the Wisconsin Department of Natural Resources at least ten (10) days prior to the hearing.
- (b) **Time of Hearing, Docketing** Each appeal or application properly filed shall be numbered serially, docketed in a special book provided therefor and placed upon the calendar by the Secretary of the Board of Appeals. Cases docketed more than fifteen (15) days preceding a regular meeting shall be set for hearing at such meeting. Cases docketed seven (7) days or less prior to a regular meeting shall be scheduled by the Secretary, or his designee, for a hearing on the second regular meeting day thereafter unless otherwise directed by the Chairman.

- (c) **Appearances.** The appellant or applicant may appear in person or by his agent or attorney. In the absence of an appearance for or against an appeal or application, the Board of Appeals may dismiss the appeal or application or may dispose of the matter on the record before it.
- (d) **Oath.** Unless waived by the appellant or applicant and the Chairman, all witnesses shall be sworn before testifying by the Chairman or presiding officer.
- (e) **Compelling Attendance of Witnesses.** The Chairman, or, in his absence, the presiding officer, may compel the attendance of witnesses by subpoena. Written request for subpoenas shall be filed with the Secretary of the Board of Appeals not less than two (2) days prior to the hearing except by special permission of the Chairman.
- (f) **Order of Hearing.** Appeals and applications shall be heard in numerical order except for good cause shown.
- (g) **Order of Business.**
 - (1) **General Hearing.** At the hearing, the order of business shall be as follows:
 - a. Statement of the nature of the case by the Chairman.
 - b. Appellant's side of the case.
 - c. Questions by Board members.
 - d. Zoning Administrator's side of the case.
 - e. Questions by Board members.
 - f. Statements by interested persons such as neighbors or abutting landowners.
 - g. Questions by Board members.
 - h. Appellant's or applicant's rebuttal.
 - (2) **Contested Cases.** If the applicant or appellant elects to have his or her appeal or application treated as a contested case, the order of business shall be as follows:
 - a. Call to order by the Chairman.
 - b. Appellant or applicant's opening statement.
 - c. Zoning Administrator's opening statement.
 - d. Opening statement of persons aggrieved and other interested parties. The right to make an opening statement is limited to persons who will present evidence.
 - e. Applicant's or appellant's case-in-chief.
 - f. Questions by Board members.
 - g. Cross-examination. No more than one (1) person for each party shall cross-examine witnesses. The Chairman may limit the number of parties who may cross-examine.
 - h. Zoning Administrator's case-in-chief.
 - i. Questions by Board members.
 - j. Cross-examination as under (2)g.
 - k. Case-in-chief of other parties.
 - l. Questions by Board members.
 - m. Cross-examination under (2)g.
 - n. Rebuttal by appellant or applicant. Rebuttal is limited to matters raised by the adverse parties by way of evidence or argument.

- o. Statements of opinion of neighbors or abutting land owners--not subject to cross-examination.
 - p. Closing statements of those who made or waived opening statements.
- (h) **Evidence and Official Notice.** Except in contested case hearings, written and oral testimony will be received. In contested case hearings, no hearsay evidence will be allowed or relied upon as the sole evidence of any factual determination. The Board of Appeals may take official notice of the ordinances of the City, the zoning and location of the subject property and geographical features or other facts which are common knowledge in the City or can be verified by reference to public record. In contested case hearings, all witnesses shall be sworn and no person shall be permitted to testify unless he or she submits to cross-examination. See Sec. 227.08, Wis. Stats.
- (i) **Adjournments.** When all appeals or applications cannot be disposed of on the day set, the Board of Appeals may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board of Appeals.
- (j) **Withdrawal** An appellant or applicant may withdraw an appeal at any time prior to the decision, but a pending motion to grant or dismiss the appeal shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the appellant or applicant to remission of the filing fee.

13.1.193 DECISION AND DISPOSITION OF CASES.

- (a) **Time of Decision.** The Board of Appeals shall render its decision either at the termination of the hearing or within thirty (30) days thereafter and shall notify the parties in interest and the Zoning Administrator in writing of its decision.
- (b) **Form of Decision.** The final disposition of an appeal or application shall be in the form of a written decision or order signed by the Chairman and Secretary of the Board of Appeals. Such decision shall state the reasons for the Board's determination with findings of fact and conclusions of law and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal or grant or deny the special exception, conditional use or variance.
- (c) **Basis of Decision; Findings.** At the conclusion of a hearing, the Board should reduce to writing its findings of fact and conclusions of law regarding the proper interpretation and application of the Zoning Code.
- (d) **Vote Required.** All orders or decisions of the Board of Appeals granting a variance, exception or conditional use, or reversing any action or order of the administrator, staff, or administrative body, require the affirmative vote of a majority of the members present.

- (e) **Conditions.** Variances or conditions imposed in any permit shall be stated in the decision or order embodying the Board's decision and shall also be set forth in the building, conditional use or occupancy permit issued under that order by the Zoning Administrator. A permit shall be valid only as long as the conditions upon which it is granted are observed. Whenever the Board grants an application or appeal affecting the use of any premises, such authorization shall be deemed revoked unless the owner, occupant or his agent shall, upon request, file with the Board Secretary a written report certifying that all conditions or limitations imposed by the Board have been conformed to and maintained. Variances, substitutions or conditional use permits approved by the Board shall expire six (6) months after issuance if the performance of work is required and substantial work has not commenced.
- (f) **Filing of Decision.** Every order or decision of the Board of Appeals shall be immediately filed with the Secretary who shall thereupon forward the decision to the Zoning Administrator and mail a copy to the applicant or appellant. Copies of decisions granting conditional uses or variances in a floodplain, shoreland or wetland district shall be mailed to the district office of the Wisconsin Department of Natural Resources.
- (g) **Reconsideration**
- (1) Resubmission. No appeal or application which has been dismissed or denied shall be considered again without material alteration or revision within one (1) year of the Board's decision, except pursuant to court order or by motion to reconsider made by a member voting with the majority or as provided in Subsection (g)(2) below.
 - (2) Rehearing. No rehearing shall be held except upon the affirmative vote of four (4) or more members of the Board upon finding that substantial, new evidence is submitted which could not reasonably have been presented at the previous hearing. Requests for rehearing shall be in writing, shall state the reasons for the request and shall be accompanied by necessary data and diagrams. Rehearings shall be subject to the same notice requirements as original hearings.

13.1.194 VARIANCES.

- (a) **Purpose.**
- (1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use shall bring that use into conformance with the district and zoning requirements.
 - (2) In specific cases on appeal, the Board of Appeals may authorize such variance from the terms of the Zoning Code as will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the

Zoning Code would result in an unnecessary and undue hardship, and so that the spirit of the Zoning Code shall be observed and substantial justice done. No use variance shall be granted unless the applicant has shown that no lawful and feasible use of the subject property can be made in the absence of the requested variance. As used in this Zoning Code, a variance is authorized only for height, area and size of structure; size of yards as relating to setback requirements only, and size of open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, and no variance shall have the effect of allowing uses in any district that are prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area, or permit standards lower than those required by state law.

- (3) For the purposes of this Section, "unnecessary hardship" means an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property, as distinguished from those applicable to most or all property in the same zoning district.
- (b) **Application for Variation.** The application for variation shall be filed pursuant to Section 13-1-191.
- (c) **Public Hearing of Application.** The public hearing for a variance shall be conducted pursuant to Section 13-1-192.
- (d) **Prohibited Variances.** The Board of Appeals shall not grant use variances in floodplain or wetland and conservancy districts. In all other districts, no use variance shall be granted unless the applicant has first petitioned for a zoning amendment or a conditional use permit, if applicable. Any use variance granted shall be limited to the .specific use described in the Board's decision and shall not permit variances in overall yard area, overall structure area, or other requirements of the district in which located.
- (e) **Action of the Board of Appeals; Standards.** For the Board to grant a variance, it must find that:
 - (1) The variance will not be contrary to the public interest.
 - (2) Substantial justice will be done by granting the variance.
 - (3) The variance is needed so that the spirit of the ordinance is observed.
 - (4) Due to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship.
- (f) **Conditions.** The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section, including that the variance is subject to a given time period, after which such variance expires, or alternately the variance attaches to and attends the land.

13.1.195 REVIEW BY COURT OF RECORD.

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the offices of the Board of Appeals.

13.1.196 THROUGH 13.1.199 RESERVED FOR FUTURE USE.

ARTICLE P

Definitions

13.1.200 DEFINITIONS.

- (a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.
- (1) Abutting. Have a common property line or district line.
 - (2) Accessory Use or Structure. A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.
 - (3) Acre. Net. The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.
 - (4) Alley. A public way which affords only a secondary means of access to abutting property.
 - (5) Apartment. A dwelling unit that is part of a structure and primarily used as a home, residence or place of abode.
 - (6) Apartment Hotel. A structure that contains one (1) or more apartments primarily used by the occupant(s) as a home, residence or place of abode and five (5) or more rooms where sleeping accommodations are offered for pay to transients.
 - (7) Arterial Street. A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.
 - (8) Assisted Living Facility. A community living arrangement in which persons live together, other than as a family, and in which meal, laundry, cleaning, transportation, or similar services or assistance are provided to the residents in conjunction with their occupancy of the facility.
 - (9) Basement. That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-around living accommodations.
 - (10) Block. A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.
 - (11) Boarding House. A building other than a hotel or restaurant where meals or lodging are regularly furnished by pre-arrangement for compensation for three (3) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.
 - (12) Buildable Lot Area. The portion of a lot remaining after required yards have been provided.

- (13) 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 or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed separate buildings.
- (14) Building, Detached. A building surrounded by open space on the same lot.
- (15) Building, Heights of. The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.
- (16) Building Setback line. A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Code.
- (17) Building, Principal. A building in which the principal use of the lot on which it is located is conducted.
- (18) Business. An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
- (19) Channel. Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.
- (20) Community Living Arrangement. The following facilities licensed or operated or permitted under the authority of the Wisconsin State statutes: child welfare agencies under Section 48.60; foster homes, group foster homes, treatment foster homes, and residential care facilities for children and youth as defined under Section 48.02, Wis. Stats., or such successor statutes as may from time-to-time be adopted; adult family homes, residential care apartment complexes, and community based residential facilities, as defined in Section 50.01, Wis. Stats., or such successor statutes as may from time-to-time be adopted. The establishment of a Community Living Arrangement facility shall be in conformance with applicable Section of the Wisconsin State Statutes, including Section 46.03(22), 62.23(7)(i), and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.
- (21) Conditional Uses. Uses of a special nature as to make impractical their predetermination as a principal use in a district.
- (22) Controlled Access Arterial Street. The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.
- (23) Corner Lot. On corner lots, the setback shall be measured from the right of way line on which the lot fronts. The setback from the side street shall be equal to seventy-five percent (75%) of the setback required on residences fronting on the side street, but the side yard setback shall in no case restrict the building width to less than thirty (30) feet.

- (24) Conservation Standards. Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide, prepared by the USDA Soil Conservation Service for Milwaukee County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative best meets his needs in developing his soil and water conservation.
- (25) Development. Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, edging, filling, grading, paving, excavation or drilling operations or disposition of materials.
- (26) District. Basic. A part or parts of the City for which the regulations of this Chapter governing the-use and location of land and building are uniform.
- (27) District. Overlay. Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.
- (28) 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 mobile homes.
- (29) Dwelling Unit. A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.
- (30) Dwelling, Efficiency. A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.
- (31) Dwelling, Single-Family. A detached building designed for or occupied by one (1) family.
- (32) Dwelling, Two-Family. A detached building containing two (.2) separate, dwelling (or living) units, designed for occupancy by not more than two families.
- (33) Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.
- (34) 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 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, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

- (35) Family. The body of persons who live together in one (1) dwelling unit as a single housekeeping entity.
- (36) Farming - General. General farming shall include floriculture, forest and game management, orchards, raising of grain, grass, mint and seedcrops, raising of fruits, nuts and berries, sod farming and vegetable farming. General farming includes the operating of such an area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.
- (37) Farmstead. A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.
- (38) Floor Area - Business and Manufacturing Buildings. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. however, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.
- (39) Foster Family Home. The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of the Wisconsin Statutes and amendments thereto.
- (40) Front Yard. A yard extending to the right of way line of the lot, on the street to which the mailing address of the premises is listed, the dimensions of which shall be the side lot lines, the front right of way line, and a line parallel thereto through the nearest point of the principal structure.
- (41) Frontage. All the property butting on one (1) side of a street between two (2) intersecting streets or all of the property abutting on one (1) side of a street between an intersecting street and the dead end of a street.
- (42) Garage--Private. A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.
- (43) Garage--Public. Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.
- (44) Group Foster Home. Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.
- (45) Home Occupation. The maintenance of a business office, or professional service with customary accessory uses, by a member of a recognized profession in a residential district, which is permitted as an incidental or secondary use of a building being used as a private dwelling and carried

on by a member of the immediate family residing on the premises. Such use shall be conducted with no visual sign from the exterior of the building that any type of business activity is taking place on the premises, no unusual traffic may be generated, and no equipment may be used on the premises except those permissible for domestic or household purposes. No commodity may be sold on the premises, and no general nuisance-like effects may be created by an activity associated with the secondary and primary use of the premises. No conditional or prohibited use in any district may be utilized as a home occupation. No clientele shall be present for the conduct of business upon the premises between the hours of 7:00 p.m. and 6:00 a.m. Persons other than a resident who are upon the premises for the purpose of the conduct of the home occupation are specifically restricted to the hours of 6:00 a.m. to 7:00 p.m.

- (46) Hotel. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.
- (47) Institution. A building occupied by a nonprofit corporation or a nonprofit establishment for public use.
- (48) Junk. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.
- (49) Junkyard. Any area, lot, land, parcel, building or structure or part thereof used for the storage, collecting, processing, purchase, sale or abandonment of wastewater, rags, scrap metal or other scrap or discarded goods, materials, machinery or two (2) or more unregistered, inoperable motor vehicles or other type of junk.
- (50) Loading Area. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.
- (51) Lodging House. A building where lodging only is provided for compensation for not more than three (3) persons not members of the family.
- (52) Lot. A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located.
- (53) Lot. Corner. A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five degrees (135°) or less, measured on the lot side.
- (54) Lot. Interior. A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.

- (55) Lot, Through. A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
- (56) Lot, Substandard. A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas or other open space provisions of this Code as pertaining to the district wherein located.
- (57) Lot Coverage (residential). The area of a lot occupied by the principal building or buildings and accessory building.
- (58) Lot Coverage (except residential). The area of a lot occupied by the principal building or buildings and accessory buildings including any driveways, parking areas, loading areas, storage areas and walkways.
- (59) Lot Line. A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way line.
- (60) Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (61) Lot Width. The horizontal distance between the side lot lines measured at the building setback line.
- (62) Minor Structures. Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four (4) feet in height.
- (63) Mobile Home. A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.
- (64) Mobile Home Lot. A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (65) Mobile Home Park. A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.
- (66) Mobile Home Subdivision. A land subdivision, as defined by Chapter 236 of the Wisconsin Statutes and any City Land Division Ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.
- (67) Modular Unit. A modular unit is a factory fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational or industrial purposes.

- (68) Nonconforming Uses. Any structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Code or amendments thereto and which is not in conformance with this Code. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming use, but shall be considered nonconforming with respect to those characteristics.
- (69) Nursing Home. An establishment used as a dwelling place by the aged, infirm, chronically ill or incurably afflicted, in which not less than three (3) persons live or are kept or provided for on the premises for compensation, excluding clinics and hospitals and similar institutions devoted to the diagnosis, treatment or the care of the sick or injured.
- (70) Outdoor Fixtures. An outdoor fixture is defined as a chattel, structure, or accessory item attached to land, imbedded in a property, or permanently resting upon land due to its size or weight.
- (71) Parking Lot. A structure or premises containing five (5) or more parking spaces open to the public.
- (72) Parties in Interest. Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- (73) Public Airport. Any airport which complies with the definition contained in Section 114.013(3), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.
- (74) Rear Yard. The yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the front yard.
- (75) Restaurant. Restaurant is as defined hereafter, and all references to full service restaurant/cocktail lounge as set forth in this Code, shall be construed to mean a full service restaurant as hereinafter defined.
- a. Full Service Restaurant – A restaurant shall be deemed a full service restaurant if it meets the following criteria:
1. Food is prepared to order of the individual customer.
 2. Food is served for in-house consumption, including waitstaff and bussing services. This provision shall not preclude service by way of salad bar or buffet counter.
 3. Not more than 20% of food is sold in wrappers or containers for off premise consumption.
 4. There is a variety of menu items.
 5. At least 80% of food is consumed in an indoor setting as opposed to an outdoor patio or garden.
 6. There is no drive-through service.
 7. A minimum of 35% of gross revenues shall be derived from the sale of food, exclusive of the sale of intoxicating liquor, wine, or fermented malt beverages.

- b. Limited Service Restaurant – a restaurant shall be deemed a limited service restaurant if it meets the following criteria:
 - 1. Food is prepared to order of the individual customer.
 - 2. Food is served primarily for in-house consumption.
 - 3. Not more than 40% of food is sold in wrappers or containers for off premise consumption.
 - 4. At least 60% of food is consumed in an indoor setting as opposed to an outdoor patio or garden.
 - 5. There is no drive-through service.
 - 6. The restaurant hours of operation are governed by the zoning regulations applicable to the district in which it is situated.
 - c. Fast Food Restaurant – a restaurant shall be deemed a fast food restaurant if any restaurant as defined in Section 254.61(5) of the Wisconsin statutes as from time to time amended or renumbered, and which does not fit the restrictions in subsections a and b above.
- (76) Retail. The sale of goods or merchandise in small quantities to the consumer.
- (77) Setback. The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed twenty-four (24) inches. any overhang of the cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback.
- (78) Shopping Center. A concentration of retail stores and service establishments in a suburban area with generous parking space and planned to serve the community or a neighborhood.
- (79) Side Yard. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.
- (80) Signs. Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.
- (81) Story.. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.

- (82) Story. Half. That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one (1) family dwellings, two (2) family dwellings and multi-family dwellings less than three (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.
- (83) Street. Property other than an alley or private thoroughfare or travel way which is subject to public easement or right-of-way for use as a thoroughfare and which is twenty-one (21) feet or more in width.
- (84) Street Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right of way line and a line parallel thereto through the nearest point of the principal structure.
- (85) Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground. A structure shall be deemed permanent if constructed or erected for a period exceeding seven (7) consecutive days. Any structure which is taken down in a period of less than seven (7) days, but reconstructed or re-erected on a regular basis, shall be deemed permanent. Reconstructing or re-erecting any structure more than three (3) times in any given thirty (30) day period, or in less than seven (7) days after initial removal, shall be deemed presumptive evidence of permanency.
- (86) Structural Alterations. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.
- (87) Temporary Structure. A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.
- (88) Use. The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.
- (89) Use. Accessory. A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.
- (90) Use. Principal. The main use of land or building as distinguished from subordinate or accessory use.
- (91) Utilities. Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.
- (92) Vision Clearance. An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.
- (93) Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot.
- (94) Zero Lot Line. The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.

13.2 Floodplain Zoning

13.2.1	STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS
13.2.2	GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN
13.2.3	FLOODWAY DISTRICT (FW)
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**13.2.1 STATUTORY AUTHORIZATION, FINDING OF FACT,
STATEMENT OF PURPOSE, TITLE AND GENERAL
PROVISIONS**

(a) Statutory Authorization

This ordinance is adopted pursuant to the authorization in s. 62.23, and the requirements in s. 87.30, Wis. 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) Title

This ordinance shall be known as the Floodplain Zoning Ordinance for the City of Glendale, Wisconsin.

(e) General Provisions**(1) Areas to be Regulated.**

This ordinance regulates all areas that would be covered by the regional flood or base flood.

Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

(2) Official Maps and Revisions.

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

OFFICIAL MAPS : Based upon the Flood Insurance Study, effective September 26, 2008, volume numbers 55079CV001A - 005A

- a. Flood Insurance Rate Maps (FIRM), panel numbers 55079C0037E, 55079C0041E, 55079C0043E, 55079C0077E, 55079C81E, effective September 26, 2008, and published in the Federal Register at Part 67, Volume 72, Pages 7373 through 7376, on February 15, 2007.

OFFICIAL MAPS: Based on other studies

- b. Floodplain Study Appendix: All DNR- and FEMA-approved floodplain maps, flood profiles, floodway data tables, regional or base flood elevations and other information located in the appendix. The community shall provide the most up to date appendix to the DNR and FEMA regional offices.

- (3) Establishment of Districts.
The regional floodplain areas are divided into three districts as follows:
- a. The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
 - b. The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
 - c. The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.
- (4) Locating Floodplain Boundaries.
Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 13.2.8 below. The Planning and Zoning Administrator and/or Director of Inspection Services can rely on a boundary derived from a profile elevation to grant or deny a building permit, whether or not a map amendment is required. The Planning and Zoning Administrator and/or Director of Inspection Services 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 Planning and Zoning Administrator and/or Director of Inspection Services and an applicant over the district boundary line shall be settled according to s. 13.2.7(c) and the criteria in (a) and (b) below.
- a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
 - b. Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.
Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 13.2.8(a) and (b).
- (5) 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 s. 13.2.8.
Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).
- (6) Compliance.
Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.
- (7) 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), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.12(4)(a), Wis. Stats., applies.

- (8) Abrogation and Greater Restrictions.
- a. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23, Wis. Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - 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.
- (9) Interpretation.
In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- (10) Warning and Disclaimer of Liability.
The flood protection standards in this ordinance are based on engineering experience and scientific 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. Nor does this ordinance 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.
- (11) 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.
- (12) General Development Standards.
The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by

methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

13.2.2 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

(a) Hydraulic and Hydrologic Analyses

- (1) Except as allowed in par. (3) below, no floodplain development shall:
 - a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 - b. Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (2) The Planning and Zoning Administrator and/or Director of Inspection Services shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.
- (3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 13.2.8.

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

(b) Watercourse Alterations

No 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 flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the Planning and Zoning Administrator and/or Director of Inspection Services shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

(c) Chapter 30 and 31, Wis. Stats., Development

Development which requires a permit from the Department, under chs. 30 and 31, Wis. 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 floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. 13.2.8.

(d) Public or Private Campgrounds

There are no public or private campgrounds allowed by the Zoning Code of the City of Glendale in any area as regulated by this ordinance.

13.2.3 FLOODWAY DISTRICT (FW)

(a) Applicability

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 13.2.5(d).

(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 s. 13.2.3(c) and (d); and
 - all permits or certificates have been issued according to s.13.2.7:
- (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 s. 13.2.3(c)(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with s. 13.2.3(c) and (d).
 - (5) Extraction of sand, gravel or other materials that comply with s. 13.2.3(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, Wis. Stats.
 - (7) Public utilities, streets and bridges that comply with s. 13.2.3(c)(3).

(c) Standards for Developments in Floodway Areas

(1) General

- a. Any development in floodway areas shall comply with s. 13.2.2 and have a low flood damage potential.
- b. Applicants shall provide the following data to determine the effects of the proposal according to s. 13.2.2(a):

1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 2. An analysis calculating the effects of this proposal on regional flood height.
- c. The Planning and Zoning Administrator and/or Director of Inspection Services shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.
- (2) **Structures**
Structures accessory to permanent open space uses, classified as historic structures, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
- a. The structures are not designed for human habitation and do not have a high flood damage potential;
 - b. The structures are constructed and placed on the building site so as to increase flood heights less than 0.01 foot and minimally obstruct the flow of floodwaters. Structures shall be constructed with the long axis parallel to the flow of floodwaters and on the same line as adjoining structures;
 - c. The structures are properly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
 - d. The structures have all service facilities at 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 s. 13.2.2(a).
- (4) **Fills or Deposition of Materials**
Fills or deposition of materials may be allowed by permit, if:
- a. The requirements of s. 13.2.2(a) are met;
 - b. No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Wis. 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 the other requirements of this section are met;
 - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - d. The fill is not classified as a solid or hazardous material.
- (d) Prohibited Uses**
All uses not listed as permitted uses in s. 13.2.3(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. COMM 83, 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;
- (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.

13.2.4 FLOODFRINGE DISTRICT (FF)

(a) Applicability

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 13.2.5(d).

(b) Permitted Uses

Any structure, land use, or development is allowed in the floodfringe district if the standards in s. 13.2.4(c) are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 13.2.7 have been issued.

(c) Standards for Development in Floodfringe Areas

S. 13.2.2(a) shall apply in addition to the following requirements according to the use requested.

(1) Residential Uses.

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

- a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
- b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation.

No basement or crawlway floor is allowed below the regional flood elevation;

- c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).
- d. In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 - 1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - 2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(2) Accessory Structures or Uses.

An accessory structure or use not connected to a principal structure shall be constructed with its lowest floor no more than two feet below the regional flood elevation, subject to flood velocities of no more than two feet per second, and shall meet all the provisions of s. 13.2.3(c)(2)(a), (b), (c), (d), and sub. (6) below.

(3) Commercial Uses.

Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of s. 13.2.4(c)(1). Subject to the requirements of sub. (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.

(4) Manufacturing and Industrial Uses.

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other floodproofing measures in s. 13.2.7(e). Subject to the requirements of sub. (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) 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 s. 13.2.7(e). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) Public Utilities, Streets and Bridges.

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such

- facilities may only be permitted if they are floodproofed in compliance with s. 13.2.7(e) to the flood protection elevation;
- b. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (7) Sewage Systems
All on-site sewage disposal systems shall be floodproofed, pursuant to s. 13.2.7(e), to the flood protection elevation and shall meet the provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (8) Wells
All wells shall be floodproofed, pursuant to s. 13.2.7(e), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (9) Solid Waste Disposal Sites.
Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (10) Deposition of Materials.
Any deposited material must meet all the provisions of this ordinance.
- (11) 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 s. 13.2.4(c)(1).
- (12) Mobile Recreational Vehicles.
All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 13.2.4(c)(11)(b) and (c). 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.

13.2.5 GENERAL FLOODPLAIN DISTRICT (GFP)

(a) Applicability

The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.

(b) Permitted Uses

Pursuant to s. 13.2.5(d), it shall be determined whether the proposed use is located within a floodway or floodfringe area.

Those uses permitted in floodway (s. 13.2.3) and floodfringe (s. 13.2.4) areas are allowed within the general floodplain district, according to the standards of s. 13.2.5(c), provided that all permits or certificates required under s. 13.2.7(a) have been issued.

(c) Standards for Development in the General Floodplain District

S. 13.2.3 applies to floodway areas, s. 13.2.4 applies to floodfringe areas. The rest of this ordinance applies to either district.

(d) Determining Floodway and Floodfringe Limits

Upon receiving an application for development within the general floodplain district, the Planning and Zoning Administrator and/or Director of Inspection Services shall:

- (1) Require the applicant to submit two 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 floodproofing measures;
- (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 typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and 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. Profile showing the slope of the bottom of the channel or flow line of the stream;
 - d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (3) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s.13.2.7(a)(2)c apply, the applicant shall provide all required information and computations to

delineate floodway boundaries and the effects of the project on flood elevations.

13.2.6 NONCONFORMING USES

(a) General

(1) Applicability

If these standards conform with s. 62.23(7)(h), Wis. Stats., they 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.

(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. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

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

b. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;

c. 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;

d. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed 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 dryland access must be provided for residential and commercial uses in compliance with s. 13.2.4(c)1. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

- e.
 - 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds 50% of the structure's present equalized assessed value.
 - 2. For nonconforming buildings that are damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.
- f. A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 13.2.3(c)(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 13.2.7(e) are used.

(b) Floodway Areas

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - a. Has been granted a permit or variance which meets all ordinance requirements;
 - b. Meets the requirements of s. 13.2.6(a);
 - c. Will not increase the obstruction to flood flows or regional flood height; and
 - d. Any addition to the existing structure shall be floodproofed, pursuant to s. 13.2.7(e), by means other than the use of fill, to the flood protection elevation.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the

applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.

- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

(c) Floodfringe Areas

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 13.2.4(c), except where s. 13.2.6(c)(2) is applicable.
- (2) Where compliance with the provisions of par. (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 s. 13.2.7(c), may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
- a. No floor is allowed below the regional flood elevation for residential or commercial structures;
 - b. Human lives are not endangered;
 - c. Public facilities, such as water or sewer, will not be installed;
 - d. Flood depths will not exceed two feet;
 - e. Flood velocities will not exceed two feet per second; and
 - f. The structure will not be used for storage of materials as described in s. 13.2.4(c)(6).
- (3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
- a. Meets all other regulations and will be granted by permit or variance;
 - b. Does not exceed 60 square feet in area; and
 - c. In combination with other previous modifications or additions to the building, does not exceed 50% of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

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

13.2.7 ADMINISTRATION

Where the Planning and Zoning Administrator and/or Director of Inspection Services or Board of Appeals have been appointed to administer a zoning ordinance adopted under s. 62.23(7), Wis. Stats., these officials shall also administer this ordinance.

(a) Planning and Zoning Administrator and/or Director of Inspection Services

- (1) The Planning and Zoning Administrator and/or Director of Inspection Services is authorized to administer this ordinance and 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 all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - d. Keep records of all official actions such as:
 1. All permits issued, inspections made, and work approved;
 2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 4. All substantial damage assessment reports for floodplain structures.
 - e. Submit copies of the following items to the Department Regional office:
 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

Note: Information on conducting substantial damage assessments is available on the DNR Floodplain Management Program website at the following World Wide Web address: <http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>

- f. Investigate, prepare reports, and report violations of this ordinance to the Plan Commission and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
 - g. Submit copies of text and map amendments and biennial reports to the FEMA Regional office.
- (2) Building Permit.
- A building permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Planning and Zoning Administrator and/or Director of Inspection Services 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 high water 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 on-site sewage systems or private water supply systems;
 - 5. Location and elevation of existing or future access roads;
 - 6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
 - 7. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
 - 8. Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of s. 13.2.3 or 13.2.4 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 s. 13.2.2(a). This may include any of the information noted in s. 13.2.3(c)(1).
 - c. Data Requirements to Analyze Developments
 - 1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision

proposals, as “subdivision” is defined in s. 236, Wis. Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

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

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

d. Expiration

All permits issued under the authority of this ordinance shall expire one year after issuance.

(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 Planning and Zoning Administrator and/or Director of Inspection Services, except where no permit is required, subject to the following provisions:

- a. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- b. Application for such certificate shall be concurrent with the application for a permit;
- c. 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;
- d. 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 floodproofing measures meet the requirements of s. 13.2.7(e).

(4) Other Permits.

The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

(b) Plan Commission

- (1) The Plan Commission shall:

- a. oversee the functions of the office of the Planning and Zoning Administrator and/or Director of Inspection Services; and
 - b. review and advise the Governing body on all proposed amendments to this ordinance, maps and text.
- (2) This Plan Commission shall not:
- a. grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
 - b. amend the text or zoning maps in place of official action by the governing body.

(c) Board of Appeals

The Board of Appeals, created under s. 62.23(7)(e), Wis. Stats., is hereby authorized to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Planning and Zoning Administrator and/or Director of Inspection Services may not be the secretary of the Board.

(1) Powers and Duties

The Board of Appeals shall:

- a. Appeals - 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.
- b. Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- c. Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(2) Appeals to the Board

- a. 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 Planning and Zoning Administrator and/or Director of Inspection Services 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.
- b. Notice and Hearing for Appeals Including Variances
 - 1. Notice - The Board shall:
 - i. Fix a reasonable time for the hearing;
 - ii. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
 - iii. 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.

2. Hearing - Any party may appear in person or by agent. The board shall:
 - i. Resolve boundary disputes according to s. 13.2.7(c)(3).
 - ii. Decide variance applications according to s. 13.2.7(c)(4).
 - iii. Decide appeals of permit denials according to s. 13.2.7(d).
 - c. Decision: The final decision regarding the appeal or variance application shall:
 1. Be made within a reasonable time;
 2. Be sent to the Department Regional office within 10 days of the decision;
 3. Be a written determination signed by the chairman or secretary of the Board;
 4. State the specific facts which are the basis for the Board's decision;
 5. 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;
 6. 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.
- (3) **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. If none exist, other evidence may be examined.
 - b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
 - 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 s. 13.2.8.
- (4) **Variance**
- 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 provisions 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 s. 13.2.1(c).
- b. In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
1. The variance may not cause any increase in the regional flood elevation;
 2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- 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 s. 13.2.8(a).
 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 flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.
- (d) To Review Appeals of Permit Denials**
- (1) The Board of Appeal shall review all data related to the appeal. This may include:
 - a. Permit application data listed in s. 13.2.7(a)(2).
 - b. Floodway/floodfringe determination data in s. 13.2.5(d).
 - c. Data listed in s. 13.2.3(c)(1)b.2. where the applicant has not submitted this information to the Planning and Zoning Administrator
 - d. Other data submitted with the application, or submitted to the Board with the appeal.
 - (2) For appeals of all denied permits the Board shall:
 - a. Follow the procedures of s. 13.2.7(c);

- b. Consider Plan Commission recommendations; and
 - c. Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
- a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

(e) Floodproofing

- (1) No permit or variance shall be issued 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 the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
 - a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - b. Protect structures to the flood protection elevation;
 - c. Anchor structures to foundations to resist flotation and lateral movement; and
 - d. Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (3) Floodproofing measures could include:
 - a. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
 - b. Adding mass or weight to prevent flotation.
 - c. Placing essential utilities above the flood protection elevation.
 - d. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
 - e. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
 - f. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

(f) 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) All real estate transfers should show what floodplain zoning district any real property is in.

13.2.8 AMENDMENTS

(a) General

The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) 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.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Note: Consult the FEMA website for the map change fee schedule at the following World Wide Web address: <http://www.fema.gov>.

(b) Procedures

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Wis. Stats. Such petitions shall include all necessary data required by s. 13.2.5(d) and 13.2.7(a)(2).

- (1) The proposed amendment shall be referred to the Plan Commission for a public hearing and recommendation to the governing body. 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, Wis. 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, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- (4) For amendments in areas with no water surface profiles, the Plan Commission shall consider data submitted by the Department, the Planning and Zoning Administrator's and/or Director of Inspection Services's visual on-site inspections and other available information. See s. 13.2.1(e)(4).

13.2.9 DEFINITIONS

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word “may” is permissive, “shall” is mandatory and is not discretionary.

- (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) “ACCESSORY STRUCTURE OR USE” - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- (c) “BASE FLOOD” - Means the flood having a one 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.
- (d) “BASEMENT” - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- (e) “BUILDING” - See STRUCTURE.
- (f) “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, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary high water mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- (g) “CAMPGROUND” - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- (h) “CAMPING UNIT” - Any portable device, no more than 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.
- (i) “CERTIFICATE OF COMPLIANCE” - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
- (j) “CHANNEL” – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (k) “CRAWLWAYS” OR “CRAWL SPACE” - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- (l) “DECK” – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- (m) “DEPARTMENT” - The Wisconsin Department of Natural Resources.
- (n) “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.

- (o) “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.
- (p) “ENCROACHMENT” - Any fill, structure, equipment, building, use or development in the floodway.
- (q) “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
- (r) “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.
- (s) “FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)” - The federal agency that administers the National Flood Insurance Program.
- (t) “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.
- (u) “FLOOD” or “FLOODING” – A general and temporary condition of partial or complete inundation of normally dryland areas caused by one of the following conditions:
 - The overflow or rise of inland waters,
 - The rapid accumulation or runoff of surface waters from any source,
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
 - 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.
- (v) “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.

- (w)** “FLOODFRINGE” - 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.
- (x)** “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.
- (y)** “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.
- (z)** “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.
- (aa)** “FLOODPLAIN ISLAND” - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (bb)** “FLOODPLAIN MANAGEMENT” - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (cc)** “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.
- (dd)** “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.
- (ee)** “FLOOD PROTECTION ELEVATION” - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- (ff)** “FLOOD STORAGE” - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (gg)** “FLOODWAY” - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (hh)** “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.

- (ii)** “HABITABLE STRUCTURE” - Any structure or portion thereof used or designed for human habitation.
- (jj)** “HEARING NOTICE” - Publication or posting meeting the requirements of Ch. 985, Wis. Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (kk)** “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.
- (ll)** “HISTORIC STRUCTURE” - Any structure that is either:
- 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,
 - 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,
 - 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
 - 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.
- (mm)** “INCREASE IN REGIONAL FLOOD HEIGHT” - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 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.
- (nn)** “LAND USE” - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- (oo)** “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.”
- (pp)** “MOBILE RECREATIONAL VEHICLE” - A vehicle which is built on a single chassis, 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.”
- (qq)** “MUNICIPALITY” or “MUNICIPAL” - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
 - (rr)** “NGVD” or “NATIONAL GEODETIC VERTICAL DATUM” - Elevations referenced to mean sea level datum, 1929 adjustment.
 - (ss)** “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.
 - (tt)** “NONCONFORMING STRUCTURE” - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
 - (uu)** “NONCONFORMING USE” - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
 - (vv)** “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.
 - (ww)** “OFFICIAL FLOODPLAIN ZONING MAP” - That map, adopted and made part of this ordinance, as described in s. 13.2.1(e)(2), which has been approved by the Department and FEMA.
 - (xx)** “OPEN SPACE USE” - Those uses having a relatively low flood damage potential and not involving structures.
 - (yy)** “ORDINARY HIGHWATER MARK” - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
 - (zz)** “PERSON” - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
 - (aaa)** “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 Commerce, 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.

- (bbb)** “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.
- (ccc)** “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.
- (ddd)** “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 percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (eee)** “START OF CONSTRUCTION” - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (fff)** “STRUCTURE” - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (ggg)** “SUBDIVISION” - Has the meaning given in s. 236.02(12), Wis. Stats.
- (hhh)** “SUBSTANTIAL DAMAGE” - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- (iii)** “UNNECESSARY HARDSHIP” - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- (jjj)** “VARIANCE” - An authorization by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- (kkk)** “VIOLATION” - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing

certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

- (III) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- (mmm) "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.
- (nnn) "WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

13.2.10 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance shall be subject to all enforcement and penalty provisions as set forth under Section 1.1.7 of the Glendale Code of Ordinances.

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13.3 Shoreland-Wetland Zoning

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ENFORCEMENT AND PENALTIES

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DEFINITIONS

ARTICLE A

Statutory Authorization, Findings of Fact, Statement of Purpose and Title

13.3.1 STATUTORY AUTHORIZATION.

This Chapter is adopted pursuant to the authorization in Sections 62.23, 62.231, 87.30 and 144.26, Wis. Stats.

13.3.2 FINDINGS OF FACT.

- (a) **Findings of Fact.** Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the City of Glendale would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty.
- (b) **Purpose.** To promote the public health, safety, convenience and general welfare, this Chapter has been established to:
 - (1) Further the maintenance of safe and healthful conditions;
 - (2) Prevent and control water pollution by filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters and to maintain storm and flood water capacity;
 - (3) Protect fish spawning grounds, fish, aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat;
 - (4) Prohibit certain uses detrimental to the shoreland-wetland area; and
 - (5) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

13.3.3 TITLE OF CHAPTER.

Shoreland-Wetland Zoning Ordinance/Chapter for the City of Glendale, Wisconsin.

13.3.4 THROUGH 13.3.9 RESERVED FOR FUTURE USE.

ARTICLE B

General Provisions

13.3.10 COMPLIANCE.

Any development in shoreland-wetlands shall be in full compliance with the terms of this Chapter. It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 134.

13.3.11 MUNICIPALITIES AND STATE AGENCIES REGULATED.

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

13.3.12 ABROGATION AND GREATER RESTRICTIONS.

- (a) This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Section 62.23 or 87.30, Wis. Stats., which relate to shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

13.3.13 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 municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 117, Wis. Adm. Code, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 117 standards in effect on the date of the adoption

of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

13.3.14 SEVERABILITY.

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

13.3.15 WARNING AND DISCLAIMER OF LIABILITY.

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

13.3.16 THROUGH 13.3.19 RESERVED FOR FUTURE USE.

ARTICLE C

Shoreland-Wetland Zoning District

13.3.20 PURPOSE OF SHORELAND-WETLAND ZONING.

This Chapter is adopted to maintain safe and healthful conditions, to prevent and control water pollution, to protect fish spawning grounds, fish and aquatic life and wildlife habitation, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner which minimize adverse impacts upon the wetland.

13.3.21 OFFICIAL SHORELAND-WETLAND ZONING MAPS.

The following maps are hereby adopted and made part of this Chapter, and are on file in the office of the City Engineer: Wisconsin Wetland Inventory maps stamped "FINAL" on January 6, 1988.

- (a) The shoreland-wetland zoning district includes all wetlands in the City of Glendale, Wisconsin, which are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-3-21.
- (b) Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high-water mark.
- (c) When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official shoreland-wetland zoning maps and the actual field condition at the time the maps were adopted, the Zoning Administrator shall contact that appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official shoreland-wetland zoning maps, the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

13.3.23 PERMITTED USES.

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

- (a) Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
 - (1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (3) The practice of silviculture, including the planting, thinning and harvesting of timber;
 - (4) The pasturing of livestock.
 - (5) The cultivation of agricultural crops; and
 - (6) The construction and maintenance of duck blinds.
- (b) Uses which do not require the issuance of a building permit and which may involve wetland alterations only to the extent specifically provided below:
 - (1) The maintenance and repair of existing drainage ditches, where permissible under Section 30.20, Wis. Stats., or of other existing drains systems (such as tiling) to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Chapter 30, WIS. Stats., and that dredged spoil is placed on existing spoil banks where possible;
 - (2) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - (3) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed in Section 13-3-38(c) of this Chapter; and
 - (4) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (c) Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below:
 - (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted in this Section, provided that:
 - a. The road cannot, as a practical matter, be located outside the wetland;
 - b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-38(c) of this Chapter;
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - d. Road construction activities are carried out in the immediate area of the roadbed only; and

- e. Any wetland alteration must be necessary for the construction or maintenance of the road.
- (2) The construction and maintenance of nonresidential buildings provided that:
- a. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - b. The building cannot, as a practical matter, be located outside the wetland;
 - c. The building does not exceed five hundred (500) square feet in floor area; and
 - d. Only limited filling and excavating necessary to provide structural support for the building is allowed.
- (3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
- a. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
 - b. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 - c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) of this Section; and
 - d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (4) The construction and maintenance of electric and telephone transmission lines and water, gas and sewer distribution lines, and related facilities provided that:
- a. The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the wetland;
 - b. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 - c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-3-38(c) of this Chapter.
- (5) The construction and maintenance of railroad lines, provided that:
- a. The railroad lines cannot, as a practical matter, be located outside the wetland;
 - b. Only limited wetland alteration necessary for such construction or maintenance is allowed; and

- c. Such construction or maintenance is done in a manner designed to minimize the adverse impact ,upon the natural functions of the wetland as listed in Section 13-3-38 of this Chapter.

13.3.24 PROHIBITED USES.

- (a) Any use not listed in Section 13-3-23 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-3-38 of this Chapter.
- (b) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

13.3.25 THROUGH 13.3.29 RESERVED FOR FUTURE USE.

ARTICLE D

Administrative Provisions

13.3.30 ZONING ADMINISTRATOR.

The Zoning Administrator shall have the following duties and powers:

- (a) Advise applications as to the provisions of this Chapter and assist them in preparing permit applications and appeal forms.
- (b) Issue permits and certificates of compliance and inspect properties for compliance with this Chapter.
- (c) Keep records of all permits issued, inspections made, work approved and other official actions.
- (d) Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
- (e) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation and map or text amendments within ten (10) days after they are granted or denied to the appropriate district office of the Department.
- (f) Investigate and report violations of this Chapter to the appropriate City planning agency and the District Attorney, corporation counsel or City Attorney.

13.3.31 ZONING PERMITS.

- (a) **When Required.** Unless another Section of this Chapter specifically exempts certain types of development from this requirement, a building permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 13-341(b)(4) of this Chapter, or any change in the use of an existing building or structure is initiated.
- (b) **Application** An application for a building permit shall be made to the Zoning Administrator upon forms furnished by the City and shall include, for the purpose of proper enforcement of these regulations, the following information:
 - (1) General Information.
 - a. Name, address and telephone number of applicant, property owner and contractor, where applicable.
 - b. Legal description of the property and a general description of the proposed use or development.
 - c. Whether or not a private water or sewage system is to be installed.
 - (2) Site Development Plan. The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 - a. Dimensions and area of the lot;
 - b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;

- c. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - d. Location of the ordinary high-water mark of any abutting navigable waterways;
 - e. Location and landward limit of all wetlands;
 - f. Existing and proposed topographic and drainage features and vegetative cover;
 - g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
 - h. Location of existing or future access roads; and Specifications and dimensions for areas of proposed wetland alteration;
(For purposes of this Section, "scale" shall be one inch equals fifty feet (1" = 50') for districts zoned other than public and semi-public or agricultural. For all other zoning classifications, the scale shall be one inch equals one hundred feet 1" = 100')
- (c) **Expiration.** All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.

13.3.32 CERTIFICATES OF COMPLIANCE.

- (a) Except where no building permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator subject to the following provisions:
 - (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this Chapter.
 - (2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
 - (3) The certificate of compliance shall be issued within ten (10) days after the completion of the work specified in the zoning or conditional use permit, prodding the building or premises or proposed use thereof conforms with all the provisions of this Chapter.
- (b) The Zoning Administrator may issue a temporary certificate of compliance for a building, premises or part thereof, pursuant to rules and regulations established therefor by the Common Council.
- (c) Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.

13.3.33 **CONDITIONAL USE PERMITS FOR WETLAND AREAS.**

- (a) **Conditional Use Permit Procedures.** The City Plan Commission may authorize the Zoning Inspector to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this Chapter and are found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. The district office of the Department of Natural Resources shall be provided written notice of any public hearing held hereunder at least ten(10) days prior to the date of hearing.
- (b) **Application** Applications for conditional use permits shall be made in duplicate to the Zoning Administrator on the forms furnished by the Zoning Administrator and shall include the following:
- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.
 - (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
 - (3) Plat of survey prepared by a registered land surveyor showing all of the information required for a Zoning Permit and, in addition, the following: mean and historic high water lines, on or within forty (40) feet of the subject premises, and existing and proposed landscaping. Survey by a registered land surveyor may be waived by the Zoning Administrator.
 - (4) Additional information as may be required by the City Plan Commission, City Engineer, Zoning, Building, Plumbing or Health Inspectors.
 - (5) Fee receipt from the City Clerk of the City of Glendale in the amount of Three Hundred Dollars (\$300.00).
- (c) **Review and Approval**
- (1) The City Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.
 - (2) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways, interstate and controlled access traffic ways and within one thousand five hundred (1,500) feet of its existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The City Plan Commission shall request such review and await the Highway Agency's recommendations for a period not to exceed sixty (60) days before taking final action.
 - (3) Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation restrictions, highway access restrictions,

increased yards or parking requirements may be required by the City .Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter. The City Plan Commission shall require an applicant to post a cash or surety bond to insure completion of the conditions it places on the use of the property.

- (4) Compliance with all other provisions of this Chapter and the Zoning Ordinance of the City of Glendale, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards, shall be required of all conditional uses.

13.3.34 FEES.

The Common Council, by resolution, shall establish fees for permits and administrative procedures under this Chapter.

13.3.35 RECORDING.

Where a building permit or conditional use permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.

13.3.36 REVOCATION.

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

13.3.37 BOARD OF APPEALS.

- (a) **Appointment** The Mayor shall appoint a Board of Appeals under Title 2, Chapter 4 of this Code of Ordinances and Section 62.23(7)(e), Wis. Stats., consisting of five (5) members subject to confirmation by the Common Council. The Board of Appeals shall adopt rules for the conduct of the business of the Board of Appeals as required by Section 62.23(7)(e)3, Wis. Stats.
- (b) **Powers and Duties.** The Board of Appeals shall:
- (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
 - (2) Hear and decide applications for conditional use permits under this Chapter.
 - (3) May authorize, upon appeal in specific cases, such variance from the terms of the Chapter as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of this Chapter will result in unnecessary hardship. In the issuance of a variance, the spirit of the

Chapter shall be observed and substantial justice done. No variance from the terms of this Chapter shall be granted which is contrary to the public interest. A variance may be granted where, owing to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship. The granting of a variance shall not have the effect of granting or extending any use of property which is prohibited in that zoning district by this Chapter.

- (c) **Appeals and Applications.** Appeals from the decision of the Zoning Administrator concerning the literal enforcement of this Chapter may be made by any person aggrieved or by any officer, department, board or bureau of the City. Such appeals shall be filed with the City Clerk within thirty (30) days after the date of written notice of the decision or order of the Zoning Administrator. 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 City Clerk. Such appeals and application shall include the following:
- (1) Name and address of the appellant or applicant and all abutting and opposite property owners of record.
 - (2) Plat of survey prepared by a registered land surveyor showing all of the information required under the City Zoning Code for a zoning permit.
 - (3) Additional information required by the City Plan Commission, City Engineer, Board of Zoning Appeals or Zoning Administrator.
 - (4) Fee receipt from the City Clerk in the amount of Two Hundred Fifty Dollars (\$250.00).
- (d) **Public Hearing.**
- (1) Before making a decision on an appeal, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.
 - (2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten (10) days prior to all public hearings on issues involving shoreland-wetland zoning.
- (e) **Findings.** No variance to the dimensional standards of this Chapter shall be granted by the Board of Appeals unless it finds, beyond a reasonable doubt, that all the following facts and conditions exist and so indicates in the minutes of its proceedings:
- (1) Exceptional Circumstances. There must be exceptional, extraordinary or unusual circumstances of conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of such general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
 - (2) Preservation of Property Rights. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

- (3) Absence of Detriment. That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Chapter or the public interest.
- (f) **Decisions.**
- (1) The Board of Zoning Appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator, City Plan Commission and the appropriate district office of the Department within ten (10) days after the decision is issued.
- (2) Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- (g) **Hearings.** The Board of Zoning Appeals shall fix a reasonable time and place for the hearing, give public notice thereof at least ten (10) days prior, and shall give due notice to the parties in interest, the Zoning Inspector and the City Plan Commission. Written notice of the public hearing shall also be provided to the district office of the Department of Natural Resources at least ten (10) days prior to the date of the hearing. At the hearing, the appellant or applicant may appear in person, by agent or by attorney.

13.3.38 AMENDING SHORELAND-WETLAND ZONING REGULATIONS.

The Common Council may, from time to time, alter, supplement or change the district boundaries and the regulations contained in this Chapter in accordance with the requirements of Section 62.23(7)(d)2, Wis. Stats., and the following:

- (a) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the City planning agency.
- (b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the City Plan Commission, and a public hearing shall be held as required by Section 62.23(7)(d)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least ten (10) days prior to such hearing.
- (c) In order to insure that the shoreland protection objectives in Section 144.26, Wis. Stats., will be accomplished by the amendment, the Common Council may not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
- (1) Storm and flood water storage capacity;
 - (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (4) Shoreline protection against soil erosion;
 - (5) Fish spawning, breeding, nursery or feeding grounds;

- (6) Wildlife habitat; or
 - (7) Areas of special recreational scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- (d) Where the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, the Department shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment.
- (e) The appropriate district office of the Department shall be provided with: (1) A copy of the recommendations and report, if any, of the City Plan Commission on the proposed text or map amendment within ten (10) days after the submission of those recommendations to the Common Council; and (2) Written notice of the Common Council's action on the proposed text or map amendment within ten (10) days after the action is taken.
- (f) If the Department notifies the City Plan Commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, that proposed amendment, if approved by the Common Council, may not become effective until more than thirty (30) days have elapsed since written notice of the Common Council approval was mailed to the Department, as required by Subsection (e) of this Section. If, within the thirty (30) day period, the Department notifies the Common Council that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the City under Section 62.231(6), Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under Section 62.231(6), Wis. Stats., is completed or otherwise terminated.

13.3.39**RESERVED FOR FUTURE USE.**

ARTICLE E

Penalties; Definitions

13.3.40 ENFORCEMENT AND PENALTIES.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this Chapter in violation of the provisions of this Chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Common Council, Plan Commission and the City Attorney who shall prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture as specified in Sec. 1-1-7, "General Penalties," of this Code of Ordinances, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the City, the State or any citizen thereof pursuant to Section 87.30(2), Wis. Stats.

13.3.41 DEFINITIONS.

- (a) For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.
- (b) The following terms used in this Chapter mean:
- (1) Accessory Structure or Use. A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.
 - (2) Boathouse. As defined in Section 30.121(1), Wis. Stats., a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.
 - (3) Department. The Wisconsin Department of Natural Resources.
 - (4) Development. Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling,

- grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.
- (5) Drainage System. One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
 - (6) 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 and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.
 - (7) Fixed Houseboat. As defined in Section 30.121(1), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.
 - (8) Navigable Waters. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under Section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Section 62.231, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
 - a. Such lands are not adjacent to a natural navigable stream or river;
 - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - c. Such lands are maintained in nonstructural agricultural use.
 - (9) Ordinary High-Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous so 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.
 - (10) Planning Agency. The City Plan Commission created under Section 62.23(1), Wis. Stats.
 - (11) Regional Flood. A flood determined to be representative or large floods known to have generally occurred in Wisconsin and which may be expected to occur or be exceeded on a particular stream because of like physical characteristics, once in every one hundred (100) years.
 - (12) Shorelands. Lands within the following distances from the ordinary high-water mark of navigable waters; one thousand (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.

- (13) Shoreland-Wetland District. The zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13-3-11 of this Chapter.
- (14) Special Exception or Conditional Use. A use which is permitted by this Ordinance provided that certain conditions specified in the Chapter are met and that a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the Common Council.
- (15) Unnecessary Hardship. That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.
- (16) Variance. An authorization granted by the Board of Appeals to .construct, alter or use a building or structure in a manner that deviates from me dimensional standards of this Chapter.
- (17) Wetlands. Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (18) Wetland Alteration. Any filling flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

13.4 Historic Preservation Zoning Designation

13.4.1	PURPOSE AND INTENT
13.4.2	DEFINITIONS
13.4.3	HISTORIC PRESERVATION COMMISSION
13.4.4	HISTORIC STRUCTURE AND SITE DESIGNATION; OPERATING GUIDELINES; PROCEDURES
13.4.5	REGULATION OF CONSTRUCTION, RECONSTRUCTION, ALTERATION AND DEMOLITION; CRITERIA; PROCEDURES; APPEAL
13.4.6	INTERIM REGULATIONS; PENALTIES

13.4.1 PURPOSE AND INTENT.

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

- (a) Effect and accomplish the protection, enhancement and preservation of such improvements and sites which represent or reflect elements of the City's cultural, social, economic, political and architectural history.
- (b) Safeguard the City's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures and sites.
- (c) Stabilize and improve property values, and enhance the visual and aesthetic character of the City.
- (d) Protect and enhance the City's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

13.4.2 DEFINITIONS.

As used in this Chapter, the following terms shall mean:

- (a) **Certificate of Appropriateness.** The certificate issued by the Commission approving the alteration, rehabilitation, construction, reconstruction or demolition of a historic structure or site.
- (b) **Commission.** The Historic Preservation Commission created under this Chapter.
- (c) **Historic Site.** Any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this Chapter, or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.
- (d) **Historic Structure.** Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural

characteristics of the City, state or nation and which has been designated as a historic structure pursuant to the provisions of this Chapter.

- (e) **Improvement.** Any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

13.4.3 HISTORIC PRESERVATION COMMISSION.

- (a) **Composition; Term.** A Historic Preservation Commission is hereby created, consisting of the members of the Plan Commission, as specified in Section 2-4-4 of this Code of Ordinances, which shall serve for the terms specified in Section 2-4-4 of this Code of Ordinances. The Mayor shall be designated as the Chairperson of the Commission.
- (c) **Powers and Duties.** The Commission shall have the power, subject to the criteria set forth in Section 13-4-4 of this Chapter, to recommend to the Common Council the designation of a historic structure or site within the City limits. Once designated as a historic structure or site, the Commission shall have the power, subject to the criteria set forth in Section 13-4-5 of this Chapter, to issue a Certificate of Appropriateness.

Cross Reference: Section 2-4-4.

State Law Reference: Sec. 62.23(7)(em), Wis. Stats.

13.4.4 HISTORIC STRUCTURE AND SITE DESIGNATION CRITERIA; OPERATING GUIDELINES; PROCEDURES.

- (a) **Criteria.** For purposes of this Chapter, a historic structure or site designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to the City, such as historic structures or sites which:
- (1) Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
 - (2) Are identified with historic personages or with important events in national, state or local history; or
 - (3) Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous material or craftsmanship; or
 - (4) Have yielded, or may be likely to yield, information important to prehistory or history.

- (b) **Operating Guidelines.** The Commission shall adopt specific operating guidelines for historic structure and site designation, providing such are in conformance with the provisions of this Chapter.
- (b) **Procedures.**
- (1) The petition for the nomination or rescission of the designation of an historic structure or site shall be made on a form provided by the Commission by only an owner of the proposed historic structure or site, a member of the Common Council or the Commission, as a whole.
 - (2) The Commission may, after notice and public hearing, recommend the designation of historic structures and sites or recommend rescission of such designation, after applying the criteria enumerated in Subsection (a), above. At least ten (10) days prior to such hearing, the Commission shall notify the owners of record, as listed in the office of the City Assessor, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected.
 - (3) The Commission shall then conduct such public hearing and, in addition to the notified person, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within ten (10) days after the close of the public hearing, the Commission may recommend designation of the property as either a historic structure or site, or recommend rescission of such designation. Notification of such recommendation shall be immediately sent to the Common Council for appropriate consideration and to the property owner or owners of the affected structure or site.
 - (4) The Common Council, upon receipt of the recommendation from the Historic Preservation Commission, shall hold a public hearing, notice to be given as noted in Subsection (c)(2) above, and shall, following the public hearing, either designate or reject the historic structure or site.
 - (5) After designation or rescission has been made, notification shall be sent to the property owner or owners and shall also be given to the Building Inspection Department, Plan Commission and City Assessor. The designation or rescission shall also be recorded, at City expense, in the County Register of Deeds office.
 - (6) At such time as a historic structure or site has been properly designated, the Commission, in cooperation with the property owner, may cause to be prepared and erected on such property, at City expense, a suitable plaque declaring that such property is a historic structure or site.

13.4.5 REGULATION OF CONSTRUCTION, RECONSTRUCTION, ALTERATION AND DEMOLITION.

- (a) **Regulation.** No owner or person in charge of a historic structure or site shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or cause or permit

any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission, nor shall the building inspector issue a permit for any such work unless such certificate has been granted.

(b) **Criteria.** Upon filing of any application for a Certificate of Appropriateness with the Commission, the Commission shall approve the application unless:

- (1) The proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done;
- (2) In the case of the construction of a new improvement upon a historic site, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site.
- (3) The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City and state;
- (4) In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.

(c) **Procedures.**

- (1) If the Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property, it shall issue the Certificate of Appropriateness. The Commission shall make this determination within forty-five (45) days of the filing of the application.
- (2) The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.
- (3) Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the Commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this Chapter.
- (4) Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

(d) **Appeal.** Should the Commission reject the application for a Certificate of Appropriateness, due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Common Council within thirty (30) days.

13.4.6 INTERIM REGULATIONS; PENALTIES.

- (a) **Interim Regulations.** No building permit shall be issued by the Building Inspector for alteration, construction, demolition, or removal of a nominated historic structure or site from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination by the Common Council, unless such alteration, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety. In no event shall the delay be for more than one hundred eighty (180) days.
- (b) **Penalties.** Any person or persons violating any provision of this Chapter shall be fined Fifty Dollars (\$50.00) for each violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the Building Inspector.

State Law Reference: Sec. 62.23(7)(f), Wis. Stats.