LOCAL ZONING ORDINANCE OPTIONS
FOR CONDITIONAL USE PERMITS
AFTER 2017 WISCONSIN ACT 67

BRIAN W. OHM, J.D.
Local Zoning Ordinance Options for Conditional Use Permits
After 2017 Wisconsin Act 67

by
Brian W. Ohm, J.D.
Department of Planning + Landscape Architecture
University of Wisconsin-Madison/Extension

November 2018

Contents

Introduction
Historical Context
2017 Wisconsin Act 67 and CUPs
Act 67 Applies to More than CUPs
Should It Be a Conditional Use?
Other Zoning Ordinance Considerations: Purpose Statements
The Anatomy of a Conditional Use Permit Ordinance
  ◆ Application Process Requirements Specified in an Ordinance
  ◆ Approval Process Requirements Specified in an Ordinance
  ◆ Requirements and Conditions Specified in the Ordinance: Standards
  ◆ Requirements and Conditions Specified in the Ordinance: Duration, Transfer, and Renewal of CUPs
  ◆ Insuring Compliance After Approving the CUP
  ◆ Judicial Review

Moving Forward

Acknowledgements: The author acknowledges the helpful review and comments by Richard R. Kania, Community Assistance and Economic Development Planner, Southeastern Wisconsin Regional Planning Commission.
Introduction

2017 Wisconsin Act 67, effective since November 2017, established uniform statutory requirements for how cities, villages, towns, and counties review applications for conditional use permits, special exceptions, and other special zoning permissions (hereafter referred to solely as "CUPs").¹ Act 67 added new sections on CUPs to the three different statutes that enable the various types of local government in Wisconsin to enact zoning ordinances.² Conditional uses and special uses are a common element in local zoning ordinances. Zoning districts in a local zoning ordinance will identify uses that are allowed as a matter of right in the district (permitted uses) and may identify other uses that can be allowed in the zoning district subject to certain conditions being placed on the use (conditional uses or special uses). Uses that are not identified as permitted or conditional uses in a zoning district are not allowed in the district (prohibited uses).

Local government zoning ordinances and practices related to conditional uses, special uses, and special exceptions vary considerably throughout the state. As a result, it is difficult to generalize about the impact of Act 67 on local zoning ordinance and practices. Some existing local ordinances and practices may comply with the new law so no changes are needed. Other communities might find they only need to make minor changes due to Act 67. For some local governments, Act 67 may require more significant changes. Local governments are taking various approaches to understand the implications of Act 67 on applications for CUPs. Several communities, including the Town of Grafton in Ozaukee County and the Town of Delafield in Waukesha County imposed temporary moratoria on the issuance of CUPs as they study the need to make changes to their ordinances in response to Act 67.³

Act 67 should prompt local governments to analyze their existing local zoning ordinance and practices to ensure they comply with the requirements of Act 67. This publication is intended to provide additional guidance for local communities to review their zoning ordinances and practices for compliance with the requirements of Act 67 related to CUPs.

Historical Context

The Standard State Zoning Enabling Act (SSZEA), published by the U.S. Department of Commerce in 1926, provides the basis for Wisconsin’s current zoning enabling laws. While Wisconsin’s original zoning enabling laws predate the SSZEA, when the Legislature began to “modernize” the zoning enabling laws for cities in the 1940s (the Legislature later allowed villages and towns that have adopted village powers to follow the same law as cities), it borrowed language from the SSZEA. The SSZEA did not use the term “conditional uses” but rather referred to “special exceptions.” Section 7 of the SSZEA allowed the local legislative body to create a “board of adjustment” and “provide that the said board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards make special expeditions to the terms of the ordinance in

² 2017 Wis. Act 67 created Wis. Stat. § 59.69(5e) for county zoning; Wis. Stat. § 60.61(4e) for town zoning (without village powers) in counties that do not have a county zoning ordinance; and Wis. Stat § 62.23(7)(de) for city, village, and town (with village powers) zoning ordinances.
harmony with its general purposes and intent and in accordance with general or specific rules therein contained.”

Wisconsin’s current zoning enabling law for counties requires the creation of a “board of adjustment” while the current zoning enabling law for cities, villages, and towns with village powers, requires the creation of a “board of appeals.” Both enabling laws include almost identical language to the above quoted language from the SSZEA: “provide in such regulations that said board of [adjustment/appeals] may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.”

As noted by one early commentator on Wisconsin zoning law:

A zoning ordinance purports to place all land within the community in a “district” in which land may be put to certain designated uses. In theory, the local governing body, with the help of experienced professionals, is able to foresee the best uses to which all land in the community should be put in the future. From the beginning of zoning, the legislature, in its infinite wisdom, recognized that permanent zoning for specific uses was not feasible. Accordingly [state law] provides that the local governing body could (and, impliedly, should) bring flexibility into the zoning ordinance by authorizing the board of zoning appeals . . . to grant “special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules” designated in the ordinance.

The “special exceptions” procedure is frequently used to allow an unusual use in a given zoning district only after a review of the applicable facts establishes that the proposed use would conform, perhaps if subjected to certain special conditions, to the standards or rules spelled out in the ordinance for such a use.

Other language in Section 7 of the SSZEA gives the board of adjustment the authority “[t]o hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.” Likewise, Wisconsin’s current zoning enabling laws for counties, cities, villages, and towns with village powers, includes identical language to that found in the SSZEA authorizing the board of appeals “to hear and decide special exception to the terms of the ordinance upon which such board is required to pass under such ordinance.”

Despite this language in the statutes, by the 1960s, most local governments in Wisconsin authorized the plan commission or the elected governing body, rather than the board of zoning appeals, to approve conditional use permits. “The reason for this more frequent reliance upon the plan commission or elected body is that they are continuously involved in the process of recommending legislative changes in the zoning ordinance and therefore more apt to be conversant with the ‘purpose and intent’ of the ordinance than the board of zoning appeals whose primary function is the quasi judicial one of granting variances from the express terms of the ordinance because hardship exists, rather than that such a deviation is explicitly authorized in the ordinance if

---

5 Wis. Stat. 59.694(1) (counties); Wis. Stat. 62.23(7)(e)1 (cities, villages, towns with village powers).
7 Wis. Stat. § 59.694(7)(b) (counties); Wis. Stat. § 62.23(7)(e)7.b (cities, villages, towns exercising zoning under village powers).
8 Cutler, supra note 6, p. 37.
certain standards are determined to have been met.”9 The Southeastern Wisconsin Regional Planning Commission (SEWRPC) also concluded that the local planning agency was “the most qualified body” to review CUPs since they often address planning and development matters and usually contain members with experience or professional expertise in dealing with such matters.10 SEWRPC and other early commentators on Wisconsin zoning practice recommended that if the zoning board of appeals/adjustment or the local governing body granted CUPs, they should be required to await review and recommendation by the local planning agency before taking final action.11

In an acknowledgement of this practice and to clarify any uncertainty about the authorization for the practice, Wisconsin’s zoning enabling laws were amended in 1973 to expressly enable the plan commission of the governing body to grant special exceptions in addition to the board of adjustment/appeals. For cities, villages, and towns exercising zoning under village powers, the language reads: “Nothing in this subdivision shall preclude the granting of special exceptions by the city plan commission or the common council in accordance with the zoning regulations adopted pursuant to this section which were in effect on July 7, 1973 or adopted after that date.”12 The zoning enabling law for counties was likewise amended to enable a county planning and zoning committee, a county planning and zoning commission, or the county board to grant special exceptions in addition to the board of adjustment.13

The enabling language in the Wisconsin Statutes based on the SSZEAA resulted in some local governments in Wisconsin using the term “special uses.” Other local governments in Wisconsin began to use the term “conditional uses” following zoning ordinance development in other states. Early commentators on Wisconsin zoning law noted that local ordinances used the terms “special use” or “conditional use” and cautioned against the use of the term “special exception” unless the board of adjustment/appeals was authorized to grant the “exception.”14 Commentators also noted the confusion between variances and “special exceptions.” While a variance is an exception to the ordinance, a “special exception” is not. A special exception permits certain uses specified in the ordinance whenever certain stated conditions are met so a “special exception” ends up following the ordinance.15 Decisions of the Wisconsin courts, in line with courts throughout the United States, subsequently interpreted the “special exceptions” language in the enabling laws to also mean “conditional uses.”16

By the mid-1970s, commentators acknowledged that CUPs were “widely employed, with their use expanding into new directions . . . as communities seek greater involvement in land-use decisions and flexibility in the administration of land-use regulations.”17 An applicant for a CUP “must go through the special permit process which gives the administering agency an opportunity to determine whether that development, in the particular location contemplated, will create special problems that can be ameliorated by specially devised conditions or which call for denial of

---

9 Id.
12 Wis. Stat. § 62.23(7)(e)1 (cities, villages, towns with village powers).
13 Wis. Stat. § 59.694(1).
14 CUTLER, supra note 6, p. 38.
15 Id., p. 46, n. 5.
16 State ex rel. Skelly Oil Co., Inc. v. City of Delafield, 58 Wis. 2d 695, 702, 207 N.W.2d 585 (1973); Delta Biological Resources, Inc. v. Board of Zoning Appeals of City of Milwaukee, 160 Wis.2d 905, fn. 10, 467 N.W.2d 164 (Ct. App. 1991).
permission.”\textsuperscript{18} The commentators also recognized that the overuse of CUPs for development “is nonzoning and development by arbitrary decision making . . . [which] must be restrained by criteria and standards.”\textsuperscript{19} Over the ensuing decades numerous court cases helped to guide the practice of CUPs in Wisconsin. Except for the language quoted earlier, the Wisconsin Statutes provided little guidance for CUPs. That changed with the enactment of Act 67.

The Wisconsin Legislature enacted Act 67 in response to the Wisconsin Supreme Court’s May 2017 decision in \textit{AllEnergy Corp. v. Trempealeau County}, 2017 WI 52. The \textit{AllEnergy} case involved the denial of a CUP for a proposed frac sand mine in Trempealeau County. The County voted to adopt 37 conditions for the mine, which AllEnergy agreed to meet, but then the County voted to deny the CUP in part relying on public testimony in opposition to the mine. A divided Wisconsin Supreme Court upheld the County’s denial of the acknowledging the discretionary authority of local governments in reviewing proposed conditional uses.

Act 67 in part reflects the sentiment articulated by the dissent in the \textit{AllEnergy} decision. According to the Dissent in \textit{AllEnergy}: “When the Trempealeau County Board writes its zoning code, or considers amendments, . . . is the stage at which the County has the greatest discretion in determining what may, and may not, be allowed on various tracts of property.” “Upon adding a conditional use to a zoning district, the municipality rejects, by that very act, the argument that the listed use is incompatible with the district.” “An application for a conditional use permit is not an invitation to re-open that debate. A permit application is, instead, an opportunity to determine whether the specific instantiation of the conditional use can be accomplished within the standards identified by the zoning ordinance.”

While local governments did not need to change their ordinances in response to the \textit{AllEnergy} decision, Act 67 should prompt local governments to review their zoning ordinances, practices, and procedures to ensure they meet the new statutory requirements.

\textbf{2017 Wisconsin Act 67 and CUPs}

The statutory sections added to the three local government zoning enabling laws by Act 67 state that ”\textit{[i]f an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the ... ordinance or those imposed by the ... zoning board, the [city/village/town/county] shall grant the conditional use permit.”\textsuperscript{20} This language attempts to codify a process where the focus of the decision-making process is on developing requirements and conditions that address the impacts of the proposed use. This is a shift for some communities where the decision-making process focused on whether to approve or deny a conditional use based on whether people liked or did not like a proposed use. If a use is not appropriate for an area, the community should consider not allowing the use as a conditional use in the zoning district for the area. The community should also decide if there are other zoning districts where the use might be appropriate.

The use of the term “zoning board” in Act 67 is confusing. As discussed in the above section on the historical context, under Wisconsin law, CUPs may be granted by the board of adjustment/appeals (the “zoning board”?), the plan commission, a county planning and zoning committee, a county planning and zoning commission, or the governing body (the common council,

\textsuperscript{18} Id. at p. 25, quoting Heyman, \textit{Innovative Land Regulation and Comprehensive Planning, in The New Zoning}, pp. 33-34.

\textsuperscript{19} Id.

\textsuperscript{20}
village/town/county board). Also, as noted above, it was common practice in Wisconsin going back over 50 years for local governments to authorize the plan commission to grant CUPs or for the governing body to grant CUPs after considering recommendations from the plan commission. It is not clear why Act 67 only refers to “zoning boards” and whether the Act applies to the other bodies that may issue conditional use permits. For purposes of this publication, only the term “zoning board” is used.

Act 67 further states that the requirements and conditions specified in the ordinance or imposed by the zoning board “must be reasonable and, to the extent practicable, measurable” and “[a]ny condition imposed must be related to the purpose of the ordinance ....” Act 67 requires that the zoning board hold a public hearing on the CUP following the posting of a Class 2 notice. Finally, Act 67 introduces a “substantial evidence” standard for local decisions on conditional use permit applications. Act 67 defines “substantial evidence” to mean “facts and information other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.” The Act later states that “[a]ny condition imposed must be ... based on substantial evidence.” Act 67 then shifts the burden of proof to the applicant who must provide substantial evidence demonstrating “that the application and all requirements and conditions established by the [city/village/town/county] relating to the conditional use are or shall be satisfied.” The zoning board then makes its decision on the permit. Act 67 requires that a zoning board’s “decision to approve or deny the permit must be supported by substantial evidence.”

A local ordinance sets “the law,” the legal framework for reviewing applications for proposed conditional uses. The requirement that substantial evidence support the actual conditions imposed requires facts to support the application of the law. A decision to deny a conditional use permit means the zoning board has substantial evidence that there is a requirement or condition that the applicant cannot meet. A decision to approve a conditional use permit means the zoning board has substantial evidence that the applicant meets or agrees to meet the requirements and conditions of the ordinance and the conditions imposed in the permit. As support for the substantial evidence standard, the zoning board can rely on the substantial evidence provided by the applicant and independent information presented to the zoning board. Local governments need to build the record to support their decision based on the application, ordinance, and other documentation and testimony presented at the public hearing. The minutes of the meetings reviewing the CUP need to reflect the reasoning supporting the conditions and basis for denying a permit if that is the outcome of the review.

The following is intended to provide guidance for local government to review the conditional use provisions in their zoning ordinances to ensure they comply with the language of Act 67.

Act 67 Applies to More than CUPs

While the focus of Act 67 seems to be on CUPs, it is important to understand the scope of the application of Act 67 in the context of planning practices in Wisconsin. Act 67 defines “conditional use” to mean “a use allowed under a conditional use permit, special exception, or other special zoning

20 See supra text accompanying notes 12 and 13.
permission issued by a [county/city/village/town], but does not include a variance.” Some local governments may have separate provisions in their zoning ordinances for conditional use permits, special use permits, and/or special exceptions. The requirements added to the statutes by Act 67 apply to all of these different provisions. Rather than continually referring to all of these, this report will simply refer to these different permits as “conditional use permits” or “CUPs.” Nevertheless, as local governments review their zoning ordinances for compliance with Act 67, it is important to remember that the information discussed in this publication applies to CUPs, special use permits, special exceptions, and other special zoning permissions.

**Should It Be a Conditional Use?**

A typical zoning ordinance will include a section on CUPs that sets forth the procedural requirements for CUPs – application requirements, hearing, standards for decision-making, etc. These elements are discussed in more detail in the next section. The determination of whether or not a particular use is allowed as a conditional use in a specific zoning district is usually made in a different section of the zoning ordinance that specifies the various basic zoning districts for the community. As local governments think about conditional uses post-Act 67, they should think about what conditional uses are allowed in the different zoning districts in the zoning ordinance. The requirements of Act 67 may prompt local governments to reconsider what they include as a conditional use. Uses not treated as conditional uses can follow different approval processes than the process prescribed by Act 67.

For example, some local governments treat the approval of planned development districts (or planned unit developments) as conditional uses. Other local governments treat planned development districts as a separate basic zoning district. If it is treated as conditional use, the approval of the planned development district must follow the requirements of Act 67. If the planned development district is a separate zoning district, the approval process requires a rezoning. A rezoning is considered a legislative decision meaning that the elected governing body (the ultimate approval authority for all rezonings) has considerable discretion in terms of approving the rezoning, denying the rezoning, making modifications to the proposed rezoning, or requiring conditions as part of the rezoning. The requirements of Act 67 reinforce the quasi-judicial nature of conditional use permit decisions whereby the body with authority to approve conditional use permits (the governing body, the plan committee, zoning board of adjustment/appeals, or the county zoning agency) has limited discretion and must apply the standards and requirements of the ordinance to the specific facts of the proposal presented to them.

Act 67 has prompted many local governments to review what they include as conditional uses in their zoning ordinance. The Village of Pewaukee, for example, amended its zoning ordinance to remove certain uses that had been included as conditional uses in certain zoning districts that the Village Board felt might not be appropriate for the district. If someone wants to propose one of those uses, they will need to petition the Village to amend the zoning ordinance to add the use. The Village changed some other uses that were conditional uses to permitted uses.

---

22 Wis. Stat. § 59.69(5e)(a)1 (counties); Wis. Stat. § 60.61(4e)(a)1a (towns in counties without county zoning); and Wis. Stat § 62.23(7)(de)1.a (cities, villages, and towns with village powers).

23 Rezonings follow different procedures outlined in the statutes, including the requirement that the rezoning must be consistent with the local comprehensive plan.

Finally, some local governments treat certain uses or activities as conditional uses while other local governments have a separate ordinance for those uses/activities. One example is temporary uses. Temporary uses can range from temporary storage units placed on a parcel to temporary retail uses like Christmas tree sales. Some local governments treat temporary uses as a conditional use. Other local governments have a separate ordinance for temporary uses. In light of the changes under Act 67, a local government may want to review the scope of conditional uses included in its zoning ordinance.

**Other Zoning Ordinance Considerations: Purpose Statements**

As local officials review the language of their zoning ordinance describing the various zoning districts and what is allowed as a conditional use in those respective districts, they should also ensure they have meaningful “purpose” and/or “intent” statements that describe the purpose or intent of each district. Act 67 requires that “[a]ny condition imposed must be related to the purpose of the ordinance . . . .” Purpose statements in ordinances are important. Reference to the local comprehensive plan can help understand the purpose of the ordinance. Specific statements within the ordinance can also clarify the purpose or intent of the specific zoning districts within which conditional uses may be allowed. Since Act 67 distinguishes between requirements and conditions specified by the ordinance and conditions imposed by the board, it would be possible for the board to develop a unique condition that is not specified in the ordinance but is fashioned to protect the public interest as expressed in the purpose of the ordinance. Purpose statements usually appear in the section of the zoning ordinance describing the different zoning districts. It is helpful to have a purpose and/or intent statement for each of the different districts to guide decision-makers. The courts often rely on such statements when reviewing local actions. An example of a purpose statement from Dane County’s zoning ordinance for one of the zoning districts follows:

1) Purpose.

The HAM-M Hamlet-Mixed-Use District accommodates a variety of commercial activities in conjunction with civic open spaces and buildings. It is a denser, fully-mixed use part of a community. Within the HAM-M district, the predominant land and building use is commercial, but may include residential and workplace uses in deference to the purpose and character of local commercial activities. It is typically located along an important street. Many older traditional downtown or neighborhood commercial districts typify the characteristics of a HAM-M district.

**The Anatomy of a Conditional Use Permit Ordinance**

The following sections provide sample ordinance language that is intended to follow the language of Act 67 and related commentary that helps introduce the various ordinance provisions to the reader and connect the provisions to the language of Act 67. The basic organization of the sample ordinance and some of the content of the sample ordinance language is based on the *21st Century Land Development Code* written by Robert H. Freilich and S. Mark White and published by the American Planning Association (2008). The sample ordinance language also includes modified ordinance language from the following zoning ordinances: Dane County (Draft dated March 12, 2018), City of Kenosha, City of Madison, Waukesha County, the City of Sturgeon Bay, Door County, and a Model Zoning Ordinance (based on the Town of Weston Zoning Ordinance) drafted by Russell Knetzger, Max Anderson, and the North Central Wisconsin Regional Planning Commission (1991, updated in 2003).
Act 67 uses the terms “requirements” and “conditions” and acknowledges that requirements and conditions can be specified in the ordinance and the zoning board can also impose requirements and conditions. Presumably this means the zoning board can impose requirements and conditions that are not specified in the zoning ordinance as long as they meet the requirements of Act 67 (relate to the purpose of the ordinance, are measurable to the extent practicable, are supported by substantial evidence). The following sections focus primarily on requirements and conditions specified in a local ordinance.

Local zoning ordinances will typically include requirements that detail the process the local government will follow to review an application for a CUP. These requirements generally identify who can apply for a CUP and what type of information needs to be submitted with an application for a CUP to aid the local government in making a decision about the proposed conditional use. This may include maps and other information about the existing conditions of the area of proposed conditional use and specific information about the proposed conditional use such as a site plan showing ingress and egress, information about trip generation, hours of operation, etc. A zoning administrator can then determine if the application meets the requirements of the ordinance and is complete for review by the decision makers.

Example of Application Process Requirements Specified in an Ordinance:

4.23 CONDITIONAL USE PERMITS

Purpose and findings: This Section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right but which may, under appropriate standards and factors set forth in the Zoning Code, be approved. These uses shall be allowed through the issuance of a Conditional Use Permit (CUP) approved by the [zoning board]25 after ensuring that the use can be appropriately accommodated on the specific property; that it will conform to the adopted comprehensive plan; that it can be constructed and operated in a manner that is compatible with the surrounding land uses and overall character of the neighborhood; and that the public interest, health, safety, and general welfare will be promoted.

No inherent right exists to receive a CUP. Such authorization must be approved under a specific set of circumstances and conditions. Each application and situation is unique. Every CUP shall at a minimum be required to comply with all requirements contained in local ordinances and State and Federal law. Mere compliance with the generally applicable requirements however may not be sufficient, and additional measures and conditions may be necessary to mitigate the impact of the proposed development.26

25 Bracketed language [ ] should be replaced by the appropriate terms used by a particular local government.
26 The City of Portland, Oregon, includes the following purpose statement for conditional uses: “Certain uses are conditional uses instead of being allowed outright, although they may have beneficial effects and serve important public interests. They are subject to the conditional use regulations because they may, but do not necessarily, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the
4.23.1 Conditional Applicability

The provisions of this Section apply to any application for approval of a CUP. Conditional uses are those uses that are generally compatible with the land uses permitted by right in a zoning district but that require individual review of their location, design, and configuration, and the imposition of conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are enumerated as conditional uses in a zoning district, as set forth in the zoning regulations, shall be authorized by the [zoning board]. A CUP is not required for a use permitted by right in a given zoning district.

4.23.2 Initiation of Application

An owner of real property, or that owner’s authorized representative, may apply for a CUP for that property by filing an application with the [zoning administrator] on the form available from the [zoning administrator]. Before completing the applications, the applicant is encouraged to meet with the [zoning administrator] to discuss the proposed conditional use and the review process.

The application for a CUP shall include the following information where pertinent and necessary for proper review:

(a) A map of the subject property showing all lands for which the conditional use is proposed, and all other lands within 300 feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of the County. The map shall clearly indicate the current zoning of the subject property and its environs. The map shall be submitted in a form that is clearly reproducible with a photocopier, and shall be at a scale that is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided;
(b) A written description of the proposed conditional use describing the type of activities, buildings, and structures proposed for the subject property and their general locations;
(c) A site plan of the subject property as proposed for development.
(d) Written justification for the proposed conditional use consisting of the reasons why the applicant believes the proposed conditional use is appropriate, particularly as evidenced by compliance with the standards set forth in subsections ___xx__.
(e) Applications for proposed new or substantially modified mobile service facilities and supporting structures shall be reviewed for completeness and provide information as specified in Section 66.0404(2)(b) and (c) of the Wisconsin Statutes.
(f) Applications for proposed wind energy systems shall be reviewed for completeness and provide the information specified in Sections PSC 128.30, 128.31, and 128.60 of the Wisconsin Administrative Code, as applicable.
(g) Additional information as may be required by local ordinances.
(h) Payment in full of all application fees established by the governing body.
4.23.3 Completeness Review

The [zoning administrator] shall review the application for the CUP for completeness before review by the [zoning board]. Once the [zoning administrator] notifies the applicant that the application is complete, the applicant shall provide the [zoning board] with [number] copies of the complete application.

4.23.4 Withdrawal of Application

An application for a CUP may be withdrawn by the applicant at any time.

4.23.5 Amendments

Any proposed amendment to a CUP shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original permit.

4.23.6 Effect of Denial

If an application for a CUP is denied, a new application for the same conditional use will not be considered by the [zoning board] for a period of 12 months from the date of denial, except on grounds of new evidence as determined by the [zoning administrator].

◆ Approval Process Requirements Specified in an Ordinance

Local zoning ordinances also typically include language outlining the approval process.

Example of Approval Process Requirements Specified in an Ordinance:

4.23.7 Approval

After the [zoning administrator] has certified that the application is complete, the application shall be deemed received and shall be referred to the [zoning board] for its review and decision. The [zoning administrator] will prepare a staff report summarizing the proposed conditional use and including recommended conditions based on the requirements and standards of this Ordinance.

4.23.7.1 Third Party Consultation

If necessary expertise is not available from [city/village/town/county] staff, public academic institutions or from appropriate regional, state or federal agencies, the [zoning board] may consult with a third party to effectively evaluate a conditional use permit application. The [planning director], or his or her designee, will select the consultant. The applicant for the conditional use permit shall bear all reasonable costs and expenses associated with such consultation. Applicants retain the right to withdraw a pending conditional use permit application if they choose not to pay consultant fees.
4.23.7.2 Plan Commission Review

The [zoning board] shall send a copy of the complete application to the Plan Commission for their review and recommendation as to the effect of the proposed CUP upon the local comprehensive plan.

4.23.7.3 Public Hearing

The [zoning board] shall hold at least one public hearing on the application following publication of a class 2 notice under ch. 985 of the Wisconsin Statutes (2 insertions, one per week with the last insertion one week before the hearing). The public hearing before the [zoning board] shall be conducted as a quasi-judicial hearing.

[Act 67 requires a public hearing and a class 2 notice. This establishes a minimum requirement. Many local governments also provide additional notice to neighboring property owners such as:

Notice of the public hearing shall also be given by first class mail to the owners of all lands within three hundred (300) feet of any part of the land included in such conditional use at least seven (7) days before the public hearing.]

4.23.7.4 Decision

As soon as practical following the close of the public hearing, the [zoning board] shall render its decision in writing. Such decision shall include an accurate and complete description of the approved conditional use, including all applicable conditions, or if disapproved, the reasons for disapproval.

Any condition imposed and any decision to approve or deny a CUP must be based on substantial evidence. “Substantial evidence” means “facts and information other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.” The applicant must provide substantial evidence that demonstrates the application and all requirements and conditions established by the [city/village/town/county] relating to the conditional use are or shall be satisfied.

4.23.8 Recording Procedures

A certified copy of the CUP containing the specific requirements of approval pursuant to this section shall be recorded at the expense of the applicant in the office of the County Register of Deeds.

◆ Requirements and Conditions Specified in the Ordinance: Standards

“Requirements” can also refer to standards in the ordinance to which the proposed conditional use must conform. These standards provide the basis for conditions that may be imposed on the proposed use. Prior law in Wisconsin required that local government ordinances include

---

27 Suggested language if the plan commission is not the approving body for CUPs
“general or specific rules” for reviewing conditional use permits. Early commentators on Wisconsin zoning law noted the importance of including standards for conditional uses in the zoning ordinance: “If no standards are provided in the ordinance for the guidance of the body passing on special use permits, the decision of the body will be subject to serious attack in the courts. Of course, the standards must be related to the ordinance health, safety and general welfare provisions and cannot be arbitrary.”

As stated in Act 67, requirements may be specified in the ordinance or imposed by the zoning board and “must be reasonable, and to the extent practicable, measurable.” Most requirements will be measurable. What is reasonable will depend on the specific proposed conditional use. A very large mixed-use project may require a detailed transportation study as part of the application for a conditional use permit to address potential transportation impacts. However, an application to operate an in-home daycare in a residential zoning district as a conditional use may raise some concerns among the neighbors about parking but it is probably not reasonable to require that the applicant prepare a detailed parking study.

Some standards might be of a more general nature to reflect the variety of unique situations that might arise under a proposed conditional use. Examples of general standards that are commonly used in zoning ordinances appear in the box below. They are reasonable in that they set forth the basic considerations that many communities expect conditional uses to meet.

<table>
<thead>
<tr>
<th>Example of General Requirements and Conditions Specified in the Ordinance:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>4.23.9 Conditions</strong></td>
</tr>
<tr>
<td>In approving any CUP, the [zoning board] may:</td>
</tr>
<tr>
<td>(A) Impose such conditions or requirements, in addition to or that supersede any standard specified in the Zoning Code, as it may deem necessary to protect the public interest and welfare. Such conditions or requirement must be reasonable and, to the extent practicable, measurable, and may include, but need not be limited to: (1) Financing and availability of adequate public facilities or services; (2) Dedication of land; (3) Reservation of land; (4) Creation of restrictive covenants or easements; (5) Special setbacks; (6) Yard requirements; (7) Increased screening or landscaping requirements; (8) Development phasing; (9) Standards pertaining to traffic, circulation, noise, lighting, emissions, hours of operation, and protection of environmentally sensitive areas; (10) Provision of stormwater management and erosion and sedimentation control; (11) Require that a performance guarantee—acceptable in form, content, and amount to the [city/village/town/county] attorney—be posted by the applicant to ensure continued compliance with all conditions and requirements as may be specified; and (12) Require that a development agreement be entered into by the applicant.</td>
</tr>
<tr>
<td><strong>4.23.9.1 Approval Criteria – General Standards</strong></td>
</tr>
<tr>
<td>A conditional use is permitted only if the applicant provides substantial evidence that:</td>
</tr>
<tr>
<td>(A) The proposed conditional use shall comply with all regulations of the applicable zoning district and any applicable regulations set forth in the [Local] Code of Ordinances.</td>
</tr>
</tbody>
</table>

28 Wis. Stat. 59.694(1) (counties); Wis. Stat. 62.23(7)(e)1 (cities, villages, towns exercising zoning under village powers).

29 Hagman, supra note 11, p. 51.
(B) The proposed conditional use shall be compatible with the character of the neighborhood within the immediate area in which it is located. In making such a determination, consideration shall be given to:

1. The type and extent of landscaping and screening on the site.
2. Whether the extent, location and intensity of the proposed use furthers and does not conflict with the goals, objectives, and policies of the adopted [City/Village/Town/County] Comprehensive Plan
3. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.
4. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.
5. The proposed use shall not injure the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the neighborhood.
6. The proposed use shall not impede the orderly development and improvement of surrounding property for uses allowed in the zoning district.
7. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.
8. The public interest and welfare supporting the proposed use shall be sufficient to outweigh the individual interests that are adversely affected by the establishment of the proposed use.

In addition to the more general standards, an ordinance can include more specific standards for certain uses. These more detailed standards specified in the ordinance can provide guidance for unique issues that might arise for specific proposed conditional uses. Act 67 does not require that all conditions and requirements must be specified in the ordinance but even before the passage of Act 67, many local governments found it useful to provide separate standards for specific uses to provide guidance to property owners and help inform the decision-making process. Because of the number of conceivable land uses that may necessitate more detailed standards, Appendix A includes excerpts of specific standards from the zoning ordinances for the City of Kenosha, and Waukesha County. The following provides one example from the draft Dane County Zoning Ordinance of specific standards for mineral extraction uses.

**Example of Detailed Requirements and Conditions Specified in an Ordinance:**

1. **Conditions on mineral extraction conditional use permits.**
   
   In addition to conditions required for all conditional use permits, the [zoning board] shall impose, at a minimum, the following conditions on any approved conditional use permit for mineral extraction.

   (a) Topsoil, or appropriate topsoil substitute as approved in a reclamation plan under Chapter xx, from the area of operation shall be saved and stored on site for reclamation of the area. Topsoil or approved topsoil substitute must be returned to the top layer of fill resulting from reclamation.

   (b) The applicant shall submit an erosion control plan under Chapter xx, covering the entire area subject to the conditional use for the duration of operations, and receive approval of an erosion control permit prior to commencing extraction operations.
(c) The [zoning board] will set an expiration date for the conditional use permit based on the quantity of material to be removed and the expected duration of mineral extraction activities. Due to uncertainty in estimating duration for mineral extraction, conditional use permit holders who have operated without violations, may have the duration of their permit extended for a period not to exceed five years, based on an administrative review by the [zoning administrator]. No more than one such extension shall be granted over the lifespan of the conditional use permit, and all conditions shall remain the same as the original permit. Further extensions or any modifications of conditions shall require re-application and approval of a new conditional use permit.

(d) Reclamation shall meet all requirements of the Nonmetallic Mining Reclamation Ordinance. In addition, all reclamation plans must meet the following standards:

1. Final land uses after reclamation must be consistent with the adopted comprehensive plan.
2. Final slopes shall not be graded more than 3:1 except in a quarry operation.
3. The area shall be covered with topsoil and seeded to prevent erosion.
4. The area shall be cleared of all debris and left in a workmanlike condition subject to the approval of the [zoning administrator].
5. Highwalls shall be free from falling debris, be benched at the top, and certified by a civil engineer to be stable.

**Requirements and Conditions Specified in the Ordinance: Duration, Transfer, and Renewal of CUPs**

Act 67 states that the “requirements and conditions . . . may include conditions such as the permit’s duration, transfer, or renewal.” Act 67 also states that “[f]or granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the [city, village, town, county] may impose conditions such as the permit’s duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the . . . zoning board.”

**Examples of Ordinance Language Related to the Duration, Transfer, and Renewal of CUPs:**

4.23.10 Duration, Transfer, Renewal and Nonconforming Uses

4.23.10.1. Time limits on the development of conditional use

The start of construction of a conditional use shall begin within 365 days of its approval by the [zoning board]. A conditional use shall be operational within 730 days of its approval by the [zoning board]. Failure to initiate development and/or begin operations within this period shall automatically constitute a revocation of the conditional use. An applicant may request that the [zoning board] approve an extension for justifiable reasons for up to 24 months from the expiration date.

4.23.10.2. Duration

Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued and the requirements of this Ordinance are followed. Unless a specific duration is included in a conditional use permit, a conditional use permit shall automatically expire if the conditional use changes to a permitted use not requiring a conditional use permit or if the conditional use is discontinued or ceases to exist for a
continuous period of at least 365 days for any reason. [As an alternative to conditional uses, a local government may also want to explore adopting an ordinance for temporary uses that would have a more limited duration.]

4.23.10.3. Renewal

If a conditional use permit is for a specific duration as included in the conditional use permit or the conditional use permit has expired, the property owner will need to apply for a new conditional use permit following the requirements of this ordinance.

4.23.10.4. Transfer of Ownership.

Unless a limitation on the transfer of ownership is included in the conditional use permit, all requirements of an approved conditional use shall be continued regardless of ownership of the subject property. [The Ordinance could also identify certain conditional uses that would terminate if the property is sold or otherwise transferred to another party.]

4.23.10.5 Nonconforming Uses For an existing and currently valid conditional use that is no longer allowed as a conditional use in the zoning district in which it is located, the provisions of Section ___, Nonconforming Uses, of the Zoning Code shall apply.\(^{30}\)

◆ Insuring Compliance After Approving the CUP

Act 67 also states that “[t]he applicant must demonstrate that the application and all requirements and conditions established by the [city/village/town/county] relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence.” Act 67’s reliance on an applicant’s promise to meet or satisfy conditions in the future, raises the need for long-term monitoring to ensure that the applicant satisfies the conditions that were agreed to in the permit and/or ordinance.

Example of Requirements Specified in an Ordinance to Ensure Compliance:

4.23.11 Compliance

Compliance with all other provisions of this Ordinance shall be required of all conditional uses. Variances shall only be granted as provided in Section ____.

4.23.11.1. Time Limits on the Development of Conditional Use.

The start of construction of a conditional use shall begin within 365 days of its approval by the [zoning board]. A conditional use shall be operational within 730 days of its approval by the [zoning board]. Failure to initiate development and/or begin operations within this period shall automatically constitute a revocation of the conditional use. An applicant may request that the [zoning board] approve an extension for justifiable reasons for up to 24 months from the expiration date.

\(^{30}\) See Hussein v. Village of Germantown Board of Zoning Appeals, 2011 WI App 96, 334 Wis. 2d 764, 800 N.W.2d 551.
4.23.11.2. Other Permits, Approvals.

Upon approval by the [zoning board], the applicant must provide substantial evidence that the proposed conditional use meets the conditional use requirements and conditions in the permit required for initiation of development activity on the subject property. No building permit or certificate of occupancy shall be issued for any development that does not comply with the requirements of the conditional use permit or this Ordinance.

4.23.11.3. Continuing Jurisdiction.

1. The [zoning board] retains continuing jurisdiction over all conditional uses for the purpose of ensuring that the applicant for a conditional use permit meets all of the requirements and conditions of the [City/Village/Town/County] ordinances and the conditional use permit.
2. Any person may notify the [zoning board] in writing that one or more requirements or conditions of [City/Village/Town/County] ordinances or conditions of a conditional use permit have not been completed, or are being violated.
3. The [zoning administrator] shall initially determine whether there is a reasonable probability that the subject conditional use is in violation of a condition of approval. If the [zoning administrator] determines there is a reasonable probability of a violation, the [zoning board] shall conduct a hearing following publication of a class 2 notice under ch. 985 of the Wisconsin Statutes.
4. The [zoning board] may, in order to bring the subject conditional use into compliance with the conditions previously imposed by the [zoning board], modify the existing conditions and impose additional reasonable conditions. If no reasonable modification of the conditional use can be made that are consistent with the standards of this ordinance, the [zoning board] may revoke the conditional use permit and direct the [zoning administrator] and the [City/Village/Town/County] Attorney to seek elimination of the conditional use. An applicant may appeal a decision of the [zoning board] under this paragraph to the [Common Council or Village/Town/County Board].

◆ Judicial Review

Act 67 specifies that a person denied a conditional use permit may appeal the decision to the circuit court following the procedures specified in the statutes for judicial review of decisions of the board of adjustment/appeals (appeal is for certiorari review and must be filed within 30 days of the decision). The statutory language for appeal of a board of adjustment/appeals decision is written to include anyone aggrieved by a decision of the board, not just applicants who are denied a permit. Some local governments, where the board of adjustment/appeals is not involved in the conditional use permit process, the local ordinance provides for different appeals processes. For example, in cities where the plan commission has final authority over conditional use permits the ordinances may allow an appeal of the plan commission’s decision to the common council. It is not clear under Act 67 if an aggrieved party would need to follow this procedure of whether they could appeal directly to the circuit court.

Example of Right to Judicial Review Language:

4.23.12 Appeal of Decision

A person aggrieved by any decision of the [zoning board], or a taxpayer, or any officer, department, board or bureau of the municipality, may, within 30 days after the filing of the
Moving Forward

The language related to conditional use permits used in Act 67 includes some ambiguities. People will interpret the language differently because reasonable minds can differ. Only time will tell how the courts will interpret the language of Act 67. A blog by the attorney who represented the AllEnergy Corporation in the AllEnergy Corp. v. Trempealeau County Environment & Land Use Committee lawsuit before the Wisconsin Supreme Court commenting on Act 67 after its enactment, states that Act 67 “codifies matters pertaining to CUPs that are largely recognized in Minnesota, but only in various court decisions and not in state statute.”31 In another article he identifies areas where local governments are likely to be vulnerable after Act 67. They are:

- If the record shows that the applicant is able to meet or agrees to meet all requirements and standards, but is denied the CUP, a challenge would likely be successful.
- If a CUP denial is based on public comments in opposition to the permit that express nothing more than the personal opinions or preferences of the opponents or speculation about negative consequences of the proposed use, then a challenge would likely be successful.
- If a CUP is denied based on a general finding that the proposed use is contrary to the public welfare, then the denial would be susceptible to a challenge that the finding is vague and unreasonable, given that the law in Wisconsin now requires “reasonable and ... measurable” conditions and further requires facts and information “directly pertaining to the requirements and conditions an applicant must meet ....”32

While Act 67 may be a “game changer” for some local governments requiring major changes to their ordinances and practices, other local governments will only need to make minor changes, if any at all. Act 67 reinforces the need to ensure there is a legal basis and factual basis, supported by substantial evidence, behind the decisions local governments make on applications for conditional use permits.

To the extent that Minnesota law provides any guidance for Wisconsin, the recent Minnesota Supreme Court decision in RDNT, LLC, v. City of Bloomington,33 may provide some insights. The case involved a proposed CUP to add an assisted living facility to a care facility that included a skilled care facility and a different assisted living facility. Access to the facilities is through a residential neighborhood. Neighborhood residents voiced their opposition to the new assisted living facility based on the size of the facility and traffic concerns. The City hired a traffic consultant to conduct a traffic study. The study for the City determined that the proposed facility would result in a 26 percent increase in the number of daily trips. RDNT also hired a traffic consultant to prepare a study. The second study determined that the proposed facility would result in only a 16 percent increase in the number of daily trips. The study for RDNT also included a variety of transportation demand measures to further reduce the number of trips. The City Council heard the testimony from the neighbors and

---
33 861 N.W.2d 71 (Minn. 2015).
reviewed the studies and voted to deny the CUP based on the size of the facility being incompatible with the scale and character of the surrounding neighborhood and traffic concerns.

RDNT sued the City and eventually the case made its way to the Minnesota Supreme Court. The Court conducted a two-step review. First the Court determined that the reasons for the denial given by the City were legally sufficient. The Court looks to the City's requirement for approval of conditional use permits. The City's ordinance included the general standard that “The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.” The Court noted that in prior decisions it had held that local government could rely on general standards to protect public health, safety, or general welfare. The Court also reminded the City of other precedent that the “absence of more express standards makes denial of a special-use permit more, not less, vulnerable to a finding of arbitrariness.” Nevertheless, the Court determined that the City’s reliance on the general public health, safety, or welfare standard in the City’s ordinance was legally sufficient.

Finding the City’s ordinance language was legally sufficient, the Court turned to the second step in its analysis: determining if the City had a reasonable factual basis to determine that the proposed use would harm public health, safety, and welfare. The Court held that it did.

The Court noted that it was not the role of the Court to weigh the conflicting traffic impact reports but rather to review the record to ensure the decision had support in the record. The Court noted that both reports showed there would be an increase in traffic. The Court also noted that the neighbors provided concrete testimony about the traffic conditions – vehicles driving through school crosswalks even though crossing guards had their flags out; traffic speeding and making U-turns; etc. The City engineer also provided specific data about traffic concerns.

RDNT argued that since the streets are not near capacity the City had no factual basis to deny the CUP. Paraphrasing one of the City planners the Court stated “this is not a capacity issue, it is a livability issue.” RDNT also argued that City did not adequately consider the transportation demand management measures raised by RDNT's traffic consultant to alleviate the traffic issue. The Court noted that the burden is on RDNT to provide evidence it can satisfy the standards specified in the City’s ordinance. Based on prior case law, if the applicant can demonstrate that imposing a reasonable condition will eliminate any conflict with the ordinance’s standards, a denial by the City would be arbitrary. The Court noted, however, that even if the proposed measures were effective, the expansion would still add over 100 daily trips. In the end the Minnesota Supreme Court concluded that the City did not act unreasonably, arbitrarily, or capriciously when it denied RDNT's CUP application.

While the Minnesota case presents some interesting insights that might guide practice in Wisconsin, the way the Wisconsin Courts will interpret the CUP language of Act 67 remains to be determined.
4.05 DEVELOPMENT STANDARDS

To establish and define criteria for the review procedures set forth in §4.04 of this Ordinance, the following Development Standards for Conditional Uses are created:

A. General Provisions.

1. These Development Standards are minimum standards and additional standards or conditions may be required for individual developments when such have a unique set of circumstances. The City Plan Commission may establish and adopt additional standards or conditions for conditional uses, and a copy of such additional standards and conditions shall be on file in the Department of Community Development and Inspections office and available to the public.

2. Should these Development Standards conflict with any other provision of the Ordinance, the most restrictive provision shall apply.

3. The submitted "Development Plans" shall serve as the "Review Documents" which the Review Authority will use in the analysis of the conditional use application.

4. New multifamily residential projects shall not exceed a density of twelve (12) units per acre, except as follows:
   a. Projects located in the Central Business District, defined as the area located between 50th Street and 60th Street and between the Chicago and Northwestern Railroad and Lake Michigan, and also including Lots 2-10, Block 73 and Lots 1-3, Block 74, Plat of the Original Town of Southport, may exceed this density if approved by the Review Authority.
   b. Projects located within the boundaries of an adopted neighborhood land use and development plan shall conform to the density limitations established in said plans.
   c. Projects located in the RM-3 District shall conform to the density limitations established in Section 3.115 of this Ordinance.
   d. Projects located within the B-4 Mixed-Use District may exceed the density if approved by the Review Authority.

B. Building and Architectural Standards. Review Document: "Building Plan"

1. Building size and scale shall respect the physical scale of the surrounding area and the scale of surrounding buildings.

2. The location and orientation of building elements, such as balconies or porches, shall respect the orientation of surrounding buildings or structures.

3. Rooms used for residential purposes shall provide adequate living area, as required in the Minimum Housing Code of the Code of General Ordinances and the location of all rooms shall be planned to help secure safety from fire, panic and other dangers, including the installation of sprinklers where required.

4. The materials and design of buildings and structures shall complement the surrounding area.

5. Adequate handicap access shall be provided to public buildings and structures as required in the "Building, Heating, Ventilation and Air Conditioning Code" of the Wisconsin Administrative Code.

C. Site Standards. Review Document: "Site Plan"

1. An adequate legal description and proper survey documentation of the property is required. Any easement, covenant or right-of-way, existing or planned, which creates site design constraints shall be
indicated. Any design adjustments to these constraints shall not adversely impact the intent of these standards or the provisions of this Ordinance.

2. The location, proportion, and orientation of buildings or structures should respect the location, proportion and orientation of surrounding landforms, buildings or structures.

3. Surrounding land uses and respective zoning classifications should be indicated on the Site Plan. The Review Authority shall consider the impact of the proposed development on the Comprehensive Plan and the Official Zoning Map, as amended. The Review Authority shall use the following criteria when assessing the development's impact on surrounding land uses: the development shall be consistent with the objectives of the Comprehensive Plan, the development shall be compatible with the character and objectives of the zoning district or districts within which it is located, and the development shall be compatible with the character of the neighborhood which surrounds the development.

4. **Street, Alley, or Driveway Designations**, as outlined on the Site Plan, shall meet the following requirements:
   a. Any street, alley, or driveway designation shall be in conformance with the provisions of Chapters 17 and 5 of the Code of General Ordinances.
   b. Street or alley locations shall be in conformance with the objectives of the Official Map and the Comprehensive Plan, as amended.
   c. Street, alley, or driveway designations shall emphasize a minimum number of access points, but still make the development accessibility convenient, safe, and efficient.
   d. Street, alley or driveway designations shall relate to the natural contours of the site, and as many existing landforms as possible should be preserved.

5. **Vehicular access**, as indicated on the Site Plan, shall meet the following requirements:
   b. Intersections of a ninety (90°) degree angle are to be encouraged while other angles are to be discouraged.
   c. Vehicular access to any nonresidential structure, use, parking or loading facility shall not be gained across land zoned for a residential use, except if the Review Authority authorizes such access.
   d. Adequate access for emergency vehicles shall be maintained.

6. **Any off-street parking area**, as indicated on the Site Plan, shall meet the following requirements:
   a. The design standards of Chapter 5, §5.08 of the Code of General Ordinances.
   b. The screening and parking requirements of §6.01 "Parking Requirements" of this Ordinance.

7. **Pedestrian Access**, as indicated on the Site Plan, shall meet the following requirements:
   a. The design standards of Chapter 5, §5.05 of the Code of General Ordinances.
   b. Separation of pedestrian and vehicular access shall be encouraged; however, adequate pathways or sidewalks shall be required to connect dwelling units to parking areas and other accessory uses.

D. **Drainage Standards. Review Document: "Drainage Plan"**

1. A topographic analysis by the Review Authority shall consider: contours, elevations, and slopes; spot elevations of existing buildings and structures; spot elevations of rock outcroppings, high points, water courses, depressions, ponds, and marsh areas, with any previous flood elevations; floodplain boundaries, if applicable; and test pits or borings if required to determine subsoil conditions.

2. The Review Authority shall analyze the Drainage Plan to assure that the following conditions are met:
   a. To the extent possible, surface water runoff on the site shall be absorbed or retained on the site so that the quantity and rate of water leaving the site would not be significantly different than if the site had remained undeveloped.
b. If drainage from the proposed development is proposed to be discharged, it shall be discharged in a manner approved by the City Engineer.

c. The proposed development shall not create or increase surface water runoff or buildups on adjoining or adjacent properties.

d. Nonresidential uses and all parking areas, shall not discharge surface water onto any property zoned residential unless such drainage is acceptable to the City Engineer.

e. All floodland developments shall be elevated or floodproofed to an elevation at least two (2') feet above the elevation of the regional flood.

f. Floodland developments shall not increase flood stages and flood discharges beyond the limits set forth in §3.20 and §3.21 of this Ordinance.

g. Storm water detention and retention basins which serve property not covered by the permit application shall be constructed only where authorized by a duly adopted master or neighborhood plan.

3. The Review Authority may require site grading:

a. To create drainage swales;

b. To create berms as noise, wind or visual homers;

c. To correct undesirable landforms;

d. To get above unfavorable subgrade conditions such as groundwater;

e. To create, emphasize or control circulation routes such as paths or roads;

f. To relate the site to the surrounding area;

g. To prevent erosion and sedimentation; and,

h. To provide retention basins for development of five (5) acres or more when such basins or other retention means are required to retain and limit any surface water runoff to its original state prior to development.

E. Landscape Standards. Review Document: "Landscape Plan"

1. The Review Authority shall review the proposed landscaping to assure that it will accomplish the following purposes:

a. Maintaining and promoting general aesthetics by preserving existing vegetation or land forms or by requiring new landscaping, both helping to blend buildings and other structures with the landscape;

b. Circulation control by directing pedestrian and vehicular traffic with appropriate locations of landscaping;

c. Environmental control by preventing erosion or sedimentation;

d. Adjacent property protection by requiring the screening of incompatible uses; and off-street parking facilities; and,

e. Landscape quality by requiring appropriate plant or fence types based on climate, variety, hardiness, and maintenance.

2. Specific screening standards which the review body shall require include:

a. The Review Authority may require any conditional use or portion thereof, except a transitional two-family residence, to be screened when such use is adjacent to or across an alley from a single or two family residential district.

b. All off-street parking areas for five (5) or more vehicles which are adjacent to or across an alley from a residential district, shall be effectively screened as required and as outlined in §6.01 "Parking Requirements" of this Ordinance.

c. Screening shall be accomplished by a fence, wall, berm, landscaping, or some combination thereof, constituting an opaque characteristic which obscures from horizontal view, a particular use, building or structure. Such screen shall not be less than four (4) feet in height except where reduced heights are required in §2.06 "Visual Clearance" of this Ordinance. The Board may authorize an exception to the screening requirement and standards where an existing screen is on the lot adjacent to the use, building or structure required to be screened, or where special circumstances render a screen unnecessary. The Board may approve a special permit authorizing an exception only after applying the standards of §9.05 C. of this Ordinance and only where specific physical conditions exist which make it
impractical to meet the screening requirement and standards. An approved special permit authorizing an
exception shall run with the land for the use, building or structure being screened.

F. Utility Standards, Review Document: "Utility Plan"

   a. Storm sewer, sanitary sewer, and water utility systems, as outlined in the Utility Plan, shall meet
      the requirements of Chapter 5, of the Code of General Ordinances. These provisions may require the
      designation of easements providing access for public street lighting purposes.
   b. Electric, gas and telephone utility systems, as designated on the Utility Plan, shall meet the
      requirements of the respective utility company's rules and regulations.
   c. Cable television systems, as designated on the Utility Plan, shall meet the requirements of Chapter
      26, "Cable T.V." of the Code of General Ordinances.
   d. Utility systems shall be placed in accordance with City Ordinances and utility companies' rules and
      regulations. The Review Authority may require the underground installation of lines and distribution points,
      the elimination of poles and overhead lines, or the simultaneous organization and installation of utility
      systems. New subdivisions require underground installation of utility systems per Chapter 17 "Regulating
      the Division and Platting of Land", §17.06 of the Code of General Ordinances.

2. Exterior Lighting.
   a. Off-Street Parking Area Lighting. Exterior lighting, when illuminating off-street parking areas for
      five (5) or more vehicles, shall meet the design requirements of Chapter 5 of the Code of General
      Ordinances.
   b. Outdoor Sign Lighting. Exterior lighting, when illuminating outdoor signs, shall meet the
      requirements of Chapter 15 of the Code of General Ordinances.
   c. Other Exterior Lighting. Any lighting source on any building, structure, or site which is for the
      purpose of illuminating any structure exterior or outdoor area shall be established in a manner which
      satisfies the following conditions:
      (1) Such lighting shall be arranged, oriented or shielded in such a manner that direct radiation or glare
          from such source does not penetrate residential lots which are located in a residential district adjacent to or
          across an alley from the use being illuminated.
      (2) The source of such illumination shall be arranged, oriented or shielded in a manner which will not
          endanger the safety of pedestrian or vehicular traffic.
      (3) When within one hundred fifty (150') feet of a residential district, as measured along or across any
          street, such lighting shall be constant and not flashing, intermittent or animated in any way.

3. Waste/Trash Storage. All conditional uses, except single and two-family residences may be
   required to provide designated areas, as designated on the Utility Plan, for the storage of waste and trash
   and shall conform to the following standards:
   a. Such areas shall be screened, as defined in §4.05 E.2.c. of this Ordinance, from the view of any
      single-family or two-family residential district, when such storage area is located adjacent to or across an
      alley from a single-family or two-family residential district;
   b. Such area shall meet the accessory yard requirements of the district in which it is located;
   c. Such facilities shall be a minimum of a two (2) cubic yard container readily accessible and located on a hard surfaced area; and,
   d. Such areas shall meet the standards of Chapter 5, §5.06 "Waste Collection and Removal" of the
      Code of General Ordinances.

4. Snow Removal. All residential conditional uses, except single and two-family residences, shall
   indicate on the Utility Plan adequate provisions for the removal of snow from off-street parking areas and
   other outdoor areas.
4.06 ADDITIONAL STANDARDS AND SUBMITTALS REQUIRED FOR CONDITIONAL USE PERMITS

A. RESIDENTIAL CONDITIONAL USES

1. Community Living Arrangement (CLA).
   a. Building Plan as required in §4.05 B. of the Zoning Ordinance, plus:
      (1) Layout of building and any planned additions including size and layout of rooms.
      (2) Total square footage of building and total living space in square feet.
      (3) Number of bedrooms and number of beds per bedroom.
      (4) Handicap and emergency access and exit.
   b. Site Plan as required in §4.05 C. of the Zoning Ordinance, plus:
      (1) Location and "footprint" of building(s) and structure(s).
      (2) Off-street parking area.
      (3) Proposed landscaping.
   c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.
   d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.
   e. Utility Plan as required in §4.05 F. of the Zoning Ordinance.
   f. Operational Plan which includes:
      (1) Name and address of CLA operator.
      (2) Proposed operation and supervision including the type of CLA and programs offered.
      (3) Number of employees.
      (4) Proposed bed capacity and total number of occupants of the structure including any residents not under residential care.
   g. Upon receipt of all necessary information and permit fee, the Department of Community Development and Inspections may request the Wisconsin Department of Health and Social Services (DHSS) to inspect the proposed CLA and review the proposed operation. Approval of the Department may be a condition of approval. The same shall apply to any other applicable agency or department, such as the Federal Veterans Administration. Comments or reports on the proposed CLA received from such agencies will be considered.
   h. Compliance with Chapter HSS-3 Wisconsin Administrative Code, Chapter 50, Wisconsin Statutes, and all other applicable licensing regulations of the Wisconsin DHSS and other agencies.
   i. Compliance with all applicable State and local Housing, Building, and Fire Codes.
   j. Adequate off-street visitor and employee parking. The Council may require more parking than is normally required if special characteristics of the CLA warrant such additional parking.
   k. In the business zoning districts, all proposed residential uses are to be above the first floor.
   l. CLA shall not be within 2,500 feet of another CLA unless granted an exception by the Council.
   m. The total licensed population of all CLAs in the Aldermanic District shall not exceed 25 or one (1%) percent of the district population, whichever is greater, unless granted an exception by the Council.
   n. No outdoor signs.
   o. CLA exterior appearance and proposed operation must be compatible with surrounding residences when in a residential district or surrounding uses when in a business or IP District.
   p. A reduction of CLA population in an over capacity Aldermanic District, as a result of the proposed facility, will be viewed as favorable.
   q. When the proposed CLA is not within one half mile (2,640 feet), measured from property line to property line, of a public park, the CLA shall provide 75 square feet of open recreational space on the property per bed.
   r. The Council shall use the following factors when reviewing the proposed capacity (density) of the CLA:
      (1) Per person living space requirements of Chapter HSS-3 Wisconsin Administrative Code, Federal Veterans Administration (VA) Regulations, the City of Kenosha Minimum Housing Code and other applicable requirements. In no case shall the Council approve a capacity which would provide less living space per person than State or VA requirements.
      (2) Ambulatory and physical nature of residents.
      (3) Densities of residential uses within the surrounding neighborhood.
(4) Density data available from the U.S. Census Bureau for the City.

(5) Densities of other CLAs the Council has reviewed since March 28, 1978 (adoption of Statutory CLA standards).

(6) Densities of other similar CLAs in the City.

(7) Type of CLA building and room layout.

(8) Proposed living and working space arrangement for residents, houseparents and other employees.

(9) Area and configuration of the CLA lot.

(10) Comments from the Wisconsin DHSS, VA, Kenosha County Comprehensive Board and other applicable agencies.

s. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

2. Manufactured/Mobile Home Park in the Rm-1 and Rm-2 District.
   a. Building Plan as required in §4.05 B. of the Zoning Ordinance.
   b. Site Plan as required in §4.05 C. of the Zoning Ordinance.
   c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.
   d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.
   e. Utility Plan as required in §4.05 F. of the Zoning Ordinance.

   g. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

   a. Building Plan as required in §4.05 B. of the Zoning Ordinance.
   b. Site Plan as required in §4.05 C. of the Zoning Ordinance.
   c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.
   d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.
   e. Utility Plan as required in §4.05 F. of the Zoning Ordinance.
   f. Operational Plan which includes:

      (1) Construction commencement and completion dates.
      (2) Management or operational control.
      (3) Deed restrictions.
      (4) Bylaws or property owners association articles of incorporation.

   g. Grouped Multiple-Family Development. In the case of a multiple-family development consisting of a group of two (2) or more buildings to be constructed on a plot of ground where the existing or proposed street and lot layout make it impractical to apply the requirements of this Ordinance to the individual building units in such development, the application of such requirements to such development shall be done by the Review Authority in a manner that will insure substantially the same character of occupancy, density of use, and minimum standards of open spaces as permitted in the district in which the proposed development is to be located.

   The Review Authority shall not authorize a use of land or a building height which is prohibited in the district in which the multiple-family development is to be located, or a smaller lot area per family than the minimum required under this Ordinance in such district.

   h. Yards for Grouped Multiple-Family Development. The Review Authority may vary the district yard requirements for individual building units in a grouped multiple-family development provided that adequate open space is maintained, provided that a minimum yard of twenty (20) feet is maintained between buildings, and provided that along the periphery of such development, the following minimum yards shall be maintained set back from the right-of-way of any street or from the setback line of any major street:

      (1) Front yard. Minimum twenty-five (25') feet.
      (2) Street side yard. Minimum twenty-five (25) feet.
      (3) Rear yard. Minimum twenty-five (25) feet.
i. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

4. Planned Developments.
   a. Building Plan as required in §4.05 B. of the Zoning Ordinance.
   b. Site Plan as required in §4.05 C. of the Zoning Ordinance.
   c. Drainage Plan as required in §4.06 D. of the Zoning Ordinance.
   d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.
   e. Utility Plan as required in §4.05 F. of the Zoning Ordinance.
   f. Standards outlined in §3.22 of the Zoning Ordinance.
   g. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the communities as a whole.

5. Structures and Filling within the Floodplain Fringe Overlay (FFO) District.
   a. Building Plan as required in §4.05 B. of the Zoning Ordinance, plus:
      (1) When permitted, manufacturing and accessory buildings and structures shall include a plan indicating how the structure will be floodproofed and constructed so as to not catch or collect debris or be damaged by floodwaters.
      (2) This plan shall be certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the regional flood.
      (3) Plans for municipal water supply and sanitary sewerage systems shall indicate that the system is floodproofed to an elevation at least two feet above the elevation of the regional flood and is designed to eliminate or minimize infiltration of floodwater into the system.
   b. Site Plan as required in §4.05 C. of the Zoning Ordinance.
   c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance, plus:
      (1) Existing topography, including spot elevations of existing buildings, structures, high points and wet areas, along with any previous flood elevations.
      (2) Floodplain boundaries.
      (3) Soil characteristics of surrounding area and fill.
      (4) Proposed topography of the site denoting elevations and natural drainage after construction and any proposed storm water retention area.
   d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.
   e. Utility Plan as required in §4.05 F. of the Zoning Ordinance.
   f. Operation Plan which includes:
      (1) Show that the use or improvement will not impede drainage, will not cause ponding, will not obstruct the floodplain or adjacent floodway, will not increase flood flow velocities, will not increase the flood stage, and will not retard the movement of floodwaters.
      (2) Show plans for filling so that the elevation of the building or structure is at least two (2) feet above the elevation of the regional flood, including elevations around the entire building or structure, and the location of contiguous lands outside the floodplain which will be used for flood water rescue and relief problems.
      (3) Plans for removal of any lands from the FFO district and a copy of the accompanying rezoning petition letter.
      (4) Include a copy(ies) of any required water use permit pursuant to Chapter 30 of the Wisconsin Statutes or wetland fill permit pursuant to §404 of the Federal Water Pollution Control Act.
      (5) Requirements of §3.21 of this Ordinance shall apply.
      (6) Any use requiring a water use permit pursuant to Chapter 30 of the Wisconsin Statutes or a wetland fill permit pursuant to §404 of the Federal Water Pollution Control Act.
   i. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

6. Additional Standards for Transitional Parking for Business, Manufacturing, Institutional and Other Uses. Parking facilities, as defined by this Ordinance, accessory to a use within a business, manufacturing, or institutional district may be authorized through a Conditional Use Permit to be located
within the Rs-3, Rg-1, or Rg-2 districts, provided that such facilities are solely for the use of employees or customers of the use to which it is accessory.

a. **Building Plan** as required in §4.05 B. of the Zoning Ordinance.

b. **Site Plan** as required in §4.05 C. of the Zoning Ordinance, plus:

   (1) Location and "footprint" of any building(s) or structure(s) including all exterior signs.

   (2) Location of existing and proposed streets, driveways, alleys, easements, right-of-ways and sidewalks.

   (3) Parking lot layout including the location and dimensions of all parking spaces, aisles, wheel bumper stops, traffic islands and other parking lot structures.

   c. **Drainage Plan** as required in §4.05 D. of the Zoning Ordinance.

   d. **Landscape Plan** as required in §4.05 E. of the Zoning Ordinance.

   e. **Utility Plan** as required in §4.05 F. of the Zoning Ordinance.

   f. **Operational Plan.**

   (1) Describe use (business, office, manufacturer, industry or institution) being served.

   (2) Describe how the parking facility will be used (e.g., to be used by employees and/or customers, the time of day to be used, etc.)

   g. The parking facility shall be located on a lot which abuts or is across an alley from a Business, Manufacturing or an Institutional Park District and shall not be located in any building or structure.

   h. No portion of the facility shall extend more than 65 feet from the boundary of the nonresidential zoning district.

   i. A 25 foot front yard and 5 foot interior side yard shall be maintained. No street side yard or rear yard is required.

   j. The facility shall be used solely for the parking of vehicles which shall not exceed 12,000 pounds gross weight. Parking of truck tractors, semi-trailers and container vans are expressly prohibited.

   k. No repair or servicing of motor vehicles, or the manufacturing, production, preparation or construction of any material is allowed in the facility.

   l. Each driveway to the facility shall be at least six (6) feet from any adjacent residential property.

   m. The facility shall comply with the parking and driveway design standards of §5.08 and §5.085 of the City Code of General Ordinances, which requires review and approval by the City Traffic Engineer, and the parking requirements of §6.01 of the City Zoning Ordinance, including the requirement that the facility shall be screened (fenced or landscaped) along any side of the facility which is adjacent or across an alley from a residential zoning district.

   n. At intersections with streets and alleys, the facility shall comply with the applicable requirements of §2.06 "Visual Clearance" of the City Zoning Ordinance.

   o. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

7. **Bed and Breakfast Establishments.**

   a. **Building Plan** as required in §4.05 B. of the Zoning Ordinance.

   b. **Site Plan** as required in §4.05 C. of the Zoning Ordinance, plus:

      (1) The location of all off-street parking.

   c. **Drainage Plan** as required in §4.05 D. of the Zoning Ordinance.

   d. **Landscape Plan** as required in §4.05 E. of the Zoning Ordinance.

   e. **Utility Plan** as required in §4.05 F. of the Zoning Ordinance.

   f. The establishment shall be occupied by the owner or an employee during the period of rental.

   g. Meals shall only be served to guests of the establishment.

   h. Adequate space shall be available for off-street parking.

   i. Compliance with Chapter 4.062 of the Code of General Ordinances.

   j. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety, or welfare of abutting or neighboring properties or the City as a whole.

8. **Transitional Two-Family Residence in the Rs-3 District.**

   a. **Building Plan** as required in 4.05 B. of the Zoning Ordinance.

   b. **Site Plan** as required in §4.05 C. of the Zoning Ordinance.
c. **Drainage Plan** as required in §4.05 D. of the Zoning Ordinance.
d. **Landscape Plan** as required in §4.05 E. of the Zoning Ordinance.
e. **Utility Plan** as required in §4.05 F. of the Zoning Ordinance.
f. The residence shall be located on a lot which is adjacent to a or across an alley from a less restrictive zoning district (all zoning districts except the Rs-1, Rs-2, and IP Districts).
g. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety, or welfare of abutting or neighboring properties or the City as a whole.

9. **Second Single-family, Farm Related Dwelling in the A-1 and A-2 Districts.**
a. **Building Plan** as required in §4.05 B. of the Zoning Ordinance, plus:
   (1) The only accessory uses permitted in conjunction with the second single-family farm related residential dwelling shall be a garage, carport and home occupation.
b. **Site Plan** as required in §4.05 C. of the Zoning Ordinance, plus:
   (1) The second dwelling shall be placed on a parcel separated from the farm parcel.
   (2) The second dwelling shall provide a minimum lot area of five (5) acres and no parcel shall be less than 300 feet in width at the highway right-of-way line. If municipal sanitary sewerage service is provided to the structure, the lot area requirement may be reduced to a minimum of 20,000 square feet with a minimum lot width of 125 feet.
   (3) Any new five (5) acre parcel created for a second single-family residential dwelling shall be approved only if it is located as contiguous as possible to existing lots or dwellings on the subject or adjacent ownerships.
c. **Drainage Plan** as required in §4.05 D. of the Zoning Ordinance.
d. **Landscape Plan** as required in §4.05 E. of the Zoning Ordinance.
e. The second single-family farm dwelling shall be occupied by a person or a family of which at least one member earns a substantial part of his or her livelihood from farm operations on the parcel or is a parent or child of the operator of the farm.
f. A need for more than one single-family dwelling to support and carry on the permitted or approved conditional use must be established to the satisfaction of the Review Authority before issuance of a Conditional Use Permit may be considered.
g. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety, or welfare of abutting or neighboring properties or the City as a whole.

10. **Housing for Seasonal or Migratory Farm Workers in the A-1 and A-2 Districts.**
a. **Building Plan** as required in §4.05 B. of the Zoning Ordinance.
b. **Site Plan** as required in §4.05 C. of the Zoning Ordinance.
c. **Drainage Plan** as required in §4.05 D. of the Zoning Ordinance.
d. **Landscape Plan** as required in §4.05 E. of the Zoning Ordinance.
e. **Utility Plan** as required in §4.05 F. of the Zoning Ordinance.
f. Not more than one dwelling for farm laborers shall be permitted per farm.
g. The conditional use shall be permitted only so long as the occupants of said dwelling are primarily engaged in farm labor on the farm on which the dwelling is located.
h. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety, or welfare of abutting or neighboring properties or the City as a whole.

11. **Housing for Farm Laborers in the A-1 and A-2 Districts.**
a. The standards outlined in §4.06 A.11. should apply.

12. **Rooming and Boarding House in the Rg-1, Rg-2, Rm-1, Rm-2, B-1, B-2 and B-3 Districts.**
a. **Building Plan** as required in §4.05 B. of this Ordinance, plus:
   (1) Layout of building and any planned additions including size and layout of rooms.
   (2) Total area of building and total living space in square feet.
   (3) Number of bedrooms and number of beds per room.
   (4) Designation of common facilities.
   (5) Handicap and emergency access and exits.
(6) Bathroom. Each lodging room must have adjacent to it a bathroom for the exclusive use of the occupants of that lodging room.

b. Site Plan as required in §4.05 C. of this Ordinance.
   (1) Location of all buildings and structures.
   (2) Designation of off-street parking areas.

c. Drainage Plan as required in §4.05 D. of this Ordinance.

d. Landscape Plan as required in §4.05 E. of this Ordinance.

e. Utility Plan as required in §4.05 F. of this Ordinance.

f. Operational Plan, which includes:
   (1) Name and address of rooming and boarding house operation.
   (2) Proposed operation and supervision of facility.
   (3) Facility maintenance plan.
   (4) Maximum bed capacity and total number of occupants of the structure.

g. Compliance with Wisconsin Department of Health and Social Services requirements of HSS 195.

h. Procuring City license and subsequent annual renewals and compliance with said license.

i. Compliance with all applicable State and local Housing, Building and Fire Codes.

j. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties of the City as a whole.

13. Elderly Campus Housing in the Rm-3 District.
   a. Building Plan as required in Section 4.05 B. of the Zoning Ordinance, plus:
      (1) Building plan as required in Section 4.05 B. and Section 14 of the Zoning Ordinance, plus elevations.
      (2) Any planned additions and proposed dates, including size and layout of rooms.
      (3) Total square footage of building and total living space in square feet.
      (4) Handicap and emergency access and exit.
   
b. Site Plan as required in Section 4.05 C. and Section 14 of the Zoning Ordinance, plus:
      (1) Location and footprint of building(s) and structure(s).
      (2) General areas to be landscaped.
   
c. Drainage Plan as required in Section 4.05 D. and Section 14 of the Zoning Ordinance.
   
d. Landscape Plan as required in Section 4.05 E. and Section 14 of the Zoning Ordinance.
   
e. Utility Plan as required in Section 4.05 F. and Section 14 of the Zoning Ordinance.
   
f. Operational Plan, which includes:
      (1) Construction commencement and completion dates.
      (2) Proposed operation and supervision, including the type of services and programs offered, security provided, and emergency response system.
      (3) Management or operational control.
      (4) Number of employees.
      (5) The development shall be maintained and operated in compliance with Section 3.28 of this Ordinance.

   g. Grouped Multi-Family Development. In the case of a multi-family development consisting of a group of two (2) or more buildings to be constructed on a plot of ground where the existing or proposed street and lot layout make it impractical to apply the requirements of this Ordinance to the individual building units in such development, the application of such requirements to such development shall be done by the Review Authority in a manner that will insure substantially the same character of occupancy, density of use and minimum standards of open spaces as permitted in the district in which the proposed development is to be located.

   The Review Authority shall not authorize a use of land or a building height which is prohibited in the district in which the multi-family development is to be located, or a smaller lot area per family than the minimum required under this Ordinance in such district.

   h. Yards for Grouped Multi-Family Development. The Review Authority may vary the district yard requirements for individual building units in grouped multiple-family development provided that adequate open space is maintained, provided that a minimum yard of twenty (20’) feet is maintained between
buildings, and provided that along the periphery of such development, the following minimum yard shall be maintained setback from the right-of-way of any street or from the setback line of any major street.

(1) **Front Yard.** Minimum twenty-five (25') feet.
(2) **Street Side Yard.** Minimum twenty-five (25') feet.
(3) **Rear Yard.** Minimum twenty-five (25') feet.

i. **Yards for Non-Grouped Multiple-Family Development.** Requirements of the Rm-3 Zoning District shall apply.

j. **Accessibility: Coordination and Safety.** The site shall be designed for safe circulation and access of vehicular and pedestrian traffic. Pedestrian paths shall be installed throughout the site to public transit facilities. The Americans With Disabilities Act Accessibility Guidelines for buildings and facilities shall be adopted by reference as the minimum standard unless otherwise noted.

k. **Accessibility: Pedestrian.**

(1) Walkways shall be a minimum of forty-eight (48") inches.
(2) Pathways shall be non-slip and non-glare with good drainage.
(3) Site's slope shall be limited to an average five (5%) percent.
(4) Ramps and stairs shall be provided when grade changes exceed five (5%) percent.
(5) Major on-site route shall be limited to a five (5%) percent slope, building entries two and one-half (2.5%) percent with no steps, and other pedestrian routes to an average of six (6%) percent or ten (10%) percent for a maximum of seventy-five (75') feet.
(6) Stairs shall be nonslip and nonglare.

l. **Parking.**

(1) The facility's parking area shall be close to the entry, well lighted, and equipped with adequate curb cuts/ramps.
(2) A covered, convenient dropoff zone for the main entrance shall be located out of the traffic flow.
(3) Parking shall be provided according to Section 6.0 of this Ordinance.
(4) The slope of the site's parking area shall not exceed five (5%) percent.

m. **Pedestrian Ramps.**

(1) Ramps shall be provided if the site grade is greater than five (5%) percent.
(2) Paired flared curb ramps shall be offset to allow defined curb at corner.
(3) Ramps shall be of a nonslip surface with raised markings to alert the visually impaired.

n. **Outdoor Lighting.**

(1) Sidewalks and entrance shall be well-lighted as approved by the City's Department of Public Works.
(2) Lighting shall be used for pathways as a way to increase visibility as approved by the City's Department of Public Works.

o. **Community Facilities.**

(1) Community facilities consisting of a T.V. room or multipurpose room shall be provided in all developments. Developments which do not provide a kitchen or kitchenette in each dwelling unit shall also provide a common dining facility. The dining facility, if required, shall be operated so as to provide no less than one (1) meal to all residents each day. The following facilities may also be provided: game room, craft room, music room, library or exercise room.
(2) Such facilities shall be provided at the ratio of at least 15 s.f. per bedroom or 7.5 s.f. per bed, whichever is greater.

p. Compliance with all applicable State and local housing, building and fire codes. Assisted living facilities shall also be in compliance with Chapter HFS-89, Wisconsin Administrative Code, Chapter 50, Wisconsin Statutes, and all other applicable regulations of the Wisconsin Department of Health and Family Services (DHFS) and other State agencies having jurisdiction thereover.

q. **Open Space.** A minimum of fifty (50%) percent of the lot shall be devoted to open space. Open space does not include impervious areas, floodplains or wetlands.

r. **Conversion to Conventional Multifamily.** Conversion from elderly and handicapped housing to conventional multifamily housing shall not be permitted. A duly recorded deed restriction to this effect shall be required in a form drafted or approved by the City Attorney as a condition of occupancy.

s. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

IV - 23
14. Residential Development in the HRPO District.
   a. Building Plan as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.
   b. Site Plan as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.
   c. Drainage Plan as required in Sections 4.05 D. and 14.07 E. of the Zoning Ordinance.
   d. Landscape Plan as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.
   e. Utility Plan as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.
   g. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

15. Residential Development in the PCNO District.
   a. Building Plan as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.
   b. Site Plan as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.
   c. Drainage Plan as required in Sections 4.05 D. and 14.07 E. of the Zoning Ordinance.
   d. Landscape Plan as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.
   e. Utility Plan as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.
   f. Development Standards of the Pike Creek Neighborhood Code required in Section 3.30 of the Zoning Ordinance.
   g. Other issues which may have an adverse social, economic, or environmental impact, or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

   a. Building Plan as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.
   c. Drainage Plan as required in Sections 4.05 D. and 14.07 E. of the Zoning Ordinance.
   d. Primary Entrance. The primary entrance(s) for each residence shall be located along a street-facing facade of the principal building. Each primary entrance shall be emphasized by a covered porch or stoop have a minimum area of twenty-five (25) square feet and a minimum depth of six (6’) feet. The roof over the porch(es) or stoop(s) shall be no more than twelve (12’) feet above the floor of the porch or stoop and be at least thirty (30%) percent solid. The porch(es) or stoop(s) shall be defined by columns, railings, balustrades, trellises and/or decorative posts to define the perimeter.
   e. Attached Garages. Attached garages shall only be permitted where access is provided by a public or private alley or a private street. Attached garages are not permitted along a public street-facing facade.
   f. Windows. All principal building facades, including attached garages, shall have at least one (1) window on each story with a minimum area of nine (9) square feet. Street-facing facades shall also require a minimum of fifteen (15%) percent of the area to be comprised of windows on each story. An exception may be made for a garage wall that contains the garage door(s).
   g. Roofs. Roofs that face a public street shall not have a greater distance from the lowest portion of the roof to the ridge line than the height of the street-facing facade, measured vertically from the ground level of the facade to the lowest portion of the roof.
   h. Dwelling Units.
      (1) Dwelling Units in the RG-2 District. One (1) dwelling unit may be located per individual single family residential lot, up to a maximum of five (5) attached dwelling units located on five (5) single family lots. A series of dwelling units, in conformance with Section 4.06 A.16.i., may also be constructed on a common multiple family lot.
      (2) Dwelling Units in the B-4 District. One (1) dwelling unit may be located per individual single family residential lot, or dwelling units may be constructed as a series of attached dwelling units located on a common lot, as permitted in Section 4.06 A.16.i. of this Ordinance.
   i. Series of Single Family Attached Residences. A minimum series of three (3) single family attached residences shall be required to be grouped together. Such series shall be limited to five (5)
attached units in the RG-2 District, and twelve (12) attached units in the B-4 District, and shall be submitted as a planned development through a Conditional Use Permit application. The minimum distance between each series on a common lot shall be twenty (20') feet.

j. **Front Building Facade.** The front building facade must occupy a minimum of ninety (90%) percent of the lot frontage at the build-to line.

k. **Unit Elevation from Finished Exterior Sidewalk Grade.** Units shall be raised a minimum of eighteen (18") inches from the finished exterior sidewalk grade.

l. **Detached Accessory Buildings.** Detached accessory buildings on interior lots shall be grouped together whenever possible at the common property lines.

m. **Other Issues.** Other issues which may have an adverse social, economic or environmental impact, or affecting the health, safety or welfare of abutting or neighboring properties, or the City as a whole.

17. **Non-conforming Residential Uses**

a. Verification by the applicant, in form and substance, including but not limited to, an inspection or inspections by City staff or agents on behalf of the City of the interior and/or exterior of any structure that is subject to an application under this subsection, satisfactory to the reviewing authority of the prior existing residential use.

b. Building Plan as required in Sections 4.05B. and 14.07 B. of the Zoning Ordinance.

c. Site Plan as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.

d. Drainage Plan as required in Sections 4.05D. and 14.07 E. of the Zoning Ordinance.

e. Landscape Plan as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.

f. Utility Plan as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.

g. Other issues which may have an adverse social, economic, or environmental impact, or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

h. One or more of plans identified hereinabove may be waived in the discretion of reviewing authority.

**B. BUSINESS CONDITIONAL USES**

1. **Sexually-Oriented Businesses in the B-2 District.**

a. **Building Plan** as required in Section 4.05 B. of the Zoning Ordinance.

b. **Site Plan** as required in Section 4.05 C. of the Zoning Ordinance.

c. **Drainage Plan** as required in Section 4.05 D. of the Zoning Ordinance.

d. **Landscape Plan** as required in Section 4.05 E. of the Zoning Ordinance.

e. **Utility Plan** as required in Section 4.05 F. of the Zoning Ordinance.

f. **Operational Plan** as required in the Code of General Ordinances.

g. **Location.** A sexually-oriented business, as defined, shall only be located in compliance with the following criteria:

(1) No Sexually-Oriented Business shall be located within one thousand (1,000') feet, (based on the measurement standards of this Section), of the following:

(a) Residentially zoned property;

(b) Residentially used property;

(c) Public, private or parochial elementary or secondary schools;

(d) Public park, recreation area or playground;

(e) Daycare center;

(f) Youth center;

(g) Public library; or,

(h) Public museum.

(2) No sexually-oriented business shall be located within one thousand (1,000') feet of the Interstate 94 right-of-way.

(3) No sexually-oriented business shall be located within one thousand (1,000') feet of another sexually-oriented business.

h. **Standards of Measurement.** The distances identified in this Section shall be measured in a straight line, without regard to intervening structures or objects from the closest point of the structure.
proposed for occupancy by the sexually-oriented business to the nearest point of the parcel of property or zoning district boundary from which the proposed land use is to be separated.

   i. **Outdoor Activities.** Any outdoor activities associated with the sexually-oriented businesses are prohibited. The sexually-oriented business shall be conducted entirely within an enclosed building.

   j. **Signage.** Signs associated with the sexually-oriented businesses shall comply with Chapter XV of the Code of General Ordinances. There shall be no outdoor sign or interior sign visible from the exterior of the building which features or depicts sexual conduct or a facsimile thereof.

   k. **Multiple Uses Prohibited.** There shall not be more than one (1) sexually-oriented use allowed at any given location.

   l. **Other Requirements.** The sexually-oriented business shall comply with all applicable local, State and Federal laws, rules and ordinances regulating such uses.

2. **Business Structures in the FFO District.**
   a. The standards listed in §4.06 A.5. shall apply.

3. **Community Living Arrangements in the B-1, B-2, B-3 and B-4 Districts.** The standards listed in §4.06 A.1. shall apply.

4. **Convention Center in the B-3 and B-4 Districts.**
   a. **Building Plan** as required in §4.05 B. of the Zoning Ordinance, plus:
   (1) The design of any exterior building signage.

   b. **Site Plan** as required in §4.05 C. of the Zoning Ordinance, plus:
   (1) The design of any outdoor conference facilities such as stages or outdoor eating areas.

   c. **Drainage Plan** as required in §4.05 D. of the Zoning Ordinance.

   d. **Landscape Plan** as required in §4.05 E. of the Zoning Ordinance.

   e. **Utility Plan** as required in §4.05 F. of the Zoning Ordinance.

   f. **Operational Plan** describing:
   (1) Type and extent of convention activities, including activities other than convention (e.g., restaurant, stores, etc.)
   (2) Hours, days and months of operation.
   (3) Capacity of center (maximum number of persons).
   g. **Traffic Circulation Plan** which describes:
   (1) Trucks, buses, limousines, and other vehicles loading, unloading and parking facilities.
   (2) Emergency vehicle access.
   (3) Plans for traffic control.

   h. **Compliance with local fire protection requirements.**

   i. **Additional parking spaces beyond the normal requirements within the B-3 District may be required.**

   j. **Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.**

5. **Drive-in Theaters in the B-2 District.**
   a. **Building Plan** as required in §4.05 B. of the Zoning Ordinance.

   b. **Site Plan** as required in §4.05 C. of the Zoning Ordinance plus the locations of:
   (1) Picture screens and amusements.
   (2) Food and beverage stand, comfort station and ticket windows.
   (3) Parking areas for customers, employees and maintenance vehicles, including type of surfacing and dust control measures.
   (4) Storage areas for equipment and materials.

   c. **Drainage Plan** as required in §4.05 D. of the Zoning Ordinance, plus:
   (1) Show how the entire site will be drained including surfaced and unsurfaced areas.
d. **Landscape Plan** as required in §4.05 E. of the Zoning Ordinance.

e. **Utility Plan** as required in §4.05 F. of the Zoning Ordinance.

(1) Indicate hours which exterior lighting will be used and the direction of illumination of said lighting, including the location of any flashing or special exterior lighting.

(2) Location of any wiring which is not permanently installed, including wiring along the ground.

(3) Location of any on-site sanitary sewerage systems.

(4) Plans for waste and trash removal.

f. **Operational Plan** which includes:

(1) Entertainment and amusement activities.

(2) Hours, days and months of operation.

**Traffic Circulation Plan** which describes:

(1) How vehicles will be directed in and out of the facility and parking stalls.

(2) Location of vehicle queuing area (vehicle storage) for waiting vehicles.

(3) Emergency vehicle access.

h. The facility shall be effectively screened along any property line which is adjacent to or across an alley from any residential district, as required in §4.05 E.2. of the Zoning Ordinance. The Commission may require additional screening or landscaping on any portion of the lot, including along any street frontage, regardless of the adjacent district, if specific characteristics of the facility warrant such additional screening or landscaping.

i. Any licensing standards and regulations of Chapter 12 "Amusements" and any other applicable chapter of the City Code of General Ordinances.

j. No activity shall produce a sound level outside its premises that exceeds the standards set forth in Chapter 23 "Noise Control" of the City Code of General Ordinances.

k. The lot shall be effectively drained and shall not direct any water runoff onto adjacent lots or streets without the approval of the City Engineer.

l. Site shall be accessible from public streets that are adequate to carry the traffic expected to be generated and all access points and traffic controls shall be approved by the City Traffic Engineer.

m. Any wind blown trash or waste shall be collected daily and properly disposed.

n. Exterior lighting shall be arranged, oriented, or shielded in such a manner as to not directly radiate or glare onto residential lots in a residential district or create a traffic hazard. No flashing lights within 150 feet of a residential district.

o. The facility shall not include any "adult uses" as defined in the Zoning Ordinance.

p. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

6. **Multiple-Family Residences Above The First Floor.**

a. The standards outlined in §4.06 A.3. shall apply.

7. **Outdoor Commercial Recreational Uses in the B-2 District.**

a. **Building Plan** as required in §4.05 B. of the Zoning Ordinance.

b. **Site Plan** as required in §4.05 C. of the Zoning Ordinance, plus:

(1) Amusement or recreational activities, food and beverage stands and comfort stations.

(2) Parking areas for customers, employees, and maintenance vehicles.

(3) Storage areas for equipment and materials.

(4) Exterior signs and advertising displays.

(5) Proposed landscaping, including fencing and any required screening.

c. **Drainage Plan** as required in §4.05 D. of the Zoning Ordinance, plus:

(1) Existing topography, including spot elevations of existing buildings, structures, high points, and wet areas, with any previous flood elevations.

(2) Floodplain boundaries, if applicable.

(3) Soil characteristics where applicable.

(4) Proposed topography of the site denoting elevations and natural drainage after construction and any proposed storm water retention areas.
d. **Landscape Plan** as required by §4.05 E. of the Zoning Ordinance.

e. **Utility Plan** as required by §4.05 F. of the Zoning Ordinance, plus:

   (1) Indicate hours which exterior lighting will be used and the direction of illumination of said lighting, including the location of any flashing or special exterior lighting.

   (2) Location of any wiring which is not permanently installed, including wiring along the ground.

   (3) Location of any on-site sanitary sewerage systems.

f. **Operational Plan** which describes:

   (1) Type and extent of amusement or recreational activities.

   (2) Hours, days and months of operation.

   (3) Plans for waste and trash removal.

g. **Traffic Circulation Plan** which describes how vehicles will be directed in and out of the facility.

h. The facility shall be effectively screened along any property line which is adjacent to or across an alley from any residential district, as required in §4.05 E.2. of the Zoning Ordinance. The Commission may require additional screening or landscaping on any portion of the lot, regardless of the adjacent district, if specific characteristics of the facility warrant such additional screening or landscaping.

i. Any licensing standards and regulations of Chapter 12 "Amusements" and any other applicable chapter of the City Code of General Ordinances.

j. No activity shall produce a sound level outside its premises that exceeds the standards set forth in Chapter 23 "Noise Control" of the City Code of General Ordinances.

k. The lot shall be effectively drained and shall not direct any water runoff onto adjacent lots or streets without the approval of the City Engineer.

l. Site shall be accessible from public streets that are adequate to carry the traffic expected to be generated and all access points and traffic controls shall be approved by the City Traffic Engineer.

m. Any wind blown trash or waste shall be collected daily and properly disposed.

n. Exterior lighting shall be arranged, oriented, or shielded in such a manner as to not directly radiate or glare onto residential lots in a residential district or create a traffic hazard. No flashing lights within 150 feet of a residential district.

o. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

8. **Aluminum Collection Center**

   a. **Building Plan** as required in §4.05 B. of Zoning Ordinance.

   b. **Site Plan** as required in §4.05 C. of the Zoning Ordinance.

   c. **Drainage Plan** as required in §4.06 D. of the Zoning Ordinance.

   d. **Landscape Plan** as required by §4.05 E. of the Zoning Ordinance.

   e. **Utility Plan** as required by §4.05 F. of the Zoning Ordinance.

   f. This use may only be located on a parking lot in an enclosed vehicle not less than 40 feet in length or in an automatic aluminum collection machine, or within a retail food store building as an accessory use.

   g. Aluminum collection centers in a vehicle or in an automatic aluminum collection machine may only be placed on the parking lot of a building site or sites containing 25,000 square feet or more of floor area, contingent to the owners of the buildings agreeing to a collection center.

   h. An aluminum collection center located on a parking lot may not occupy required off-street parking spaces. An aluminum collection center must be arranged so as to not impede free traffic flow or disrupt pedestrian traffic.

   i. Receipt of and payment for aluminum at an aluminum collection center located on a parking lot may take place outside the collection center, but at a point no more than 20 feet from the opening of the enclosed vehicle where the aluminum is stored.

   j. The owner of the property and the owner and operator of the aluminum collection center shall remove aluminum stored at the collection center at least once a week.

   k. The owner of the property and the owner and operator of the aluminum collection center shall keep the aluminum collection center in proper repair and the exterior shall have a neat and clean appearance.
I. The owner of the property and the owner and operator of the aluminum collection center shall keep the building site clean and in a neat appearance and shall dispose of aluminum cans and other litter from the building site where the aluminum collection center is located.

m. Aluminum products containing additional materials such as glass, insulation, etc., shall be separated prior to bringing the aluminum to the collection center.

n. Signage containing the company name, phone number, hours of collection and types of materials to be collected shall be clearly posted at the site at all times.

o. The owner of the property and the owner, operator, and customers of the aluminum collection center shall be prohibited from processing or flattening aluminum at the site. Automatic aluminum collection machines are exempt from this provision.

p. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

   a. Building Plan as required in §4.05 B. of the Zoning Ordinance.
   b. Site Plan as required in §4.05 C. of the Zoning Ordinance.
   c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.
   d. Landscape Plan as required by §4.05 E. of the Zoning Ordinance.
   e. Utility Plan as required by §4.05 F. of the Zoning Ordinance.
   f. Shall be limited to the collection and processing of Recycling-Center Material, as that term is defined in Chapter 13 of the Code of General Ordinances for the City of Kenosha.
   g. Recycling-Center Material processing shall be limited to those means allowed to a Recycling Center licensee.
   h. Collection center may be used as an accessory use to an established business.
   i. A minimum of five (5) parking spaces shall be available for the recycling collection center.
   j. Recyclable material shall be removed from the recycling collection center at least once a week.
   k. Owner and/or operator of the recycling collection center shall keep the site clean and in a neat appearance and shall dispose of recyclable material and other litter from the site.
   l. Sites adjacent to residential zones shall be screened in a manner acceptable to the Administrator.
   m. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

10. Automobile Body Shop in the B-2 and B-3 Districts.
   a. Building Plan as required in §4.05 B. of the Zoning Ordinance.
   b. Site Plan as required in §4.05 C. of the Zoning Ordinance.
   (1) Existing buildings and proposed additions or new structures.
   (2) Customer and employee parking areas.
   (3) Storage areas for autos and other motor vehicles, parts and trash.
   (4) Existing and proposed screening and landscaping.
   (5) Exterior lighting on buildings and poles.
   (6) Outdoor signs.
   c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.
   d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.
   e. Utility Plan as required in §4.05 F. of the Zoning Ordinance.
   f. Operational Plan which describes:
      (1) Hours and days of the proposed operation.
      (2) Type and extent of work to be done on motor vehicles.
      (3) How site will be used, especially vehicle storage.
      (4) How often scrap parts will be picked up.
      (5) Methods to be used to control noise, paint fumes, and dust.
      (6) Name and address of body shop operator.
      (7) Anticipated number of employees.
   g. All repair and painting work shall be conducted wholly within a completely enclosed building.
h. All storage of vehicles, parts or equipment which is adjacent to or across an alley from any residential district shall be within completely enclosed buildings or contained within accessory outdoor storage areas effectively screened from the residential district, as required in §4.05 E(2) of the Zoning Ordinance. The Commission may require additional screening or landscaping on any portion of the lot, regardless of the adjacent district, if special characteristics of the body shop warrant such additional screening or landscaping.

i. No activity shall produce a sound level outside its premises that exceeds the standards set forth in Chapter 23 "Noise Control" of the City Code of General Ordinances.

j. No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthy outside the premises, nor shall any activity emit dust, fumes, vapors or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or other property, as measured and controlled by Chapters NR 400-494 "Air Pollution Control" of the Wisconsin Administrative Code.

k. All motor vehicles, or parts thereof, being worked on or stored shall meet the provisions of Chapter 7 "Traffic Regulations" of the City Code of General Ordinances and specifically those provisions of said Chapter regulating motor vehicle repairs.

l. The compatibility of the exterior appearance and proposed operation of the body shop with the surrounding commercial uses in the B-2 or B-3 Districts shall be considered by the Commission.

m. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

11. Automobile or Truck Wash in the B-2 and B-3 Districts.

a. Building Plan as required in §4.05 B. of the Zoning Ordinance, plus:

(1) Layout of building(s) design and architecture.

b. Site Plan as required in §4.05 (C) of the Zoning Ordinance, plus:

(1) Location and "footprint" of building(s) and structure(s), including vehicle washing units (bays), vacuum drying units, gas pumps, trash and waste storage areas, any outdoor signs, and exterior lighting.

(2) Location of existing and proposed streets, drives, alleys, easements, right-of-ways, and parking as required.

c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance, plus:

(1) Proposed topography of the site denoting elevations and natural drainage after construction.

(2) Plans for snow and ice removal and control.

d. Landscape Plan as required by §4.05 E. of the Zoning Ordinance, plus:

(1) Proposed plantings and fences, including the type, height and opaque characteristics of any required screenings.

e. Utility Plan as required by §4.05 F. of the Zoning Ordinance.

f. Operational Plan which describes:

(1) How the car or truck wash will operate, i.e. self-service, full-service, automotive, etc.

(2) Plans for removal and control of trash and waste.

(3) Hours and days of operation.

g. Traffic Circulation Plan which describes:

(1) How vehicles will be directed onto the lot and into the washing units.

(2) Number of queuing spaces (vehicle storage) available for waiting vehicles.

(3) Location for the hand drying of vehicles if no automatic drying available.

(4) Location of employee parking.

h. The car or truck wash shall be effectively screened along any property line which is adjacent to or across an alley from any residential district, as required in §4.05 E.2. of the Zoning Ordinance. The Commission may require additional screening or landscaping on any portion of the lot, regardless of the adjacent district, if special characteristics of the car or truck wash warrant such additional screening or landscaping.

i. No vehicle repair or service work shall be conducted except when conducted wholly within a completely enclosed building.

j. No activity shall produce a sound level outside its premises that exceeds the standards set forth in Chapter 23 "Noise Control" of the City Code of General Ordinances.
k. No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside the premises, nor shall any activity emit dust, fumes, vapors or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or other property, as measured and controlled by Chapters NR 400-494 “Air Pollution Control” of the Wisconsin Administrative Code.

l. The lot shall be effectively drained and shall not direct any water runoff onto adjacent lots.

m. Snow and ice shall be effectively removed and controlled and ice shall not form on the driveways of the facility in a manner which creates a traffic hazard.

n. The facility shall not create any queuing or traffic impediments on adjacent streets, including traffic backed up on the street.

o. Any windblown trash or waste shall be collected daily and properly disposed of.

p. The compatibility of the exterior appearance and proposed operation of the car or truck wash with any surrounding commercial uses in the B-2 or B-3 Districts shall be considered by the Commission.

q. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

12. Brewpubs or Winery, Accessory to a Restaurant, Tavern, Cocktail Lounge or Package Beverage Store.

a. Building Plan as required in §4.05 B. of the Zoning Ordinance.

b. Site Plan as required in §4.05 C. of the Zoning Ordinance, plus:

(1) The location of all off-street parking.

c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.

d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.

e. Utility Plan as required in §4.05 F. of the Zoning Ordinance.

f. No more than thirty (30%) percent of the gross floor area shall be devoted to any manufacturing, processing or storage of beverages produced on the premises.

g. Brewpubs shall produce no more than 3,000 barrels of fermented malt beverages per year and wineries shall produce no more than twenty thousand (20,000) gallons of wine per year.

h. The establishment shall meet all requirements of §125 of the Wisconsin State Statutes and Chapter 10 of the Code of General Ordinances.

i. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

13. Hotel and Motel in the B-2, B-3 and B-4 Districts.

a. Building Plan as required in §4.05 B. of the Zoning Ordinance.

b. Site Plan as required in §4.05 C. of the Zoning Ordinance.

c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.

d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.

e. Utility Plan as required in §4.05 F. of the Zoning Ordinance.


g. Compliance with Chapter HSS 195 of the Wisconsin Administrative Code.

h. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

14. Unified Business Centers and Other Commercial Uses on a Site 2.5 Acres or More, Including Additions, Enlargements, Expansions and Detached Buildings in the B-2 District.

a. Building Plan as required in §4.05 B. of the Zoning Ordinance, plus:

(1) Layout, design, orientation and architecture of building(s).

(2) Gross Leasable Area (GLA).

(3) Outdoor signs on building facades.

b. Site Plan as required in §4.05 C. of the Zoning Ordinance, plus:

(1) Total acreage and legal description.
(2) Location, arrangement, and dimensions of existing and proposed streets, drives, alleys, easements, right-of-ways, buildings, outdoor signs, vehicular/pedestrian access points and pedestrian walkways. Staging.

(3) Graphic outline of any development.
(4) Site shall be accessible from public streets that are adequate to carry traffic.

c. **Drainage Plan** as required in §4.05 D. of the Zoning Ordinance, plus:
(1) Existing topography, at a two (2) foot or less contour interval, including spot elevations of existing buildings, structures, high points, and wet areas, with any previous flood elevations.

(2) Floodplain boundaries, if applicable.
(3) Soil characteristics where applicable.
(4) Proposed topography of the site denoting elevations and natural drainage after construction and any proposed storm water retention areas and drainage swales.

d. **Landscape Plan** as required in §4.05 E. of the Zoning Ordinance, plus:
(1) Existing trees and landforms.
(2) Location, extent and type of all proposed plantings.
(3) Location, height, opaque characteristics and type of any required screening.

e. **Utility Plan** as required in §4.06 F. of the Zoning Ordinance, plus:
(1) Location of all utilities: storm and sanitary sewers, water mains, electrical, natural gas and communication (cable television, telephone, etc.) lines, and freestanding utilities.

(2) Exterior lighting.
(3) Location of waste and trash collection and indicate plans for snow removal.

f. **Operational Plan:**
(1) Provide copies of any restrictive covenants regulating development, design, open space management or site maintenance.

(2) Capital cost summary, include total estimated value of the completed development (buildings, site improvements, landscaping and special features); expected date of commencement of the development of the site, including a statement outlining the amount of construction which constitutes "commencement of physical development of the site" (as mutually agreed upon by the petitioner and Review Authority); and a written construction schedule which details construction and development staging.

(3) Shopping cart management shall include, but not be limited to:
(a) installation of adequate parking lot cart corrals;
(b) retrieval of off-premise shopping carts on a daily basis;
(c) placement of loose on-premises shopping carts in car corrals at least every four (4) hours during hours open for business; and,

(d) movement of all carts into the store from the parking lot corrals at closing time.
For stores open on a 24-hour basis, all carts shall be brought into the store at eight (8) hour intervals.

(4) **Hours of Operation.** Applicant shall indicate the hours of operation for the constituent units of the Unified Business Center. The Review Authority may establish limits on the hours of operation based on site location, adjacent land uses and/or impact of the development.

g. Parking, loading and traffic plan showing:
(1) Location, arrangement and dimensions of all parking spaces, aisles and drives.
(2) Truck loading spaces and docks.
(3) Number of parking spaces provided per 1,000 square feet of GLA and the number of loading spaces provided per gross floor area.

(4) Traffic circulation and control patterns within the site.

h. Access and traffic control as reviewed and approved by the City Traffic Engineer shall meet the following requirements:  
(1) Driveway approaches and access points shall meet the applicable provisions of §5.085 , "Driveway Approaches", of the City Code of General Ordinances.

(2) There must be sufficient on-site storage to accommodate at least three (3) queued vehicles waiting to park or exit without using any portion of the street right-of-way.

(3) Driveway locations for loading and unloading activities shall not hinder vehicle ingress or egress.
(4) Provisions for internal circulation between adjacent parcels should be provided through coordinated or joint parking and traffic systems, or other methods approved by the City Traffic Engineer.
i. Off-street parking facilities as reviewed and approved by the City Traffic Engineer and Review Authority shall meet the requirements of §6.01 of the Zoning Ordinance and the design standards of §5.8, "Parking Facilities" of the City Code of General Ordinances.
j. Off-street loading facilities as reviewed and approved by the Review Authority shall meet the requirements of §6.02 of the Zoning Ordinance and applicable design standards of §5.085 "Driveway Approaches" of the City Code of General Ordinances and in addition:
  (1) The design of loading facilities shall not hinder any part of the internal traffic system for moving vehicular traffic.
  (2) Loading facilities shall be clearly marked.
  (3) The Review Authority may require loading facilities to be screened as outlined in §4.05 E. 2. of the Zoning Ordinance.
(k) Buildings less than 7,000 square feet do not have to provide a loading space.
  (l) Minimum development area of 2.5 acres for new developments.
  (m) The petitioner and Review Authority shall agree on the following:
  (1) A start up date for development.
  (2) Completion date for developments.
  (3) Commencement and completion date of any phases.
  (n) Lot and yard requirements.
     (1) Detached buildings with street frontage must have a minimum 100 foot lot width, otherwise no minimum is required.
  (2) Front yard shall have a minimum five (5) foot deep landscaped buffer strip.
  (3) Street side yard shall have a minimum five (5) foot deep landscaped buffer strip.
  (4) Rear yard when adjacent to a residential district shall be landscaped and screened.
  (o) Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

15. Drive-thru Facilities in Conjunction with Permitted/Conditional Uses in the B-2, B-3 and B-4 Districts:
 a. Building Plan as required in §4.05 B. of the Zoning Ordinance.
 b. Site Plan as required in §4.05 C. of the Zoning Ordinance.
 c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.
 d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.
 e. Utility Plan as required in §4.05 F. of the Zoning Ordinance.
 f. Parking and Traffic Circulation Plan in compliance with the following standards:
     (1) Entrance to the drive-thru lane shall be located a minimum of one hundred fifty (150') feet from the intersection of the centerline of any public street.
     (2) Drive-thru lane shall be paved.
     (3) Drive-thru lane shall be a minimum width of eleven (11') feet.
     (4) Vehicle stacking distance between property line and order station, or service window where there is no order station, shall be a minimum of seventy-five (75') feet.
     (5) Vehicle stacking distance between order station where there is an order station and service window, shall be a minimum of twenty-five (25') feet.
     (6) Distance between drive-thru lane and adjacent parking stalls, excluding stall depth, shall be a minimum of:
         (a) 0° parallel parking - ten (10') feet.
         (b) 60° parking - fifteen (15') feet.
         (c) 90° parking - twenty-five (25') feet.
     (7) Drive-thru lane shall not obstruct or interfere with any other on site driveways or traffic circulation elements.
g. Service window shall be located so as to be visible from a public street. The service window and
drive-thru lane shall be located a minimum of fifty (50’) feet from a residentially zoned property.
This setback shall not be applicable for buildings with residential use(s) located above the ground floor
non-residential use. Drive-thru lane service window and order stations, where there is an order station,
shall be effectively screened from adjacent residential properties and uses through fencing, landscaping or
a combination thereof.

h. Other issues which may have an adverse social, economic or environmental impact or affecting
the health, safety or welfare of abutting or neighboring properties or the City as a whole.

i. Alcohol beverages may not be delivered through a service window from a drive-thru facility.


a. Building Plan as required in Section 4.05 B. and Section 14 of the Zoning Ordinance, plus:
   (1) Material sample(s) and colors.
   (2) Floor plan indicating location and size of office and storage units.
   (3) All buildings shall be constructed of decorative masonry, brick, cut stone, or stained, painted,
aggregate or decorative precast concrete panel. Concrete block, where used, shall be cast with a
decorative pattern.

b. Site Plan as required in Section 4.05 C. and Section 14 of the Zoning Ordinance, plus:
   (1) Location and “footprint” of all structures.
   (2) Location of all off-street parking spaces. All parking spaces and drives between storage
   buildings shall be paved with asphaltic concrete or Portland Cement concrete.
   (3) Location of any outdoor storage areas, which shall be shown as paved with asphaltic concrete or
   Portland Cement concrete.
   (4) A minimum of thirty (30’) feet wide lanes shall be provided between buildings.

c. Drainage Plan as required in Section 4.05 D. and Section 14 of the Zoning Ordinance.

d. Landscape Plan as required in Section 4.05 E. and Section 14 of the Zoning Ordinance.
   (1) In all cases, Option 1 of Table 3 "Interior Lawn Park Landscaping for Commercial Uses" of
   Section 14 of the Zoning Ordinance shall be used as the landscaping requirements for interior lawn parks.
   (2) (i.) Subject to other provisions herein, fencing must be constructed of a site-obscuring, wood or
   vinyl fence or masonry wall.
   (ii.) Notwithstanding subdivision (i), fencing for Self-Service Storage Facilities in the M-1 or M-2
   Districts may be constructed of non-site-obscuring vinyl-coated chain-link, wrought-iron, or other
decorative materials if such fencing will not be located on frontage that is adjacent to a Major Street as
designated in Subsection 5.01, will not abut a residential district, and will not be across a street from a
residential district.
   (iii.) Notwithstanding any provision to the contrary, outdoor storage areas must be screened by a six
   foot (6’) site-obscuring, wood or vinyl fence or masonry wall.
   (3) Foundation plantings and site interior landscaping requirements shall be waived when the site is
   screened by a six foot (6’) site-obscuring fence or masonry wall, including storage building walls.

e. Utility Plan as required in Section 4.05 F. and Section 14 of the Zoning Ordinance.

f. Operational Plan which includes:
   (1) Name and address of facility operator.
   (2) Number of employees.
   (3) Hours, days and months of operation.
   (4) Permitted items to be stored in outside storage area(s).
   (5) Security system.

g. Yard Requirements.
   (1) Front Yard. There shall be a minimum front yard of fifty (50’) feet, measured from the front lot
line, or from the setback of any major street.
   (2) Side Yards.
      (a) Interior Side Yard. There shall be a minimum interior side yard of ten (10’) feet. Interior lots
      shall have two (2) interior side yards. Corner lots shall have one interior side yard and one street side yard.
(b) **Street Side Yard.** There shall be a minimum street side yard of twenty-five (25') feet. Where a side lot line in the B-2 District fronts on a street and where a rear lot line abuts or is across an alley fronts a residential district.

(3) **Rear Yard.** A rear yard of not less than twenty-five (25') feet is required, except that where a rear lot line in the B-2 District fronts on a street and where a side lot line in the B-2 District abuts or is across an alley from a residential district, the residential district yard requirement on that street shall apply as the rear yard requirement.

h. Vehicle stacking distance between lot line and gate or card-key system shall be a minimum of forty (40') feet.

i. **Outdoor Storage Areas.** Materials stored in outside storage areas shall not exceed the height if the fence and shall be maintained in an orderly manner with twenty-four (24') feet wide lanes between vehicles. Outdoor storage areas are limited to licensed and operable vehicles and boats. Construction equipment and materials shall not be permitted.

j. The storage of flammable liquids, highly combustible or explosive materials or hazardous chemicals shall not be permitted.

k. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties of the City as a whole.

17. **Automobile fuel station or automobile fuel and service station, including combination convenience store in the B-2 and B-3 Districts:**

a. **Building Plan** as required in Sections 4.05 B. and 14.0 of the Zoning Ordinance, plus:

(1) Material and color sample(s).

(2) Predominant facade materials (comprising a minimum of 50% of the total facade) for the construction of all buildings shall consist of one (1) or more of the following:

  a. Decorative masonry;
  b. Brick;
  c. Cut stone;
  d. Stained, painted aggregate or decorative precast, concrete panel.

(3) Roof forms shall be visible with a 3/12 or greater slope. Roof style shall consist of one (1) of the following:

  a. Hip roof;
  b. Gabled roof.
  c. Flat roof with a visible roof form at perimeter.

(4) Overhead canopy structure detail shall be submitted and shall be generally compatible with the elements of the principal building. Canopy supports shall be enclosed with a predominant facade material used for the principal building.

b. **Site Plan** as required in Sections 4.05 C. and 14.0 of the Zoning Ordinance.

c. **Drainage Plan** as required in Sections 4.05 D. and 14.0 of the Zoning Ordinance.

d. **Landscape Plan** as required in Sections 4.05 E. and 14.0 of the Zoning Ordinance.

e. **Utility Plan** as required in Sections 4.05 F. and 14.0 of the Zoning Ordinance.

f. **Exterior lighting** shall be arranged, oriented or shielded in such a manner as to not directly radiate or glare onto residential lots in a residential district, or to create a traffic hazard.

h. **Outside display** of store products or other materials is prohibited unless specifically authorized by the Review Authority in a designated area and in a manner consistent with and appropriate to the development.

h. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

18. **Commercial Development in the HRPO District.**

a. **Building Plan** as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.

b. **Site Plan** as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.

c. **Drainage Plan** as required in Sections 4.05 D. and 14.07 E. of the Zoning Ordinance.

d. **Landscape Plan** as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.

e. **Utility Plan** as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.

g. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

19. **Body-Piercing Establishments in the B-2 District.**

a. **Building Plan** as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.

b. **Site Plan** as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.

c. **Drainage Plan** as required in Section 4.05 D. and 14.07 E. of the Zoning Ordinance.

d. **Landscape Plan** as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.

e. **Utility Plan** as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.

f. **Operational Plan**, which includes:

(1) Compliance with State of Wisconsin Administrative Code, Department of Health and Family Services, Chapter HFS 173, entitled "Tattooing and Body Piercing", and Sections 252.24 through 252.245, Wisconsin Statutes.

(2) Installation of signage stating that no loitering is allowed on the premises.

(3) Statement of days and hours of operation.

(4) Restriction that no business activity shall take place in public view from the building exterior.

f. **Location.** A Body-Piercing Establishment, as defined, shall only be located in compliance with the following criteria:

(1) No Body-Piercing Establishment shall be located within one thousand (1,000') feet of the Interstate 94 right-of-way.

(2) No Body-Piercing Establishment shall be located within one thousand (1,000') feet of another Body Piercing Establishment.

h. **Standards of Measurement.** The distances identified in this Section shall be measured in a straight line, without regard to intervening structures or objects from the closest point of the structure proposed for occupancy by the Body-Piercing Establishment to the nearest point of the parcel of property from which the proposed land use is to be separated.

20. **Tattoo Establishments in the B-2 District.**

a. **Building Plan** as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.

b. **Site Plan** as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.

c. **Drainage Plan** as required in Section 4.05 D. and 14.07 E. of the Zoning Ordinance.

d. **Landscape Plan** as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.

e. **Utility Plan** as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.

f. **Operational Plan**, which includes:

(1) Compliance with State of Wisconsin Administrative Code, Department of Health and Family Services, Chapter HFS 173, entitled “Tattooing and Body Piercing”, and Sections 252.23 through 252.245, Wisconsin Statutes.

(2) Installation of signage stating that no loitering is allowed on the premises.

(3) Statement of days and hours of operation.

(4) Restriction that no business activity shall take place in public view from the building exterior.

g. **Location.** A Tattoo Establishment, as defined, shall only be located in compliance with the following criteria:

(1) No Tattoo Establishment shall be located within one thousand (1,000') feet of the Interstate 94 right-of-way.

(2) No Tattoo Establishment shall be located within one thousand (1,000') feet of another Tattoo Establishment.

h. **Standards of Measurement.** The distances identified in this Section shall be measured in a straight line, without regard to intervening structures or objects from the closest point of the structure proposed for occupancy by the Tattoo Establishment to the nearest point of the parcel of property from which the proposed land use is to be separated.
21. Mixed-Use Development In Accordance With An Adopted Neighborhood Plan or Site
Development Plan, Including Additions, Enlargements, Expansions and Detached Buildings in the
B-4 District.
   a. Requirements For All Development Types.
      (1) Building Plan as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance, plus:
         (a) Layout, design, orientation and architecture of building(s).
         (b) Total square footage of building(s).
         (c) Handicap and emergency access and exit.
      (2) Site Plan as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance, plus:
         (a) Total acreage and legal description.
         (b) Location, arrangement and dimensions of existing and proposed streets, drives, alleys,
easements, right-of-ways, buildings, outdoor signs, public spaces/plazas, vehicular/pedestrian access
points and pedestrian walkways.
         (c) Graphic outline of any development.
         (d) Site shall be accessible from public streets that are adequate to carry traffic.
      (3) Drainage Plan as required in Sections 4.05 D. and 14.07 E. of the Zoning Ordinance, plus:
         (a) Existing topography, at a two (2) foot or less contour interval, including spot elevations of
existing buildings, structures, high points and wet areas, with any previous flood elevations.
         (b) Floodplain boundaries, if applicable.
         (c) Soil characteristics where applicable.
         (d) Proposed topography of the site denoting elevations and natural drainage after construction and
any proposed storm water retention areas and drainage swales.
      (4) Landscape Plan as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance, plus:
         (a) Existing trees and landforms.
         (b) Location, extent and type of all proposed plantings.
         (c) Location, height, opaque characteristics and type of any required screening.
      (5) Utility Plan as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance, plus:
         (a) Location of all utilities: storm and sanitary sewers, water mains, electrical, natural gas and
communication (cable television, telephone, etc.) lines, and freestanding utilities.
         (b) Exterior lighting.
         (c) Location of waste and trash collection, and indicate plans for snow removal.
      (6) Other Issues which may have an adverse social, economic or environmental impact, or
affecting the health, safety or welfare of abutting or neighboring properties, or the City as a whole.
   b. Additional Standards for Nonresidential Development in the B-4 District.
      (1) Building Plan as required in Section 4.06 B.21.a. above, plus:
         (a) Gross Leasable Area (GLA) of all buildings.
         (b) Square footage of residential units and floors.
         (c) Outdoor signs on building facades.
      (2) Operational Plan:
         (a) Provide copies of any restrictive covenants regulating development, design, open space
management or site maintenance, and/or an operational plan which includes management or operational
control, deed restrictions, bylaws or property owners’ association Articles of Incorporation.
         (b) Capital cost summary, including total estimated value of the completed development (buildings,
site improvements, landscaping and special features); expected date of commencement of the site
development, including a statement outlining the amount of construction which constitutes
"commencement of physical development of the site" (as mutually agreed upon by the petitioner and the
Review Authority); and, a written construction schedule which details construction and development
staging.
         (c) Shopping Cart Management Plan, including, but not limited to:
            i. Submission of a Shopping Cart Management Plan for on-site management of shopping carts at
the time of submission of a Conditional Use Permit, and thereafter, at the time of occupancy. Such
Shopping Cart Management Plans shall prevent customers from removing shopping carts from the
perimeter of the development by use of products such as CAPS (Cart Anti-Theft Protection System), Kart
Savers, or a similar product;
ii. Installation of adequate parking lot cart corrals;
iii. Retrieval of any off-premise shopping carts on a daily basis;
iv. Placement of loose on-premise shopping carts in cart corrals at least every two (2) hours during hours for business; and,
v. Movement of all carts into the store from the parking lot corrals at closing time. For stores open on a twenty-four (24) hour basis, all carts shall be brought into the store at eight (8) hour intervals.

3) Parking, Loading and Traffic Plan Showing:
(a) Location, arrangement and dimensions of all on-site parking spaces, aisles and drives.
(b) Location of any proposed on-street parking spaces used to satisfy the requirements of Section 6.0 of the Zoning Ordinance.
(c) Truck loading spaces and docks.
(d) Number of parking spaces per one thousand (1,000) square feet of GLA, and the number of parking spaces per residential unit, as well as the number of loading spaces provided per gross floor area.
(e) Traffic circulation and control patterns within the site.
(f) Pedestrian walkways through parking lot. Parking lot with greater than fifty (50) parking spaces and more than twenty (20) spaces in a continuous row, shall provide at least one (1) pedestrian walkway through a parking lot, connecting buildings on opposite sides of the parking lot, or a building to a public sidewalk. Employee only parking areas shall be exempt from this requirement. Such pedestrian walkway shall have a minimum width of five (5') feet and shall be defined by at least two of the following:
   - A six (6") inch vertical curb.
   - Use of a paving material that provides contrast against the material used in the parking lot, such as textured pavement, painted or colored asphalt/concrete, pavers, stamped asphalt/concrete, and/or raised walkways.
   - A continuous landscape area at a minimum of three (3') feet wide on at least one side of the walkway.

This requirement may be otherwise conditioned or waived by the Review Authority.

4) Access and Traffic Control, as reviewed and approved by the City Traffic Engineer shall meet the following requirements:
(a) Driveway approaches and access points shall meet the applicable provisions of Section 5.085 “Driveway Approaches" of the Code of General Ordinances for the City of Kenosha.
(b) There must be sufficient on-site storage to accommodate at least three (3) queued vehicles waiting to park or exit without using any portion of the street right-of-way.
(c) Driveway locations for loading and unloading activities shall not hinder vehicle ingress or egress.
(d) Provisions for internal circulation between adjacent parcels should be provided through coordinated or join parking and traffic systems, or other methods approved by the City Traffic Engineer.

5) Off-Street Parking Facilities as reviewed and approved by the City Traffic Engineer and Review Authority shall meeting the requirements of Section 6.01 of the Zoning Ordinance, and the design standards of Section 5.8, “Parking Facilities”, of the Code of General Ordinances for the City of Kenosha.

6) Off-Street Loading Facilities as reviewed and approved by the Review Authority shall meet the requirements of Section 6.02 of the Zoning Ordinance, and applicable design standards of Section 5.085, "Driveway Approaches" of the Code of General Ordinances for the City of Kenosha, and in addition:
(a) The design of loading facilities shall not hinder any part of the internal traffic system for moving vehicular traffic.
(b) Loading facilities shall be clearly marked.
(c) Loading docks and service areas are prohibited on street frontages and shall generally not be visible from street frontages. Exceptions may be made for loading areas located on sides of buildings when properly screened and/or recessed. Screening of loading areas shall be by walls of the same building materials as its related principal building, a minimum of four (4') feet in height.
(d) Buildings less than seven thousand (7,000) square feet shall not be required to have a loading space.

7) Streetscaping in Public Areas shall be required and shall be compatible with the streetscaping patterns of the surrounding area, where such areas contain a common streetscaping pattern, including ornamental lighting, matching benches, waste receptacles, lighting and landscaping patterns, or as approved by the Review Authority. Applicants shall discuss the streetscaping requirements with the
Department of Department of Community Development and Inspections prior to submitting a Conditional Use Permit application.

(8) **Exterior Lighting** shall be arranged, oriented or shielded in such a manner as to not directly radiate or glare onto residential lots in a residential district, or create a traffic hazard. No flashing lights shall be permitted within one hundred fifty (150') feet of a residential district or use.

(9) **Public Amenities.** The mixed-use development shall contribute to the creation or enhancement of public spaces by incorporating at least two (2) of the following site amenities:
   (a) Plaza with seating area (minimum size of five hundred (500) square feet).
   (b) Mini-parks, squares or greens (minimum size of five hundred (500) square feet).
   (c) Water feature.
   (d) Clock tower.
   (e) Public art.
   (f) On-site transportation amenities, including transit stops coordinated with Kenosha Transit.

c. **Additional Standards for Elderly and/or Handicapped Multi-Family Units, Elderly and Handicapped Community Living Arrangements and Assisted Living Facilities in the B-4 District.**
   (1) **Building Plan** shall also indicate any planned additions and proposed dates and handicap and emergency access and exit.
   (2) **Operational Plan** shall also include:
      (a) Proposed operation and supervision, including the type of services and programs offered, security provided, and emergency response system.
      (b) Management and operational control.
      (c) Number of employees.
   (3) **Accessibility: Coordination and Safety.** The site shall be designed for safe circulation and access of vehicular and pedestrian traffic. Pedestrian paths shall be installed throughout the site to public transit facilities and adjacent sites providing services to the development. The Americans With Disabilities Act Accessibility Guidelines for buildings and facilities shall be adopted by reference as the minimum standard, unless otherwise noted.
   (4) **Accessibility: Pedestrian.**
      (a) Walkways shall be a minimum of five (5') feet in width.
      (b) Pathways and steps shall be non-slip and non-glare with good drainage.
      (c) Site’s slope shall be limited to an average of five (5%) percent.
      (d) Ramps and stairs shall be provided when grade changes exceed five (5%) percent.
      (e) Major on-site routine shall be limited to a five (5%) percent slope; building entries two and one-half (2.5%) percent with no steps; and other pedestrian routes to an average of six (6%) percent or ten (10%) percent for a maximum of seventy-five (75') feet.
      (f) Ramps, in addition to a nonslip surface, shall also include raised markings to alert the visually impaired.
   (5) **Parking Plan** shall also include:
      (a) A parking area located close to the building entry, well lighted, and equipped with adequate curbs/courts.
      (b) A convenient covered dropoff zone for the main entrance which shall be located out of the traffic flow.
      (c) The slope of the site’s parking area shall not exceed five (5%) percent.
   (6) **Community Facilities.**
      (a) Community facilities consisting of a T.V. room or multipurpose room shall be provided in all developments. Developments which do not provide a kitchen or kitchenette in each dwelling unit shall also be required to provide a common dining facility. The dining facility, if required, shall be operated so as to provide no less than one (1) meal to all residents each day. The following facilities may also be provided: game room, craft room, music room, library and/or exercise room.
      (b) Such facilities shall be provided at the ratio of at least fifteen (15) square feet per bedroom or seven and one-half (7.5) square feet per bed, whichever is greater.

(7) **Compliance With All Applicable State and Local Housing, Building and Fire Codes.** Assisted living facilities shall also be in compliance with Chapter HFS-89, Wisconsin Administrative Code,
Chapter 50, Wisconsin Statutes, and all other applicable regulations of the Wisconsin Department of Health and Family Services (DHFS), and other State agencies having jurisdiction thereover.

d. Additional Standards For Multi-Family Developments in the B-4 District. An Operational Plan shall be submitted, which includes:

(1) Construction commencement and completion dates.
(2) Management or operational control.
(3) Deed restrictions.
(4) Bylaws or property owners’ association Articles of Incorporation.

22. Large Scale Commercial Development in the B-2, B-3 and B-4 Districts. Unless otherwise approved by the Review Authority, Large Scale Commercial Development shall comply with the following additional requirements:

a. Location. One of the following criteria shall be met:

(1) The property is located west of the centerline of State Trunk Highway 31 (STH “31") (Green Bay Road); or,
(2) The property abuts the east right-of-way line of State Trunk Highway 31 (STH “31") (Green Bay Road); or,
(3) The property is located east of the centerline of (STH “31") (Green Bay Road), and has an existing building of one hundred thousand (100,000) square feet or greater, or a group of buildings with a total square footage of two hundred thousand (200,000) square feet or greater. New development shall only occur on the site if one of the following occurs:

(a) Existing buildings on the site are razed. New buildings shall not exceed the total square footage of razed buildings; or,
(b) Platted lots may be developed or redeveloped with a freestanding building provided the new building or addition does not exceed one hundred thousand (100,000) square feet, and the total square footage of all buildings within the site do not exceed two hundred thousand (200,000) square feet. If the combined total building square footage on an outlot is less than ten thousand (10,000) square feet, the square footage shall not be counted towards the two hundred thousand (200,000) square foot building site limit.

b. Building, Site, Drainage, Landscape and Utility Plans shall comply with all City and State Ordinances, laws, rules and regulations.

c. Development shall comply with all respects to any adopted Master Plan, Comprehensive Plan or Neighborhood Building Plan applicable to subject property.

d. Design and Site Layout additional standards as defined in Sections 4.0 and 14.0 of the City Zoning Ordinance, and comply with the following standards, whichever is more restrictive:

(1) Building Requirements. Articulation consisting of recesses and/or projections shall be of at least a minimum depth and/or project six (6') feet and constitute a minimum of twenty (20%) percent of the structure’s facades. In no event shall an uninterrupted facade extend more than one hundred (100') feet.

(2) Site Requirements. No more than seventy-five (75%) percent of the parking can be located between the front facade and the primary street. Pedestrian walkways from sidewalks to entrances and adjacent to buildings shall be provided.

(3) Compliance with Section 4.06 B.14. of the Zoning Ordinance for properties zoned B-2 and B-3.

(4) Compliance with Section 4.06 B.21. of the Zoning Ordinance for properties zoned B-4.

e. Operational Plan:

(1) Provide copies of any restrictive covenants regulating development, design, open space management or site maintenance.

(2) Capital cost summary, include total estimated value of the completed development (buildings, site improvements, landscaping and special features); expected date of commencement of the development of the site, including a statement outlining the amount of construction which constitutes “commencement of physical development of the site” (as mutually agreed upon by the petitioner and Review Authority); and a written construction schedule which details construction and development staging.

(3) Shopping cart management shall include, but not be limited to:

(a) installation of adequate parking lot cart corrals;
(b) retrieval of off-premise shopping carts on a daily basis;
(c) placement of loose on-premises shopping carts in car corral at least every four (4) hours during hours open for business; and,
(d) movement of all carts into the store from the parking lot corral at closing time.
For stores open on a 24 hour basis, all carts shall be brought into the store at eight (8) hour intervals.

f. Parking, Loading and Traffic Plan showing:
(1) Location, arrangement and dimensions of all parking spaces, aisles and drives.
(2) Truck loading spaces and docks.
(3) Number of parking spaces provided per 1,000 square feet of GLA and the number of loading spaces provided per gross floor area.
(4) Traffic circulation and control patterns within the site.

g. Access and Traffic Control as reviewed and approved by the City Traffic Engineer shall meet the following requirements:
(1) Driveway approaches and access points shall meet the applicable provisions of §5.085, "Driveway Approaches", of the City Code of General Ordinances.
(2) There must be sufficient on-site storage to accommodate at least three (3) queued vehicles waiting to park or exit without using any portion of the street right-of-way.
(3) Driveway locations for loading and unloading activities shall not hinder vehicle ingress or egress.
(4) Provisions for internal circulation between adjacent parcels should be provided through coordinated or joint parking and traffic systems, or other methods approved by the City Traffic Engineer.

h. Off-street Parking Facilities as reviewed and approved by the City Traffic Engineer and Review Authority shall meet the requirements of §6.01 of the Zoning Ordinance and the design standards of §5.8, "Parking Facilities", of the City Code of General Ordinances.

i. Off-street Loading Facilities as reviewed and approved by the Review Authority shall meet the requirements of §6.02 of the Zoning Ordinance and applicable design standards of §5.085, "Driveway Approaches", of the City Code of General Ordinances, and in addition:
(1) The design of loading facilities shall not hinder any part of the internal traffic system for moving vehicular traffic.
(2) Loading facilities shall be clearly marked.
(3) The Review Authority may require loading facilities to be screened as outlined in §4.05 E. 2. of the Zoning Ordinance.
(4) Buildings less than 7,000 square feet do not have to provide a loading space.

j. Exterior Lighting shall be arranged, oriented or shielded in such a manner as to not directly radiate or glare onto residential lots in a residential district, or create a traffic hazard. No flashing lights within 150 feet of a residential district.

k. Hours of Operation. Applicant shall indicate the hours of operation for the development. The Review Authority may, at its discretion, establish limits on the hours of operation which are compatible with site location, adjacent uses and the overall impact of the development.

m. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.


a. Intent and Purpose. The City of Kenosha is experiencing a substantial increase in the number and location of Convenient Cash Businesses. The proliferation of these businesses may undermine the economic health and stability of the community due to their practice of targeting persons in vulnerable economic circumstances. Furthermore, the clustering of these businesses creates an undesirable image of the vitality of the commercial districts and the community as a whole. Finally, extensive hours of operation can result in negative impacts to the adjacent and surrounding residential areas where such business may be located.

b. Location. A Convenient Cash Business, as defined, shall only be located in compliance with the following criteria:
(1) No Convenient Cash Business shall be located within five hundred (500') feet of any residentially zoned property.
(2) No Convenient Cash Business shall be located within three thousand (3,000') feet of another Convenient Cash Business.

c. Standards of Measurement. The distances identified in this Section shall be measured in a straight line, without regard to intervening structures or objects from the closet point of the structure proposed for occupancy by the Convenient Cash Business to the nearest point of the parcel of property or zoning district boundary from which the proposed land is to be separated.

d. Hours of Operation. No Convenient Cash Business may be open between the hours of 7:00 P.M. and 8:00 A.M.

e. Other Issues which may have adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties, or the City as a whole.

24. Body-Piercing Establishments in the B-3 District.

a. Building Plan as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.

b. Site Plan as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.

c. Drainage Plan as required in Section 4.05 D. and 14.07 E. of the Zoning Ordinance.

d. Landscape Plan as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.

e. Utility Plan as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.

f. Operational Plan, which includes:

(1) Compliance with State of Wisconsin Administrative Code, Department of Health and Family Services, Chapter HFS 173, entitled Tattooing and Body Piercing, and Sections 252.24 through 252.245, Wisconsin Statutes.

(2) Installation of signage stating that no loitering is allowed on the premises.

(3) Statement of days and hours of operation.

(4) Restriction that no tattooing or body-piercing shall take place in public view from the building exterior.

g. Location. A Body-Piercing Establishment, as defined, shall only be located in compliance with the following criteria:

(1) No Body-Piercing Establishment shall be located within one thousand (1,000) feet of the Interstate 94 right-of-way.

(2) No Body-Piercing Establishment shall be located within one thousand (1,000) feet of another Body-Piercing Establishment.

h. Standards of Measurement. The distances identified in this Section shall be measured in a straight line, without regard to intervening structures or objects from the closest point of the structure proposed for occupancy by the Body-Piercing Establishment to the nearest point of the parcel of property from which the proposed land use is to be separated.

25. Tattoo Establishments in the B-3 District.

a. Building Plan as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.

b. Site Plan as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.

c. Drainage Plan as required in Section 4.05 D. and 14.07 E. of the Zoning Ordinance.

d. Landscape Plan as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.

e. Utility Plan as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.

f. Operational Plan, which includes:

(1) Compliance with State of Wisconsin Administrative Code, Department of Health and Family Services, Chapter HFS 173, entitled Tattooing and Body Piercing, and Sections 252.23 through 252.245, Wisconsin Statutes.

(2) Installation of signage stating that no loitering is allowed on the premises.

(3) Statement of days and hours of operation.

(4) Restriction that no tattooing or body-piercing shall take place in public view from the building exterior.

g. Location. A Tattoo Establishment, as defined, shall only be located in compliance with the following criteria:

(1) No Tattoo Establishment shall be located within one thousand (1,000) feet of the Interstate 94 right-of-way.
(2) No Tattoo Establishment shall be located within one thousand (1,000) feet of another Tattoo Establishment.

**Standards of Measurement.** The distances identified in this Section shall be measured in a straight line, without regard to intervening structures or objects from the closest point of the structure proposed for occupancy by the Tattoo Establishment to the nearest point of the parcel of property from which the proposed land use is to be separated.

**26. Indoor Kennel in the B-2 District.**

a. Building Plan as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.

b. Site Plan as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.

(1) The plan(s) shall indicate existing building(s) and proposed additions or new structures.

(2) Parking areas for customers, employees, and maintenance vehicles.

c. Drainage Plan as required in Sections 4.05 D. and 14.07 E. of the Zoning Ordinance.

d. Landscape Plan as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.

e. Utility Plan as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.

(1) Include details on handling of waste products within the facility.

f. Operational Plan which includes:

(1) Name and address of facility operator

(2) Hours of operation

(3) Number of employees

(4) Facility maintenance detail

(5) A statement indicating that all activities including exercise periods/runs on the site will be conducted wholly within an enclosed building.

g. Standards outlined in Chapter 14 of the General Code of Ordinances.

h. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

i. One or more of the plans identified above may be waived in the discretion of the reviewing authority.

**27. Pawnbroker.**

a. **Intent and Purpose.** The City of Kenosha is anticipating an increase in the number of Pawnbroker businesses, the proliferation of which may undermine the economic health and stability of the community due to their practice of targeting persons in vulnerable economic circumstances. Furthermore, the clustering of these businesses may create an undesirable image of the vitality of the commercial districts and the community as a whole.

b. **Location.** A Pawnbroker business shall only be located in compliance with the following criteria:

(1) No Pawnbroker business shall be located within five hundred (500) feet of any residential zoned property.

(2) No Pawnbroker business shall be located within three thousand (3,000) feet of another Pawnbroker business.

c. **Standards of Measurement.** The distances identified in this section shall be measured in a straight line, without regard to intervening structures or objects from the closest point of the structure proposed for occupancy by the Pawnbroker business to the nearest point of the parcel of property or zoning district boundary from which the proposed land is to be separated.

d. **Hours of Operation.** The applicant shall indicate the hours of operation for the development.

**28. Secondhand Jewelry Dealers.**

a. **Intent and Purpose.** The City of Kenosha is anticipating an increase in the number of Secondhand Jewelry Dealer businesses, the proliferation of which may undermine the economic health
and stability of the community due to their practice of targeting persons in vulnerable economic circumstances. Furthermore, the clustering of these businesses may create an undesirable image of the vitality of the commercial districts and the community as a whole.

b. Location. A Secondhand Jewelry Dealer business shall only be located in compliance with the following criteria:
   (1) No Secondhand Jewelry Dealer business shall be located within five hundred (500) feet of any residential zoned property.
   (2) No Secondhand Jewelry Dealer business shall be located within one thousand (1,000) feet of another Secondhand Jewelry Dealer business.

c. Standards of Measurement. The distances identified in this section shall be measured in a straight line, without regard to intervening structures or objects from the closest point of the structure proposed for occupancy by the Secondhand Jewelry Dealer business to the nearest point of the parcel of property or zoning district boundary from which the proposed land is to be separated.

d. Hours of Operation. The applicant shall indicate the hours of operation for the development.

C. MANUFACTURING CONDITIONAL USES

1. Manufacturing Uses (not including salvage dealers, shops or yards, or storage yards for a contractor, which have separate conditional use submittals).
   a. Building Plan as required by §4.05 B. of the Zoning Ordinance, plus:
      (1) Layout of building(s) including size and layout of rooms.
      (2) Design and architecture.
   b. Site Plan as required by §4.05 C. of the Zoning Ordinance, plus:
      (1) Legal description of property.
      (2) Location and "footprint" of building(s) and structure(s).
      (3) Locations of existing and proposed streets, drives, alleys, easements, right-of-ways, parking as required, vehicular and pedestrian access points and sidewalks.
      (4) Outline of any development stages.
   c. Drainage Plan as required by §4.05 D. of the Zoning Ordinance, plus:
      (1) Existing topography, including spot elevations of existing buildings, structures, high points and wet areas, with any previous flood elevations.
      (2) Floodplain boundaries, if applicable.
      (3) Soil characteristics where applicable.
      (4) Proposed topography of the site denoting elevations and natural drainage after construction and any proposed storm water retention areas.
   d. Landscape Plan as required by §4.05 E. of the Zoning Ordinance, plus:
      (1) Existing trees and landforms.
      (2) Location, extent, and type of all proposed plantings.
      (3) Location, height, opaque characteristics and type of any required screening.
   e. Utility Plan as required by §4.05 E. of the Zoning Ordinance, plus:
      (1) Location of all utilities, storm and sanitary sewers, water mains, electrical, natural gas and communication (cable television, telephone, etc.) lines.
      (2) Exterior lighting for parking and other outdoor areas, outdoor signs and building exteriors.
      (3) Location of waste and trash collection and indicate plans for snow removal.
   f. Operational Plan which describes:
      (1) General manufacturing or industrial process(es).
      (2) Special handling procedures, including waste disposal.
      (3) Outdoor storage.
      (4) Hours of operation.
   g. Air Pollution. No activity shall emit any fly ash, dust, fumes, vapors, smoke, mists or gases in such quantities as to cause soiling or danger to the health of person, animals, vegetation or other forms of
property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas nor any color visible smoke equal to or darker than number two on the Ringleman Chart as measured and controlled by Chapter NR 400-494 "Air Pollution Control" of the Wisconsin Administrative Code.

h. Fire and Explosive Hazards. All activities involving the manufacturing, utilization, processing or storage of flammable and explosive materials shall be provided with adequate safety devices in conformance with Wisconsin Administrative Codes and standards of the National Fire Protection Association. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above ground storage capacity of materials that produce flammable or explosive vapors shall not exceed the following:

<table>
<thead>
<tr>
<th>Flash Point (Closed Cup)</th>
<th>Gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over 187° F.</td>
<td>400,000</td>
</tr>
<tr>
<td>105° F. to 187° F.</td>
<td>200,000</td>
</tr>
<tr>
<td>Below 105° F.</td>
<td>100,000</td>
</tr>
</tbody>
</table>

i. The Kenosha Fire Department may inspect premises without delay, during reasonable hours with the authority for the Fire Chief to act accordingly if life threatening circumstances exist.

j. Glare and heat. No activity shall emit glare or heat that is visible or measurable at the boundaries of the lot on which the principle use is located. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exterior lighting shall be arranged, oriented or shielded in such a manner that direct radiation or glare from such source does not penetrate residential lots which are located in a residential district adjacent to or across an alley from the use being illuminated.

k. Water Pollution. 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 run off, seep, percolate or wash into surface or subsurface water so as to exceed or contribute toward exceeding the minimum standards set forth in Chapter NR 102 "Water Quality Standards for Wisconsin Surface Waters" and Chapters NR 200 through 299 "Wisconsin Pollutant Discharge Elimination System" of the Wisconsin Administrative Code.

l. Noise. No activity shall produce a sound level outside its premises that exceeds the standards set forth in Chapter 23 "Noise Control" of the City Code of General Ordinances.

m. Odors. No activity shall emit odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside the premises as measured and controlled by Chapter NR 400-494 "Air Pollution Control" of the Wisconsin Administrative Code.

n. Radioactivity, electrical or other disturbances. No activity shall emit radioactive, electrical or other disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

o. Hazardous Waste. Any activity defined by NR 181 Wisconsin Administrative Code as constituting the generation, transportation, storage, treatment or disposal of hazardous waste, shall meet the standards and licensing provisions of Chapter NR 181 "Hazardous Waste Management" of the Wisconsin Administrative Code.

p. Other Federal, State and Local Standards. Notwithstanding, all other applicable Federal, State and local standards and regulations shall be complied with, including any applicable State Statute or Wisconsin Administrative Code regulations or any chapter of the City Code of General Ordinances.

q. Measurement. The determination of the existence of any dangerous, injurious, noxious or otherwise objectionable condition shall be measured:

(1) As determined in the Wisconsin Administrative Code for air and water pollution or for odors.

(2) As determined in the City Code of General Ordinances for noise.

(3) The point or points where such conditions shall be most apparent for fire and explosive hazards or for radioactive and electrical disturbances.

(4) The property lines of the use creating such conditions for glare and heat.

r. The Council may establish special requirements when the use is adjacent to other land uses which could be adversely affected, especially adjacent residential uses, to mitigate potential conflicts or negative impacts. Special requirements may be, but are not limited to, additional fencing, screening or
landscaping, operation restrictions or requirements, building or equipment location and storage specifications.

s. Other uses which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

2. Airports and Heliports in the M-1 and M-2 Districts.
   a. Building Plan as required by §4.05 B. of the Zoning Ordinance, plus:
      (1) Location of all buildings and structures, including any development staging.
      (2) Required height restrictions both on and near the facility.
   b. Site Plan as required by §4.05 C. of the Zoning Ordinance, plus:
      (1) Airport or heliport layout plan detailing runways, landing access, taxiways, aprons, parking areas and access roads.
      (2) Land requirements for the facility.
      (3) Required clear zone, avigation and noise easements.
   c. Drainage Plan as required by §4.05 D. of the Zoning Ordinance.
   d. Landscape Plan as required by §4.05 E. of the Zoning Ordinance.
   e. Utility Plan as required by §4.05 F. of the Zoning Ordinance.
   f. Operational Plan which details:
      (1) Airport or heliport classification.
      (2) Forecasted aviation demand, based aircraft, annual and average daily operations.
      (3) Hours of operation.
      (4) Aviational aids and landing systems.
      (5) Crash, fire and rescue plans.
      (6) Air freight services.
      (7) Management.
   g. Environmental Impact Statement:
      (1) Delineate all noise contour areas (based on projections of aircraft operations to a 20 year future.)
      (2) Land use compatibility plans for noise impacted areas, including existing land uses and zoning.
      (3) Runway and other lighting impacts from the facility.
      (4) Air and water quality impacts including aircraft fuel emissions.
      (5) Construction impacts.
      (6) Prime farmland impacts.
      (7) Other applicable social, economic and environmental impacts.
   h. Federal Aviation Administration (FAA) and Wisconsin Bureau of Aeronautics (BOA) approval of all plans and environmental impact statements.
      i. Facility should have adequate land area and easements to assure safe operation.
      j. Facility should have adequate plans for emergency crash, fire and rescue services.
      k. The noise impacted area should not exceed FAA standards or policies on airport and heliport land use compatibility.
      l. Facility should have adequate plans for restricting buildings and structures to assure safe aerial approaches.
      m. Other issues or concerns which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

3. Storage Yard for a Contractor in the M-1 and M-2 Districts.
   a. Building Plan as required by §4.05 B. of the Zoning Ordinance.
   b. Site Plan as required by §4.05 C. of the Zoning Ordinance, plus:
      (1) Location and height of all storage areas including vehicles, equipment, building materials, metals, sand, gravel and scrap storage.
      (2) Internal roads and paths for vehicular use.
      (3) Outdoor signs including any mounted or painted on fences.
   c. Drainage Plan as required by §4.05 D. of the Zoning Ordinance.
   d. Landscape Plan as required by §4.05 E. of the Zoning Ordinance.
e. **Utility Plan** as required by §4.05 F. of the Zoning Ordinance.

f. **Operational Plan** which shows:

1. Types of equipment and materials which will be used and stored.
2. How often trash and unusable materials will be picked up.
3. Methods to be used to control noise, dust and windblown materials and maintain fire protection.
4. Hours and days of operation.

- No activity shall produce a sound level outside its premises that exceeds the standards set forth in Chapter 23 "Noise Control" of the City Code of General Ordinances.

- No activity shall emit odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside the premises, nor shall any activity emit dust, fumes, vapors or gases in such quantities as to cause spoiling or danger to the health of persons, animals, vegetation or other property, all as measured and controlled by Chapter NR 400-494 "Air Pollution Control" of the Wisconsin Administrative Code.

- No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate or wash into surface or subsurface waters so as to exceed or contribute toward the exceeding of the minimum standards set forth in Chapter NR 102 "Water Quality Standards for Wisconsin Surface Waters" and Chapters NR 200 through 299 "Wisconsin Pollutant Discharge Elimination System" of the Wisconsin Administrative Code.

- The storage yard shall be effectively screened along any property line which is adjacent to or across an alley from any residential district, as required in §4.05 E.2. of the Zoning Ordinance. The Commission may require additional screening or landscaping on any portion of the lot, regardless of the adjacent district, if special characteristics of the storage yard warrant such additional screening or landscaping.

- Exterior lighting shall be arranged, oriented or shielded in such a manner that direct radiation or glare from such source does not penetrate residential lots which are located in a residential district adjacent to or across an alley from the storage yard.

- No signage, other than one eight (8) square foot identification sign near each access gate, shall be mounted or painted on any required fence.

- Any windblown material resulting from operation of the yard shall be collected daily and properly disposed.

- The Commission may establish a time schedule for the completion of any site or building improvements, landscaping, screening, or other desired improvements required as part of an approved Conditional Use Permit. The Commission may establish height limits for the storage of building materials, metals, sand, gravel, scrap salvage or other raw materials.

- Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

4. **Aluminum Collection Center in the M-1 and M-2 Districts.**

- The standards outlined in §4.06 B.8. shall apply.

5. **Recycling Collection Centers in the M-1 and M-2 Districts.**

- The standard outlined in §4.06 B.9. shall apply.

6. **Golf Range, Batting Range, Batting Cage, or Golf and/or Batting Simulator in the M-1 or M-2 Districts.**

- **Building Plan** as required in Section 4.05 B. and Section 14 of this Ordinance.

- **Site Plan** as required in Section 4.05 C. and Section 14 of this Ordinance, plus:
  1. Indicate the location of any off-street parking spaces dedicated to the use per Section 6.0 of the Zoning Ordinance.

- **Drainage Plan** as required in Section 4.05 D. and Section 14 of the Zoning Ordinance.

- **Landscape Plan** as required in Section 4.05 E. and Section 14.08 H.

- **Utility Plan** as required in Section 4.05 F. and Section 14 of the City of Kenosha Zoning Ordinance.
f. **Operational Plan**, which includes:
   (1) Name and address of facility operator;
   (2) Facility maintenance detail; and,
   (3) Hours of operation.

   g. One or more of the plans identified hereinabove may be waived at the discretion of the Reviewing Authority.

   h. The conditional use permit shall require and the conditional use shall comply with the following:
      (1) The use shall be located wholly within an enclosed building;
      (2) The use shall be secondary to the primary use, and;
      (3) The use shall comprise less than fifty (50%) percent of the gross square footage of the building in which it is located.

   (4) Requirement imposed by the Common Council in the conditional use permit that addresses issues that may have an adverse social, economic or environmental impact or that may affect the health, safety or welfare of abutting or neighboring properties of the City as a whole.

7. **Physical Fitness Center in the M-1 or M-2 Districts.**
   a. Building Plan as required in Section 4.05 B. and Section 14 of this Ordinance.
   b. Site Plan as required in Section 4.05 C. and Section 14 of this Ordinance, plus:
      (1) Indicate the location of any off-street parking spaces dedicated to the use per Section 6.0 of the Zoning Ordinance.
   c. Drainage Plan as required in Section 4.05 D. and Section 14 of the Zoning Ordinance.
   d. Landscape Plan as required in Section 4.05 E. and Section 14.08 H.
   e. Utility Plan as required in Section 4.05 F. and Section 14 of the City of Kenosha Zoning Ordinance.
   f. Operational Plan, which includes:
      (1) Name and address of facility operator;
      (2) Facility maintenance detail; and,
      (3) Hours of operation.

   g. One or more of the plans identified hereinabove may be waived at the discretion of the Reviewing Authority.

   h. The conditional use permit shall require and the conditional use shall comply with the following:
      (1) The use shall be located wholly within an enclosed building;
      (2) The use shall comprise less than fifty (50%) percent of the gross square footage of the building in which it is located.

   (3) Requirement imposed by the Common Council in the conditional use permit that addresses issues that may have an adverse social, economic or environmental impact or that may affect the health, safety or welfare of abutting or neighboring properties of the City as a whole.

D. **INSTITUTIONAL AND OTHER CONDITIONAL USES**

1. **Uses and Structures in a Floodway (FW) District.**
   a. **Building Plan** as required by §4.05 B. of the Zoning Ordinance, plus:
      (1) When permitted, proposed structures shall include a plan indicating how the structure will be floodproofed and constructed so as to not catch or collect debris nor be damaged by floodwaters.
      (2) This plan shall be certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the regional flood.
      (3) Plans for municipal water supply and sanitary sewerage systems shall indicate that the system is floodproofed to an elevation at least two (2’) feet above the elevation of the regional flood and is designed to eliminate or minimize the infiltration of floodwater into the system.

   b. **Site Plan** as required by §4.05 C. of the Zoning Ordinance.

   c. **Drainage Plan** as required by §4.05 D. of the Zoning Ordinance, plus:
      (1) Existing topography, including spot elevations of existing buildings, structures, high points, and wet areas, with any previous flood elevations.
      (2) Floodplain boundaries.
(3) Soil characteristics.
(4) Proposed topography of the site denoting elevations and natural drainage after construction and any proposed storm water retention area.
  d. Landscape Plan as required by §4.05 E. of the Zoning Ordinance.
  e. Utility Plan as required by §4.05 F. of the Zoning Ordinance.
  f. Operational Plan:
    (1) Show that the use or improvement will not impede drainage, will not cause ponding, will not obstruct the floodway, will not increase flood flow velocities, will not increase the flood stage, and will not retard the movement of floodwaters.
    (2) Include a copy(ies) of any required water use permit pursuant to Chapter 30 of the Wisconsin Statutes or wetland fill permit pursuant to §404 of the Federal Water Pollution Control Act.
  g. Compliance with §3.20 of the Zoning Ordinance.
  h. Any use requiring a water use permit pursuant to Chapter 30 of the Wisconsin Statutes or a wetland fill permit pursuant to §404 of the Federal Water Pollution Control Act shall secure said permit prior to approval of the Conditional Use Permit.
  i. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

2. Structures and Uses in the FFO District.
  a. The standards in §4.06 A.5. shall apply.

3. Arena, Auditorium, Exhibition Hall and Stadium in the I-P Institutional Park District.
  a. Building Plan as required by §4.05 B. of the Zoning Ordinance.
  b. Site Plan as required by §4.05 C. of the Zoning Ordinance, plus:
    (1) The site shall have direct access to a Federal, State or County highway or designated City arterial street.
  c. Drainage Plan as required by §4.05 D. of the Zoning Ordinance.
  d. Landscape Plan as required by §4.05 E. of the Zoning Ordinance.
  e. Utility Plan as required by §4.05 F. of the Zoning Ordinance.
  f. Operational Plan which:
    (1) Includes a report setting forth the proposed operation and use of the facility including vehicular and pedestrian access points, traffic controls, parking plans, types of events planned, scheduling plans of events, capacity for each type of event or activity, fire protection plans, evacuation procedures, emergency vehicle access and exterior lighting and signage.
    g. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

  a. The standards outlined in §4.06 A.1. shall apply.

5. Conference Center Uses in the I-P Institutional Park District.
  a. Building Plan as required by §4.05 B. of the Zoning Ordinance, plus:
    (1) Main building design including layout and elevations.
    (2) General layout of conference facilities.
    (3) Size and extent of bed and breakfast establishment, if applicable.
  b. Site Plan as required by §4.05 C. of the Zoning Ordinance, plus:
    (1) Off-street parking and traffic circulation including emergency vehicle access.
    (2) Design of any outdoor conference facilities such as stages or outdoor eating areas.
    (3) Sidewalks and pedestrian access.
    (4) Exterior and building signage.
  c. Drainage Plan as required by §4.05 D. of the Zoning Ordinance.
  d. Landscape Plan as required by §4.05 E. of the Zoning Ordinance.
  e. Utility Plan as required by §4.05 F. of the Zoning Ordinance, plus:
    (1) Location of all exterior lighting.
f. **Operational Plan** which describes:
   (1) Type and extent of conference activities.
   (2) Hours, days and months of operation.
   (3) Capacity of center (maximum number of persons) and average size and number of conferences per year.
   (4) Extent of bed and breakfast establishment, if applicable, to center.
   (5) Food and beverage service accessory
   g. Off-street parking facilities shall be effectively screened along any property line which is adjacent to or across an alley from any residential district, as required in §4.05 E.2. of the Zoning Ordinance.
   h. Compliance with Wisconsin Administrative Code, Chapter HSS 197, "Bed and Breakfast Establishments", if applicable.
   i. Compliance with City Code of General Ordinances, Chapter IV, "Health" (more particularly §4.06 "Regulations of Food and Drinking Establishments and Food Handlers").
   j. Compliance with City Code of General Ordinances, Chapter X, "Liquor and Beer".
   k. Compliance with all local, State, and Federal building codes applicable to structure and use.
   l. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

   a. **Building Plan** as required by §4.05 B. of the Zoning Ordinance.
   b. **Site Plan** as required by §4.05 C. of the Zoning Ordinance, plus:
      (1) Land acquisition needs.
      (2) Type and location of all fencing.
      (3) Direction and intensity of all exterior lighting.
   c. **Drainage Plan** as required by §4.05 D. of the Zoning Ordinance.
   d. **Landscape Plan** as required by 4.05 E. of the Zoning Ordinance.
   e. **Utility Plan** as required by §4.05 F. of the Zoning Ordinance, plus:
      (1) Water and sewer requirements.
      (2) Per day and peak hour gas, electric, and other utility requirements.
      (3) Solid waste disposal system.
   f. **Operational Plan** which describes:
      (1) Type and security classification (maximum, medium or minimum) of the facility.
      (2) Bed or inmate capacity.
      (3) Number of employees, including peak shift, number full-time, number part-time and on-site employee housing.
      (4) Number of anticipated visitors, including on-site visitor housing.
      (5) Security plans, including lighting, fencing, towers, barriers, electronic monitors and security personnel.
      (6) Medical and health facilities plans.
      (7) Emergency and inmate evacuation
   g. **Exterior lighting** shall meet the following requirements:
      (1) Such lighting shall be arranged, oriented or shielded in such a manner that direct radiation or glare from such source does not penetrate any residential or business district.
      (2) The source of such illumination shall be arranged, oriented or shielded in a manner which will not endanger the safety of pedestrian or vehicular traffic.
      (3) When within 2,500 feet of a residential or business district, as measured along or across any street, such lighting shall be constant and not flashing, intermittent or animated in any way.
   h. **Traffic Circulation Plan**:
      (1) Include calculations of anticipated vehicle trips per day generated by the facility, including peak day, peak morning hour and peak afternoon hour.
      (2) Describe access to facility and any internal road system.
   i. **Environmental Impact Statement** (for maximum and medium security penal institutions and other institutions determined by the Wisconsin DHSS or as required under State law).
(1) Include an impact statement determining the social, economic, and environmental impact of the facility on the community including, but not limited to, social; induced socioeconomic; air quality; water quality; historic, archeological and cultural resources; biotic and wildlife communities; loss of prime farmland; wetland and floodplain areas; exterior lighting emissions; solid waste; construction; and community infrastructure and utility support impacts.

j. Environmental Assessment (for other institutions).
   (1) Include a statement determining the environmental and socioeconomic affect the facility will have on the community including, but not limited to, air quality; water quality; land use; historic properties; exterior lighting emissions; community infrastructure and utility supports; and socioeconomic (if related to any of the foregoing elements).

k. The facility shall meet all applicable Federal, State and local regulations, requirements and licenses.

l. In the case of maximum or medium security penal institutions, the site shall be a minimum 50 acres. In the case of medium security penal institutions, mental institutions, and juvenile correctional institutions, the site shall be a minimum 3 acres.

m. The site shall have soils suitable for all proposed buildings and structures and the site shall drain properly.

n. The site shall not have any heavily wooded areas, ponding areas or steep slopes, unless these areas are adequately secured from the public and individuals within the facility.

o. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

7. Rental or Lease of Pier or Dock Space to Boat Owners and Operators in the Rg-2, Rm-1, Rm-2, and I-P Districts.
   a. Building Plan as required by §4.05 B. of the Zoning Ordinance.
   b. Site Plan as required by §4.05 C. of the Zoning Ordinance.
      (1) Location of pier or dock, including water depths, water, sewer and electrical hookups, including routes thereto; storage sheds and any other accessory structure(s); and exterior lighting.
      (2) Vehicular access to the site, (i.e. streets, driveways, easements or right-of-ways).
      (3) Off-street parking for automobiles, boats and trailers.
   c. Drainage Plan as required by §4.05 D. of the Zoning Ordinance.
   d. Landscape Plan as required by §4.05 E. of the Zoning Ordinance.
   e. Utility Plan as required by §4.05 F. of the Zoning Ordinance.
   f. Operational Plan which describes:
      (1) Use arrangement, (i.e. rental or lease).
      (2) Management plan for the supervision, maintenance and repair of the pier or dock space.
      (3) Hours, days and months of operation.
      (4) Plans for waste and trash storage and removal.
      (5) Plans for emergency access and rescue.
      (6) Dredging plans if dredging is required.
   g. Water, sewer and electrical hookups, pursuant to proper permit and in compliance with City Ordinances and State Statutes.
   h. No sale of boats, food, beverages, goods, merchandise, or personal property.
   i. No building, repair or restoration work is permitted on any boat.
   j. No commercial signs. (A maximum of one 8 square foot sign is permitted solely pertaining to the lease or rental of pier or dock space.)
   k. Compliance with the rules and regulations of the Harbor Commission. Dredging must be approved, in advance, by the Common Council and by any other body having jurisdiction thereof.
   l. Piers or docks shall not interfere with or obstruct navigable waters and shall not create a public nuisance.
   m. Compliance with §30, Wisconsin Statutes.
   n. Piers or dock not to exceed pierhead line established by the City.
   o. No storage or sale of gas, oil, fuel, or inflamables.
p. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

8. Airstrips, Landing Fields, and Hangars for Personal or Agricultural Related Uses in the A-1 and A-2 Districts.
   a. Building Plan as required in 4.05 B. of the Zoning Ordinance.
   b. Site Plan as required in §4.05 C. of the Zoning Ordinance.
   c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.
   d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.
   e. Utility Plan as required in §4.05 F. of the Zoning Ordinance.
   f. The parcel shall be a minimum of 35 acres and the petitioner shall meet all Federal aviation and Wisconsin Department of Transportation standards required by other Federal and/or State agency retaining jurisdiction over such airstrip and landing fields.
   g. Any building, hangar or other structure shall be at least 100 feet from any street or boundary line.
   h. Any proposed runway or landing strip shall be situated so that the approach zones are free of any flight obstructions such as towers, chimneys, other tall structures or natural obstructions outside the airport site.
   i. There shall be sufficient distance between the end of each usable landing strip to satisfy the requirements of the aforementioned agencies, and no landing strip shall be within 200 feet of any property line. If air rights or easements have been acquired from the owners of abutting properties in which approach zones fall, satisfactory evidence thereof shall be submitted with the application.
   j. Airstrips and landing fields in the A-1 and A-2 districts are intended only for the use of the property owner and/or emergency landings. No commercial operation shall be permitted with the exception of crop dusting.
   k. Storage of any combustible fuels shall be in accordance with any State and Federal regulations and due consideration shall be given so as to insure safe storage of such fuels.
   l. Special consideration shall be given to the installation of equipment normally associated with the use of airplanes such as proper ground markings and lighting, wind direction signals, fire fighting extinguishers, radio communications equipment, and tie-down spaces.
   m. No more than two (2) planes shall be housed on the premises except for the case of airports in the I-P District.
   n. No Conditional Use Permit shall be given unless all necessary Federal and State permits have been placed on file with the Department of Department of Community Development and Inspections.
   o. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

   a. Building Plan as required in §4.05 B. of the Zoning Ordinance, plus:
      (1) Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than 40 pounds per square foot in area.
   b. Site Plan as required in §4.05 C. of the Zoning Ordinance, plus:
      (1) The site shall be a minimum of five (5) acres.
      (2) Applications for the erection of a wind energy conversion system shall be accompanied by a plat of 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 premise, the plat of 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.
   c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.
   d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance, plus:
      (1) 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.

IV - 52
e. Utility Plan as required by §4.05 F. of the Zoning Ordinance, plus:

(1) 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.

(2) 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 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. 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.

g. 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 Ordinance, however, all such systems over 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 restriction imposed shall be included as a part of the wind energy conversion system Conditional Use Permit application.

h. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

10. Shelter Facility in the I-P District.

a. Building Plan as required in §4.05 B. of the Zoning Ordinance.

b. Site Plan as required in §4.05 C. of the Zoning Ordinance.

c. Drainage Plan as required in §4.05 D. of the Zoning Ordinance.

d. Landscape Plan as required in §4.05 E. of the Zoning Ordinance.

e. Utility Plan as required by §4.05 F. of the Zoning Ordinance.

f. Operational Plan which includes:

(1) Name and address of facility operator.

(2) Proposed operation and supervision including the types of programs and services to be offered.

(3) Number of employees.

(4) Proposed maximum bed capacity.

g. The facility shall meet all applicable Federal, State and local regulations, requirements and licenses.

h. Other issues which may have an adverse social, economic, or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the city as a whole.

11. Utility Substations in any District.

a. Building Plan as required in §4.05 B. of this Ordinance.

b. Site Plan as required in §4.05 C. of this Ordinance.

c. Drainage Plan as required in §4.05 D. of this Ordinance.

d. Landscape Plan as required in §4.05 E. of this Ordinance,

(1) Utility substation structure(s) must be effectively screened from adjacent properties and street frontages.

e. Utility Plan as required in §4.05 F. of this Ordinance.

f. Operational Plan, which includes:

(1) Name and address of the facility operator.

(2) Facility maintenance detail.

g. The facility shall meet all applicable Federal, State and local regulations, licenses and permitting requirements.

h. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties of the City as a whole.
   a. **Building Plan** as required in Section 4.05 B. of the Zoning Ordinance.
   b. **Site Plan** as required in Section 4.05 C. of the Zoning Ordinance.
   c. **Drainage Plan** as required in Section 4.06 D. of the Zoning Ordinance.
   d. **Landscape Plan** as required in Section 4.06 E. of the Zoning Ordinance.
   e. **Utility Plan** as required in Section 4.06 F. of the Zoning Ordinance.
   f. **Parking and Traffic Circulation Plan**, including service window requirements, in compliance with Section 4.06 B. of the Zoning Ordinance.
   g. Other issues which may have an adverse social, economic, or environmental impact, or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

13. Communication Towers, Radio/Television/Relay Towers and Antennas in The B-2, B-3, M-1, M-2, IP, A-1 and A-2 Districts. The Co-Location of Antennas is preferred. Accordingly, if the applicant proposes a new Communication Tower installation, they shall demonstrate, to the reasonable satisfaction of the Review Authority, that no existing Tower or Alternative Tower Structure can accommodate their proposed Antenna. Upon a showing by the applicant that the following circumstances exist, the applicant shall be deemed to have satisfactorily demonstrated the need for a new Communication Tower. In evaluating such circumstances, the Review Authority may employ the services of a consulting expert, the expense for which shall be reimbursed by the applicant as an administrative cost of processing the application and will present this report to the Alderman of the District and any Board, Authority or Commission having control of a City-owned site located within five hundred (500') feet of the proposed new Communication Tower installation.
   (1) No Alternative Tower Structure is available to accommodate Co-Location.
   (2) Existing Alternative Tower Structures are not of sufficient height or otherwise fail to meet engineering requirements for coverage and capacity needs as provided for in the 1996 Telecommunications Act and subsequent case law interpreting the act.
   (3) The proposed Antenna would cause interference with another Antenna located on an Alternative Tower Structure.
   (4) A City-owned Site is not available for a Co-Location or new Communication Tower.

   a. **Building Plan** as required in Section 4.05 B. and Section 14 of this Ordinance, including Communication Tower, Radio/Television/Relay Tower and adjoining service buildings.
      (1) Communication Towers, Radio/Television/Relay Towers shall have Stealth Design when required by the Review Authority. If Stealth Design is not required, a Monopole rather than Lattice Tower shall be required for towers under one hundred fifty (150') feet in height.
      (2) Equipment facilities and/or accessory buildings shall be designed with materials in conformance with Section 14.07 B.10.a. of this Ordinance, and all equipment facilities and accessory buildings on a site shall be designed with compatible materials. All Co-Locators are encouraged, but not required, to be housed within a common building. Equipment facilities and accessory buildings in existence prior to January 1, 2005, are exempt from the requirements of this Section.
      (3) Equipment areas that are fenced shall be fenced with a six (6') foot fence constructed as determined by the Review Authority.
   b. **Site Plan** as required in Section 4.05 C. and Section 14 of this Ordinance, plus:
      (1) Location and footprint of all building(s) and structure(s) for entire parcel, including existing buildings, existing structures and tower setbacks from lot lines, street right-of-ways, and existing buildings.
      (2) The location of all existing off-street parking spaces. All parking spaces shall be paved with asphaltic concrete or Portland cement concrete.
      (3) Access easements, if applicable. All access easements shall be a minimum of eighteen (18') feet wide and shall be paved.
      (4) Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other Federal or State authority for a particular Tower.
      (5) The use of any portion of a Tower for signs other than warning or equipment information signs is prohibited.
c. Drainage Plan as required in Section 4.05 D. and Section 14 of the Zoning Ordinance.
d. Landscape Plan as required in Section 4.05 E. and Section 14.08 H., Commercial Site Landscaping Requirements of the Zoning Ordinance. Antennas that are installed on existing Alternative Tower Structures, shall, at a minimum, provide a five (5') foot wide landscape area around the service building. All other landscaping requirements may be waived for existing Towers or Antennas installed on existing buildings or other structures.
e. Utility Plan as required in Section 4.05 F. and Section 14 of the City of Kenosha Zoning Ordinance.
f. Operation Plan, which includes:
   (1) Name and address of facility operator.
   (2) Facility maintenance detail.
   (3) A narrative and map description of the applicant’s system-wide plan describing existing and applied for facilities to serve the community. The system-wide plan shall extend for a distance of a minimum of one (1) mile beyond the municipal boundary of the City.
g. Yard Requirements For Communication Towers.
   (1) Front Yard. There shall be a minimum front yard of one hundred (100’) feet, measured from the front lot line, or from the setback of any major street.
   (2) Side Yards.
      (a) Interior Side Yard. There shall be a minimum interior side yard of twenty-five (25') feet. Where a side lot line abuts a residential district, there shall be an interior side yard of not less than one hundred (100') feet, measured from the base of the Tower or any support wires to the lot line. Corner lots shall have one (1) street side yard and one (1) interior side yard.
      (b) Street Side Yard. There shall be a minimum street side yard of twenty-five (25') feet, measured from the street side lot line, or from the setback of any major street to the base of the Tower or any support wires. Corner lots shall have one (1) street side yard and one (1) interior side yard.
   (3) Rear Yard. There shall be a minimum rear yard of twenty-five (25') feet. Where a rear lot line abuts a residential district, there shall be a rear yard of not less than one hundred (100') feet measured from the base of the Tower or any support wires to the rear lot line.
   (4) Spacing From Buildings. New Communication Towers, except for those indicated in Section 4.06 D.13.g.(5), shall in no case be permitted to be erected or constructed within one hundred (100') feet of any existing occupiable buildings.
   (5) New Communication Towers Utilizing Stealth Design. New Communication Towers utilizing Stealth Design, which do not meet the yard requirements or spacing requirements of Sections 4.06 D.13.g.(1) through (4) may be constructed when so authorized by the City Plan Commission. All equipment facilities constructed under authorization of this Paragraph shall be located underground or within the principal structure on the Site.
   (6) Spacing Between Communication Towers. New Communication Towers shall in no case be permitted to be erected or constructed within a one thousand (1,000') foot radius of another Communication Tower, unless the Review Authority makes a determination that this requirement causes an unnecessary hardship. In evaluating such circumstances, the Review Authority may employ the services of a consulting expert, the expense for which shall be reimbursed by the applicant as an administrative cost of processing the application. This requirement is exempted for City-owned Sites.

h. Yard Requirements For Radio/Television/Relay Towers.
   (1) Location From Property Line. All new Radio/Television/Relay Towers shall be located a minimum of two hundred (200') feet from any property line.
   (2) Spacing From Buildings. New Radio/Television/Relay Towers shall not be permitted to be erected or constructed within two hundred (200') feet of any existing occupiable building(s).
   (3) Spacing Between Radio/Television/Relay Towers. New Radio/Television/Relay Towers shall in no case be permitted to be erected or constructed within a two (2) mile radius of another Radio/ Television/Relay Tower.

i. Installation of Antennas on Alternative Tower Structures.
   (1) New Antennas installed on Alternative Tower Structures shall be exempt from yard requirements and spacing requirements from existing buildings and other Communication Towers, Radio/Television/Relay Towers.
(2) Applicants proposing to install Antennas on Alternative Tower Structures shall submit an engineering report detailing the feasibility of the Alternative Tower Structure to support the proposed Antenna(s) and any supporting equipment.

(3) All new Communication Towers and Radio/Television/Relay Towers shall be structurally and electrically designed to accommodate Co-Locations as listed below, unless credible evidence is presented that said construction is economically and technologically unfeasible:
   a. Between 50 and 100 feet: one (1) primary Antenna and one (1) Co-Location.
   b. Greater than 100 feet to 125 feet: one (1) primary Antenna and two (2) Co-Locations.
   c. Greater than 125 feet to 150 feet: one (1) primary Antenna and three (3) Co-Locations.
   d. Greater than 150 feet: one (1) primary Antenna and four (4) Co-Locations.

j. Removal of Abandoned Antennas and Towers. Any Antenna or Tower that is not operated for a continuous period of six (6) months shall be considered abandoned, and the owner of such Antenna or Tower shall remove same within ninety (90) days of receipt of notice from the City of Kenosha notifying the owner of such abandonment. If such Antenna or Tower is not removed within said ninety (90) days, the City of Kenosha may remove such Antenna or Tower at the owner's expense. All physical and administrative costs incurred with the removal of the Antenna or Tower shall be assessed against the property in the form of a special tax assessment. If there are two or more users of a single Tower, then this provision shall not become effective until all users cease using the Tower.

k. Leased Sites. With respect to leased land, the facility operator shall inform the property owner that the real property upon which a Communication Tower or Antenna is located may be charged a special assessment to cover the cost of removal if the Communication Tower or Antenna is not removed after the termination of operations. Verification of such notice to the owners shall be in the form of a letter to be filed in the office of the Department of Department of Community Development and Inspections.

l. The facility shall meet all applicable Federal, State and local regulations, licenses and permitting requirements.

m. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties of the City as a whole.

14. Institutional Development in the HRPO District:
   a. Building Plan as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.
   b. Site Plan as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.
   c. Drainage Plan as required in Sections 4.05 D. and 14.07 E. of the Zoning Ordinance.
   d. Landscape Plan as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.
   e. Utility Plan as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.
   g. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

15. Development in the Institutional Park (IP) District Consisting of Two (2) or More Buildings on a Single Parcel or Group of Contiguous Parcels, or a Single Building With a Floor Area of Twenty Thousand (20,000) Square Feet or Greater.
   a. Building Plan as required in Sections 4.05 and 14.07 of the Zoning Ordinance.
   b. Site Plan as required in Sections 4.05 and 14.07 of the Zoning Ordinance.
   c. Drainage Plan as required in Sections 4.05 and 14.07 of the Zoning Ordinance.
   d. Landscape Plan as required in Sections 4.05 and 14.07 of the Zoning Ordinance.
   e. Utility Plan as required in Sections 4.05 and 14.07 of the Zoning Ordinance.
   f. Operational Plan.
      (1) A copy of any restrictive covenants shall be provided.
      (2) Hours of operation shall be indicated.
   g. Other issues which may have an adverse impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.
16. Off-Premise Signs in the B-2, M-1 or M-2 Districts:

a. Building Plan as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.

b. Site Plan as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance.

c. Drainage Plan as required in Sections 4.05 D. and 14.07 E. of the Zoning Ordinance.

d. Landscape Plan as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.

e. Utility Plan as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.

f. Design Standards. Off-Premise signs shall comply with the design and dimensional standards of Section 15.15 H. of the Code of General Ordinances.

g. Exception. The Review Authority shall have the ability to waive the Height and Locational standards as listed in Section 15.15 H.5 and 15.15 H.7 of the Code of General Ordinances upon holding a Public Hearing. In determining whether or not to grant an exception to the Height standards, the Review Authority shall give consideration to the height of existing structures on the site. In determining whether or not to grant an exception to the Locational standards, the Review Authority shall consider such factors as sign face direction, lighting and setbacks of existing uses from the property lines.

h. Size. The Review Authority shall have the authority to approve any off-premise sign face larger than three hundred (300) square feet, but in no event larger than six hundred seventy-two (672) square feet upon holding a Public Hearing.

i. Digital Display Off-Premise Signs. The applicant shall hold a public informational meeting at a time and place to be determined by the Alderperson of the District in which the application has been submitted prior to any action occurring on the Conditional Use Permit. All property owners within 250 feet of the boundaries of the subject property, not including rights-of-way, shall be contacted with the meeting information. In addition to the public informational meeting, the following standards shall apply:

1) Digital Display Off-Premise Signs shall comply with the illumination and performance criteria of Section 15.15 B.2. Of the Code of General Ordinances.

2) The digital display shall be limited to the sign face only and shall not include any other part of the support structure.

3) Movement, animation, audio speakers and all forms of pyrotechnics are prohibited.

j. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

17. Medical Transportation Offices Used Exclusively for Arranging Transportation of Individuals To and From Health Care Providers as Defined in §146.81, Wisconsin Statutes but Excluding Taxicab Offices and Vehicle Maintenance Facilities.

a. Building Plan as required in Sections 4.05 B. and 14.07 B. of the Zoning Ordinance.

b. Site Plan as required in Sections 4.05 C. and 14.07 C. of the Zoning Ordinance to include:

1) Existing buildings and proposed additions or new structures.

2) Customer, employee and medical transportation vehicle parking areas.

3) Existing and proposed screening and landscaping.

c. Drainage Plan as required in Sections 4.05 D. and 14.07 E. of the Zoning Ordinance.

d. Landscape Plan as required in Sections 4.05 E. and 14.07 F. of the Zoning Ordinance.

e. Utility Plan as required in Sections 4.05 F. and 14.07 D. of the Zoning Ordinance.

f. Operational Plan which includes:

1) A summary of the business operation.

2) Anticipated number of employees.

3) Number and type of vehicles to be parked/stored on the premises.

4) Hours of operation, which shall include detailed information on the number of hours per day vehicles will be parked on the premises.

g. Medical transportation vehicles shall not be parked on the premises, to the extent possible, in view from the public right-of-way, in a manner that will interfere with traffic circulation or in a manner that will interfere with other tenants or occupants of the premises. No repair or maintenance work on the medical transportation vehicles shall be permitted on the premises.
h. All storage of medical transportation vehicles which is adjacent to or across an alley from any residential district shall be contained within accessory outdoor storage areas effectively screened from the residential district, as required in §4.05 E.(2) of the Zoning Ordinance. The reviewing authority may require additional screening or landscaping on any portion of the lot, regardless of the adjacent district, if special characteristics of the use warrant such additional screening or landscaping.

i. Other issues which may have an adverse social, economic, or environmental impact, or affecting the health, safety or welfare of abutting or neighboring properties or the City as a whole.

j. One or more of the plans identified above may be waived in the discretion of the reviewing authority.


a. Building Plan as required in Section 4.05 B. and Section 14 of this Ordinance, including Communication Tower and adjoining service buildings.

(1) Public Safety Communication Tower shall be constructed as a Monopole rather than Lattice Tower for towers under one hundred fifty (150') feet in height. Towers over one hundred fifty (150') feet in height shall be constructed as a lattice tower. Guy wires are not permitted.

(2) Equipment facilities and/or accessory buildings shall be designed with materials in conformance with Section 14.07 B.10.a. of this Ordinance, and all equipment facilities and accessory buildings on a site shall be designed with compatible materials. All Co-Locators are encouraged, but not required, to be housed within a common building.

(3) Equipment areas that are fenced shall be fenced with a six (6') foot fence constructed as determined by the Review Authority.

b. Site Plan as required in Section 4.05 C. and Section 14 of this Ordinance, plus:

(1) Location and footprint of all building(s) and structure(s) for entire parcel, including existing buildings, existing structures and tower setbacks from lot lines, street rights-of-way, and existing buildings.

(2) The location of all existing off-street parking spaces. All parking spaces shall be paved with asphaltic concrete or Portland cement concrete.

(3) Access easements, if applicable. All access easements shall be a minimum of eighteen (18') feet wide and shall be paved.

(4) Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other Federal or State authority for a particular Tower.

(5) The use of any portion of a Tower for signs other than warning or equipment information signs is prohibited.

c. Drainage Plan as required in Section 4.05 D. and Section 14 of the Zoning Ordinance.

d. Landscape Plan as required in Section 4.05 E. and Section 14.08 H., Commercial Site Landscaping Requirements of the Zoning Ordinance. At a minimum, provide a five (5') foot wide landscape area around the service building.

e. Utility Plan as required in Section 4.05 F. and Section 14 of the City of Kenosha Zoning Ordinance.

f. Operation Plan, which includes:

(1) Name and address of facility operator.

(2) Facility maintenance detail.

g. Yard Requirements For Public Safety Communication Towers.

(1) Front Yard. There shall be a minimum front yard of one hundred (100') feet, measured from the front lot line, or from the setback of any major street to the centerline of the tower.

(2) Street Side Yard. There shall be a minimum street side yard of one hundred (100') feet, measured from the street side lot line, or from the setback of any major street to the centerline of the tower.

(3) Interior Side Yard and Rear Yard. There shall be a minimum interior side yard and rear yard of twenty-five (25') feet measured to the centerline of the tower.

(4) Spacing From Residential Districts. Notwithstanding the setbacks noted above, new Public Safety Communication Towers, shall in no case be permitted to be erected or constructed within two hundred fifty (250') feet of any residential district.
h. Spacing From Buildings. New Public Safety Communication Towers shall not be permitted to be erected or constructed within two hundred (200') feet of any existing occupiable building(s).

i. Removal of Abandoned Antennas and Towers. Any Antenna or Tower that is not operated for a continuous period of six (6) months shall be considered abandoned, and the owner of such Antenna or Tower shall remove same within ninety (90) days of receipt of notice from the City of Kenosha notifying the owner of such abandonment. If such Antenna or Tower is not removed within said ninety (90) days, the City of Kenosha may remove such Antenna or Tower at the owner’s expense. All physical and administrative costs incurred with the removal of the Antenna or Tower shall be assessed against the property in the form of a special tax assessment. If there are two or more users of a single Tower, then this provision shall not become effective until all users cease using the Tower.

j. Leased Sites. With respect to leased land, the facility operator shall inform the property owner that the real property upon which a Public Safety Communication Tower or Antenna is located may be charged a special assessment to cover the cost of removal if the Communication Tower or Antenna is not removed after the termination of operations. Verification of such notice to the owners shall be in the form of a letter to be filed in the office of the Department of Community Development and Inspections.

k. The facility shall meet all applicable Federal, State and local regulations, licenses and permitting requirements.

l. Use of the Public Safety Communication Tower for the installation of any antennas or other communications device for commercial purposes including, but not limited to, cellular, telephone or other similar forms of electromagnetic communication is strictly prohibited.

m. Other issues which may have an adverse social, economic or environmental impact or affecting the health, safety or welfare of abutting or neighboring properties of the City as a whole.

E. All Conditional Use Permits. All applicants for Conditional Use Permits may be required to submit an Economic Impact Assessment, and/or a Traffic Impact Assessment.

1. Economic Impact Assessment. An Economic Impact Assessment shall be prepared by the Department of Department of Community Development and Inspections, or if required by the Department of Department of Community Development and Inspections, by an outside consulting expert, the expense for which shall be the responsibility of the applicant. The Economic Impact Assessment shall weigh the positive and negative impacts of the proposed development upon the City economy with due consideration of the following:

- Type of business/service proposed;
- Job retention and creation, including quantity and quality of jobs created;
- Tax base;
- Public costs and improvements;
- Environmental impacts;
- Community cohesion and stability;
- Property values;
- Community institutions and services;
- Utilities; and,
- Traffic and public safety.

The applicant, at any time in the application and review process, may submit their own Economic Impact Assessment, which shall be considered by the reviewing authority. The Department of Department of Community Development and Inspections may require the applicant to submit a professionally prepared Economic Impact Assessment.

2. Traffic Impact Assessment. A Traffic Impact Statement shall be prepared by the City Department of Public Works, or if required by the Department of Public Works, by an outside consulting expert, the expense for which shall be the responsibility of the applicant, which shall assess the impact of motor vehicle traffic generated by the proposed development on existing streets which will serve the proposed development, and which shall assess the need for new streets, parking facilities, and traffic control devices generated by the proposed development. The applicant, at any time in the application and
review process, may submit their own Traffic Impact Assessment. The Department of Public Works may require the applicant to submit a professionally prepared Traffic Impact Assessment.
4.07 PUBLIC COSTS AND IMPROVEMENTS

The Reviewing Authority shall require, as a condition of the granting of a Conditional Use Permit, that the applicant pay for public costs and improvements, as determined by an Economic Impact Assessment and Traffic Impact Assessment, at the time of application for a Building Permit, which are generated by and uniquely attributable to the development.
(7) **Conditional use permitted:**

Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted as conditional uses in the Districts specified, provided further that a public hearing shall be held by the approving body before approval for any such conditional use is granted:

(A) **Airports, Landing Fields and Take off Strips:**

In all agricultural, AD-10, RRD-5 Districts, HG High Groundwater District and non-wetland C-1 Conservancy Districts, except that in the FLP Farmland Preservation District and the FLC Farmland Conservancy District, the aviation use must be agriculturally or municipally related and shall comply with all provisions of Section 6.1, subject to the approval of:

1. Building and site plans and a plan of operation for the conduct of the use shall be approved by the Plan Commission and County Zoning Agency.

2. Review and approval by the Federal Aviation Administration and/or the State of Wisconsin Bureau of Aeronautics or a letter waiving their approval or indicating such approval is unnecessary.

(AA) **Land Altering Activities:**

Land Altering Activities may be permitted as a conditional use in any District, except the Conservancy District unless rezoned to allow such activity.

Highway construction which may be exempted by a written Memorandum of Understanding between the Wisconsin Department of Natural Resources and Department of Transportation for a specific highway project, home construction and the attendant limited grading and fill necessary to achieve positive drainage away from the foundation and dredging as may be allowed in Section 3.04(5) of this Ordinance and minor grading as defined in the Ordinance, shall be excluded from regulation under this provision, but may be regulated elsewhere under this Ordinance.

Land Altering Activities permitted as a conditional use shall be subject to the following:

1. Detailed plans, at a scale of not less than 1" = 100', of the project including areas to be graded, filled or otherwise altered along with seeding and/or vegetation plans and planting schedule and erosion and sedimentation practices to be employed shall be submitted for review and approval.

2. No such use shall create flooding, concentrated runoff, inadequate drainage, unfavorable topography, excessive erosion and sedimentation or restrict navigability in any state water.

3. Such use shall comply with the conditions established by the plan commission, the zoning agency, and where applicable, the State pursuant to Chapter 87 and Chapter 281 of the Wisconsin Statutes and any federal regulations.
4. If a rezoning is required, the procedure established in this Ordinance shall be complied with and the amendment to any other appropriate zoning district shall be approved.

5. The proposed grading and Land Altering Activities shall conform to the Waukesha County Construction Site Erosion Control and Stormwater Management Ordinance and a permit under that ordinance must be received from the Waukesha County Department of Parks and Land Use, Land Resources Division, prior to the issuance of the conditional use permit.

(B) Antique Shops, Gift Shops, Art Studios and Similar Uses:

Such uses are permitted by right in business districts. In addition, such uses are permitted conditionally in all other Districts except the FLP, FLC, HG and C-I Districts subject to the following:

1. The location, site plans and plan of operation have been submitted to and approved by the Plan Commission and County Zoning Agency.

2. Such use is compatible with surrounding land uses.

(BB) Business, Park and Shopping Center Uses:

In the B-P and B-4 zoning districts certain uses may be allowed as a conditional use, as those uses or situations are of such a special nature or are so dependent upon the actual circumstances that it is impractical to allow them as a Permitted Use by right. In evaluating the proposed use the Town and County Plan Commissions shall base their action on whether or not the proposed use will violate the spirit or intent of the Ordinance, be contrary to the public health, safety or general welfare, be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor, traffic congestion, incompatibility of uses, or other similar factors or for any other reason causes substantial adverse effect on the property values and general desirability of the neighborhood or the center. The following considerations shall be utilized in the determination of the appropriateness of the contemplated uses by the Town and County:

1. The Town and County Plan Commissions must review and approve all existing and proposed uses and the Plan of Operation.

2. The economic practicality of the proposed use.

3. The proposed use shall be served by adequate off-street parking, loading and service facilities.

4. The proposed use shall not create an adverse effect upon the general traffic patterns, circulation or adjoining property.

5. The architecture, landscape, lighting and general site development shall be compatible with the surrounding neighborhood and uses.

6. The use may be granted with any reasonable conditions deemed necessary by the Town and County Plan Commissions.
7. The proposed development shall have adequate drainage and stormwater retention facilities, sewage and water facilities. Restrictions may be placed on uses without public sewer.

8. The intended use complies with the locally adopted Land Use Plan.

(C) Automobile Service Station, Gasoline Sales and Convenience Stores Associated with Gasoline Sales:

In B-2 and B-3 Business Districts and any Industrial District, subject to the following:

1. The location, building and site plans and plan of operations shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. No gasoline pumps and accessory equipment shall be closer than fifteen (15) feet to the Base Setback Line and fifty (50) feet Offset to the side and rear yards. Underground or above ground storage tanks shall conform with state standards.

3. No lighting installation shall be permitted which creates a hazard to traffic or a nuisance to surrounding property and shall be shielded, baffled or shaded to effectuate and avoid such hazard or nuisance.

(D) Animal Hospitals, Veterinarian Clinics, Commercial Kennels:

In any District, except C-1 and EC Environmental Corridor Districts. However, animal hospitals and veterinarian clinics shall be Permitted Uses by right in the A-B Agricultural Business Districts and business districts as long as such facilities do not include the operation of a Commercial Kennel. In the FLP and FLC Districts, such uses shall comply with all requirements of Sections 6 and 6.1. No Structures are allowed in the FLC or HG District. The following requirements shall be met:

1. The location, building and site plans, and a plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.

2. Animal hospitals and clinics not involved in the operation of a Commercial Kennel may be permitted on lots of not less than one (1) acre and shall be in conformance with building location, height regulations and area regulations of the District in which such facilities are located. A commercial kennel operation shall not be permitted on parcels of less than three (3) acres and three hundred (300) feet of minimum average width.

3. No Building other than one used only for residential purposes shall be closer than fifty (50) feet to the Lot Line of an adjoining Lot in an Agricultural or Residential Zoning District. Where the Buildings are to be used to board or house dogs in a Commercial Kennel, including outdoor kennel runs, such structures and fenced runs shall not be closer than one hundred (100) feet to an adjoining Lot Line.
(E) Churches, Synagogues and other Buildings for Religious Assembly:

In any District, except in the C-1, HG, FLC and EC Environmental Corridor Districts subject to the following requirements:

1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. A Building Footprint of no more than fifty percent (50%) be allowed.

3. Off-street parking be provided for one (1) automobile for each four (4) seats provided in the main assembly of the Building.

4. Such use shall conform to the setback, height, and double the offset requirements of the District in which it is located.

5. The height limitation may be extended to a maximum of fifty (50) feet provided the minimum required setbacks and Offsets shall be increased two (2) feet for every additional foot of height in excess of the permitted maximum in that District. The aforesaid height regulation shall not apply to the spire or belfry of a church except where Airport Safety Zone regulations specifically limit the maximum height.

(F) Cemeteries and Mausoleums for the Burial of Human Remains only:

In any District, except C-1, FLC or EC Environmental Corridor Districts subject to the approval of the Town Board following recommendation of the Plan Commission. In the FLP District, cemeteries and mausoleums that are governmental, institutional, religious, or nonprofit are permissible if they comply with the terms of Section 6.1.

(G) Commercial fish or bait ponds or hatcheries:

Such uses are considered Permitted Uses by right within the FLP and FLC Districts. In all other Districts such uses are permitted conditionally, subject to the following:

1. The location, building and site plans, and plan of operation shall be submitted to and approved by the plan commission.

2. No such use shall be permitted on a Lot less than five (5) acres in area.

3. No Building other than one used only for residential purposes shall be closer than fifty (50) feet to the Lot Line of an adjoining Lot in a District permitting residential uses.

(H) Contractor’s Yard:

In A-1 Agricultural Districts, A-5 Mini-Farm District, B-3 General Business District, Q-1 Quarry District, or Industrial Districts subject to the following:
1. The minimum Lot Area shall be at least five (5) acres.

2. All Buildings used in the conduct of the business shall be located at least one hundred (100) feet from the Lot Line of an adjoining Lot in a residential district or at least fifty (50) feet from a Lot Line of an adjoining Lot in any other District.

3. No such use shall be allowed on any parcel, except as may front directly upon and have access to an arterial or major Collector Street, as defined in the Waukesha County Shoreland and Floodland Subdivision Control Ordinance or within an established industrial park, where the Roads can accommodate the heavy equipment.

4. A planting screen at least ten (10) feet high in initial height shall be provided between any abutting property line and the proposed use. The plan commission or the zoning agency may increase or decrease the planting screen requirements as may be deemed appropriate.

5. In determining whether or not the proposed conditional use should be approved, the plan commission and zoning agency shall make a determination that the proposed conditional use is compatible with adjacent land uses. If it is determined that the proposed conditional use would in any way be incompatible with the adjacent land uses or represent an adverse effect or nuisance to adjacent land uses, the proposed conditional use shall not be approved.

6. A Site Plan and Plan of Operation shall be submitted to the plan commission and zoning agency for review and approval and must include the type and quantity of equipment and vehicles owned or leased by the property owner, the storage of materials, and hours of operation.

(I) Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations, Poultry and/or Egg Production:

In the A-1, A-B, A-5, AD-10, FLP, FLC, A-T, and RRD-5 Districts. Commercial or custom grain drying, poultry and/or egg production are considered Permitted Uses by right in the A-B Agricultural Business District and conditional uses in all other of the above agricultural districts. The following minimum requirements shall be complied with in the granting of conditional uses under this Section:

1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. No Building other than one used only for residential purposes shall be located closer than one hundred (100) feet of the Lot Line of an adjoining Lot in a residential district. In all other cases a minimum Offset of fifty (50) feet shall be maintained.

3. Although the Ordinance does not prescribe exactly how a plan of operation is to be put together, of particular interest to the plan commission will be the method by which animal waste will be handled in a safe and healthful
manner. No such consideration or approval will be granted on a Lot of less than five (5) acres in size.

(J) **Testing Laboratories (Experimental or Analytical):**

Agricultural, medical, biological, food processing and industrial design and manufacturing uses are Permitted Uses by right in the B-3 General Business and Industrial Districts subject to the site plan and plan of operation provisions of those review Districts and conditional uses in the A-B Agricultural Business, A-1 Agricultural and A-la Agricultural Districts, subject to the following standards:

1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. The minimum lot size shall be three (3) acres.

3. The minimum Offset for a Building housing such uses shall be fifty (50) feet where the zoning upon the adjoining Lot permits residential use.

4. Off-street dedicated parking at a rate of one (1) space for each three hundred (300) square feet of Floor Area.

5. Approvals of any other applicable state or federal agencies.

(K) **Legal Nonconforming Uses:**

In any District as provided by Section 3.17.

(KK) **Limited Family Business:**

The purpose and intent of this Section is to provide a listing of procedures and standards of operation for limited family businesses that may operate in an attached garage or detached Accessory Building under a conditional use permit in residential or agricultural districts except the EC Environmental Corridor District and FLC District. Within the FLP District, such uses must comply with the terms of Section 6.1.

1. A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owner and any future development of the area. Any expansion of the limited family business will be subject to an amendment to the conditional use permit and, if said amendment is denied, the conditional use permit would either terminate or the expansion could not take place.

2. All employees, except one full-time equivalent, shall be members of the Family residing on the premises.

3. The plan commission and zoning agency shall determine the percentage of the property that may be devoted to the limited family business and the more restrictive determination shall apply.
4. The limited family business is restricted to a service oriented business or home occupation business and is prohibited from manufacturing or assembling products. The sale of products on the premises which are not produced by the limited family business is prohibited. The sale of products available for sale as accessories to the business may be permitted or limited by specific conditions in the conditional use permit (i.e. hair care products such as shampoo and conditioners normally associated with a business that cuts or styles hair).

5. The conditional use permit shall restrict the number and types of machinery and equipment the limited family business operator may be allowed to bring onto the premises and whether the machinery and equipment must be stored inside a Building.

6. The Structures used in the limited family business shall be considered to be residential Accessory Buildings and shall meet all the requirements for such Buildings. The design and size of the Structures are subject to conditions in the conditional use permit.

7. The conditional use permit shall automatically expire and terminate on the sale of the property or its transfer to a non-occupant of the property.

8. The limited family business shall not operate on a parcel having less than the minimum parcel size for the District in which it is located. For certain uses which are determined by the town and county to have a potential adverse effect on adjacent residential zoned properties, additional requirements regarding location and site standards (i.e. screening) may be required as conditions of the use.

(L) Mobile Home Parks and Camps:

In the B-1 and B-2 Business Districts, subject to the following:

1. The location, building and site plans and plan of operation shall be submitted for review and approval by the Plan Commission and the County Zoning Agency.

2. The provision of all county, state and local regulations upon trailer Mobile Homes and Mobile Home Parks shall be met.

3. No such use shall be allowed unless served by municipal sewage disposal facilities and the density of the project shall not exceed that which may be authorized by applying the provisions of Section 3.06(5) of this Ordinance.

(M) Motels and Hotels:

In the B-1 Restricted Business District and B-2 Local Business District only, subject to the following:

1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.
2. No such use shall be permitted on a Lot less than three (3) acres in area.

3. Off-street parking shall be required in accordance with Section 3.12(1)(J) of this Ordinance.

4. No Building shall be closer than fifty (50) feet to the Lot Line of an adjoining Lot in a District permitting residential use.

5. All provisions of the motel Ordinance of the town shall be complied with.

(N) Multiple Family Units:

In the R-3 Residential District, B-1 Restricted Business District, B-2 Local Business District, AD-10 Agricultural Density District, RRD-5 Rural Residential Density District, A-5 Mini Farm District or in a Planned Unit Development which may be allowed pursuant to Section 3.08(7)(P) of this Ordinance subject to the following:

1. A duplex (2-family residential use) is the only type of multi-family use that may be allowed in the AD-10 Agricultural Density District and the RRD-5 Rural Residential Density District.

2. A duplex (2-family residential use) may be allowed in an A-5 Mini Farm District, but only if the duplex is proposed to be made by conversion of a farm dwelling that existed at the time of the adoption of this original Ordinance (February 26, 1959).

3. The location and building plans, and a Site Plan and Plan of Operation shall be submitted to and approved by the plan commission and zoning agency.

4. The minimum Lot Area shall be determined by the number of units to be constructed. The number of units shall be based on a density of one (1) unit for each fifteen thousand (15,000) square feet of land area, exclusive of Wetlands or Floodplain or lands zoned C-1. Where the use will be served by municipal sewerage, the density requirements can be reduced to a minimum of nine thousand (9,000) square feet per dwelling unit. The width of the Lot shall be increased as the size of the Lot increases in order to avoid excessively long and narrow lots and shall, however, be no less than one hundred and eighty (180) feet in width. The amount of Green Space on the property, exclusive of parking areas, driveways, Roads and other paved or impervious areas, shall be five thousand (5,000) square feet per unit.

5. The manner in which the units are to be serviced with sewerage disposal is subject to approval by the State Department of Commerce and the Waukesha County Department of Parks and Laud Use, Environmental Health Division prior to any approval of the proposed conditional use by the plan commission and zoning agency.

6. The minimum Floor Area per unit shall comply with Section 3.11(1) of this Ordinance.

Effective 12/07/2017
7. The plan commission or zoning agency may require architectural review of the project.

8. There shall be at least two (2) off-street parking spaces for each dwelling unit. The location and arrangement of these spaces is subject to the approval of the plan commission and the zoning agency.

9. The offset, setback and landscaping requirements are subject to approval of the plan commission and the zoning agency. However, the offset, setback and height requirements shall at minimum comply with the standards of the R-3 Residential District.

(O) Outdoor theater:

In local and general business and industrial districts subject to the following:

1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.

2. No portion of the theater area shall be closer than two hundred (200) feet to the Base Setback Line or closer than two hundred (200) feet to the Lot Line of an adjoining Lot in a District permitting residential use.

3. A planting screen at least forty (40) feet in width and at least six (6) feet high shall be provided along any Lot Line abutting a District permitting residential use.

4. Additional highway width sufficient to provide for the safe control of traffic at the theater entrance shall be dedicated and the necessary highway improvements constructed to provide for a divided roadway, with adequate reservoir area in the center strip to shelter cars entering the theater.

(P) Planned Unit Development (PUD):

Due to increased urbanization and the associated greater demands for Open Space and the need to create a more desired and creative living environment than would result through the strict application of the standard zoning requirements, it is herein provided that there be flexibility in the regulations governing the development of land. This provision is intended to encourage Planned Unit Development in directions which will recognize both the changes in design and technology in the building industry and the new demands in the housing market. It is intended that these provisions create imaginative and interesting communities with substantial open area owned in common or dedicated to the public and for the enjoyment of the residents, and will encourage a more efficient and desirable use of the land and Open Space areas thereby resulting in more variety of the physical development of the County.

An overall development plan showing how the above objectives are to be achieved must be submitted to the Plan Commission and the County Zoning Agency for review and approval. This use is permitted in any District except A-B, FLP, FLC, A-T, A-B, AD-10 and RRD-5 Districts except that no portions of any building lots
or Structures shall be allowed in the C-1 or HG Districts, subject to the following:

1. Lot size, Lot Width, height, Offset, Road Setback, Wetland Setback, Building Footprint, minimum Floor Area, building size and building location requirements may be modified according to the following conditions:
   
a. That all sanitary provisions are approved by the Waukesha County Department of Parks and Land Use, Environmental Health Division.

b. That the proposed development is in conformity with the County and town comprehensive plans or County Land Use Plan and is not contrary to the general welfare or economic balance of the community, and that the benefits and amenities of the resultant development justifies the variation from the normal requirements of the District.

c. Wetland Setbacks can only be reduced if wetland mitigation is provided that offsets the impacts of the reduced setback. Wetland mitigation requirements shall be established by the County Zoning Agency.

d. That all other requirements of the Planned Unit Development are met as set forth in this Section.

2. Residential Planned Unit Development:
   
a. The following table may be utilized to compute the maximum dwelling unit density requirements of the PUD, except that areas which are Primary or Secondary Environmental Corridors are also subject to (b) below.

<table>
<thead>
<tr>
<th>Code</th>
<th>Area Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>120,000 sq. ft. (2.75 acres) per dwelling unit</td>
</tr>
<tr>
<td>A-2</td>
<td>120,000 sq. ft. (2.75 acres) per dwelling unit</td>
</tr>
<tr>
<td>A-3</td>
<td>80,000 sq. ft. (1.84 acres) per dwelling unit</td>
</tr>
<tr>
<td>A-5</td>
<td>200,000 sq. ft. (4.59 acres) per dwelling unit</td>
</tr>
<tr>
<td></td>
<td>5 acres per dwelling unit *</td>
</tr>
<tr>
<td>Environmental Corridors</td>
<td>5 acres per dwelling unit *</td>
</tr>
<tr>
<td>R-1a</td>
<td>39,000 sq. ft. (0.89 acres) per dwelling unit</td>
</tr>
<tr>
<td>R-1</td>
<td>39,000 sq. ft. (0.89 acres) per dwelling unit</td>
</tr>
<tr>
<td>R-2</td>
<td>25,000 sq. ft. (0.57 acres) per dwelling unit</td>
</tr>
<tr>
<td>R-3</td>
<td>15,000 sq. ft. (0.34 acres) per dwelling unit**</td>
</tr>
</tbody>
</table>

* Calculations for Environmental Corridors shall occur as established in (b) below.
** The density may be increased by forty percent (40%) to nine thousand (9,000) square feet per dwelling unit if municipal sewer is provided.
b. If all of the Primary and Secondary Environmental Corridor or Environmental Corridor zoned lands are preserved in their entirety within the Public Open Space or Common Open Space and preserved in their natural state, the density of one unit per five (5) acres may be added to the maximum number of dwelling units derived from utilizing the table above.

c. Lands currently zoned C-1 may not be used in formulating the density of the project. When lands border a lake or other public body of water, Pyramiding as defined herein, may be allowed if the minimum water frontage at the high water mark is one hundred (100) feet for the first dwelling unit and an additional twenty-five (25) feet for each additional dwelling unit thereafter. No more dwelling units may have access to the water body than would result from the application of this provision irrespective of the overall size of the development parcel.

d. Public Open Space or Common Open Space shall be of a size and shape to provide an integrated system of Open Spaces to the greatest extent possible and to narrow bands or corridors, but shall be larger blocks or wide corridors of land, usually not less than one (1) acre in area. Corridors linking large blocks of Public Open Space or Common Open Space shall be not less than fifty (50) feet in width to provide adequate buffers from adjacent residential lots. The size, shape and location of said Public Open Space or Common Open Space shall be subject to review and approval of the Plan Commission and Zoning Administrator in order to qualify the project for consideration as a PUD. Public Open Space or Common Open Space shall be a minimum of thirty percent (30%) of the entire development, while no more than ten percent (10%) of the entire acreage of the development included in the required thirty percent (30%) Open Space can be Conservancy zoned land. In any development, no more than five percent (5%) of the Public Open Space may be used for Public Buildings, such as schools, fire stations, municipal buildings, etc.

e. In Public Open Space or Common Open Space containing Environmentally Significant Areas, a maximum of two percent (2%) of the Environmentally Significant Areas may be used for limited construction of recreational related Structures and recreational trails.

f. Public Open Space or Common Open Space shall contain at least ninety percent (90%) Green Space. Such Public Open Space or Common Open Space shall not be part of individual residential building lots and all but five percent (5%) of the Open Space shall be free of Structures and Impervious Surface. The Zoning Administrator and the Plan Commission may increase as a Special Exception the maximum requirement in conformance with the overall intent of these provisions while also protecting the public’s interest.
g. Adequate guarantee shall be provided for permanent retention of the Open Space resulting from these regulations, either by private reservation for use of the residents within the development or others as may be specifically provided for, i.e.: farmers use of Open Space, dedication to a public entity or development of a private recreational facility open to the general public in perpetuity for a fee, subject to Plan Commission and Zoning Agency approval. There shall not be any clear cutting or clearing of vegetation other than dead, diseased, or dying vegetation or removal of invasive species on any lands being so preserved in Public Open Space or Common Open Space which are considered Primary or Secondary Environmental Corridor or Isolated Natural Resource Areas, as depicted on the Waukesha County Comprehensive Development Plan, except as provided in (e) for limited trail or recreational related development.

h. Perpetual care and maintenance of Public Open Space or Common Open Space shall be provided for by an agreement recorded with the Waukesha County Register of Deeds. Said agreement shall include an operation plan, which shall preserve the natural qualities of the environmentally significant lands. The agreement shall be submitted to and approved by the Plan Commission and the Zoning Administrator and may be subject to review by the Waukesha County Naturalist if required by the Plan Commission and/or the Zoning Administrator and this condition is not satisfied unless all such appropriate approvals are granted.

i. Ownership and tax liability of the Open Space areas shall be established in a manner acceptable to the Plan Commission and Zoning Administrator and made part of the conditions of approval.

3. Commercial PUD:

The use of a Commercial PUD may be authorized only where the underlying zoning is mapped in one or more of the business districts on the parcel or a portion thereof. If only a portion is zoned for business, the commercial PUD may only be used for the same percentage of the site that would result from the normal application of the Business District requirements. The location of the proposed business uses can however, be flexed on the site so long as no more area is devoted to such use than is permitted in the underlying District. The attendant parking areas and service facilities for the commercial areas shall be included in the areas allocated to such non-residential uses.

a. The proposed PUD shall be served by adequate off-street parking, loading and service facilities.

b. The PUD shall not create an adverse effect upon the general traffic pattern or adjoining property values.

c. Architecture, landscaping, lighting and general site development shall be compatible with the surrounding neighborhood.
d. The aforementioned requirements shall be certified by the Town and County as having been fully met.

4. **Mixed PUD:**

A mixed PUD shall consider allowing a mixture of business, residential or other uses as the underlying zoning would allow. The percentage of area in the project shall be the same as would result from the application or the strict adherence of the normal district regulations. The location of the uses can however, be flexed on the site so long as no more area is devoted to the various uses than would be permitted in the underlying zoning district. The attendant parking and service facilities for the non-residential part of the project shall be included in the area allocated to such non-residential uses.

a. The proposed mixture of commercial, industrial, residential, and other uses shall produce a unified composite which is comparable both within itself and with the surrounding neighborhood.

b. The mixed uses shall conform to the general requirements applicable to each of them as here-in-before set forth.

c. The maximum allowable dwelling unit density shall be computed using only the residential area portion of the total PUD area. If residential use and non-residential use occur in the same proposed building, that percentage of the commercial use of the Building shall be deducted from said building lot and only the remaining area shall be used in the density computation for the remaining residential units.

5. After all conditions of a planned unit development project are certified by the town and county as being completed, the conditional use status of such completed development shall be changed to a Permitted Use in the District in which it is located.

6. **Example - Computing Maximum Dwelling Unit Density in a Planned Unit Development:**

A developer wishes to divide one hundred (100) acres of land into a Planned Unit Development. Ten (10) of these acres are zoned C-1 Conservancy. The rest is zoned R-1 Residential. The preliminary plan shows an additional ten (10) acres proposed for commercial uses but not zoned for business.

The following computations demonstrate the method of determining how many residential units will be allowed in the project.

a. Gross acreage

b. Less ten (10) acres zoned C-1

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross acreage</td>
<td>100 acres</td>
</tr>
<tr>
<td>Less ten (10) acres zoned C-1</td>
<td>90 acres</td>
</tr>
<tr>
<td></td>
<td>- 10 acres</td>
</tr>
</tbody>
</table>

Effective 12/07/2017
c. Less ten (10) acres zoned for B-2 Business use

Less than 10 acres

80 acres

d. Total residential acreage in sq. ft.

3,484,800 square feet

(80 acres x 43,560)

e. Divide by square feet requirement for R-1 Residential Districts

3,484,800 divided by 41,000) 85 units

f. The 10 acres zoned for commercial use cannot be included in the PUD as it is not zoned for business uses and must be rezoned to be considered.

(Q) Private Clubs and Resorts:

Without limitation because of enumeration, this category includes resorts and Private Clubs such as indoor/outdoor recreational and athletic facilities (i.e., tennis, racquet ball, volleyball, basketball, driving ranges, baseball batting cages, tanning booths, campgrounds, golf courses, beaches, yacht clubs, Boarding Stables, etc.) are permitted in any District except that Buildings and Structures are not permitted within the C-1, HG, or FLC Districts. Such uses may only be allowed in the FLP or FLC Districts if incidental to and compatible with the continued long term Agricultural Use of the lands and in conformance with Section 6.1. Such uses shall be subject to the following:

1. The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.

2. No such use shall be permitted on a Lot less than three (3) acres in area except in a restricted business or less restrictive District.

3. No Building, other than one used only for residential purposes, shall be closer than fifty (50) feet to the Lot Line of an adjoining Lot in a District permitting residential use.

4. Off-street parking shall be provided as required by the plan commission adequate to meet the particular needs of the proposed use.

5. No such Permitted Use shall include the operation of a commercial facility such as a bar, Restaurant or Arcade except as may be specifically authorized in the grant of permit.

(R) Public and Semi-public Buildings and uses:

In any District, except the C-1 Conservancy District. Such uses within the FLP and FLC shall comply with all terms of Section 6.1. No Structures are permitted within the HG or FLC Districts. Such uses shall be subject to the following:

1. The location, building and site plans and plan of operation shall be submitted to and approved by the plan commission.
2. Such use shall conform to the setback, height, and double the offset requirements of the District in which it is located.

3. The height limitation may be extended to a maximum of fifty (50) feet provided the minimum required setbacks and offsets shall be increased two (2) feet for every additional foot of height in excess of the permitted maximum of that District.

(S) Quarrying as defined in this Ordinance:

In any District, except the EC Environmental Corridor, AD-10, RRD-5, A-2, A-3, A-4, R-1, R-2, R-3, P-I, B-1, B-2, B-3, B-4, BP or M-1. Existing quarries may continue to operate in the C-1, HG and FLC Districts. New quarries are prohibited in the C-1, HG and FLC Districts. Quarries within the FLP or FLC Districts shall comply with all terms of Section 6.1. All quarries are subject to the following:

1. Procedure for application:

a. Permit:
No quarrying operation shall take place in any District until a conditional use permit has been received and approved by the plan commission, town board and county zoning agency. Except in a quarrying or general industrial district, such permit shall be for an initial period as is deemed appropriate to the specific situation but not to exceed three (3) years provided application therefore shall be made at least sixty (60) and no more than one hundred twenty (120) days before expiration of the original permit. Application after such date shall be treated as an original application.

b. Application:
Application for a conditional use permit shall be made on forms supplied by the Waukesha County Park and Planning Commission and shall be accompanied by a fee as may be established and periodically modified under Section 22.02(5) of this Ordinance. Such fee shall be paid by cash, check or money order to the Waukesha County Park and Planning Commission.

i. A full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made part of the description.

ii. A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed, and of public Highways adjacent to the site which will be affected by the operation.

iii. A topographic map of the area at a minimum contour
interval of five (5) feet extending beyond the site to the nearest public street or Highway or to a minimum distance of three hundred (300) feet on all sides.

iv. A restoration plan as required by Section 3.08(7)(S) 3(e).

2. Procedure for action on applications:

a. Referral to plan commission: The application and all data and information pertaining thereto shall be referred to the plan commission for public hearing and report and recommendation back to the town board within thirty (30) days after the public hearing.

b. Public hearing: Within thirty (30) days after an application has been filed, a public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing, notices also shall be sent through the mail or otherwise placed in the hands of all land owners within a half-mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed or delivered at least ten (10) days prior to the date of hearing. Substantial compliance with the notice requirements of this Section shall be deemed sufficient. No hearing shall be required precedent to issuing a permit in a quarrying district.

c. Action by town board: The town board shall, within ten (10) days after receipt of the recommendation of the plan commission, take action to approve or disapprove the application for the proposed quarrying operation and shall be guided by consideration of the public health, safety and welfare, and shall give particular consideration to the following factors in making their decision:

i. The effect of the proposed operation on existing Roads and traffic movement in terms of adequacy, safety, and efficiency.

ii. The effect of the proposed operation on drainage and water supply.

iii. The possibility of soil erosion as a result of the proposed operation.

iv. The degree and effect of dust and noise as a result of the proposed operation.

v. The practical possibility of restoration of the site.

vi. The effect of the proposed operation on the natural beauty, character, tax base, land value, and land uses in the area.

vii. The most suitable land use for the area with particular consideration for future residential value.
d. Approval by zoning agency: The determination of the town board shall be immediately transmitted to the county zoning agency which shall within thirty (30) days approve or disapprove of the determination.

e. Additional conditions: Any conditions accessory to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the town and of the county zoning agency.

f. Renewals: The procedure as designated in Sections (a), (b), (c), (d) and (e) above shall apply to applications for renewal of a permit. Determination in regard to renewal shall be based particularly on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the Applicant in writing and made a part of the records of the town and of the county zoning agency.

3. Requirements:

a. General requirements:

i. No part of the quarrying operation shall be permitted closer than one thousand (1,000) feet, nor shall any accessory access road, parking area, or office building be permitted closer than five hundred (500) feet to a District zoned rural home or residential at the time of the grant of permit except with the written consent of the owners of all rural home or residentially zoned properties within one thousand (1,000) feet, except in a quarrying or general industrial district, but in no case shall such operation be permitted closer than two hundred (200) feet to a residential district.

ii. No quarrying operation shall be permitted except in a quarrying, limited industrial or general industrial district, if thirty (30) or more families reside within a band one-half mile wide around the perimeter of the proposed operation.

b. Setback requirements:

No part of the quarrying operation other than access roads shall be located closer than two hundred (200) feet, nor shall any accessory parking area, stock pile, or office building be located closer than one hundred (100) feet to the Base Setback Line along any Street or Highway.

c. Offset requirements:

No part of the quarrying operation shall be permitted closer than two hundred (200) feet, nor shall any accessory access road,
parking area, or office building be permitted closer than fifty (50) feet to any property line except with the written consent of the owner of the adjoining property, or except where said line is abutting a quarrying, limited industrial, or general industrial district, or abutting an existing quarrying operation, but in no case shall such operation be closer than twenty (20) feet to any property line except by agreement between abutting quarrying operations, or be in conflict with the provisions of Section 3.04(5) relating to preservation of topography.

d. Operational requirements:

i. Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where in the determination of the town board such fencing or barrier is necessary for the protection of the public, and shall be of a type approved by the town board.

ii. All machinery and equipment used in the quarrying operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust-free condition by surfacing or treatment as directed by the town engineer.

iii. The crushing, washing, refining, or other processing other than the initial removal of material, may be permitted as an Accessory Use only as specifically authorized under the terms of the grant of permit, or as otherwise provided in a quarrying or industrial district.

iv. In stone quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stock-piling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be otherwise specifically authorized under the terms of the grant of permit, or as otherwise provided in a quarrying or industrial district.

v. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the quarrying operation shall not be permitted except as otherwise provided in a quarrying or industrial district.

vi. The washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity
or where the quantity of water required will, in the opinion of the town engineer, seriously affect the water supply for other uses in the area.

vii. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the plan commission to screen the operation so far as practical from normal view, to enhance the general appearance from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding country-side. Such planting shall be started as soon as practicable, but no later than one (1) year after quarrying operations have begun, and shall be done according to the recommendations of the Waukesha County Park and Planning Commission.

viii. Except in a quarrying or general industrial district, quarrying operations shall not begin before the hour of 7:00 a.m. and shall not continue after the hour of 6:00 p.m. and no operation shall take place on Sundays or legal holidays. During periods of national or unusual emergency, time and hours of operation may be altered at the discretion of the town board and through the issuance of a special permit which shall be renewable at thirty-day intervals.

e. Restorative Requirements:

i. In order to insure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the town board a plan for such restoration in the form of the following:

(a) An agreement with the town whereby the Applicant contracts to restore the premises to a condition and within a time satisfactory to the town.

(b) A physical restoration plan showing the contours of the restoration, plantings and other special features of restoration, the method by which such restoration is to be accomplished and documentation that the plan complies with the Waukesha County Code of Ordinances – Non-metallic Municipal Mining Restoration Ordinance or other ordinances adopted pursuant to Section 295.14, Wisconsin Statutes and Section NR 135.32(2), Wisconsin Administrative Code.

(c) A bond, written by a licensed survey company, a certified check, or other financial guarantee
satisfactory to the town, in an amount sufficient in the opinion of the town engineer to secure the performance of the restoration agreement.

(d) Such agreement and financial guarantee shall be in a form approved by the town attorney.

ii. In the event of the Applicant's failure to fulfill this agreement, such bond, check, or other financial guarantee shall be deemed forfeit for the purpose of enabling the town to perform the restoration.

iii. Restoration shall proceed as soon as practicable and at the order and direction of the town engineer. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two (2) years.

iv. At any stage during the restoration the plan may be modified by mutual agreement between the town and the owner or operator.

v. Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility, or unsightliness. In any case, the finished grade of the restored area except for rock faces, out-croppings, water bodies, or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.

vi. Within one (1) year after the cessation of the operation, all Temporary Structures (excepting fences), equipment, stock piles, rubble heaps, or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.

vii. In any restoration procedure which takes place in Sand or Gravel Pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of one and one-half (1 ½) horizontal to one (1) vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.

f. Exceptions:

i. The provisions of this Section 3.08(7)(S) shall not apply to the removal of sod.

ii. When the operation is limited to the removal of topsoil, the
plan commission may, consistent with the intent of these regulations, modify any or all of the provisions of this Section 3.08(7)(S) provided, however, that in no case shall such operation be permitted closer than ten (10) feet from any property line, or to a depth in excess of eighteen (18) inches or so as to adversely affect the drainage of the area.

iii. The provisions of this Section 3.08(7)(S) shall not apply to an operation which is incident to legitimate use of the premises, provided, however, where such operation involves the commercial disposal of the material removed, the approval of the plan commission shall be required and such operation shall be limited to a maximum period of six (6) months.

iv. In a quarrying or general industrial district, the plan commission may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation; and where the character of terrain, surrounding development, or other special conditions would justify, such modification may permit a reduction in the required setback or Offset; provided, however, that in no case shall the setback be less than one hundred (100) feet, or the Offset be less than one hundred (100) feet for quarrying operations or twenty (20) feet for any accessory access road, parking area, or office building except as may be otherwise provided by Section 3.08(7)(S)3(c).

4. Application to existing operations:

a. Permit: Within sixty (60) days after the adoption of this Ordinance all existing quarrying operations shall be required to register with the town clerk submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A conditional use permit shall be granted to such existing operation subject to compliance with the operational requirements, Section 3.08(7)(S) 3.d. of this Ordinance where they can reasonably be applied under existing circumstances.

b. Plans for restoration: There shall be required within one (1) year after adoption of this Ordinance, the submission of a plan for restoration of the site of any existing quarrying operation as provided by Section 3.08(7)(S) 3.e. The plan for restoration in such case shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this Ordinance.

c. Renewal permit: Within three (3) years after the date of this Ordinance, any such existing operation shall be required to make application for a
renewal permit the same as for reapplication in the case of a new operation under this Ordinance, except in a quarrying or general industrial district.

(T) Refuse Disposal Sites, public and commercial:

In any District, other than R-1, R-2, R-3 residential, C-1, HG FLP and FLC Districts subject to the following:

1. The location, Building, site plan and plan of restoration shall be submitted to and approved by the Plan Commission, the Zoning Agency, the Waukesha County Department of Parks and Land Use by the Environmental Health Division and Land Resources Division, and the State Department of Natural Resources pursuant to the State solid waste disposal standards.

2. Such plans shall be approved or disapproved upon consideration of the effects on topography, drainage, water supply, soil conditions, Roads and traffic, and present and ultimate land development and use.

3. Only sanitary landfill refuse disposal methods, subject to the standards established and enforced by the Waukesha County Department of Parks and Land Use, Environmental Health Division, the Department of Natural Resources and the State Board of Health shall be used. Permission to burn refuse before covering must be specifically included in the zoning permit and may be separately withdrawn at any time the smoke or smell constitutes a health or safety hazard. All garbage must be covered to the specified depth prior to the end of the day during which disposal takes place.

4. A responsible person shall be in attendance during the hours of operation, which hours shall be subject to the approval of the town board. No refuse disposal shall take place except during the specified hours of operation, and with the attendant present.

   a. A non-flammable fence, with a gate which can be locked, must be erected to encompass the disposal site to prevent refuse disposal and scavenging during non-operating hours, and the attendant shall retain the key.

   b. Such fence, and additional auxiliary portable fence, such as snow fence, that will minimize the nuisance of blowing paper, shall be approved by the Town Board.

5. Requirements:

   a. Setback: No refuse disposal shall take place, nor shall Structures pertinent thereto be constructed closer than two hundred (200) feet to the Base Setback Line.

   b. Offset: No refuse disposal shall take place closer than two hundred (200) feet to any Lot Line, nor shall refuse disposal take place closer than five hundred (500) feet to any existing dwelling or the
site of a dwelling for which a building permit has been issued prior to the application date for the conditional use permit; nor closer than five hundred (500) feet to a District zoned R-1, R-1a, R-2 or R-3 Residential, at the time of the grant of the permit. No refuse disposal shall take place closer than five hundred (500) feet to a permanent business or industrial structure without the written consent of the owner of that adjacent property and the written approval of the Waukesha County Department of Parks and Land Use, Environmental Health Division and the State Department of Natural Resources.

c. Additional Requirements: Restrictions as to the types and sources of refuse, if needed, shall be the responsibility of the Town Board under the advisement of the Waukesha County Department of Parks and Land Use, Environmental Health Division. A planting plan as approved by the Zoning Agency shall be included in the plan of operation.

6. All existing refuse disposal operations shall be registered by the operator within sixty (60) days after the adoption of this Ordinance with the town clerk, submitting pertinent data relative to present operation, including the boundaries of the actual operation and ownership. A permit shall be granted to such existing operation subject to compliance with a plan of operation satisfactory to the approving bodies. A plan of restoration shall be submitted to the town by the operator within one (1) year of the adoption of this Ordinance, together with a surety bond to insure such restoration. Such operation and restoration plans shall not impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this Ordinance.

(U) Restaurants, Supper Clubs, Resorts, Taverns and Similar Uses:

In B-2 and B-3 Business Districts such uses shall be considered Permitted Uses by right. In all other Districts, except the C-1, A-T, FLP, FLC, HG, A-B, A-5, P-1 and EC Environmental Corridor Districts, the above uses shall be considered conditional uses, subject to the following:

1. The location and building plans and a Site Plan and Plan of Operation shall be submitted to and approved by the plan commission and the zoning agency.

2. The minimum Lot Area shall be two (2) acres with at least two hundred (200) feet in minimum average width.

3. Off-street parking shall be provided within two hundred (200) feet of the Building in which such use is occurring, but Offset twenty (20) feet from any Lot Line of an adjacent property zoned agricultural and any residential zoning district. The amount of space required shall be in accordance with the requirements contained in Section 3.12(1)(C).

4. A Planting Screen of at least six (6) feet in initial height shall be provided between any abutting residential district and the proposed use. Additional
Planting Screens may be requested by the plan commission or county zoning agency.

5. The proposed Building shall be Offset at least fifty (50) feet from any abutting residential district and one hundred (100) feet from any navigable body of water.

(V) Salvage yards:

Sites used for the storage or sale of salvageable materials, or for the purpose of salvage, wrecking, dismantling, or demolition of salvageable materials, in M-2 Industrial Districts, subject to the following:

1. The location, building and site plans and plan of operation are submitted to and approved by the plan commission and the county zoning agency.

2. All requirements of the Wisconsin Administrative Code applicable to salvage yards shall be complied with.

(W) Commercial Truck Parking:

Such uses are uses permitted by right in B-3 Industrial and Quarrying Districts. In all residential, agricultural, FLP, FLC, HG, B-1 and B-2 business Districts, except the EC Environmental Corridor District and the C-1 Conservancy District, subject to the following:

1. The parking and the storage of commercial type vehicles, dump trucks, school buses, construction vehicles, semi-trailers and tractors may be allowed as long as the vehicle is owned or leased and operated by the owner or occupant of the premises. No such use shall be allowed on any parcel, except as may front directly upon and have access to an Arterial or Collector Street as defined herein.

2. No more than one (1) such vehicle shall be allowed to be parked or stored on the occupant's property and no more than two (2) additional construction vehicles (backhoes, front end loaders, grading equipment, etc.) shall be allowed. Such vehicles shall be fully operative and in active use. Where considered appropriate, two (2) trailers may be allowed, but in no case may there be more than one (1) semi-tractor or "cab" unit.

3. No such vehicle shall be allowed to be parked or stored closer than fifty (50) feet to any adjacent Lot Line, and not closer than one hundred (100) feet from the Base Setback Line. In the case of refrigerator trucks, the refrigeration unit may not be operated in the open if said truck is parked closer than five hundred (500) feet to the nearest neighboring residential property line.

4. In determining whether or not the proposed Conditional Use Permit should be issued, a determination of compatibility with adjacent land uses shall be made to the Town Plan Commission and County Zoning Agency in issuing this Conditional Use Permit. If it is determined that it would in any way be incompatible and represents an adverse effect or nuisance to adjacent land
uses, the Conditional Use Permit shall not be issued.

5. The Conditional Use Permit shall be reviewed every two (2) years by the Town Plan Commission in order to determine conformance with the terms of the permit, and if it is determined that the use is no longer compatible with adjacent land uses as they develop in the vicinity, the Conditional Use Permit may be revoked in accordance with the revocation procedures contained in this Ordinance.

(X) Other uses or situations not specifically provided for in this conditional use Section and which may be determined to be acceptable under the provisions of Section 3.07(3) and in the judgment of the plan commission and county zoning agency meet the intent of a conditional use as set forth in Section 3.08(1). Any such uses within the FLP or FLC Districts shall comply with all terms of Section 6.1.

(Y) Bed and Breakfast Facility:

In all Districts, except the HG High Groundwater, C-1 Conservancy, FLP Farmland Preservation and FLC Farmland Conservancy Districts. The intent is to provide travelers with temporary accommodations and breakfast, for a fee, on a daily or weekly room rental basis, as an Accessory Use in any existing structure designed for and occupied as a single family residence in any District permitting single family residences subject to the following:

1. The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.

2. Minimal outward modification of the Structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located. For Buildings with significant architectural or historic value, the architectural integrity and arrangement of existing interior spaces must be maintained and the number of guest rooms shall not be increased except as may be required to meet health, safety, and sanitation requirements.

3. Off-street parking shall be provided at the rate of one (1) parking space for each room rented. The front yard shall not be for off-street parking for temporary guests unless the parking area is screened from view with natural plant material, and found to be compatible with the neighborhood.

4. The number of rooms shall be limited to five (5) sleep-in rooms or less, excluding those used by the occupants of the facility, and no room may contain more than two (2) beds. There must be at least five hundred (500) square feet of gross interior Floor Area for each sleeping room. Those facilities providing service to a greater number of guests are not considered "license exempt" under state law and must comply with state Hotel/Motel/Restaurant licensing procedures administered by the County or State Health Department. The issuance of such licenses shall not be considered as conferring non-conforming commercial status to the use which would either allow alteration of the facility or otherwise compel rezoning of the property for commercial use beyond the scope of this
5. One (1) on-premise Sign may be allowed provided that such Sign is compatible with the residential use of the site and its surrounding areas and is not more than fifteen (15) square feet in size with letter sizes not less than five (5) inches in height.

6. All necessary State and County permits, certifications, or requirements shall be obtained as a condition of approval of a bed and breakfast service.

7. Room rentals to families or individuals shall not exceed fourteen (14) consecutive days.

8. The Bed and Breakfast Facility must be accessory to and contained within the single family dwelling occupied by the owner (e.g., not a manager) of said premises.

9. The only meal to be provided to travelers/guests shall be breakfast and it shall only be served to guests taking lodging in the facility.

10. The Waukesha County Department of Parks and Land Use, Division of Environmental Health, shall examine both the water system and the sewage disposal system, and shall conduct a general health and safety inspection of the proposed facility. The Department may impose any conditions required to ensure that all necessary health and safety standards have been met. The Applicant shall not: initiate any construction activity and other improvements related to the Bed and Breakfast Facility; or begin operation of the facility until receiving a determination, in writing, by the Department that the necessary inspections have been completed and any deficiencies have been corrected. The proprietor shall have a water quality evaluation conducted by a recognized water testing laboratory on an annual basis following the certification of adequacy by the Department. The results of that test shall be submitted to the Department with a copy to the Zoning Administrator. All requirements must be incorporated into the terms of the conditional use permit.

(Z) In-Law Unit:

In any Residential, Agricultural, B-1 or B-2 zoning district, except FLC, subject to the following. Such uses in the FLP District shall comply with all density provisions of Section 6.1, in addition to the below requirements:

1. The location, building plan, site plan and plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.

2. The Waukesha County Department of Parks and Land Use, Division of Environmental Health, shall certify that the septic system will accommodate the proposed use and is in accordance with COMM 83, County and State Sanitary Codes.

3. Maximum living area of the In-law Unit shall not exceed eight hundred
Basic Zoning Ordinance

Effective 12/07/2017

(800) square feet and shall contain no more than two (2) bedrooms. There shall be an additional parking space for the In-law Unit. There shall be no more than one (1) In-law Unit per single family lot.

4. Architecture of the Residence shall be compatible with the adjacent residential neighborhood and shall appear to be a single family residence. All other appropriate zoning district requirements for the principle living unit shall be complied with. A common entrance to the Residence and In-law Unit should be designed into the Structure so that a separate front entrance, off of the common entrance, is available and the Structure does not appear to be a duplex.

5. The Plan Commission and the County Zoning Agency shall determine if it is appropriate to have an interior door between the In-law Unit and the principal Residence.

6. A Deed Restriction shall be filed in the Waukesha County Register of Deeds office and a copy of the recorded document presented to the Building Inspector prior to issuance of the Building Permit. This Deed Restriction shall state that the In-law Unit is to be occupied by persons related by blood or marriage to the Family occupying the principal unit and that the Conditional Use is not transferable without formal approval of the County Zoning Agency without necessity of a public hearing and that the unit will be used as intended.

(Sections 3.08(7)(AA), (7)(N), (7)(S)3(e)(1)(b), (7)(S)3(f)(4), (7)(U)(1), (7)(Y)(10), (7)(Z)2 were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

(Sections 3.08(7)(H) and (KK) were created by Enrolled Ordinance 159-69, effective 1-17-05.)

(Sections 3.08(7)(E)2, 3.08(7)(P)1(a), 3.08(7)(P)2, 3.08(7)(T)1, 3.08(7)(T)3, 3.08(7)(T)5(b), 3.08(7)(T)5(c) and 3.08(7)(W)1 were amended by Enrolled Ordinance 161-13, effective 09/04/06.)

(Section 3.08(3) was amended by Enrolled Ordinance 162-48, effective 10-9-07.)

(Section 3.08(7) (B) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

(Section 3.08(7) (KK) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

(Section 3.08(7) (N) was amended by Enrolled Ordinance 167-24, effective 07-24-12.)

(Section 3.08(7) (P)2(a) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

(Section 3.08(7) (P)2(b) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

(Section 3.08(7) (P)2(g) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

(Sections 3.08(7)(A), (B), (D), (E), (F), (G), (I), (KK), (P), (Q), (R), (S), (T), (U), (W), (X), (Y) and (Z) were amended by Enrolled Ordinance 170-72, effective 12/31/15.)

(Section 3.08 was amended by Enrolled Ordinance 171-38, effective 9/28/16.)

3.09 Building location.

(1) Road Setback:

(A) Base Setback Lines, from which building setback shall be measured, are hereby established for all Streets and Highways in the county as follows, unless otherwise specified by action of the County Zoning Agency:

1. On all Streets or Highways for which the ultimate width has been