

TOMAHAWK MUNICIPAL CODE

APPENDIX A

ZONING

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Section 17-01. Authority.

This ordinance is adopted pursuant to the authority granted by the Wisconsin Statutes including, but not limited to, Sections 62.23(7) (City Planning and Zoning), 62.234 (Construction Site Erosion Control and Stormwater Management), 87.30 (Flood Control), 59.692(7) (Shoreland Regulations for Annexations after 5/7/1982), 91.51 (Farmland Preservation), and 91.71 (Exclusive Agriculture Zoning), and amendments thereto.

Section 17.02. Title, Purpose, Interpretation.

- (1) *Title.* This ordinance shall be known as the “Official Zoning Code of the City of Tomahawk, Wisconsin,” and may be so cited, and further reference elsewhere as “zoning code,” and herein as the “this code,” or as “this ordinance,” shall imply the same working and meaning as the full title.
- (2) *General Purpose and Intent.* The general purpose and intent of this code shall be, among other things, to prevent the overcrowding of land; to encourage a coordinated relationship of residential, commercial, industrial, public and other uses of land; to avoid undue concentration of population; to provide adequate light and air; to facilitate adequate provision of transportation, sewerage, water, schools, parks and other public requirements; to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; and to establish minimum requirements for dividing the city into zoning districts and regulating the location, height, number of stories, size of buildings, structures and land for commercial, industrial, residential and other purposes; and providing for the administration, enforcement and amendment thereof.

This code is specifically intended to implement and carry out recommendations in the City of Tomahawk Master Plan adopted on October 12, 1993. This master plan represents a guiding force for land use planning and defines the community’s goals and intentions.

- (3) *Compliance Required.* Within the City of Tomahawk, the use of any land, air or water; the size, shape and placement of lots including the provision of open spaces within lots; and the use, size, height, location and type of structure thereon shall be in compliance with the regulations established in this code and made applicable to the district or districts in which such land or structure is located.
- (4) *Interpretation.* For the purposes of this code, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word “shall” is mandatory not directory; the word “may” is permissive; the word “person” includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual; the word “uses” includes designed and

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intended or arranged to be used; the word “building” includes the word “structure”; the word “lot” includes “building lot” or “parcel.” Wherever this code imposes a greater restriction than imposed by other codes, laws or regulations, the provisions of this code shall govern.

Section 17.03. Districts and Maps.

- (1) *Districts.* In order to regulate and restrict the location of trades, industries, residences and other uses, and the location of buildings designed, erected, altered or occupied for specific purposes, to regulate and limit the height and size of buildings hereafter erected or altered, to regulate and determine the area of yards and other open species (spaces), and to regulate and limit the density of population, the City of Tomahawk is hereby divided in(to) the zoning districts specified herein.
 - a. *Boundaries of Districts.* Where uncertainty exists with respect to boundaries of the various districts as shown upon the zoning map, the following rules shall apply:
 1. The district boundaries where the centerlines of streets and alleys, unless otherwise shown, and when the district designated on the maps is bounded approximately by streets or alley lines, said street or alley centerline shall be constructed to be the boundary of such district unless otherwise indicated by graphic patterns depicted on the map.
 2. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries designated on the map are bounded approximately by lot lines, said lot lines shall be constructed to be the boundary of such districts unless said boundaries are otherwise indicated on the map. Where district lines are fixed by dimensions, individual owners of lots split by such lines will be permitted a tolerance of 25 feet in the use of said lots.
 3. Unless otherwise clearly defined by streets, alleys, lots, drainage courses or other definite means, the district boundary lines on the map shall be determined by use of the scale contained on such map or graphic patterns depicted on the map.
 4. Wetland district boundaries as drawn are intended to represent the edges of ponds, lakes, streams, rivers, swamp(s), marsh(es), or other lands defined by Wisconsin DNR (Department of Natural Resources) as wetlands, and shall be finally determined by the actual field conditions where specific questions arise.

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5. Floodplain district boundaries are intended to represent areas subject to flooding as determined through the use of flood insurance profiles and maps published by the Federal Emergency Management Agency (FEMA).
- (2) *Provision of Official Zoning Map.* The city is hereby divided into zones, or districts, as shown on the official zoning map, which together with all explanatory matter thereon, is in existence and is hereby adopted and declared to be a part of this ordinance.
 - a. *Map Certified.* The official zoning map shall be identified by the title “District Map, City of Tomahawk, Wisconsin” and bearing the seal of the city under the following words: “This is to certify that this is the official zoning map adopted as part of Ordinance Number 1994-3 of the City of Tomahawk on September 6, 1994.”
 - b. *Location of Map.* The official zoning map shall be in the custody of, and shall remain on file in the office of the city clerk.
 - c. *Public Inspection of Map.* The official zoning map shall be available for public inspection as provided by law for all matters which are of public record.
 - (3) *Amendment of Official Zoning Map.* When changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the common council, with an addendum to the official zoning map as follows: “On (insert date) by official action of the common council, the following change (changes) were made in the official zoning map; (brief description of matter changed),” which entry shall be signed by the city clerk. No amendment in the chapter (appendix) which involves matter portrayed on the official zoning map shall become effective until after such change and addendum thereto has been made to said map.
 - (4) *Replacement of Official Zoning Map.* In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the common council may pass a resolution to adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting errors or other omissions on the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by bearing the seal of the city under the following words: “This is to certify that this official zoning map supersedes and replaces the official zoning map adopted as part of Ordinance Number 1994-3 of the City of Tomahawk, Wisconsin.”

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(5) *Zoning of Annexed Areas.*

- a. *Temporary Zoning.* The common council shall refer to the plan (planning and zoning) commission for recommendation as to the temporary zoning classification for any land being considered for annexation, and shall include in the annexation ordinance a provision designating a temporary zoning district classification for such area.
- b. *Permanent Zoning.* If the intended land use is known at the time of annexation, or as soon as practical after annexation is final, the permanent zoning classification for such annexed land shall be established by zoning amendment.
- c. *Floodplains.* The Lincoln County floodplain zoning regulations in effect on the date of annexation will be administered by the city for all annexed areas until amended in compliance with applicable statute and rule and approved by the Department of Natural Resources. The Lincoln County floodplain zoning provisions are adopted by reference for the purpose of administering this section and are on file in the office of the building inspector.
- d. *Shore-lands.* The Lincoln County shore-land and wetland zoning regulations in effect on the date of annexation will be administered by the city for all annexed areas. The Lincoln County shore-land and wetland zoning provisions are adopted by reference for the purpose of administering this section and are on file in the office of the building inspector. Amendments to these regulations must be at least as restrictive as the prior county zoning for all areas annexed after May 7, 1982 pursuant to Wisconsin Statutes § 59.971(7) (59.692(7)).

Section 17-04. Applicability, Uses and Locational Regulations.

- (1) *Uses Restricted to Those Permitted in Districts.* Except as hereinafter provided, no building or other structure shall hereafter be erected, reconstructed, or structurally altered, nor shall any building or other structure or land be used hereafter for any purpose other than is permitted in the district in which such building or other structure or land is located.
- (2) *Prior Conditional Uses are Conforming.* All uses existing as of the effective date of this code (appendix) which are classified in this code (appendix) as conditional uses in their respective zoning district are conforming uses. Any proposed change in their existing operation shall be subject to the procedures and provisions of the conditional use section of this code (appendix).

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- (3) *Unclassified or Unspecified Uses.* Unclassified or unspecified uses similar in character to the principal or conditional uses permitted in a district may be permitted by the building inspector who may, at his or her discretion, refer the matter to the plan (planning and zoning) commission for a final determination.
- (4) *Height and Bulk Limited.* Except as hereinafter provided, no building or other structure shall hereafter be erected, reconstructed, or structurally altered to exceed the height or bulk limit herein established for the district in which such building or other structure is located.
- (5) *Lot Area not to be Reduced.* Except as hereinafter provided, no lot area shall hereafter be so reduced or diminished that the yards or other open spaces shall be smaller than described in this code (appendix) or in the platting code.
- (6) *Number of Occupying Families Limited.* No building shall be occupied by more families than prescribed for such building, structure or premises by the zoning district regulations applicable to such building. See the definition of a “family” in the definition section of this code (appendix).
- (7) *Yard Reduction or Joint use Prohibited.* Except as hereinafter provided, no yard or other open space provided around any building or other structure for the purposes of complying with the provisions of these regulations shall be considered as providing yard or open space for any other building or structure, provided further that no yard or open space on an adjoining property shall be considered as providing a yard or open space on a lot whereon a building or other structure is to be erected.
- (8) *Only one Building per Lot and Exceptions Thereto.* Every building or other structure hereafter erected shall be located on a lot as herein defined, and in no case shall there be more than one principal building or other structure on one lot, except as hereinafter provided.
 - a. More than one principal building may be permitted by the plan (planning and zoning) commission on a multi-family zoned lot, if determined by the plan (planning and zoning) commission to be required for the orderly development of a site of a single ownership, provided that lot area, density and dimensional requirements such as setbacks, size of housing units and other zoning provisions are complied with and no variances are required.
 - b. More than one principal building may be permitted by the plan (planning and zoning) commission on a lot in industrial and commercial districts where all buildings on a lot constitute a unified industrial or commercial operation under one ownership. Such lots shall comply with provisions such as maximum lot coverage, amount of open space required and setback requirements.

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- c. More than one principal building may be permitted on a lot which is part of a planned unit development district

Section 17-05. General Provisions.

- (1) *Reduction in lot Area Prohibited.* No lot may be reduced in area below the minimum lot area as specified herein for the district in which the lot is located, except all parts of a vacant lot may be attached to adjoining lots and the vacant lot may be eliminated.
- (2) *Street Access Required.* No lot shall hereafter be created nor any new building be constructed on a lot which does not have direct frontage onto a public street, or access to a public street from a private street or driveway as provided in Section 17.08(14)
- (3) *Classification of Streets.* For the purposes of this code (appendix), all streets in the City of Tomahawk are hereby divided into the following classifications:
 1. Principal arterials;
 2. Minor arterials;
 3. Collector streets;
 4. Minor streets.
- (4) *Interference with Traffic Signals.* In any district, no outdoor advertising sign or structure or tree shall protrude over any street so as to create confusion or otherwise interfere with traffic signs or signals.
- (5) *Requirements for Accessory Buildings.* Except as herein provided, the minimum yard requirements shall also apply to accessory buildings. However, accessory buildings not attached to the principal building shall be located in the rear yard, and shall not be closer than three feet to the rear or side lot line, shall not be more than 15 feet high, shall not be closer than ten feet to the principal building, and shall not occupy more than 30 percent of the rear yard area. Where an accessory building has an entrance on an alley, such entrance shall be located not less than ten feet from the nearest building on an alley line. The architectural appearance and exterior materials of accessory buildings shall be compatible and harmonious with nearby buildings. In residential districts, not more than one garden/utility shed accessory building may be located on a lot, and such garden/utility shed shall not exceed 150 square feet in floor area.

The preceding requirements do not apply to accessory buildings on a farm of ten acres or more in area, but such accessory building shall not be closer than 100 feet to any lot line. A building permit shall be obtained for all accessory buildings.

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- (6) *Attachment of Accessory Buildings to Principal Buildings.* When accessory buildings are attached to principal buildings by a breezeway, passageway or similar means, they become part of the principal building and shall comply with all yard requirements for the principal building.
- (7) *Vision Clearance at Intersections.* To provide clear vision for motorists at intersections where grade is not separated, there shall be a vision clearance triangle at intersections of streets, streets and railroads, and streets and alleys.

The vision clearance triangle shall be determined by measuring 20 feet along the right-of-way or property lines starting from the point of intersection of said lines, and connecting these two points with a line to define a triangular area. The plan (planning and zoning), commission may adjust the vision clearance triangle configuration where physical site conditions exist that may adversely affect public safety.

In the vision clearance triangle, no structures of any kind or landscaping or parked vehicles shall be permitted between three feet and ten feet above the centerline grade elevations of the intersecting streets, alleys or railroad tracks.

Allowable installations in the vision clearance triangle are utility and light poles when no safer alternative location exists; trees or plant species with growth patterns that will not develop significant foliage to obstruct views in the clearance area; official signs and signals; and on-street parking when traffic controls exist which permit decreased sight lines.

The configuration of vision clearance triangles shall be depicted on the site plan, or subdivision plat, or certified survey map required for the subject property, including a notation referencing these restrictions.

Exceptions to these vision clearance requirements include existing or replacement buildings or structures in the central business district as defined in Section 17.08(3); and buildings or structures existing prior to the date of this ordinance or amendments thereto.

- (8) *Frontage on Double Frontage Lots.* The minimum front yard shall be provided on each street in accordance with the (this) code (appendix).
- (9) *Utility Locations.*
 - a. The following public utility uses may be permitted in any district: telephone and telegraph distribution and inter-city transmission poles and lines and necessary mechanical appurtenances, including equipment housing structures and towers; electric distribution poles and lines and power transmission poles and lines and necessary mechanical appurtenances, including equipment housing, structures and towers; provided, however, that when an electric utility proposes a main inter-city transmission facility; it shall

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give notice to the plan (planning and zoning) commission of such intention and of the date of hearing before the Public Service Commission, and before construction shall file with the plan (planning and zoning) commission a mapped description of the route of such line.

- b. Public utility installations other than those listed in (sub) section (9)a. above existing in residential districts prior to the passage of this code (appendix) shall be permitted uses, provided that any additions to or replacement of such existing installations shall be subject to approval by the plan (planning and zoning) commission as to location, building and site plan and plan of operations.
 - c. Public utility installations other than those listed in (sub) section (9)a. above may be located in any district; however, the location of such facility in a residential district shall be subject to the approval of the board of appeals and the following requirements shall be complied with:
 - 1. The location must promote the public convenience and welfare.
 - 2. Any building or structure, except an enclosing fence, shall be set back at least 50 feet from any property line.
 - 3. Such facility shall be enclosed by a protective fence.
 - 4. Open space on the site shall be landscaped and maintained.
 - 5. Storage of vehicles and equipment on-site shall be prohibited.
 - 6. The surrounding area shall not be adversely affected and shall be protected from noise, odor, glare, dust, fumes, gas, smoke and vibration by such suitable means as the board of appeals may specify.
- (10) *Excavation or Removal of Soil.* Striping, excavating or otherwise removing soil for sale or other purpose shall not be done without first obtaining a permit from the building inspector. The building inspector shall issue the required permit only after being satisfied that the resulting change in grade in the affected area will not be against the best interests of the community. The provisions of this section shall not be constructed to prohibit excavations or grading incidental to the construction or alteration of a building on the premises for which a building permit has been granted as required otherwise in this code (appendix), or to prohibit the legal excavation and removal of soil or gravel from a gravel quarry or similar extractive facility existing prior to the date of adoption of this code (appendix).

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- (11) *Stripped Top Soil or Fill.* Top soil shall not be stripped from a lot and placed on a pile, or shall fill of any kind be placed on any lot and left for a period of six months, unless same is leveled to make (the) surface suitable for mowing with a farm mower.
- (12) *Lots of Record below Code Requirements.*
- (a) *Lots of Record.* Except as herein provided, in any residential district where the owner of a lot at the time of the adoption of this code (appendix) or his or her successor in title thereto does not own sufficient land to enable him or her to conform to the minimum lot area and/or frontage requirements of this code (appendix), such lot may be used as a building site for a single-family residence, provided that the minimum yard setback and floor area requirements for (the) district in which said lot is located are maintained.
- (b) *Adjoining and Vacant lots of Record.* If two or more adjoining and vacant lots with continuous frontage are in single ownership at any time after the adoption of this code (appendix) and such lots individually are less than the width requirements for the district in which they are located, such group of lots shall be considered as a single lot or several lots of minimum permitted size and the resulting lot or lots shall be subject to the dimensional requirements of this code (appendix).

Section 17-06. Front, Side and Rear Yard Regulations and Exceptions.

- (1) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter (appendix) shall be included as part of (the) yard or other open space required for another building.
- (2) Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in less restricted district(s) equal to the average of the required minimum widths and depths for such yards and courts in the two districts which about the district boundary line.
- (3) Where part of a frontage is occupied by buildings having setbacks which are greater or less than the setback required by this section for the district in which such frontage is located, the following rules shall apply:
- a. *For Vacant Lots:*
1. *Interior lot Between two Buildings.* Where lots which are occupied by (a) main building are located on both sides of a vacant lot and within 200 feet thereof as measured along the street line between the midpoints of the front lot lines, the setback line in such vacant lot shall be established at the point of intersection of its centerline, drawn from the front lot line, and

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a line connecting the nearest points of the setback lines in such occupied lots.

2. *Interior lot, Building on Only one Side.* Where a lot which is occupied by a main building is located on only one side of a vacant lot and within 100 feet thereof as measured along the street line between the midpoints of the front lot lines, the setback line in such vacant lot shall be established at the point of intersection of its centerline, drawn from the front lot line, and a line connecting the nearest points on the setback line in such occupied lot and the setback line required by this section in the adjoining lot on the opposite side of such vacant lot.
3. *Corner Lot.* Where a lot which is occupied by a main building is located within 200 feet of a vacant corner lot as measured along the street line between the midpoints of the front lot lines, the setback line in such vacant corner lot shall be (the) average of the setback in such occupied lot and the setback required by this section.
4. *(Vacant Lot).* Where no lot which is occupied by a main building is located within 200 feet of vacant lot as measured along the street line between the midpoints of the from the front lot lines, the setback for such vacant lot shall be the setback required by this section.

b. *For Occupied Lots:*

1. *Interior lot Between Two Buildings.* Where lots which are occupied by main buildings are located on both sides of a building on an interior lot and within 200 feet thereof as measured along the street line between the midpoints of the front lot lines, no alteration to such building, except uncovered steps, nor any accessory building on the same lot shall project beyond a setback line established as proved in (sub) section (24)(3)a.(1)(3)a.1.) above, or the setback line established by the original construction of such building, whichever required (requires) the lesser setback.
2. *Interior lot, Building on Only one Side.* Where a lot which is occupied by a main building is located on only one side of a building and an interior lot and within 200 feet thereof as measured along the street line between the midpoints of the front lot lines, no alteration to the second building, except uncovered steps, nor any accessory building on the same lot shall project beyond a setback line established as provided in (sub)section (4)(c)1.b.(3)a.2.) above, or the setback line established by the original construction of the second building, whichever requires the lesser setback.

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3. *Corner Lot.* Where a lot which is occupied by a main building is located within 200 feet of a building on a corner lot as measured along the street line between the midpoints of the front lot lines, no alteration to the building on such corner lot, except uncovered steps, nor any accessory building on the same lot shall project beyond a setback line established as provided in (sub) section (4)(c)1.c. (3)a.3.) above, or the setback line established by the original construction of the building on such corner lot, whichever requires the lesser setback.
 4. *(Occupied Lot).* Where no lot which is occupied by a main building is located within 200 feet of a building on another lot as measured along the street line between the midpoints of the front lot lines, the setback for the second building shall be the setback required by this section.
- c. *Buildings on Through Lots* and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with. On such through lots the height of the main building may be measured from the mean elevation of the finished grade along the front of the building, considering the end facing either street as the front.
 - d. *Exceptions to Yard Requirements.* Every part of a required yard shall be open to the sky unobstructed except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices, fireplaces, eaves and ornamental features projecting not more than 24 inches; provided, however, that no such ornamental feature shall project over a street line more than eight inches. Open or enclosed fire escapes and fire towers may project into a required yard not more than five feet and into a required court not more than 3½ feet, provided they be so located as not to obstruct light and ventilation.

Section 17-07. Height Regulations and Exceptions.

- (1) Except as otherwise provided in this code (appendix), the height of any building hereafter erected, converted, enlarge or structurally altered shall be in compliance with the height regulations established herein for the district in which such building is located.
- (2) Churches, schools, hospitals, sanitariums and public and quasi-public buildings may be erected to a height not exceeding 60 feet or five stories, provided the front, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

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- (3) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless, television or broadcasting towers, masts or aerials, telephone, telegraph and power transmission poles and lines, microwave radio relay structures and necessary mechanical appurtenances are hereby excepted from the height regulations of this section and may be erected in accordance with other regulations or ordinances of the city.
- (4) Residences in the residence districts may be increased in height by not more than ten feet when all yards and other required open spaces are increased by one foot for each foot by which such building exceeds the height limit of the district in which it is located.
- (5) Where a lot abuts on two or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.

Section 17-08. Parking, Loading, Driveways and Access.

- (1) *Off-Street Parking.* At the time of the construction of any building or structure hereinafter listed, or at the time any such building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, floor area, seats, beds, members or employees, there shall be provided for such new construction, enlargement or increased capacity, off-street automobile parking spaces in accordance with the minimum requirements listed below. For uses not specifically listed, the parking requirements shall be the same as the closest similar use listed, as determined by the plan (planning and zoning) commission. See the special definition of "floor area for the purpose of determining off-street parking requirements" in the definition section (of this appendix). Also see the exemption for uses in the central business district noted in Section 17-08(3)

Handicapped Parking shall be provided in Wisconsin Statutes §§ 101.13, 346.503 and 346.56, and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to parking facilities whenever constructed.

Floor Area for Determining Off-Street Parking Requirements. For the purpose of determining off-street parking requirements, the floor area shall consist of the gross horizontal areas of all floors of a building, or portion thereof, which contains functions requiring off-street parking spaces for customers, employees and visitors. This area shall include selling or working space, office areas, customer service areas and any basement floor area devoted to retailing activities, to the production or processing of goods or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes, hallways, bathrooms, employee break rooms, mechanical equipment areas and other such area(s) which do not generate the need for parking spaces.

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Boarding and rooming-houses	One space for each two beds
Clubs, lodges and all similar places providing overnight accommodations	One space for each bedroom, plus one space for each five active members
Dwellings	Two spaces per single-family unit. One and one-half spaces per dwelling unit for all other dwellings
Hospitals, sanitoriums, rest and convalescent homes, homes for the aged and infirmed, asylums, orphanages and all similar institutions	One space for each three beds, plus one space for each staff or visiting doctor, plus one space for each four employees, including nurses, per shift
Hotels	One space per two guest bedrooms, plus one additional space for each two employees
Motels, tourist courts, tourist homes	One space for each guest bedroom or trailer space, plus one additional space for a resident manager or owner
Automotive service and repair establishments	One space for each regular employee, plus one space for each 250 square feet of floor area used for mechanical or or body repair work
Bowling alleys	Five spaces for each alley
Churches and other places of worship	One space for each five seats in (the) main auditorium
Food stores of the type customarily called supermarkets	One space for each 180 square feet of floor area
Medical, dental and health offices and clinics	One space for each 100 square feet of floor space used for office, patient treatment or similar purposes
Office buildings, including businesses, commercial, government and professional offices and buildings but excluding medical, dental and health offices and clinics	One space for each 200 square feet of floor area used for office or similar purposes

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Places of public assembly, including private clubs, lodges and fraternal buildings not providing overnight accommodations, assembly halls, auditoriums, dance halls, pool rooms, theaters, stadiums, amusement parks, fairgrounds, undertaking establishments and funeral homes, community centers and all similar places of public assembly

One space for each 30 square feet of floor or ground area for amusement or assembly

Restaurants, bars, grills, cafes, taverns, night clubs, lunch counters, diners and all similar eating and/or drinking establishments

One space for each 100 square feet of floor area provided for patron use

Retail establishments, excluding food stores of the type customarily called supermarkets, but including personal service shops, equipment or repair shops, gasoline service stations, automotive sales, establishments, all retail stores or businesses and banks or other financial and lending institutions

One space for each 100 square feet of the first floor area, plus one space for each 200 square feet of floor area above the first floor, excluding all areas used for storage only

Wholesale, commercial, manufacturing and industrial, and storage buildings and yards public utilities buildings, contractor equipment and building material sales yards, lumberyards, research laboratories, terminal facilities, business service establishments such as blueprinting and engraving, soft drink bottling establishments, fabricating plants and all other structures devoted to similar mercantile, commercial or industrial pursuits not catering to the retail trade

One space for each two employees for each of the first 50 employees and one space for each three employees, plus one space for each company vehicle operating from the premises

- (2) *Changes in Occupancy/Use.* When the use of a building, structure or land is changed to another use or occupant that requires more parking spaces than required for the use existing immediately prior to such change, additional parking spaces shall be constructed for the new use or occupant in the amount necessary to conform to this section. If a building or structure was erected prior to the effective date of this code (appendix), additional parking or loading

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facilities are mandatory only in the amount by which the requirements for the new use exceed those for the existing use.

- (3) *Exemption for Central Business District Uses.* Uses in the central business district are exempt from the requirements of this section because of site constraints. The central business district is defined as the uses and properties fronting along Tomahawk Avenue from Southgate Drive to Somo Avenue, along Wisconsin Avenue from Railway Street to North 4th Street and along North 4th Street from Wisconsin Avenue to River Street.
- (4) *Specifications and Surfacing of Parking Spaces.* The area of each required parking space shall be not less than nine feet wide by 20 feet long, exclusive of any required access drives or aisles. Each space shall be appropriately marked for automobile parking. Each required parking space shall be connected with a public street or alley by a driveway which offers satisfactory ingress and egress for automobiles.

All parking areas, access drives and aisles shall be surfaced with asphalt or concrete pavement or concrete pavers. Wheel stops shall be installed along all peripheral edges.

- (5) *Location of Parking Spaces.* All parking spaces required to serve buildings or uses shall be located on the same lot as the building or use served or within 300 feet of a main entrance to the use served, provided no off-street parking facilities for a business or industrial use shall be located in a residential district, except as allowed as a conditional use. In residential districts, no parking spaces shall be located in an interior side yard and no wall or fence is otherwise required, a five-foot green strip of grass and other plant material shall be maintained contiguous to the abutting property. Enclosed buildings and carports containing off-street parking shall be subject to the yard requirements applicable in the district in which located.
- (6) *Minimum Landscaping Requirements.* All off-street parking areas for six or more vehicles, or larger than 2,000 square feet in area, constructed after the adoption of this code (appendix), shall provide landscaping as follows:
 - (a) *Landscaping Required.* On-site perimeter greenbelts of at least five feet in width shall be installed along the street frontage and along all interior lines. The street frontage shall contain dense landscape screening which provides plantings of at least 12 inches high at planting and 30 inches high at maturity. Perimeter edges should be visually screened with a combination of plant material and earth berming or fencing. The perimeter landscape strip along interior lot lines shall contain a minimum of one tree or shrub for each 17 feet of perimeter to be planted in effective groupings within said strip. The remainder of the strip shall be planted in grass, ground cover or other effective landscape treatment and be designed to not obstruct sight distance

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at entry drives. Perimeter greenbelt landscaping may be omitted along-side lot lines which have shared driveways with adjacent lots. The omitted area is limited to that portion from the street to the required minimum building setback line or as necessary to accommodate access driveways. Any perimeter greenbelt adjacent to a residential district shall provide a visual screen consisting of a hedge, wall or decorative fence not less than five feet in height.

- (b) *Landscape Materials.* Landscape materials may include hardy flowering and/or decorative evergreen and deciduous trees and shrubs. New trees shall have a minimum trunk diameter of 1½ inches to two inches. The area around trees and planting beds shall be planted with shrubs or ground cover or covered with mulch or other landscape materials approved by the plan (planning and zoning) commission. All plantings shall be installed in accordance with planting procedures as prescribed by the American Society of Landscape and Architects.
- (7) *Lighting.* Parking areas subject to these requirements which provide lighting for new developments and for existing developments that are replacing, modernizing or remodeling existing buildings and facilities shall provide site plan information as follows: The parking lot site and landscaping plan shall show the location, height, wattage and type of all existing and proposed site lights. The site plan shall also show lighting patterns such as that furnished by manufactures which shows the lighting patterns and the angle of cut-off light emissions. To prevent the spill-over of light onto adjacent properties, all light fixtures installed in parking areas shall be of a cut-off design and shall be shielded or directed to confine the lighted area of the site it is intended to illuminate, and also to avoid glare or intense light on nearby public streets and adjacent properties.
- (8) *Phasing.* Parking lots which are proposed for improvements under this section may be phased in accordance with a plan approved by the plan (planning and zoning) commission.
- (9) *Application to Existing Lots.* Application of these improvement standards to existing parking lots may be subject to adjustments relative to the shape and size of the existing lot and other existing conditions.
- (10) *Procedures.* The parking lot site plan shall be approved by the plan (planning and zoning) commission. Prior to commencing construction, a parking lot building permit shall be obtained from the building inspector for a fee. Prior to obtaining a parking lot building permit, a parking lot site plan shall be approved. The parking lot site plan shall be prepared in accordance with adopted site plan guidelines and shall include proposed landscaping features, indicating the location, size and species of proposed landscaping, and shall also show existing trees and landscaping to be retained. The parking lot site plan requirements under this

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section may be incorporated into a master site plan for initial approval of a project.

- (11) *Off-Street Loading.* There shall be provided at the time of initial construction, or at the time of change in use, of any commercial or industrial building requiring the receipt and distribution by vehicles or materials or merchandise, sufficient off-street loading space so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street or alley.
- a. *Enlargements.* The off-street requirements above shall also apply at any time any such building is enlarged or increased in capacity by adding floor area, and such requirements shall apply to the enlarged or increased portion only.
 - b. *Size.* Each off-street loading space shall have minimum dimensions of 14 feet in height, 12 feet in width and 48 feet in length; provided, however, that (if) there is demonstrated that a particular loading space will be used exclusively by shorter trucks, the building inspector may reduce minimum length to 35 feet.
 - c. *Connection to Street or Alley.* Each required off-street loading space shall have direct access to a street or alley or by a driveway which offers satisfactory ingress and egress for trucks.
 - d. *Surfacing.* The surfacing of all off-street loading spaces shall be asphalt or concrete of sufficient strength to withstand the traffic of vehicles using them.
- (12) *Driveways.* Except for the paving of driveways existing prior to the effective date of this chapter (appendix), all driveways installed, altered, changed, replaced or extended after the effective date of this chapter (appendix) shall meet the following requirements:
- a. *Spacing.* In all districts, except single and two-family districts, spacing between driveway approach openings shall be provided with a minimum of 16 feet between all driveway approaches and eight feet from side lot lines. Driveway approaches in single and two-family districts shall be located a minimum of three feet from side lot lines. Driveway spacing is not required between adjacent lots on a cul-de-sac or between vacant substandard lots.
 - b. *Approach Width and Paving.* Driveway approaches shall not exceed 18 feet in width at the right-of-way line and 24 feet at the roadway in single and two-family residential districts. All other driveway openings shall be approved by the plan (planning and zoning) commission. All such openings located within the public street right-of-way shall be paved with Portland concrete, except in locations where public sidewalks are not required. All driveway approaches shall be located within that portion of the public right-of-way area bounded by

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an extension of the side lot lines. Driveway approaches on cul-de-sac may request a variance where the above requirements cannot be met.

- c. *Spacing Near Pedestrian Entrances.* Driveways to drive-in banks or motels, funeral homes, vehicular sales, service, washing and repair stations, garages or public parking lots shall not be less than 50 feet from any main pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or other place of public assembly.
 - d. *Driveway Paving.* Industrial, commercial, institutional and multiple-family residential uses shall provide asphalt or concrete driveways in accordance with site plan approvals. Such driveways shall be installed within one year or the following construction season after occupancy. One and two-family homes are not required to have paved driveways.
- (13) *Access Control, Driveway Spacing, Frontage Roads.* No direct private access shall be permitted to the existing or proposed right-of-way of controlled access highways without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed right-of-ways of the following:
- a. Controlled access highways and their interchanges or turning lanes, nor to the intersecting streets within 170 feet of the most remote end of the taper of the turning lanes.
 - b. Arterial streets intersecting another arterial street within 100 feet of the intersection of the right-of-way lines.
 - c. Local streets intersecting arterial or collector streets within 50 feet of the intersection of the right-of-way lines.
 - d. Local streets intersecting local streets within 30 feet of the intersection of the right-of-way lines.
 - e. Temporary access to the above right-of-ways may be granted by the plan (planning and zoning) commission after review and recommendation by the highway agencies having jurisdiction. Such access shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed 12 months.
 - f. Driveway spacing for developments other than residential along existing and planned arterial streets or highways, as identified in the adopted city master plan or component thereof, should be determined as a function of operating speed. Where adequate lot width permits, the minimum spacing between driveways should be determined by the following schedule:

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<i>Speed Limit (miles per hour)</i>	<i>Minimum Spacing Between Driveways (feet)</i>
25	100
30	125
35	170
40	185
45	230
50	275

- g. Along arterial streets or highways, driveways on opposite sides of these roadways should be directly opposite each other where possible, or separated by at least 100 feet of lateral distance.
 - h. Frontage roads or interior access roads should be utilized to minimize the number of direct access points to arterial streets or highways.
 - i. Property owners shall dedicate land for frontage roads as required by the plan (planning and zoning) commission.
 - j. The plan (planning and zoning) commission is authorized to vary the above driveway requirements in appropriate situations.
- (14) *Private Street or Driveway Requirements.* Private streets or driveways that connect to public streets may be substituted for direct public street access if approved by the plan (planning and zoning) commission. Such approval shall be based on a finding by the plan (planning and zoning) commission that each of the following requirements are met:
- a. It would not be in the public interest to require direct public street access and allowing private street or driveway access would minimize site disturbance and would preserve and retain the natural features and rural character of the area.
 - b. The private street or driveway would not preclude construction of public street access in the future; and any buildings erected, or other improvements made, would not interfere with future provision of public streets, and are located so as to be in conformance with such future streets. The plan (planning and zoning) commission may require that a future street reservation be established and recorded to set forth the intent and ensure compliance with this section.
 - c. Permanent and irrevocable easements approved by the plan (planning and zoning) commission and (the) city attorney are recorded to ensure continued function of the approved private street or driveway, and such easements shall contain terms and conditions which exempt the city of all liability for initial

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construction and all future maintenance of the private street, driveway or easement area.

- d. That private streets or driveways comply with the following design standards:
1. Minimum private street width shall be 18 feet with two-foot graded and graveled shoulders. Minimum easement width for a private street shall be 66 feet. Minimum driveway width shall be 12 feet with two-foot graded and graveled shoulders. Minimum easement width shall be 20 feet for a private driveway. A gravel sub-base shall be installed in a private street or driveway in accord with city requirements for a public street.
 2. Paving of either a private street or driveway is not required for one and two-family dwellings. However, driveway approaches shall be paved and portions of private streets within the public right-of-ways shall be paved with either asphalt or concrete to match the paved surface of the connecting public street.
 3. Private street or driveway grades shall not exceed five percent, and shall be as flat as practical at intersections with public streets.
 4. Maximum length of private driveways shall not exceed 1,000 feet. There is no maximum length for a private street. On private driveways over 500 feet long, a ten-foot by 30-foot turnout for fire and emergency vehicles shall be installed at the approximate mid-point.
 5. The maximum number of dwelling units to be served by a private driveway shall be four. There is no maximum number of dwelling units that may be served by a private street.

Cross Reference – Stopping, Standing, and Parking, § 94 – 111 et seq.

Section 17-09. Site Plan Approval Requirements.

- (1) *Purpose and Intent.* For the purposes of promoting compatible development and ensuring adequate public facilities, no person shall obtain a building permit or commerce a use of land without first obtaining site plan approval. However, no site plan approval is required for single and two-family residences, or for three or four-family residences, or for any building remodeling or addition that does not substantially change the character or use or add substantial floor area to an existing building.
- (2) *Preliminary Consultation.* Prior to the preparation and official submittal of the site plan and supporting data, the applicant shall meet with the city staff for a preliminary consultation. The purpose of this preliminary consultation to have an

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informal discussion of the proposed project, a review of the regulations and policies applicable to the project, and a discussion of the land use implications of the project

- (3) *Required Site Plan Information.* The site plan shall be drawn to a suitable scale acceptable to the building inspector and shall show the following:
- a. The name, address and telephone number of the owner, developer and designer.
 - b. A vicinity sketch showing the approximate location of the site in relation to the surrounding street system.
 - c. The dimensions of the land area and lot lines included in the project and the area of the site or lot(s) included in the project.
 - d. A site grading plan showing existing and proposed grades at the lot corners, at the building location and at any major changes in grade. Drainage facility and structures shall also be shown, and drainage flow arrows or direction of flow shall be shown. The 100-year floodplain and floodway shall be shown if present, and an erosion control plan shall be provided.
 - e. The shape, location, height, floor area, and the finished ground and basement floor grades of all proposed buildings and structures
 - f. Natural features such as wooded areas, streams, existing mapped wetlands and manmade features such as existing roads and structures, with indication as to which are to be retained and which are to be removed or altered.
 - g. Adjacent properties and their uses and zoning.
 - h. The location and width of proposed sidewalks, paths, streets, driveways, parking spaces and loading spaces showing direction of travel for one-way drives.
 - i. Calculations used to determine the total number of parking spaces shall be shown on the site plan.
 - j. The size and location of all existing and proposed utilities.
 - k. The anticipated resident population contained within the project or the number of employees anticipated.
 - l. A lighting plan showing the locations, height, style, wattage, lumens and lighting pattern for all exterior site lights.

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- m. Landscaping features, including existing trees and landscaping to be retained, and the location, size and species of proposed landscaping.
 - n. Architectural renderings and schematic floor plans shall be provided for all new buildings. These drawings and plans should show sufficient detail to indicate the architectural design of the proposed building, but all design details are not required at this stage.
 - o. Locations for ground or pole signs, including traffic directional signs.
- (4) *Official Submittals Required.* Copies of the site plan, accompanied by a dated letter of submittal requesting action, shall be submitted to the building inspector no later than two weeks prior to the plan (planning and zoning) commission meeting when action on the site plan is requested.
- (5) *Review and Approval Procedure.* Upon receipt of the site plan, the city staff shall review it to determine whether it is in proper form, contains all the required information, shows compliance with this and other ordinances and plans of the city, and demonstrates the adequacy of utility services. After staff review, the site plan shall be forwarded to the plan (planning and zoning) commission for action. The plan (planning and zoning) commission shall approve it, conditionally approve it or deny approval. Denial of approval shall be limited to any defect in form or required information, or any violation of any provision of this or any other ordinance, or the inadequacy of any utility.
- (6) *Site Plan Revisions.* Any major revisions of the site plan after initial approval must be approved by the plan (planning and zoning) commission prior to issuance of a building permit. Minor revisions may be approved by city staff.
- (7) *Lapse of Site Plan Approval.* In the event the project for which the site plan approval was granted is not completed within three years of such approval, the site plan approval shall lapse and there shall be no further development or construction. Upon application, the plan (planning and zoning) commission may renew the site plan as originally granted or require changes as deemed appropriate.
- (8) *Certificate of Occupancy.*
- (a) *Required.* No certificate of occupancy shall be granted until all improvements shown on an approved site plan have been completed in accordance therewith.
 - (b) *Exceptions.* Upon a finding by the building inspector that certain improvements cannot be completed due to seasonal or other factors beyond the control of the developer and that temporary occupancy prior to completion will involve no health or safety hazard, the building inspector may issue a

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temporary certificate of occupancy bearing an expiration date, which shall allow reasonable time for completion of all required improvements prior to the date of expiration of the temporary certificate of occupancy. No temporary certificate of occupancy shall be granted for a period longer than one year. No permanent certificate of occupancy shall be issued by the building inspector until all required improvements are completed.

Section 17-10. Outdoor Storage of Materials and Vehicles.

- (1) *Purpose.* For the purposes of maintaining a satisfactory visual appearance within the city, promoting harmony between residential neighbors, preventing an adverse effect on property values and public health and safety, and preventing the accumulation of materials and inoperable vehicles which may be unsightly, outdoor storage shall be regulated as described in this section.
- (2) *Unsightly or Unsanitary Materials.* No unsightly or unsanitary materials such as manure, rubbish, salvage material or miscellaneous refuse may be stored in the open within any district when the materials may be constructed as a menace to the public health or safety or may fairly be held to have a depressing influence upon property values in the neighborhood.
- (3) *Salvage Yard Shall be Screened.* Salvage and junkyards shall be screened and enclosed around their entire perimeter by either a solid fence, or a combination of a solid fence and buildings, of a height sufficient to screen scrap materials, and such fence shall be no less than eight feet high.
- (4) *Firewood Storage.* In residential districts, firewood for personal use shall be stored only in rear yards and shall be neatly stacked not higher than four feet from grade and located not closer than three feet to any lot line. Wood piles containing diseased wood which may transmit disease to healthy trees, or wood piles inhabited by rats or other vermin, are public nuisances and shall be abated as required in the nuisance (chapter of this) Code.
- (5) *Inoperable Vehicles.* Inoperable, disabled, or damaged motor vehicles, whether or not awaiting repair or restoration, shall not be stored on a residential lot unless parked inside a garage.
- (6) *Recreational Vehicles, Boats.* One recreational vehicle, camping trailer, boat on a trailer, or similar recreational vehicle, may be stored outdoors on a residential lot in the front yard driveway, or immediately off the driveway, but shall not be stored in front of the residential dwelling. Additional recreational vehicles that are owned or used by occupants of the premises shall be stored in the rear yard, or in an interior side yard, and parked not closer than five feet from any lot line, or stored inside a garage.

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- (7) *Commercial Vehicles and Equipment Prohibited.* In all residential districts, commercial vehicles such as trucks larger than one ton capacity, semi-tractors, trailers or equipment such as welders or generators, shall not be parked outdoors on a daily basis, except as may be permitted by city parking ordinances. This prohibition excludes trucks or vans under one ton capacity used in conjunction with a home occupation.

Cross Reference – Traffic and Vehicles, Chapter 94.

Section 17-11. Home Occupations.

Any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit only after an occupancy permit has been issued by the building inspector.

- (1) *Standards.* In addition to all of the standards applicable to the district in which it is located, home occupations shall comply with the following standards:
- a. Not more than two persons may operate, be employed in or involved with the operation of the home occupation. Said persons shall reside on the premises on which the home occupation is operated.
 - b. No stock in trade, except articles produced on the premises, shall be displayed or sold on the premises.
 - c. No alteration of the principal building shall be made which changes the character thereof as a dwelling.
 - d. No more than 20 percent of the area of any dwelling unit shall be devoted to the home occupation; provided, however, that rooms let to roomers are not subject to this limitation.
 - e. No extensive mechanical or electrical equipment, other than normal domestic or household equipment, shall be used.
 - f. The home occupation shall be conducted entirely within the principal residential building, or in a permitted private garage accessory thereto.
 - g. There shall be no outside storage of equipment or materials used in the home occupation.
 - h. One sign not larger than two square feet shall be permitted per dwelling unit to identify a home occupation. The sign shall be mounted flat against the wall of the dwelling unit and shall not be illuminated.

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- i. Not more than two home occupations may be operated from any one dwelling unit.
 - j. No vehicle larger than a one-ton capacity truck or van that is used in conjunction with a home occupation shall be stored on the premises or parked on adjacent residential streets. This prohibition shall also include trailers or other specialized mobile equipment.
 - k. No home occupation shall create a public nuisance. No home occupation shall create any offensive noise, vibration, smoke, dust, electronic interference, odors, heat or glare spilling over the property line.
- (2) *Occupations Permitted.* Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each listed occupation shall be subject to the requirements of par. (a) (subsection (1)a.) above, as well as to any limitations specifically imposed on such occupation by this section. Home occupations proposed in a rental dwelling unit shall require written consent by the owner of the property, or his or her agent, prior to commencing operations.
- a. Dressmakers, seamstresses and tailors.
 - b. Music and dance teachers, provided that the instruction shall be limited to one pupil at a time, except for occasional groups.
 - c. Artists, sculptors or authors.
 - d. Lawyers, architects, engineers, accountants, realtors, insurance agents, brokers and members of similar professions.
 - e. Building tradespeople such as carpenters, painters, electricians, plumbers and masons.
 - f. Ministers, rabbis or priests.
 - g. Pet grooming, provided no animals are kept overnight and no retail sales are allowed.
 - h. Photography studios.
 - i. Child day care centers for less than four children, and not licensed by the state.
 - j. Sales representatives.

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- (3) *Occupations Prohibited.* Permitted home occupations shall not in any event be deemed to include:
- a. Barbershops, beauty shops, tanning parlors and similar personal service uses unless specifically permitted by the district regulations.
 - b. Dancing schools.
 - c. Restaurants.
 - d. Renting of trailers or other similar equipment.
 - e. Physicians, dentists or other licensed medical practitioners.
 - f. Clinics or medical offices.
 - g. Repair shops or service establishments, except for repair of small home appliances, watches and clocks.
 - h. Animal kennels or hospitals, or stables, or commercial boarding of animals.
 - i. Small engine and related equipment repair.
 - j. Motor vehicle repairs, service, storage or sales. Prohibited activities include repair and service work such as body work, painting, major mechanical work, motor or transmission repair or replacement, storage or dismantling of non-operable or unlicensed vehicles, and repeated sales of motor vehicles from the premises. This provision is not intended to prohibit normal vehicle maintenance or repairs or restoration work on vehicles owned by residents.
- (4) *Unspecified Home Occupations.* Unspecified home occupations not listed above as either “permitted” or “prohibited” shall be reviewed and may be approved by the board of appeals.

Cross Reference – Businesses, Chapter 22.

Section 17-12. Temporary Uses.

The following uses of land are permitted in each district unless restricted to particular districts, subject to the specific regulations and time limits specified below and subject to the regulations of the district in which the use is located.

- (1) Christmas tree sales in business and industrial districts for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of this chapter (appendix), provided that no tree shall be displayed within 30 feet of the intersection of the curb line of any two streets.

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- (2) Contractor's offices and equipment sheds, containing no sleeping or cooking accommodations, accessory to a construction project, and to continue only during the duration of such project.
- (3) Model homes or real estate offices, containing no sleeping or cooking accommodations unless located in a model dwelling unit, incidental to a new housing development, to continue only until the disposal of all dwelling units in the development.
- (4) Seasonal sale of farm produce in any district, except in a residential district, to continue for not more than four months per year. Structures incident to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the setback line at the end of the season during which they are used.
- (5) A carnival or circus, only with approval by the common council.

Section 17-13. Fences.

- (1) *Permit Required.* No fence, except those fences provided for in par. (d) (subsection (4) d.) below, shall hereinafter be constructed, located, moved, reconstructed, extended or enlarged without a permit. This provision does not require a permit for normal maintenance of existing fences.
- (2) *Appearance Requirements.* All fences, whether or not requiring a permit, shall be installed to present the decorative or nonstructural side outward to face adjacent public right-of-ways or to face adjacent private properties. No advertising or commercial signage shall be displayed or painted on any fence in any district. Fence posts may extend no more than six inches above the top edge of a fence for decorative purposes. No advertising, election campaign or commercial signage shall be displayed on a fence.
- (3) *Locational Requirements.* Reference in provisions in this chapter (section) referring to "on the property line" or "up to the property line" shall mean adjacent to but not overlapping the property lines, including not obstructing vision lines to surveying pipes marking said property line.
- (4) *Fences Allowed Without a Permit.* The following fences are allowed as specified without a permit subject to the following restrictions and providing that said fence does not in any way interfere with traffic visibility:
 - a. A snow fence shall be permitted in all districts when comprised of wooden pickets bound together by wire or plastic mesh and not exceeding four feet in height and removed between April 1 and November 1 of each year. No privately-owned snow fence shall extend into the public right-of-way.

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- b. Fences in the agricultural and conservancy districts necessary for agricultural operations shall be permitted provided that they do not exceed into the public right-of-way.
 - c. Decorative fences not exceeding three feet in height nor 16 feet in total length shall be permitted in all districts. Such fences shall be at least 50 percent open and used for landscaping purposes.
 - d. Privacy screens not exceeding six feet in height shall be permitted in all districts. Such screens shall be located in conjunction with a patio or deck which is adjacent to the principal dwelling and shall be located as defined in Section 17-622 (17.16(3)c.)
- (5) *Fences or Walls for Which a Permit is Required.*
- a. In residential districts, fences or walls are permitted up to the property line as follows:
 - 1. Fences not exceeding four feet in height may be located in front or street side yards. Such fences shall be a minimum of 50 percent open.
 - 2. Fences not exceeding six feet in height may be located on side or rear yards.
 - 3. Fences not exceeding four feet in height may be located in the required rear street yard of a double frontage lot. Such fences shall be a minimum of 50 percent open.
 - 4. Fences of walls using barbed or similar security or sharp top spikes shall not be permitted in residential districts.
 - b. Fences or walls in all districts other than residential districts may be placed on interior side and rear property lines, but shall not extend into the public right-of-way. Such fences or walls shall not exceed eight feet in height. Fences not exceeding six feet in height may be located in front yards and street side yards. Such fences shall be a minimum of 50 percent open. Any fence or wall which incorporates barbed or similar security wire or sharpened top spikes shall be permitted only in industrial or business districts, and that portion of the fence which has barbed wire or similar features shall be a minimum of six feet above grade.
 - c. Fences to be installed around swimming pools shall be governed by the provisions of permits for pools.
 - d. Fences to be installed in vision clearance triangles of public right-of-ways shall not exceed three feet in height and shall be a minimum of 50 percent

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open. Any fence installed along a driveway shall provide a ten-foot vision clearance triangle to protect life/safety of persons and property.

- e. Fences surrounding salvage yards may be subject to special provisions contained in other ordinances relative to height, design and location.

Section 17-14. Swimming Pools.

- (1) *Compliance.* A permit shall first be required before any swimming pool, both residential or nonresidential, is installed, enlarged or altered.
- (2) *Permit Application.* All drawings and plans for the construction, installation, enlargement or alteration of any such swimming pool and the accessories thereto shall first be presented to the building inspector for examination and approval as to proper location and construction. The plans shall be drawn to scale and shall indicate thereon all distances and dimensions so as to accurately show all lot lines, and all information pertaining to the location of the pool, walk, deck, fence construction, water supply system, drainage and water disposal systems and all accessories pertaining to the swimming pool. Such plans shall also indicate the vertical elevations of the pool.
- (3) *Location.* No portion of a swimming pool outside a building, including a surrounding deck and fence, shall be located in a front yard or street side yard and not less than eight feet from any side or rear property line. Pumps, filters and pool water disinfection equipment installations and all other accessories shall be located at a distance not less than eight feet from any side property line. Such pool shall also comply with Wisconsin Administrative Code § H62.20 and with any local regulations with respect to the distances from an on-site sewage disposal absorption system.
- (4) *Maximum Pool Size.* No pool, together with its deck area, shall result in exceeding the maximum allowable lot coverage for the district.
- (5) *Safety Features.* No swimming pool shall be installed or maintained unless:
 - a. There shall be erected and maintained a sound and secure fence not less than four feet in height completely surrounding the pool or surrounding the yard in which the pool is located. In lieu of a fence, the building inspector may, on a case-by-case basis, approve other measures designed to prevent unauthorized access to the pool.
 - b. Every gate or other opening in the fence enclosing such pool, except an opening to the dwelling or other main building of the premises, shall be kept securely closed and locked at all times when the owner or occupant of the premises is not present at such pool. All such gates shall be equipped with self-closing and self-locking devices placed at the top of the gate.

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- c. Vertical and horizontal clearances from nearby overhead and underground electrical lines as specified by the electrical utility shall be complied with when pool location is determined.
- (6) *Control of Pool Lighting.* No lighting may be installed in connection with the pool which shall throw any direct rays beyond the property lines.
- (7) *Water Drainage.* No water drained from a pool shall be discharged over or into neighboring property. It shall be discharged into a storm sewer system, where available.

Section 17-15. Satellite Dish Antennas.

- (1) *Permit Required.* No person shall install, locate or relocate a satellite dish antenna larger than two feet in diameter without a permit, nor shall construction commence before a permit is issued pursuant to this section, except for a trial period as defined in par. (subsection)(3)g. below. Satellite dish antennas with a diameter of two feet or less are exempt from this code (section).
- (2) *Application for Permit.* Application for the construction of a satellite dish shall be submitted to the building inspector by the owner of the lot or parcel or by the occupant thereof with the owner's written consent. The application shall be accompanied by a plot plan showing the location of the antenna, property and setback lines and all adjacent structures. The application shall also include the manufacturer's specifications showing the design and color of the antenna. Any application for a roof-mounted antenna shall include documentation by the dish manufacturer or a structural engineer that the roof is capable of supporting the antenna.
- (3) *General Requirements for Satellite Dish Antennas Larger Than two Feet in Diameter.*
 - a. In any district, satellite dishes that are less than three feet in diameter can be located anywhere on a lot, except in the front or street side yard, or can be located on any principal or accessory building.
 - b. Within residential and office districts, dishes that are in excess of three feet in diameter shall only be located in rear or interior side yards or on the roof of a detached garage so long as the combined height of the detached garage and the dish is equal to or less than the height of the principal building.
 - c. Dishes in excess of three feet in diameter that are located in commercial and industrial districts may be placed on the roof of any principal or accessory buildings and in side or rear yards, but shall not be located in front or street side yards.

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- d. Dishes that are located in rear yards or in interior side yards shall be screened from view by shrub plantings or fencing.
- e. No advertising is permitted on satellite dishes in any district.
- f. In the event that a usable signal cannot be obtained by locating a satellite dish in locations permitted by this code (section), the board of zoning appeals may grant a variance to allow the placement of (the) satellite dish in any location except a front yard.
- g. A satellite dish may be temporarily located on a lot for the purpose of testing reception for a period not to exceed seven days and all applicable provisions of this chapter (section) shall be complied with during this temporary period, including obtaining a permit.
- h. Roof or pole-mounted satellite dish antennas in all districts shall comply with the maximum height limits of the district.

Section 17-16. Decks and Patios.

- (1) *Permit Required.* A deck or patio exceeding eight inches in height above yard grade shall require a permit issued pursuant to this section before construction is commenced. No permit shall be required for a deck or patio less than eight inches below yard grade.
- (2) *Application for Permit.* Application for the construction of a deck or patio shall be submitted to the building inspector by the owner of the lot or parcel or by the occupant thereof with the owner's written consent. The application shall be accompanied by a scaled drawing showing the proposed location of the deck or patio and all adjacent structures on the subject property.
- (3) *General Requirement for Decks and Patios.*
 - a. Decks, patios and paved surfaces not exceeding eight inches above yard grade may be located in required front yards, side yards, rear yards or street side yards.
 - b. Decks or patios exceeding eight inches in height above yard grade shall be located only within side or rear yards and not closer than five feet to a side or rear property line, except on lots less than 60 feet in width, they may be located not closer than three feet to a side or rear property line. Decks or patios exceeding eight inches in height above yard grade shall not be located in front yards or in street side yards.
 - c. If privacy screens or fences are provided around decks or patios or pools, and such screens or fences exceed six feet in height above lot grade, they shall

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be located the same distances from property lines as specified above in paragraph b. (subsection (3)b.) for the deck or patio.

Section 17-17. Bed and Breakfast Establishments.

Bed and breakfast establishments may be permitted in residential districts and business districts as noted in each district and in accord with the following definition and conditions:

- (1) *Definition.* A (bed and breakfast establishment means a) place of lodging that meets the following standards:
 - a. Provides eight or fewer rooms for rent to not more than a total of 16 guests.
 - b. Provides no meals other than breakfast and provides the breakfast only to guests.
 - c. Is the owner's personal residence.
 - d. Is occupied by the owner at the time of rental.
 - e. Was originally built and occupied as a residence.
- (2) *Conditions.*
 - a. Not more than one bed and breakfast establishment by be operated out of any structure.
 - b. The character of a residential building shall be continued and may not be altered without approval of the plan (planning and zoning) commission.
 - c. Maximum stay of a guest may not be longer than 21 consecutive days.
 - d. One business sign may be installed of not more than six square feet in size and this sign may be lighted; however, no neon, moving or flashing lights, changing message, or portable sign, or internally lighted sign may be allowed.
 - e. One off-street parking space shall be provided for each rental room in addition to the requirement for the owner's dwelling unit. Where the provision of the required spaces would destroy the character of the dwelling or landscape, the plan (planning and zoning) commission may grant a variance to the required parking.
 - f. Surface water shall not drain to adjacent properties unless such drainage is consistent with a plan approved by the building inspector.

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- g. No food or beverage shall be served to any person not a guest of the bed and breakfast.
- h. No bed and breakfast establishment shall be located nearer than 1,200 feet from another bed and breakfast when located within a residential district, unless approved by the plan (planning and zoning) commission. The 1,200 feet shall be measured along street right-of-ways.
- i. An occupancy permit for the bed and breakfast shall be issued by the building inspector after review of the premises and a finding that such permit will provide compliance with the definition and conditions contained in this section.

Section 17-18. Format of Individual District Regulations, Symbols and Names.

- (1) *Format.* For convenience and readability, the description of uses permitted in each district and the supplementary regulations are presented in the following format:
 - a. Statement of intent, which sets forth the basic purposes of the district, interpreting the principles underlying the uses permitted and in some cases the intended geographic application of the district.
 - b. Permitted uses.
 - c. Permitted accessory uses.
 - d. Uses permitted by conditional grant.
 - e. Dimensional requirements. A separate presentation of the specific dimensional requirements applicable to each district.
 - f. Site plan requirements which may or may not apply to that district.
- (2) *District Symbols and Names.* For the purpose of relating the official zoning map symbols to the districts they represent, the following summary of the district names and their abbreviations are listed:

<i>District Symbol</i>	<i>District Name</i>
A-1	Agricultural Preservation
AG/RE	Agricultural/Rural Estate
SR	Suburban Residential
R-1	Single-Family Residential
R-2	Two-Family Residential
R-3	Multiple-Family Residential

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B-1	Business
M-1	Manufacturing
GTS	Gateway Tourist Service
GL #2	Gateway District #2
PD	Planned Development

(Ordinance Number. 1993-3, § 17.28.1, 11-3-1999)

Section 17-19. A-1, Agricultural Preservation District.

- (1) *Intent.* The A-1, agricultural preservation district is intended to preserve land exclusively for agricultural purposes and to protect such land from urban development until its transition to urban use is timely and orderly. Urban development within the A-1 district will require rezoning to an appropriate zoning district. This district is also intended to allow landowners to claim the farmland preservation credit permitted under Wisconsin Statutes § 71.09(11).
- (2) *Permitted Uses.*
 - a. General farming, including dairying; grazing; forestry; livestock raising; beekeeping; egg production; orchards; plant greenhouses and nurseries; poultry raising; vegetable raising; and raising of crops.
 - b. Residential uses incidental to the agricultural operation and occupied by a resident who earns a substantial amount of their livelihood from farm operations on the parcel, or is a parent or child of the operator of the farm.
 - c. Preexisting residences which do not conform to paragraph (b) (subsection (2)b.) above may be continued in residential use and are exempt from any limitations imposed under Wisconsin Statutes § (59.69(10)).
- (3) *Accessory Uses.*
 - a. Accessory use buildings and other structures customarily incidental to a permitted agricultural use.
- (4) *Conditional Uses.*
 - a. Conditional uses are limited to governmental, institutional, religious or utility uses which do not conflict with agricultural use(s) and are found to be necessary after consideration of alternative locations.

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- (5) *Dimensional Requirements.*
 - a. Minimum lot area – 35 acres.
 - b. Minimum setback – 50 feet.
 - c. Minimum side yard – 25 feet.
 - d. Minimum rear yard – 50 feet.
 - e. Maximum height – 35 feet, except for farm silos.
- (6) *Site Plan.* Not required.

Cross Reference – Animals, Chapter 10.

Section 17-20. AG/RE, Agricultural/Rural Estate District.

- (1) *Intent.* The AG/RE, agricultural/rural estate district is intended to provide for, maintain, preserve and enhance agricultural lands historically utilized for crop production but which are not included within the A-1, agricultural preservation district and which are generally best suited for smaller farm units, including truck farming, horse farming, hobby farming, orchards and other similar agriculture-related farming activities.
- (2) *Permitted Uses.*
 - a. Those used (uses) permitted in the A-1, agricultural preservation district.
 - b. Single and two-family dwellings.
 - c. Home occupations.
- (3) *Accessory Uses.*
 - a. Accessory buildings and uses customarily related to a permitted use.
 - b. Animal husbandry: The keeping or raising of domestic livestock for show, breeding or other use incidental to the principal use of the premises subject to the following:
 - 1. Not more than one head of livestock and 20 fowl shall be permitted per 40,000 square feet of lot area, nor shall any such livestock or fowl be permitted on a lot less than 40,000 square feet in area exclusive of street right-of-way.

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2. Stables, barns, poultry houses or similar structures not in excess of 1,000 square feet are permitted, provided that no building housing domestic livestock or poultry shall be closer than 50 feet to any lot line.
 3. The keeping or raising of hogs or fur bearing animals shall not be permitted.
- (4) *Conditional Uses.*
- a. Recreational facilities such as athletic fields, golf courses or driving ranges, and parks.
 - b. Animals or game farms.
 - c. Pet and animal clinics.
 - d. Dog kennels.
 - e. Cemeteries.
- (5) *Dimensional Requirements.*
- a. Minimum lot area – 20,000 square feet.
 - b. Minimum setback – 50 feet.
 - c. Minimum side yard – 25 feet.
 - d. Minimum rear yard – 50 feet.
 - e. Maximum height – 35 feet.
- (6) *Site Plan.* Not required.

Cross Reference – Animals, Chapter 10.

Section 17-21. SR, Suburban Residential District.

- (1) *Intent.* The SR, (suburban residential) district is intended to provide for single-family residential development and new subdivisions in outlying areas served by sanitary sewer and water. The installation of public streets and other public infrastructure in the SR district may not include the full complement of urban infrastructure to maintain the semirural character and appearance of these subdivisions, preserve their natural environment to the extent practical, and minimize development and housing costs in those subdivisions.

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(2) *Special Provision to Modify Improvement Standards.* The design standards and required improvements established in the subdivision and platting (chapter of this) Code may be modified or waived upon recommendation by the plan (planning and zoning) commission and approval by the (common) council where strict compliance relative to the design standards for public infrastructure would not achieve the intent of the SR district to maintain the semirural character, preserve the natural environment and minimize development and housing costs.

(3) *Permitted Uses.*

a. Same as in (the) R-1 district.

(4) *Accessory Uses.*

a. Same as in (the) R-1 district.

(5) *Conditional Uses.*

a. Same as in (the) R-1 district, but not including nursing homes.

(6) *Dimensional Requirements.*

Lot frontage:

Interior lot or corner lot.....Minimum 100 feet

Lot area.....Minimum 15,000 square feet

Principal buildings:

Front yards.....Minimum 35 feet

Side yards:

Aggregate.....Minimum 25 feet

Single side.....Minimum 10 feet

Side yards of corner lots.....Minimum 35 feet

Rear yard.....Minimum 35 feet

Height.....Maximum 35 feet

Street side of corner lot.....Minimum 35 feet

Accessory buildings:

Front yard.....Not allowed

Side yards and rear yards.....Minimum 10 feet

Lot coverage.....Maximum 30 percent

(7) *Site plan.* Not required.

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Section 17-22. R-1, Single- Family Residential District.

- (1) *Intent.* The R-1, (single-family) residential district is established to protect residential areas now developed with one-family detached dwellings and to protect adjoining areas presently undeveloped or in agricultural usage likely to be developed for single-family use. The regulations of this district are intended to:
 - a. Insure (Ensure) and protect the orderly and proper future development of the land according to its best indicated potential use of single-family dwellings.
 - b. Protect and promote a suitable environment for family life.
 - c. Discourage any use which would generate other than normal residential area traffic on minor streets.
 - d. Discourage any use which, because of its character or size, would create excessive requirements and cost of public services.
- (2) *Permitted Uses.* The following uses are permitted in any R-1 district:
 - a. Single-family dwellings.
 - b. Museums, libraries, parks, playgrounds, and buildings operated on a noncommercial basis for recreational purposes only, public buildings, including fire and police stations and public administrative offices.
 - c. Home occupations.
- (3) *Accessory Uses.*
 - a. Nurseries, greenhouses and gardens as incidental uses on a noncommercial basis.
 - b. Customary accessory uses and buildings provided that garage spaces shall be used for storage of automotive vehicles.
 - c. Customary signs in connection with residences, such as mailbox signs and name of occupant, and such signs shall not exceed one square foot, and shall not be illuminated.
 - d. One sign or bulletin board not exceeding eight square feet in area on the premises of a church or other institution for the purpose of displaying the name or program of said church or institution.
 - e. Signs pertaining only to the lease, rent or sale of the property upon which displayed, and provided that such signs not exceed six square feet in area,

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and that such signs shall not be illuminated, and provided, further, that no other advertising sign of any character be permitted in the R-1 district.

- (4) *Conditional Uses.* No building or occupancy permit shall be issued for any conditional use except as enumerated and then only until and unless the location of such use shall have been approved by the city plan (planning and zoning) commission.
- a. Public, private and parochial schools not including nursery schools.
 - b. Churches and other places of worship.
 - c. Municipal buildings and facilities, utility substations, water towers.
 - d. Day care homes provided they comply with state licensing regulations.
 - e. Community based residential facilities in accordance with Wisconsin Statutes.
 - f. Nursing homes provided as follows:
 - 1. The site shall be such as to provide for a front yard, side yards and rear yard of not less than 75 feet.
 - 2. Off-street automobile parking as called for in Section 17-08. Parking may be permitted in the front, side or rear yards, but not closer than 15 feet to the property lines. If lighting is provided for the parking area, it shall be done so as not to shine onto adjoining properties.
 - g. Child day care centers.
 - h. Storage buildings provided the following shall apply:
 - 1. Common ownership: This conditional use is restricted to an owner of an adjoining lot on which the applicant owner's principal building is also located. This lot shall then only be transferred in conjunction with the transfer of the lot on which the principal building is located or when the storage building qualifies as an accessory use to a principal building now located on the same lot for which the conditional use is granted.
 - 2. For the purposes of this subsection (h), (the term) "adjoining lot" may include a situation in which the lot with the applicant's principal building is located across a street or public way from the lot for which the conditional use is requested. (See also Section 17-40)

(Ordinance Number 2000-1, § 1, 1-4-2000; Ordinance Number 2001-5, § 1, 6-27-2001)

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(5) *Dimensional Requirements.*

Lot width:

- Corner lots.....Minimum 75 feet
- Interior lots.....Minimum 60 feet
- Lots platted prior to this code (appendix).....Minimum 50 feet
- Lot area.....Minimum 9,600 square feet
- Floor area/dwelling unit.....Minimum 960 square feet

Principal building:

- Front yards.....Minimum 20 feet
- Side yards on lots platted prior to adoption of this code (appendix):
 - Aggregate total.....Minimum 20 feet
 - Single side.....Minimum 8 feet
- Side yards on lots platted after adoption of this code (appendix):
 - Aggregate total.....Minimum 25 feet
 - Single side.....Minimum 10 feet
- Street side yards of corner lots.....Minimum 20 feet
- Rear yard.....Minimum 30 feet
- Height.....Maximum 35 feet

Accessory buildings:

- Front yard.....Not allowed
- Side yards and rear yards.....Minimum 3 feet

Lot coverage.....Maximum 35 percent

(6) *Site plan.* Not required.

Section 17-23. R-2, Two-Family Residential District.

(1) *Intent.* By virtue of its location within the master plan for the City of Tomahawk and because of the extensive development within this district of both one and two-family residential usage, and because of the probable continued demand for additional rental residential property which provides a living environment for family life similar to that found in the single-family residential districts, the R-2, (two-family residential) district is established to:

- a. Protect the present development.
- b. Protect and promote a suitable environment for family life.
- c. Discourage any use which would generate other than normal residential area traffic on minor streets.
- d. Discourage any use which would create excessive requirements and costs for public services in excess of that of the surrounding area.

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(2) *Permitted Uses.* The following uses are permitted in any R-2 district:

a. Any use permitted in the R-1, single-family district.

b. Two-family dwellings.

(3) *Accessory Uses.*

a. Same as in (the) R-1 district.

(4) *Conditional Uses.*

a. Same as in (the) R-1 district.

(5) *Dimensional Requirements.*

Lot width:

Corner lots.....	Minimum 75 feet
Interior lots.....	Minimum 60 feet
Lots platted prior to this code (appendix).....	Minimum 50 feet
Lot area.....	Minimum 7,100 square feet
Floor area/dwelling unit/single-family.....	Minimum 960 square feet
Floor area/dwelling unit/two-family.....	Minimum 720 square feet

Principal building:

Front yard.....	Minimum 20 feet
Side yards on lots platted prior to adoption of this code (appendix):	
Aggregate total.....	Minimum 20 feet
Single side.....	Minimum 8 feet

Side yards on lots platted after adoption of this code (appendix):

Aggregate total.....	Minimum 25 feet
Single side.....	Minimum 10 feet
Street side yards of corner lots.....	Minimum 20 feet
Rear yard.....	Minimum 30 feet
Height.....	Maximum 35 feet

Accessory buildings:

Front yard.....	Not allowed
Side yards and rear yards.....	Minimum 3 feet

Lot coverage.....Maximum 35 percent

(6) *Site Plan.* Not required.

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Section 17-24. R-3, Multi-Family Residential District.

- (1) *Intent.* The location of certain areas of land, both developed and undeveloped, with peculiar characteristics such as present high density dwelling units, proximity to commercial developments or proximity to major streets, and because of a probable continued demand for such dwelling accommodations which are well designed, pleasant places to live, the R-3, (multi-family residential) district is intended to:
 - a. Provide for the orderly development and redevelopment of such land according to its best usage by providing adequate minimum zoning standards for each usage.
 - b. Protect existing development and promote a suitable environment for family life.
 - c. Encourage the discontinuance of existing incompatible uses.
- (2) *Permitted Uses.* The following uses are permitted in any R-3 district:
 - a. Uses permitted in the R-1 and R-2 districts.
 - b. Multiple-family dwellings.
 - c. Boarding and lodging-houses.
 - d. Hotels and motels in which retail sales may be conducted for the sole benefit of occupants of the building.
 - e. Private clubs, fraternities, sororities and lodges, except those the chief activity of which is a service customarily carried on as (a) business.
- (3) *Accessory Uses.*
 - a. Accessory buildings and uses customarily incident to any of the permitted uses when located on the same lot and not involving the conduct of business.
- (4) *Conditional Uses.*
 - a. Same as in the R-1 district.
 - b. Hospital(s) and clinics, except veterinary hospitals and clinics.

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(5) *Dimensional Requirements.*

Lot width:

- One-family residence.....Minimum 60 feet
- Two-family residence.....Minimum 30 feet/dwelling
- Multi-family residence.....Minimum 80 feet

Lot area:

- One-family residence.....Minimum 7,100 square feet
- Two-family residence.....Minimum 3,500 square feet/dwelling
- Multi-family residence.....Minimum 1,800 square feet/dwelling

Floor area/dwelling unit:

- One-family residence.....Minimum (960) square feet
- Two-family residence.....Minimum (720) square feet/dwelling
- Multi-family residence.....Minimum 400 square feet/dwelling

Principal building:

- Front yards.....Minimum 30 feet
- Side yards on lots platted prior to adoption of this code (appendix):
 - Aggregate total.....Minimum 25 feet
 - Single side.....Minimum 10 feet
 - Multi-family residence.....Minimum 30 feet

Street side yards of corner lots:

- One-family residence.....Minimum 17 feet
- Two-family residence.....Minimum 17 feet
- Multi-family residence.....Minimum 17 feet

Rear yard:

- One-family residence.....Minimum 30 feet
- Two-family residence.....Minimum 30 feet
- Multi-family residence.....Minimum 30 feet
- Height.....Maximum 35 feet

Accessory buildings:

- Front yard.....Not allowed
- Side yards and rear yards.....Minimum 3 feet

- Lot coverage.....Maximum 40 percent

(6) *Site plan.* Required.

Section 17-25. Reserved for Possible Future use for Additional Zoning Districts.

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Section 17-26. B-1, Business District.

- (1) *Intent.* The B-1, business district is the established center of distribution of goods and services in the city and is intended to be used principally by the retail trades.
- (2) *Permitted Uses.*
 - a. Any use permitted in the R-3, residential district, including multiple-family dwellings, subject to the lot size, location, yard requirements and other dimensional requirements of the R-3 district.
 - b. Any of the following specified uses:
 1. Animal hospital, pet shop, veterinary office, hospital or clinic.
 2. Art shop, antique shop, gift shop.
 3. Automobile sales and service establishments, public garage, parking lot.
 4. Bakery (retail).
 5. Bank, financial institution.
 6. Barbershop, beauty parlor.
 7. Book and stationery store, newsstand.
 8. Bowling alley, pool and billiard room.
 9. Bus depot.
 10. Business and professional offices, public utility offices.
 11. Candy store, confectionery store.
 12. Clinic.
 13. Clothing store, department store, dress shop, hosiery shop, millinery shop, shoe store, shoe repair shop.
 14. Drug store, ice cream shop, pharmacy, soda fountain, soft drink stand.
 15. Florist shop.

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16. Food and dairy (dairy) products establishments (retail, delicatessen, fruit and vegetable market, grocery store, meat and fish market).
17. Funeral home.
18. Furniture store, office equipment store, upholsterers shop.
19. Hardware store, home appliance store, paint store, plumbing, heating and electrical supplies, sporting goods store.
20. Hotel, motel.
21. Jewelry store, watch repair shop.
22. Laundry or cleaning and dyeing establishments.
23. Music store, radio and television store.
24. Optical store.
25. Photographer and photographer's supplies.
26. Public buildings, including police and fire station, city hall, public administrative offices, post office, municipal garage, except public shops and storage yards.
27. Restaurant, barbeque stand, café, cafeteria, caterer, lunch room, tavern.
28. Tailor shop, clothes pressing shop.
29. Telephone and telegraph office.
30. Temporary structures, including signs, billboards and other outdoor advertising structures.
31. Theaters and places of amusement, except drive-in theaters.
32. Tobacco store.
33. Undertaking establishment.
34. Variety store, notion shop.
35. Any other uses similar in character and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises.

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(3) *Accessory Uses.*

- a. Same as in (the) R-1 district.
- b. Garages, including garages for the storage of equipment and vehicles.

(4) *Conditional Uses.*

- a. Same as in (the) R-1 district.
- b. Communication towers, antennas and structures used for the transmission or reception of electromagnetic waves.
- c. Dog kennels.

(5) *Dimensional Requirements.* (See exemption below for central business district.)

Lot width:

- Corner lots.....Minimum 100 feet
- Interior lots.....Minimum 100 feet

Lot area.....Minimum 12,000 square feet

Lot area per bedroom.....Minimum 1,400 square feet

Principal building:

Front yards.....Minimum 25 feet

Side yards:

For non-residential buildings.....Minimum 6 feet

For multi-family residential buildings.....Minimum 30 feet

For one or two-family buildings.....Minimum 8 feet

Street side yards of corner lots.....Minimum 25 feet

Rear yard.....Minimum 15 feet*

*(increase by 5 feet for each additional story)

Rear yard for multi-family buildings.....Minimum 30 feet

Height.....Maximum 45 feet

Accessory buildings:

Front yard.....Not allowed

Side yards and rear yards.....Minimum 3 feet

Lot coverage.....No maximum

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- (6) *Exemption for Existing Buildings in the Central Business District.* Buildings and structures existing prior to the adoption of this code (appendix) in the central business district are exempt from the dimensional requirements of this section. The central business district is defined as the uses and properties fronting along Tomahawk Avenue from Southgate Drive to Somo Avenue, along Wisconsin Avenue from Railway Street to North Fourth Street and along North Fourth Street from Wisconsin Avenue to River Street. The purpose of this exemption is to encourage investment in and improvements to these buildings and structures. This purpose is intended to provide for the perpetuation and continuation of these buildings and structures as the historic central business district of Tomahawk. These existing buildings and structures may be remodeled and/or reconstructed within the limits of the footprint of the existing building or structure, and within the height limit of the existing building or structure. Any addition or enlargements of the existing buildings or structures shall comply with the dimensional requirements of the district.
- (7) *Site Plan.* Required for all uses except one and two-family dwellings.

Cross Reference – Business, Chapter 22.

Section 17-27. M-1, Manufacturing District.

- (1) *Intent.* The M-1, manufacturing district is intended to provide for warehousing, manufacturing or fabrication operations which, on the basis of physical and operational characteristics, would not be detrimental to the immediate surrounding area or to the city as a whole by reason of smoke, odor, noise, dust, flash, traffic, physical appearance or other similar factors; and to establish such regulatory controls as will reasonable insure (ensure) compatibility with the surrounding area in this respect. All uses in this district must meet the State of Wisconsin emission requirements.
- (2) *Permitted Uses.*
- a. Buildings and yards for the storage and wholesale of goods and materials other than chemical, flammable, liquid, gaseous, vaporous or explosive substances where such goods or materials are temporarily stored inside a building or within an open area visually screened from public streets or highways and adjacent non-industrial uses.
 - b. All uses involving the manufacture and fabrication of goods within the confines of a building and in compliance with any applicable state Department of Natural Resources permit requirements and in which no smoke, noise, dust, flash or odor produced in the manufacturing process is released from the building in excess of the standards contained in Section 17-42 of this Appendix A.

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- c. All uses involving the provisions of a service (i) which is either manufacturing or fabrication-related and not permitted in business districts confined within a building; (ii) which is in compliance with any applicable state Department of Natural Resources permit requirements; and (iii) in which no smoke, dust, flash, heat, noise or odor produced by such service uses is released from the building in excess of the standards contained in Section 17-42 of this Appendix A.
- d. Residential uses permitted in the R-3 district, subject to the lot size, yard requirements, and other dimensional requirements of the R-3 district.
- e. Hospitals and clinics.

(Ordinance Number 2001-1, § 1, 5-15-2001; Ordinance Number 2001-4 § 1, 6-27-2011)

(3) *Accessory Uses.*

- a. Enclosed as well as screened areas for the storage of materials other than explosive or flammable materials or substances used in the manufacturing or fabrication process.
- b. Offices normally accessory to the principal use.
- c. Garages for the storage of vehicles used in conjunction with the operation of the warehouse or industrial use.
- d. Auxiliary power generators.
- e. Off-street parking and loading areas.

(4) *Conditional Uses.*

- a. Buildings, structures or tanks used for the storage of chemicals, flammable liquids and gaseous or vaporous structures.
- b. Contractor's yards and the outdoor storage of construction equipment.
- c. Refuse transfer stations and recycling collection centers.
- d. Truck terminals/distribution centers.
- e. Municipal buildings and facilities, utility substations, water towers and water and wastewater treatment plants, public parks and public recreational facilities.

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- f. Day care facilities licensed by the state.
- g. Communication towers, antennas and structures used for the transmission or reception of electromagnetic waves.
- h. Cemeteries, crematoriums.
- i. Adult establishments, as defined herein, and provided that either one of the following two conditions (of subsection i.) 1. or 2. are met:
 - 1. The person applying for the conditional use permit demonstrates that the building where the use shall occur is not located within 1,000 feet of any residential dwelling, rooming unit, hospital, church, school or stores frequented by persons under the age of 18 years, whether such structures are located in this city or in a contiguous town. The 1,000 foot distance shall be measured via a straight line from the nearest corners of such building to any portion of the parcel of land containing a residential dwelling, rooming unit, hospital, church, school or store frequented by persons under the age of 18 years; or
 - 2. The person applying for the conditional use permit files with the city clerk a petition favoring the proposed use signed by a minimum of 51 persons representing a minimum of 51 percent of the adult persons owning or occupying property within a radius of 1,000 feet of the location of the proposed establishment. The petitioner shall attempt to contact all eligible locations within the 1,000 foot radius and shall submit with the petition a list of all addresses at which no contact was made and, as far as practicable, a list of all persons refusing to sign the petition. In the event that the 1,000 foot radius is not sufficiently populated to provide a minimum of 100 adult persons owning or occupying property, the radius shall be increased in increments of 100 feet until there shall be an area large enough to contain 100 property owners and occupants. The petition circulated shall state the specified activities and/or specified anatomical area intended to be displayed and the conditional use permit sought. The 1,000 foot radius and 100-foot increments shall be measured as set forth above.
 - 3. One year after the date on which the conditional use permit is granted, and every year on that date thereafter, the person granted the conditional use permit shall provide information to the plan (planning and zoning) commission to verify that either of the above conditions is met in order for the conditional use permit to be continued for the following year.
 - 4. The applicant shall provide the names and addresses of the owners and occupants of all property within 100 feet of the proposed establishment, measured as set forth above. In case of a protest signed by the owners or

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occupants of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, the grant of a conditional use permit shall require a vote of three-fourths of the members of the plan (planning and zoning) commission.

(5) *Dimensional Requirements.*

Lot width.....	Minimum 100 feet
Lot area.....	Minimum 20,000 square feet
Principal building:	
Front yard.....	Minimum 25 feet
Side yards.....	Minimum 15 feet
Side yard adjacent to a residential use.....	Minimum 25 feet
Rear yard.....	Minimum 20 feet
Building height.....	Maximum 40 feet
Percentage of lot coverage, including parking and loading.....	Maximum 80 percent

Accessory buildings:

Front or street yard.....	Not allowed
Side yards and rear yards.....	Minimum 3 feet

(6) *Buffer Yard Requirement.* Buffer yards shall be required where manufacturing uses, including the storage of materials, vehicles and equipment, are located adjacent to a residential use. Where a premise used for manufacturing is adjacent to the side or rear lot line of a residential use, the manufacturing use shall be set back a minimum of 25 feet from the lot line. All manufacturing process(es) and uses that are not carried on in and enclosed building, including the outdoor storage of materials and equipment, shall be screened along any residential boundary by a solid fence, not less than six feet high, or by evergreen plantings maintained at a height of not less than six feet high providing a year-round visual screen when viewed from the residential side.

(7) *Site Plan.* Required.

Cross Reference – Businesses, Chapter 22.

Section 17-28. GTS, Gateway Tourist Service District.

- (1) *Intent.* The intended purpose of the GTS, gateway tourist service district is to concentrate specific types of land uses which together will serve the traveling public and encourage and promote the city as a tourist destination and service center. This purpose is consistent with the city's master plan which recommends the (GTS), gateway tourist service district to attract, encourage and promote visits to other city businesses and attractions and to service motorists and tourists with quality facilities at a gateway location. New development in the (GTS), gateway tourist service district is intended to establish a visual appearance, quality and character through careful coordination of permitted uses, appearance and landscape treatment compatible with the existing natural environment and to preserve the scenic qualities within the district.
- (2) *Permitted Uses.*
 - (a) Fuel service for automobiles and recreational vehicles.
 - (b) Restaurants providing inside seating and having a site layout designed to serve automobile and recreational vehicle customers.
 - (c) Tourist information centers.
 - (d) Commercial retail operations.
 - (e) Tourist-oriented museums.
 - (f) Uses similar to the above after approval by the plan (planning and zoning) commission and city council.
- (3) *Accessory.*
 - (a) Uses customarily accessory to the above permitted uses.
 - (b) Agriculture, forestry and other similar types of open space uses.
 - (c) Public and private parks, recreation areas and appurtenant buildings and improvements when they are compatible with other permitted uses within the district.

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- (4) *Prohibited Uses.* The following uses are specifically prohibited in this district:
- (a) Commercial trucking operations of any type.
 - (b) Fireworks.
 - (c) Adult novelty shops
- (5) *Dimensional Requirements.*
- a. Minimum lot area – 20,000 square feet.
 - b. Minimum lot width – 100 feet.
 - c. Minimum front yard – 50 feet.
 - d. Minimum rear yard – 30 feet.
 - e. Minimum side yard – 15 feet.
 - f. Minimum corner side yard – 50 feet.
 - g. Maximum building height – 25 feet.
- (6) *Design Considerations.* Site plan layouts in the (GTS), gateway tourist service district shall be designed to serve automobile and recreational vehicles and designed to discourage service to commercial trucks or commercial trucking operations except for truck access for loading, unloading and service to permitted uses.
- (7) *Site Plan Required in Accord with Section 17-09.* Also required is a plan of operation describing the intended operation, number of employees, hours of operation and similar information.

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Section 17-28-1. GL #2, Gateway District #2.

- (1) *Intent.* The intended purpose of the GL #2, gateway district #2 is to concentrate specific types of land uses which together will serve the traveling public and provide for light industrial development in the Tomahawk area. This purpose is consistent with the city's master plan which recommends the area to attract, encourage and promote visits to other city businesses and attractions, to service motorists and tourists with quality facilities and to provide light industrial development areas that utilize the highway to transport raw materials and finished goods. Development in the district is intended to establish a visual appearance, quality and character through careful coordination of permitted uses, appearance and landscape treatment compatible with the existing natural environment and to preserve the scenic qualities within the district. All site plans shall contain drawings and a narrative describing the proposed development actions to minimize the aesthetic impact of the development. Natural vegetation is the preferred method of screening in the district.
- (2) *Permitted Uses.*
 - (a) Fuel service for automobiles, trucks and recreational vehicles.
 - (b) Restaurants providing inside seating and having a site layout designed to serve automobile and recreational vehicle customers.
 - (c) Tourist information centers.
 - (d) Museums.
 - (e) Light industrial uses. Light industrial uses are those manufacturing uses where the manufacture and fabrication of goods is confined within buildings so that smoke, noise, dust, flash or odor produced is confined within the building and that do not use Wisconsin River waste allocations or contribute significant air emissions. Any light industrial uses employing more than 100 employees on-site shall obtain a conditional use permit before building or expanding an existing operation. Yards that store raw materials must be visually screened from public streets, highways and adjacent non-industrial users.
 - (f) Commercial retail operations geared to the exposure generated by highway traffic.
 - (g) All uses involving the provisions of a service which is either manufacturing or fabrication related and not permitted in business districts confined within a building, and in which smoke, dust, flash, heat, noise or odor produced by such service uses is confined within the building.

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- (h) Truck terminals and distribution centers.
 - (i) Day care facilities licensed by the state.
 - (j) Municipal buildings and facilities, utility substations, water towers and water and wastewater treatment plants.
 - (k) Agriculture, forestry and other similar types of open space uses.
 - (l) Public and private parks, golf courses and recreation areas and appurtenant buildings and improvements when they are compatible with other permitted uses within the district.
- (3) *Accessory Uses.*
- (a) Enclosed as well as screened areas for the storage of materials other than explosive or flammable materials or substances used in the manufacturing or fabrication process.
 - (b) Offices normally accessory to the principal use.
 - (c) Garages for the storage of vehicles used in conjunction with the operation of the warehouse or industrial use.
 - (d) Auxiliary power generators provided noise screening is provided for continuous use.
 - (e) Off-street parking and loading areas.
 - (f) Signs, provided no more than one sign per business or lot owner is visible from Highway 51.
- (4) *Conditional Uses.*
- (a) Buildings, structures or tanks designed for onsite usage of chemicals, flammable liquids and gaseous or vaporous substances.
 - (b) Contractor's yards and the outdoor storage of construction equipment.
 - (c) Multiple family residential uses subject to the lot size, yard requirements, and other dimensional requirements of the R-3 District.
 - (d) Communication towers, antennas, and structures used for the transmission or reception of electromagnetic waves.

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(e) Single family residential uses provided each residence is located on a lot of at least 5 acres.

(5) *Prohibited Uses.*

(a) General commercial retail businesses not related to the tourist traffic.

(b) Heavy manufacturing (manufacturing requiring significant air emissions permits).

(5)(6) *Dimensional Requirements.*

Lot width.....	Minimum 250 feet
Lot area.....	Minimum 62,500 square feet
Setback Requirements:	
Principal Building:	
Front yard.....	Minimum 50 feet
Side yard.....	Minimum 15 feet
Side yard, corner lot.....	Minimum 50 feet
Maximum building height.....	35 feet

(6)(7) *Site Plan Required in Accord with Section 17-09.* Also required is a plan of operation describing the intended operation, number of employees, hours of operation and similar information.

This amendment having been considered at a public hearing held on November 3, 1999, and after due notice, shall be effective upon passage and publication.
(Ordinance Number 1993-3, § 17.28.1, 11-3-1999)

Section 17-29. PD, Planned Development District.

(1) *Intent.* (PD), planned development district regulations are intended to permit greater flexibility and, consequently, more creative and imaginative design for the development of a site that is possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of land while providing a harmonious variety of housing choices, a higher level of amenities and preservation of the natural qualities of open spaces. The planned development procedure requires a high degree of cooperation between the developer and the city. The procedure described herein is designed to give the developer general plan approval before completing all detailed design work while providing the city with assurances that the project will retain the character envisioned at the time of approval.

(2) *General Provisions.* The plan (planning and zoning) commission may recommend and the common council may, upon request of the owners, establish planned development districts which will, over a period of time, tend to promote

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the maximum benefit from coordinated area site planning by permitting the diversified location of structure(s) and mixed dwelling types and mixed compatible use(s).

- a. *Permitted Uses.* Permitted and accessory uses in the (PD), planned development district shall be the same as those permitted in the underlying existing zoning district in which the PD (district) is located. If a developer desires uses different than those permitted by the existing zoning, the developer must simultaneously petition for rezoning of the underlying existing zoning to a zoning district which allows the desired use(s).
- b. *Mixed Uses.* A mix of different uses within a (PD), planned development district may be permitted if the plan (planning and zoning) commission and the common council determine that the mix of uses is compatible and necessary to achieve the objectives of the PD (district).
- c. *Number of Buildings on a Lot.* The (PD), planned development district may allow more than one building on a lot.
- d. *Density.* The (PD), planned development district may permit the transfer of density (dwelling units) from one portion of the subject site to another and will permit the clustering of dwelling units in one or more locations within the total site. However, the density of use shall not exceed the density permitted in the underlying existing zoning district.
- e. *Minimum Area for a (PD), Planned Development District.* (PD), planned development districts are intended to provide flexibility to encourage more creative design for all sizes of sites than would be allowed under conventional zoning. To achieve this goal, there is no minimum area for a PD (district).
- f. *Application of the Subdivision and Platting Code.* To the extent applicable, any planned development shall be subject to the procedures and regulations of the subdivision and platting codes. However, the design standards and required improvements established in the subdivision and platting code may be modified or waived upon recommendation by the plan (planning and zoning) commission and approval by the common council where strict compliance would result in not achieving the design flexibility necessary to achieve the objectives of the planned development.

(3) *Application Procedure and Required Information.*

- a. *Preliminary Consultation.* An applicant may meet with the plan (planning and zoning) commission and appropriate city staff members for a preliminary consultation prior to formally submitting a rezoning petition for planned development zoning. The purpose of this preliminary consultation is to discuss the proposed request and review the local regulations and policies

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applicable to the project and discuss the land use implications of the proposal.

- b. *Rezoning Petition and General Development Plan.* The applicant shall submit a rezoning petition in accordance with the application procedure described in Section 17-46 of this chapter (appendix). In addition to the required information noted in Section 17-46, a general development plan shall be submitted to the plan (planning and zoning) commission and their review prior to any rezoning hearing. The general development plan shall show the locations of buildings, common open space, parking and drive areas, recreation facilities, principal landscaping features and other major components of the proposed project.
 - c. *Other Information.* In addition, other documents or related information or plans showing the architectural designs of buildings may be required by the plan (planning and zoning) commission. This information shall also be submitted to the plan (planning and zoning) commission for their review prior to any rezoning hearing. Other related information may include, but is not limited to, maintenance standards, plans of operation and economic impact and market feasibility.
 - d. *Public Inspection.* The general development plan and related information shall be available for public inspection prior to any rezoning hearing on the proposed project.
- (4) *Conditions and Restrictions.*
- a. The plan (planning and zoning) commission may recommend and the common council may adopt, by resolution, conditions and restrictions for planned developments that specify permitted uses, set bulk regulations and density standards for lot coverage and dwelling unit size and distribution and yard setbacks.
 - b. Conditions and restrictions adopted to govern any planned development may include non-standard or non-uniform requirements, regulations and provisions recommended by the plan (planning and zoning) commission and approved by the common council. Such non-standard requirements, regulations and provisions shall be designed to insure (ensure) proper development and appropriate operation and maintenance of specific sites.
 - c. The developer(s) shall enter into a development agreement with the city to comply with all applicable laws and regulations, including any conditions and restrictions adopted to regulate a specific planned development, and to assure the construction of all facilities and infrastructure associated with the project

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- (5) *Detailed Plans and Information.* After (PD), planned development district zoning has been granted and the general development plan, together with conditions imposed, has been approved, detailed site plans and information covering that portion of the total project which is intended for construction shall be submitted to the plan (planning and zoning) commission for approval prior to the issuance of building permits. The detailed plans and information shall conform substantially to the general development plan and to the resolution of conditions and restrictions which were approved at the time of rezoning. The detailed site plans and information shall comply with the requirements and procedures in Section 17-09.
- (6) *Architectural Review.* Building plans shall also be submitted to the plan (planning and zoning) commission for their review and approval prior to the issuance of a building permit.
- (7) *Commencement of Project.* After the plan (planning and zoning) commission has approved the detailed site plans, construction of private and public facilities may commence in accord with the following:
 - a. No building permit shall be issued until all applicable fees and assessments have been paid and either all public and private construction has been completed and approved or a developer's agreement has been approved. For staged development, such developer's agreements may provide for the construction of improvements and the use of common areas outside of the subject stage.
 - b. After the plan (planning and zoning) commission has approved the plans, the project shall be commenced within one year unless the time is extended in writing by the (plan) commission. In the event the project is not commenced within one year, the approval of the (plan) commission shall be deemed to be automatically revoked.
- (8) *Maintenance of Project.*
 - a. Should the owner of a planned development fail to properly operate or maintain the business or premises to the extent that a nuisance is caused to occupants or neighbors, or constitutes a nuisance to nearby properties, the plan (planning and zoning) commission may refuse to approve subsequent stages of development until such time as they determine that the situation and/or the method of operation has been corrected.
 - b. Should the owner of a planned development fail to adequately perform maintenance functions such as snow and ice removal, weed cutting or trash disposal, the city shall have the right to perform such functions or to contract for their accomplishment at the property owner's expense.

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(9) *Changes or Revisions.*

- a. *Submission.* All proposed changes, revisions and additions to any aspect of an approved planned development project shall be submitted to the plan (planning and zoning) commission for its review. The plan (planning and zoning) commission shall determine if the change, revision or addition is minor or if it materially affects the intended design of the project and the impact of the project on neighboring uses.
- b. *Major Changes.* If the requested change is determined by the plan (planning and zoning) commission to be substantial because of its effect on the intended design of the project or on neighboring uses, a public hearing shall be held by the plan (planning and zoning) commission to review and pass its findings to the common council for final approval.
- c. *Minor Changes.* If the change is determined to be minor, the plan (planning and zoning) commission shall review the request and may approve the change without a public hearing. The plan (planning and zoning) commission's decision on minor changes shall be rendered at a meeting subsequent to the meeting at which the requested change was initially presented to the plan (planning and zoning) commission.

Cross Reference – Planning, Chapter 74.

Section 17-30. Manufactured Homes.

- (1) *Definition.* A manufactured home is a structure certified and labeled as a manufactured home under 42 USC 5401 – 5426 which, when placed on its site, is set on an enclosed foundation in accordance with Wisconsin Statutes § 70.043(1) and subchapters III, IV and V of Wisconsin Administrative Code ILHR Chapter 21, or is set on a comparable foundation as approved by the local building inspector, and is installed according to the manufacturer's instructions, is properly connected to utilities and is a minimum of 24 feet wide.
- (2) *Permit Required.* No person shall install or locate or construct a manufactured home without a permit, nor shall construction commence before a permit is issued by the building inspector. The application for the permit shall be accompanied by a lot survey showing the location of the proposed manufactured home, property lines, setback lines, existing and adjacent structures, utility easements and other relevant information and information similar to a site-built home. The application may include, if required by the building inspector, a plan certified by a registered architect or engineer to insure (ensure) proper support and structural systems for the home.
- (3) *Where Permitted.* Manufactured homes may be allowed as permitted uses in zoning districts where single-family dwellings are listed as permitted uses.

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- (4) *Requirements for Manufactured Homes.*
- a. Minimum width of a manufactured home shall be 24 feet wide.
 - b. Minimum floor area shall be the same as for site-built dwellings in the zoning district.
 - c. Minimum lot area shall be the same as site-built dwellings in the zoning district.
 - d. Minimum yards, setbacks and dimensional requirements shall be the same as site-built dwellings in the zoning district.
 - e. Utilities shall be connected to the manufactured home as required for site-built homes.
 - f. Enclosed foundations shall be provided in accordance with Wisconsin Statutes § 70.043(1), and subchapters III, IV and V of Wisconsin Administrative Code ILHR Chapter 21; or the home shall be set on a comparable enclosed foundation system approved by the building inspector. The building inspector may require a plan to be certified by a registered architect or engineer to ensure proper support and foundation systems for the manufactured home. The enclosure around the foundation shall completely enclose the perimeter of the structure with a siding material and color which matches the exterior siding and color of the home.
 - g. Appearance and exterior wall materials of a manufactured home shall attempt to be similar to site-built housing in an effort to make the appearance of the manufactured home compatible with nearby site-built housing. Appearance factors may include the use of pitched roofs, overhanging eaves and the use of siding materials and roofing materials that are similar to site-built housing. These appearance requirements are intended to make manufactured homes equal in appearance to and compatible with site-built homes.
- (5) *Mobile Homes are not Manufactured Homes.* Mobile homes built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, are not considered manufactured homes. Such mobile homes differ from newer manufactured homes and site-built homes. Such mobile homes are not considered manufactured homes for the purposes of this code (appendix).

Cross Reference – Manufactured Homes and Trailers, Chapter 58.

Section 17-31. Reserved for Future Use.

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Section 17-32. Well Head Protection Ordinance.

- (1) *Title.* This section shall be known, cited, and referred to as the “Well Head Protection Ordinance” (hereinafter “WHP Ordinance”).
- (2) *Purpose.*
 - (a) The residents of the City of Tomahawk (“the city”) depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities seriously threaten or degrade groundwater quality. The purpose of the WHP Ordinance is to protect the city’s municipal water supply and areas from which the city wells draw water and to promote the public health, safety, and general welfare of the residents of the city.
 - (b) These regulations are established pursuant to the authority granted by the Wisconsin legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection to the statutory authorization for municipal planning and zoning in order to protect the public health, safety and welfare. Areas appropriate for protection in the WHP are established in the Well Head Protection Plan (“the plan”) for the City of Tomahawk, Wisconsin, dated November 1998, and prepared by Layne Northwest. The plan document is incorporated here by reference, and a copy is on file in the office of the city clerk-treasurer.
- (3) *Applicability.* The regulations specified in the WHP Ordinance shall apply only to lands within those portions of the Well Head Protection Area for Well Number 4 and Well Number 5 shown on the Well Head Protection Map (See Exhibit 1 in Appendix B of the Well Head Protection Plan, “the map”), and to land within the minimum separation distances from potential sources of contamination described in Chapter NR 811.16(4)(d) of the Department of Natural Resources Code, which areas also lie within the City of Tomahawk corporate limits.
- (4) *Definitions.*
 - (a) *Aquifer.* A saturated, permeable geologic formation that contains and will yield significant quantities of water.
 - (b) *Cone of Depression.* The area around a well, in which the water level has been lowered at least one tenth of a foot by pumping of the well.
 - (c) *Existing Facilities which may Cause or Threaten to Cause Environmental Pollution.* Existing facilities which may cause or threaten to cause environment pollution within the corporate limits of the Tomahawk Water Utilities’ Municipal Wells Number 4 and Number 5 recharge area which include, but are not limited to, the Wisconsin Department of Natural Resources’ draft list of “Inventory of Sites of Facilities Which May Cause or

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Threaten to Cause Environmental Pollution,” and the Department of Industry, Labor and Human Relations’ list of “Leaking Underground Storage Tanks” (hereinafter “LUSTs” and the Registry of Waste Disposal Sites in Wisconsin, all of which are incorporated herein, together with future amendments thereto, as if fully set forth.

- (d) *Five Year Time of Travel (TOT)*. The five year TOT is a portion of the recharge area, the outer boundary of which it is determined or estimated that groundwater and potential contaminants will take five years to reach a pumping well. The five year TOT for the City of Tomahawk Water Utilities’ Municipal Wells Number 4 and Number 5 are established based on the volumetric flow equation. The TOT area is shown on the map. The TOT area shown on the map is hereafter referred to as the “TOT”.
 - (e) *Groundwater Divide*. Ridge in the water table, or potentiometric surface, from groundwater moves away at right angles in both directions. Line of highest hydraulic head in the water table or potentiometric surface.
 - (f) *Groundwater Protection Overlay District*. Shall be defined as that area within a 1,200 foot radius of either Well Number 4 or Well Number 5 shown on the map attached as Exhibit 1 and incorporated herein as if fully set forth.
 - (g) *Recharge Area*. Area in which water reaches the zone of saturation by surface infiltration and encompasses all areas or features that supply groundwater recharge to a well.
 - (h) *Well Head Protection Area*. Those proportions of the TOT from Well Number 4 or Well Number 5 which lie within the City of Tomahawk corporate limits.
- (5) *Well Head Protection Area*.
- (a) *Intent*. The area to be protected is the Tomahawk Well Number 4 and Well Number 5 well head protection area (hereinafter “WPA”), as determined by the plan, contained within the city boundary limits.
 - 1. These areas are designated on the map. These lands are subject to land use and development restriction because of their close proximity to the TOT and the corresponding high threat of contamination.
 - 2. Minimum separate distances from potential sources of contamination as defined in the DNR Code Chapter NR 811.16(4)(d), latest version, shall also be maintained when these separate distances exceed the dimensions of the well head protection area illustrated on the map.

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(b) *Permitted Uses.* The following are the only permitted uses within the WPA.

1. Any existing use, even though listed on prohibited uses, below, located within such areas to the extent that use currently exists, subject to the requirements for existing prohibited uses, subsection (e) below.
2. Those uses permitted under the Tomahawk Zoning Code consistent with zoning map, as amended by action of the Tomahawk city (common) council and which are not prohibited under (sub)section (c) below.

(c) *Prohibited Uses.* The following uses, if created after the adoption of the WHP Ordinance, are prohibited uses within the well head protection area designated on the map. These uses are prohibited based on the high probability that activities routinely associated with these uses (storage, use, and handling of potential pollutants) will cause groundwater contamination. Uses not considered permitted uses:

1. Underground storage tanks of any size.
2. Septage and/or sludge spreading.
3. Animal waste land spreading.
4. Animal waste facilities.
5. Animal confinement facilities.
6. Gas stations.
7. Vehicle repair establishments, including auto body repair.
8. Printing and duplicating businesses.
9. Bus or truck terminals.
10. Repair shops.
11. Landfills or waste disposal facilities.
12. Wastewater treatment facilities.
13. Spray wastewater facilities.
14. Junkyards or auto salvage yard(s).
15. Bulk fertilizer and/or pesticide facilities.

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16. Asphalt products manufacturing.
17. Dry-cleaning businesses.
18. Salt storage.
19. Electroplating facilities.
20. Exterminating businesses.
21. Paint and coating manufacturing.
22. Hazardous and/or toxic materials storage.
23. Hazardous and/or toxic waste facilities.
24. Radioactive waste facilities.
25. Recycling facilities.
26. Cemeteries.
27. Mining and quarrying.

(d) *Upgraded Usage.* Where any of the uses listed in (subsection) (c) above exist within the WPA on the effective date of this ordinance, owners of these facilities will be allowed to upgrade such facilities or enhance groundwater protection. Plans for the permit issued by the city building inspector's office, prior to any work being initiated (sic). Expansion of the prohibited use may be allowed with approval of the planning (and zoning) commission.

(e) *Requirements for Existing Prohibited Uses (subsection) (5) (c) Above.*

1. Such uses shall provide copies of all federal, state, and local facility operation approvals or certificate(s) to the city clerk-treasurer and ongoing environmental monitoring results to the city director of public works.
2. Such uses shall provide additional environmental or safety structures or monitoring as deemed necessary by the city, which may include, but are not limited to, storm water runoff management and monitoring.
3. Such uses shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.

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4. Such uses shall have the responsibility of devising and filing with the city a contingency plan satisfactory to the city clerk-treasurer for the immediate notification of city officials in the event of an emergency.
- (6) *Enforcement.*
- (a) In the event the individual and/or facility engaging in permitted uses(s) under this ordinance causes the release of any contaminants which endangers the WPA, the activity causing said release shall immediately cease, and a cleanup satisfactory to the city shall occur.
 - (b) The individual/facility causing the release of contaminants shall be responsible for all costs of cleanup. The costs of cleanup shall include, but not limited to, city consultant fees, at the invoice amount plus administrative costs for oversight, review, and documentation.
 1. The cost of city employees' time associated in any way with the cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the city representing the city's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits.
 2. The cost of city equipment employed.
 3. The cost of mileage reimbursed to city employees attributed to the cleanup.
 - (c) Following any such discharge, the city may require additional test monitoring and/or bonds/sureties as it deems necessary and reasonable.
 - (d) Penalties for noncompliance shall be provided pursuant to Chapter 24 (Section 17-43) of this code (appendix).

Sections 17-33 – 17-39. Reserved for Future Use.

Section 17-40. Conditional Uses.

- (1) *Intent.* This code (appendix) regulates most uses as permitted uses or accessory uses within each zoning district. However, certain types of uses require individual consideration to determine if the use would be suitable at a specific location, taking into consideration the city master plan, nearby uses, attributes of the proposed use and specific site and the public need for the particular use. Therefore, such conditional uses listed in this code (appendix) may be permitted only when authorized by the plan (planning and zoning) commission. Application for a conditional use permitted shall be made as described below.

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The plan (planning and zoning) commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, street access, traffic generation and circulation, drainage, sanitary and storm sewer, water systems, landscaping, park requirements and proposed operation. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, lighting, fencing, planting screens, hours of operation, traffic improvements, deed restrictions, increased yards or parking requirements may be required by the plan (planning and zoning) commission upon its finding that these are necessary to fulfill the purpose and intent of this code (appendix).

- (2) *Permits.* The plan (planning and zoning) commission may authorize the building inspector to issue a building permit or a conditional use permit after review and public hearing.
- (3) *Application.* Applications for a conditional use shall be made in duplicate to the city clerk. The following information shall be provided at the time of application:
 - a. Names and addresses of the applicant, owners, architect, engineer, planner, surveyor and all abutting and opposite property owners within 100 feet of the proposed use exclusive of street right-of-way.
 - b. A written description of the conditional use, describing its unique characteristics, and a plan of operations describing the character of the operation in terms of its impact upon traffic facilities, storm drainage, sewage disposal, portable water supply, hours of operation and environmental character with particular emphasis on control of any possible noise, dust, odor or other undesirable operating characteristics.
 - c. Site plan as described in Section 17-09.
 - d. Additional information as required by the plan (planning and zoning) commission or the building inspector.
- (4) *Compliance* with all other provisions of this code (appendix), such as lot width and area, yards, height, parking, loading, traffic and highway access shall be required of all conditional uses.
- (5) *Recording of Conditional use Provisions.* Conditional use provisions shall be described on forms provided by the city and signed by both the city and property owner(s) and recorded with the Lincoln County Register of Deeds Office as a covenant on the property. Recording fees shall be paid by the owner.
- (6) *Revocation.* The plan (planning and zoning) commission, after public hearing, may revoke the conditional use permit at any time if it is not in compliance with the conditions imposed or if there has been substantial change in the

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development without prior written approval of said changes by the plan (planning and zoning) commission, or if the approved conditional use is not commenced within six months of approval.

- (7) *Changes.* Any changes to the operations or terms and conditions of the conditional use shall be processed as described above in Section 17-40(3) (subsection (3) of this section) as if the conditional use was being initially established.

Section 17-41. Non-Conforming Uses.

In order to avoid individual hardship whenever reasonable, and not in conflict with the general welfare of the City of Tomahawk, and for purposes herein outlined, the following provisions shall apply to all districts:

- (1) *Non-Conforming Uses Permitted.* Except herein specified, the lawful use of any building, structure or land existing at the time of the enactment of this code (appendix) may be continued although such use does not conform to the provisions of this code (appendix).
- (2) *Enlargement of Non-Conforming Use.* A non-conforming use shall not be extended, but the extension of a use to any portion of a building which portion is at the time of the adoption of this code (appendix) primarily arranged or designed for such non-conforming use, shall not be deemed to be an extension of a non-conforming use.
- (3) *Restoration or Remodeling.* Restoration or remodeling involving structural alterations made to a non-conforming building shall not, during its life, exceed 50 percent of the assessed value, unless permanently changed to a conforming use. However, a non-conforming building damaged by fire, explosion, tornado, earthquake or similar uncontrollable cause to the extent of no more than 50 percent of its value may be repaired or rebuilt within two years of the date of such damage, but not thereafter.
- (4) *Discontinuance.* If a non-conforming use is discontinued for a period of 12 months, any future use of the building and premises shall be in conformity with the provisions of this code (appendix).
- (5) *District Changes.* The foregoing provisions of this section shall also apply to non-conforming uses in districts hereafter changed.
- (6) *Order of Classification of Districts.* The order of classification of uses from the highest to the lowest for the purposes of this code (appendix) shall be as follows:

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1. Agricultural Preservation.
 2. Single Family Residential.
 3. Two-Family Residential.
 4. Multi-Family Residential.
 5. Service Business.
 6. Central Business.
 7. General Commercial.
 8. Light Industrial.
 9. Heavy Industrial.
- (7) *Changes to Non-Conforming Uses.* A non-conforming use may be changed to a use of a higher classification but not to a use of a lower classification, nor shall a non-conforming use be changed to another use of the same classification unless the new use shall be deemed by the board of appeals, after public notice and hearing, to be no more harmful to the surrounding neighborhood, from the standpoint of the purposes of this code (appendix), than the existing non-conforming use.

Section 17-42. Performance Standards for Industrial and Commercial Uses.

- (1) *Intent.* It is the intent of this section to describe performance standards for the regulation of industrial and commercial uses to establish an objective and equitable basis for control to insure (ensure) that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards.
- (2) *Control of Hazardous Air Pollutants.*
 - a. Operations or activities which emit into the ambient air, from any direct or portable source, any matter that will affect air quality, shall perform in accord with the limitations and procedures established in Wisconsin Administrative Code NR (chapters) 400-449.
 - b. Hazardous pollutants are specifically controlled in accord with (Wisconsin Administrative Code) NR (chapter) 445.

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(3) *Control of Particulate Emissions and Dust.*

- a. No operation or activity shall emit into the ambient air, from any direct or portable source, any matter that will affect particulate emissions in excess of the limitations established in Wisconsin Administrative Code NR (chapter) 415.
- b. Fugitive dust and other types or emissions and air pollution from sources such as storage areas, outdoor operation yards and roads or parking lots within any lot shall be kept to a minimum by appropriate paving, spraying/watering, application of suitable chemicals, landscaping or other acceptable and environmentally safe methods in accordance with Wisconsin Administrative Code NR (section) 415.04.

(4) *Control of Odors.* No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Wisconsin Administrative Code NR (chapter) 429.

(5) *Control of Fire and Explosive Hazards.*

- a. All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices that are standard in the industry. All such activities shall be in compliance with the state statutes, applicable Wisconsin Administrative Codes and the municipal code of the city. When such activities are not specifically governed by law, the most current standards of N.F.P.A. (National Fire Code Standards) shall apply.
- b. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have non-combustible exterior walls and an automatic fire extinguishing system.
- c. The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the Tomahawk Fire Department and in accord with their requirements to minimize fire and explosive hazards.

(6) *Water Quality Standards.*

- a. No activity shall locate, store or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate or wash into surface or subsurface waters so as to

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contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant or aquatic life.

- b. In addition, no activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wisconsin Administrative Code NR (chapter) 102.
- (7) *Noise.* No operation or activity shall transmit any noise beyond the property line of the source as to become a nuisance or adversely adjacent uses.
- (8) *Vibration.*
- a. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
 - b. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.
- (9) *External Lighting, Glare and Heat.* No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of a manufacturing district. Operations producing light or lighting shall be shielded so that light rays do not adversely affect adjacent areas.

Cross Reference – Businesses, Chapter 22.

Section 17-43. Administration, Enforcement, Penalties.

- (1) *Plan (Planning and Zoning) Commission.* The city plan (planning and zoning) commission has been designated by the common council as the advisory body for the City of Tomahawk in planning and zoning matters.
- (2) *Building Inspector.* The building inspector is the administrative official designated by the common council to administer and enforce this code (appendix). He may be provided with the assistance of such other persons as the city plan (planning and zoning) commission may direct, including the police department and city attorney. The building inspector is hereby authorized and directed to enforce all provisions of this code (appendix), investigate all complaints, give notice of violations, issue orders to comply with the zoning code and assist the city

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attorney in the prosecution of violators. The building inspector may enter at any reasonable time onto any public or private lands to make a zoning inspection while in the performance of his or her duties.

- (3) *Enforcement.* In the event any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this code (appendix), the building inspector or any other appropriate city authority or any person who may be damaged by such violation, in addition to other remedies, may institute injunction, mandamus or other appropriate action in proceeding to prevent the violation in the case of each such building or use of land.
- (4) *Penalties.* Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this ordinance (appendix), shall, upon conviction, be fined not less than \$25.00 nor more than \$200.00 for each offense, together with the cost of prosecution, or shall be imprisoned in (the) county jail of Lincoln County, Wisconsin, until said fine and forfeiture are paid, but not exceeding 30 days. Each day that a violation continues to exist shall constitute a separate offense.

Cross Reference – Administration, Chapter 2.

Section 17-44. Legal Status.

- (1) *Conflict with Other Laws.* Whenever the provisions of this code (appendix) impose more restrictive standards than are required in or under a statute or other legal document, the requirements of this code (appendix) shall govern. Whenever the provisions of any other statute or legal document require more restrictive standards than are required by this code (appendix), the provision of such statute or document shall govern.
- (2) *Validity.* Should any section, clause or provision of this code (appendix) be declared by the courts to be invalid or unconstitutional, such declaration shall not affect the validity of the code (appendix) as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional.
- (3) *Repeal of Conflicting Ordinances.* All codes and parts of codes in conflict herewith are repealed.
- (4) *Effective Date.* This code (appendix) shall be in full force and effect from and after its passage and publication as provided by law.

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Section 17-45. Certificate of Occupancy.

Certificates of occupancy shall be issued in accordance with the following provisions:

- (1) *When Required.* No vacant land shall be occupied or used, except for agricultural purposes, and no buildings hereafter erected or structurally altered shall be occupied or used until a certificate of occupancy is issued by the building inspector stating that the building or the proposed use of the building or of the land complies with the provisions of this code (appendix). A like certificate shall be issued for the purpose of maintaining, reviewing, changing or extending a non-conforming use. A certificate of occupancy is required for any change of type of occupancy or use of any building or land.
- (2) *Records.* It shall be the duty of the building inspector to keep a record of all certificates of occupancy issued and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.
- (3) *Denials.* A certificate of occupancy shall not be issued unless the proposed use of the building or land conforms to the applicable provisions of this code (appendix) and the health and building laws and ordinances, or unless the building as finally constructed complies with the sketch or plans upon which the permit was issued.
- (4) *Temporary Occupancy.* The building inspector may issue a temporary certificate of occupancy for part of a facility provided the common council reviews such a request and may establish special requirements for such temporary occupancy.
- (5) *Compliance.* Upon written request from the owner, the building inspector shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this code (appendix), certifying after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of this code (appendix).

Section 17-46. Changes and Amendments.

- (1) *Authority.* Whenever the public necessity, convenience or general welfare or good zoning practice require, the (common) council may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this code (appendix) or amendments thereto. Such change or amendment shall be submitted to (the) plan (planning and zoning) commission for review and recommendation.
- (2) *Initiation.* A change or amendment may be initiated by the (common) council or the plan (planning and zoning) commission or by a petition of one or more of the owners of property within the area proposed to be changed.

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- (3) *Petitions.* Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the city clerk. The petition shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
 - a. Plot plan drawn to scale showing the area proposed to be rezoned, its location, its dimensions and the location and existing use of all properties within 200 feet of the area proposed to be rezoned, exclusive of street right-of-ways.
 - b. Additional information required by the plan (planning and zoning) commission or the (common) council.
- (4) *Recommendations.* The plan (planning and zoning) commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified or denied. The recommendation shall be made in writing to the (common) council.
- (5) *Hearings.* The (common) council shall hold a public hearing for each petition and shall give notice, as specified in Section 17-47 of this code (appendix).
- (6) *Council Action.* Following such hearing and after careful consideration of the plan (planning and zoning) commission's recommendations, the (common) council shall vote on the proposed change or amendment.
- (7) *Protest.* In the event of a protest against such district change or amendment to the regulations of this code (appendix), duly signed and acknowledge(d) either by the owners of 20 percent or more of the areas of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent to the land included in the proposed change, or by the owners of 20 percent or more of land extending 100 feet from the street frontage of such opposite land. Such a change or amendment shall not become effective except by the favorable vote of three-fourths of the full (common) council.

Section 17-47. Public Hearings.

Notice of any public hearing which the (common) council or the plan (planning and zoning) commission is required to hold under the terms of this code (appendix) shall specify the date, time and place of said hearing and shall state the matter to be considered at said hearing. Notice shall be published in the official newspaper of the city at least once each week for two consecutive weeks and the hearing shall not be held until at least seven days following the last publication. The city clerk shall also give at least ten days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed action, and to the owners of property within 100 feet of the land to be affected by the proposed action.

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Section 17-48. Board of Appeals.

- (1) *Appointment.* A board of appeals is hereby established to consist of five members and two alternates, who shall be appointed by the mayor and approved by the common council. The members and alternate of the board shall serve without compensation. The city manager shall appoint one member as chairperson. The secretary shall be selected by the board. The term of office of members and alternates shall be in accord with provisions of the Wisconsin Statutes.
- (2) *Authority.* The board shall have jurisdiction of certain matters arising in connection with the administration, enforcement or interpretation of this code (appendix) as herein provided.
- (3) *Meetings.* All meetings of the board shall be held at the municipal building unless a different meeting place is announced in the public notice of the meeting. All meetings shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. Three members shall constitute a quorum.
- (4) *Public Hearings.* Appeals to the board of appeals shall be preceded by the application and posting of a notice giving the date, place, time and subject matter of the appeal as specified in Wisconsin Statutes § 62.23(7)(e)6. Notice of the public hearing shall be given by the city clerk to parties in interest including the applicant, the owner(s) of the affected property, affected state agencies and the owners of property within 300 feet of the land affected by the proposed appeal.
- (5) *Conflict of Interest.* A member shall refrain from serving when he or she has a personal or financial interest in a case before the board; in such cases, the alternate shall be eligible to serve as a member.
- (6) *Rules of the Board.* The board shall adopt from time to time such rules and regulations as it deems necessary to carry into effect the provisions of this code (appendix), and of Wisconsin Statutes § 62.23(7)(e). The board shall keep minutes of its proceedings, showing the vote of each member upon a question, or if absent to (or) failing to vote, showing such fact. The final disposition of appeals shall be by recorded resolutions indicating the reasons of the board therefore, all of which shall be a public record. The concurring vote of four members of the board shall be necessary to reverse any order or determination of the building inspector or to decide in favor of the applicant any matter upon which they are required to pass or to effect any variation of this code (appendix).
- (7) *Who may Appeal to Board.* Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the City of Tomahawk within a reasonable time as shall be prescribed by the board by

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general rule, by filing with the building inspector and with the board a notice of appeal specifying the grounds thereof. The building inspector shall forthwith transmit to the board all papers constituting a record upon which the action appealed from was taken. The board shall fix a reasonable time for the hearing of the appeal, giving public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Upon the hearing, any party may appeal in person or by agent or attorney.

(8) *Powers of the Board.* The board shall have the following powers:

- a. To hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by the building inspector in the administration of this ordinance (appendix).
- b. To permit the reasonable extension of a district where the boundary lines of a district divide the lot in single ownership as of the date of adoption of this code (appendix).
- c. To interpret the provisions of this code (appendix) in such a way as to carry out the intent and purpose of the plan where the street layout actually on the ground varies from the street layout as shown on the zoning map.
- d. To permit a temporary building for business or industry in a residence district which is incidental to the residential development, such permit to be issued for a period of not more than one year.
- e. To permit a change or substitution of non-conforming use to another use of the same classification where the board, after a public hearing thereon, determines that the proposed use would not be more harmful to the surrounding neighborhood, from the standpoint of the purposes of this code (appendix), than the existing non-conforming use.
- f. To authorize upon appeal in specific cases such variance from the terms of this code (appendix) as would not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this code (appendix) would result in a practical difficulty or an unnecessary hardship, so that the spirit of this code (appendix) shall be served and substantial justice done.
- g. In the exercise of its powers, the board may, in conformity with the provisions of the law, reverse or affirm, wholly or partly modify the requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the building inspector.

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- (9) *Standards and Findings.* Pursuant to Wisconsin Statutes § 62.23(7)(e)1. wherein the creation of a board of zoning appeals by ordinance may include establishing appropriate conditions, safeguards and general or specific rules to guide said board, the following standards are hereby imposed to provide the board with direction consistent with this ordinance (appendix) in the conduct of the board's powers, and the board, in each case, in granting a petition shall first render findings which satisfy itself that all of the following facts and conditions exist and the board shall so indicate in its minutes:
- a. *Physical Conditions v. Convenience.* That there are present actual physical conditions applying to the lot, parcel, building, structure, use or intended use on that premises which are creating the practical difficulty or unnecessary hardship in the application of this code (appendix), as distinguished from a mere inconvenience to the owner if the strict letter of the regulations are required.
 - b. *Unique v. General Conditions.* That the conditions noted in paragraph (subsection) (9)a. above are unique, exceptional, extraordinary or unusual circumstances applying only or primarily to the property under appeal are not of such a general or recurrent nature elsewhere in the same zoning district as to suggest or establish the basis for code (appendix) changes or amendments, or of having that effect if relied upon as the basis for granting an appeal.
 - c. *Absence of Precedent.* That in granting an appeal there will not be created a general precedent which encourages the filing of similar appeals to take advantage of the precedent without the existence of properly qualifying conditions.
 - d. *Absence of Detriment.* That in granting an appeal there will not be created initial detriment to the subject, adjacent or neighborhood properties or to the general public interest.
 - e. *Conditions not Self-Imposed by Appellant.* That the alleged conditions creating the difficulty or hardship were not caused by the appellant nor by any person still having an interest in the property. A self-imposed hardship shall not be a basis for granting a variance.
- (10) *Appeals from the Decisions of the Board.* Any person or persons, jointly or severally, aggrieved by the decision of the board, or any taxpayer, or any officer, department, board or bureau of the City of Tomahawk, may, within 30 days after the filing of the decision in the office of the city clerk, but not thereafter, present to a court of contempt jurisdiction a petition, duly verified, setting forth that such decision was illegal, in whole or in part, specifying the grounds of illegality whereupon such decision of said board shall be subject to review by certiorari as provided by law.

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Cross Reference – Boards, Commissions, and Committees, § 2-191 et seq.

Section 17-49. Reserved for Future Use.

Section 17-50. Schedule of Fees, Charges and Expenses.

- (1) *Establishment.* The common council may establish a schedule of fees, charges and expenses and a collection procedure for zoning changes, appeals and other matters pertaining to this code (appendix).
- (2) *Collection Office.* The schedule of fees, charges and expenses shall be posted in the office of the city clerk, who shall be responsible for their collection. The schedule may be altered or amended only by the common council. Until all applicable fees, charges and expenses have been paid in full, no action will be taken on any application, appeal or other matter requested.

SCHEDULE OF FEES, CHARGES AND EXPENSES FOR ZONING-RELATED ACTIVITIES:

1. Application for rezoning.....	\$100,000
2. Application for planned unit development....	\$100.00, plus administrative costs
3. Application for amendment to zoning code.....	\$50.00
4. Filing of zoning appeal.....	\$50.00
5. Certificate of occupancy, when included with permit.....	No cost
6. Copy of zoning code.....	Current price
7. Copy of zoning map.....	Current price
8. Application for home occupation.....	\$25.00
9. Conditional use.....	\$50.00
10. Certified survey map/plats review fee and approval.....	\$25.00
11. Accessory building permit.....	Fee amount to be determined
12. Parking lot construction permit.....	Fee amount to be determined

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Section 17-51. Definitions.

For the purpose of this chapter (appendix), certain terms and words are herewith defined as follows: Words in the present tense include the future; words in the singular number include the plural, words in the plural number include the singular; the word “building” includes the word “structure” but does not include pole lines and fences; and the word “shall” is mandatory and not directory.

Accessory Building: A subordinate building or portion of the main building, the use of which is purely incidental to that of the main building. Accessory buildings shall not include trailers or vehicles, or parts thereof.

Accessory Use. A use or detached structure subordinate in nature, extent or purpose to the principal use of the building or lot, and serving a purpose customarily incidental to the principal use or principal structure.

Adult Establishment:

- (1) The types of adult establishments permitted conditionally are adult book stores, adult motion picture theaters, adult mini-motion picture theaters and adult gift stores, defined as follows:
 - a. *Adult Book Store.* An establishment having a substantial or significant portion of its stock in trade (in) books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as defined below, or an establishment with a segment or section devoted to the sale or display of such material.
 - b. *Adult Motion Picture Theater.* An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as defined below, for observation by patrons therein.
 - c. *Adult Mini-Motion Picture Theater.* An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as defined below, for observation by patrons therein.
 - d. *Adult Gift Stores.* An establishment having its stock in trade consist of objects characterized by depicting or relating to “specified sexual activities” or “specified anatomical areas”, as defined below.

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(2) For the purposes of the above, the following definitions apply;

- a. *Specified Sexual Activities.* Human genitals in a state of sexual arousal or stimulation; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.
- b. *Specified Anatomical Areas.* Less than completely and opaquely covered human genital(s), pubic region, buttocks and female breast below a point immediately above the top of the areola and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Advertising Sign, Outdoor: A structural poster panel or painted sign, either free-standing or attached to the outside edge (of a building, for the purpose of conveying information, knowledge) or ideas to the public about a subject either related or unrelated to the premise upon which located.

Advertising Structure, Outdoor: Anything constructed or erected, either free-standing or attached to the outside of a building, for the purpose or conveying information, knowledge or ideas to the public about a subject either related or unrelated to the premise upon which located.

Airport, Public. Any airport which complies with the definition contained in Wisconsin Statutes § 114.002(3), or any airport which serves or offers to serve common carriers engaged in air transport.

Alley: A street less than 21 feet wide which affords only a secondary means of access to abutting property.

Apartment: A portion of a residential or commercial building used as a separate housing unit.

Apartment House: See *Dwelling, Multiple*.

Automobile Wrecking Yard: Any premises on which more than one automotive vehicle, not in running or operating condition, is stored in the open.

Basement: A basement is that portion of a building whose floor level is more than 3½ feet below the average contact ground level at the exterior walls of the building. Basements shall not be used for living quarters. Building plans, when submitted for approval, shall show the ground contact level at all corners and midpoints of all exterior foundation walls.

Board: The board of appeals as provided in Section 17-805 (17-48) of this code (appendix).

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Boardinghouse: A building other than a hotel, where meals or lodging and meals are served for compensation for not more than four persons.

Building: A structure having a roof and intended for the shelter, housing or enclosure of persons, animals or chattels.

Building, Alterations Of: Any change or rearrangement of the supporting members (such as bearing walls, beams, columns or girders) of a building, an addition to a building or movement of a building from one location to another.

Building, Front Line Of: The vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, to the mean height between eaves and ridge for gable, hip or gambrel roofs.

Building, Height Of: The vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, to the mean height between eaves and ridge for gable, hip or gambrel roofs.

Building, Principal: A building in which is conducted the main use of the lot on which said building is located.

Business: Includes the commercial, light industrial and heavy industrial uses and districts as herein defined.

Business Offices: An office in which only normal clerical functions or professional services are performed, and specifically eliminating therein the sale, repair or manufacture of articles for sale either on the premises or elsewhere.

Carport: See *Garage, Private*.

Cellar: A story having more than one-half of its height below the mean level of the adjoining ground. A cellar shall not be occupied for living purposes and shall not be counted as a story for the purposes of height measurements.

Clinic: A building used by a group of doctors for the medical examination or treatment of persons or (on) an outpatient or non-boarding basis only.

Club: A building owned, leased or hired by (a) non-profit association or persons who are bona fide members paying dues, the use of which is restricted to said members and their guests.

Conforming Use: Any lawful use of a building or lot which complies with the provisions of this code (appendix).

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Court: An open unoccupied space, other than a yard, on the same lot with a building and which is bounded on two or more sides by the building.

Curb Break: Any interruption or break in the line of a street curb in order to connect a driveway to a street, or otherwise to provide vehicular access to abutting property.

Curb Level: The level of the established curb in the front of the building measured at the center of such front. Where no curb has been established, the city engineer shall authorize and approve the establishment of such curb or its equivalent for the purpose of this code (appendix).

Dwelling, One-Family: A detached building designed, arranged or used for and occupied exclusively by one family.

Dwelling, Multiple: A building or portion thereof used or designated as a residence for three or more families as separate housekeeping units, including apartments, apartment hotels and group houses.

Exception: The use of property, including the use and location of buildings, the size of lots and the dimensions of required yards, otherwise now (not) allowable under the terms of the section, which is permissible by reason of special provisions of the section, or for which a special permit may be issued by the city council or the board of appeals, under conditions specified in this section.

Family: One or more persons occupying one dwelling unit and living as a single housekeeping entity, as distinguished from a group occupying a boardinghouse, lodging-house, or hotel.

Floor Area: The sum of the gross horizontal areas of all floors of a dwelling unit, measured in square feet, exclusive of porches, balconies, garages, basements and cellars, and measured from the exterior faces of the exterior walls or from the centerlines of walls or portions separating dwelling units. For uses other than residential, the floor area shall be measured from the exterior faces of the exterior walls or from the centerlines of walls or partitions separating such uses, and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.

Floor Area for Determining Off-Street Parking Requirements: For the purpose of determining off-street parking requirements, the floor area shall consist of the gross horizontal areas of all floors of a building, or portion thereof, which contains functions requiring off-street parking spaces for customers, employees and visitors. This area shall include selling or working space, office areas, customer service areas and any basement floor area devoted to retailing activities, to the production or processing of goods or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to

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storage purposes, hallways, bathrooms, employee break rooms, mechanical equipment areas and other such area(s) which do not generate the need for parking spaces.

Frontage: All of the property abutting on a street, measured along the street line.

Garage, Private: An accessory building primarily intended and used for the enclosed storage or shelter of the private motor vehicles of the family resident (residing) upon the premises. Carports shall be considered garages within this definition. All garages, storage sheds and accessory buildings must comply with the setback, side yard and rear yard requirements for the zoning district in which they are constructed.

Garage, Storage: A building or portion thereof, other than a private garage, used exclusively for parking or temporary storage of self-propelled vehicles.

Garage, Public: A building other than a private or storage garage, used for the care, repair or storage of self-propelled vehicles or where such vehicles are left for remuneration, hire or sale. This includes premises commonly known as filling stations or service stations.

Home Occupation: An accessory use of a dwelling unit for gainful employment which involves the manufacture, provision or sale of goods and/or services.

Hotel: A building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals and in which there are more than six sleeping rooms, usually occupied singly, and no provision made for cooking in the individual apartments.

House Trailer: A non-self-propelled trailer containing living or sleeping accommodations, which is designed and used for highway travel.

Junkyard: An open space where waste, used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber, tires and bottles. A junkyard also includes an auto wrecking yard, but does not include uses established entirely within enclosed building.

Living Quarters: Living quarters for residential buildings shall include bedrooms, dining room and main kitchen.

Lodging-House: A building, other than a hotel, where lodging is provided for compensation for not more than four persons.

Lot of Record: A lot which is part of a land subdivision plat or certified survey map conforming to the requirements of Wisconsin Statutes Chapter 236, and which has been recorded in the office of the register of deeds of Lincoln County, or a parcel of land which has a specific tax parcel number from the Lincoln County Tax Description Office.

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Lot: A parcel of land occupied or to be occupied by one main building or use, with its accessories and including the open spaces accessory to it. No area shall be counted as accessory to more than one main building or use and no area necessary for compliance with the open space requirements for one main building or use shall be included or counted in the calculation of the open space accessory to any other main building or use.

Lot, Corner: A lot abutting upon two or more streets at their intersection or upon two parts of the same street at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street line is the "corner".

Lot, Depth Of: The mean horizontal distance between the front and rear lot lines.

Lot, Front of Corner: The front of a corner lot is the side of the lot having the least dimension. If both sides are the same dimension, the owner shall, at the time he or she applies for a permit under this code (appendix), choose the street which the lot shall be deemed to front upon.

Lot, Interior: A lot other than a corner lot.

Lot, Reversed Corner: A corner lot which does not front on the same street with the interior lots in the same side, as distinguished from the same end, of the block.

Lot, Through: A lot having frontage on two parallel or approximately parallel streets.

Lot, Width: The horizontal distance between the side lot lines as measured at the setback line.

Lot Lines: The lines bounding the lots as defined herein.

Manufactured Home: A structure certified and labeled as a manufactured home under 42 USC 5401-5426 which when placed on its site is set on an enclosed foundation in accordance with Wisconsin Statutes § 70.043(1), and subchapters III, IV and V of Wisconsin Administrative Code ILHR Chapter 21, or is set on a comparable foundation as approved by the local building inspector, is installed according to manufacturer's instructions, is properly connected to utilities and is a minimum of 24 feet wide. The building inspector may require a plan to be certified by a registered architect or engineer that the foundation system will provide proper support for the home. For (the) purpose of zoning code administration and enforcement, manufactured homes shall be allowed as permitted uses in districts where single family dwellings are listed as permitted uses.

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Mobile Home: A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective July 15, 1976. Any such structure from which its wheels have been removed shall be considered to be a permanent structure for purposes of this code (appendix).

Motel: A tract or parcel of land on which one or more buildings containing rooms for transients are located, open to the public free or for a fee.

Non-Conforming Use: A building, structure or premises legally existing and/or used at the time of adoption of this ordinance (appendix), or any amendment thereto, and which does not conform with the use regulations of the district in which located. Any such building, structure or premises conforming in respect to use but not in respect to height, area, yards or courts, or distance requirements from more restricted districts or uses, shall not be considered a non-conforming use.

Nursery: Any building or lot, or portion thereof, used for the cultivation or growing of plants and all accessory buildings.

Nursery School: Any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas.

Nursing Home: Any building used for the continuous care on a commercial or charitable basis of persons who are physically incapable of caring for their own personal needs.

Parking Area, Semi-Public: An open area other than a street, alley or place used for temporary parking of more than four self-propelled vehicles and available for public use whether free, for compensation or as an accommodation for clients or customers.

Professional Office: The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession.

Roadside Stand: A structure not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered, and not wholly enclosed, and used solely for the sale of farm products produced on the premises.

Setback: The minimum horizontal distance between the street line and the nearest point of a building, or any projection thereof, excluding uncovered steps.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it.

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Story, Half: A story under the gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

Street: A public thoroughfare which affords the principal means of access to abutting property.

Structure: Anything constructed or erected, the use of which requires location on the ground or that is attached to something having a permanent location on the ground.

Structural Alterations: Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof structure or exterior walls.

Tourist Court: A group of attached or detached buildings containing individual sleeping or living units for overnight guests, with garage attached or parking facilities conveniently located to each unit.

Use: The purpose or activity for which land, or buildings thereon, is designed, arranged or intended or for which it is occupied or maintained.

Variance: A departure from the terms of this chapter (appendix) as applied to a specific building, structure or parcel of land, which the board of appeals may permit, contrary to the regulations of this section for the district in which such building, structure or parcel of land is located, when the board finds that a literal application of such regulations will effect a limitation on the use of the property which does not generally apply to other properties in the same district and for which there is not compensating gain to the public health, safety or welfare.

Vision Clearance: An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

Yard: An open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter (appendix).

Yard, Front: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard, Rear: A yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line at the nearest line of the principal building.

Yard, Side: A yard between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard or in the absence of

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either of such yards, to the front or rear lot line as the case may be, except that on a corner lot the side yard adjacent to a street shall extend the full depth of the lot.

Yard, Transitional: A yard that must be provided on a lot in a business district which adjoins a lot in a residence district, or a yard that must be provided on a lot in a manufacturing district which adjoins a lot in either a residence or business district.

Section(s) 17-52 – 17-69. Reserved.

Section 17-70. (Height of Structures in Vicinity of Regional Airport).

- (1) *Definitions.* As used in this ordinance (section), unless the context otherwise requires:
 - a. *Airport* means the Tomahawk Regional Airport located in Section 36, Township 35 North, Range 5 East, Town of Wilson, Lincoln County, Wisconsin.
 - b. *Airport Hazard* means any structure or object of natural growth, which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.
 - c. *Non-Conforming Use* means any structure or tree which does not conform to a regulation prescribed in this ordinance (section) or an amendment thereto, as of the effective date of such regulation.
 - d. *Person* means any individual, firm, partnership, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee or other similar representative thereof.
 - e. *Structure* means any object constructed or installed by man.
 - f. *Trees* do not include shrubs, bushes or plants which do not grow to a height of more than 20 feet.
 - g. *Runway* means a level portion of an airport having a surface specially developed and maintained for the landing and takeoff of aircraft.
 - h. *Height* means the overall height of the top of the structure, including any appurtenance installed thereon, or the top of any object of natural growth.
- (2) *Zones.* All zones are shown on the map dated 9/1/1995, entitled "Height Limitation Zoning Map, Tomahawk Regional Airport, Lincoln County", which is attached hereto and adopted as part of this ordinance (section).

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- (3) *Height Limitation Zones.* Except as otherwise provided in this ordinance (section), no structure shall be constructed, altered, located or permitted to remain after such construction, alteration or location in excess of the height limit indicated on the map referred to in Section II (subsection (2)) thereof.
- (4) *Use Restrictions.* Exceptions. The restrictions contained in Section III (subsection (3)) shall not apply to objects which are less than level at the object site.
- (5) *Non-Conforming Uses.*
 - a. *Not Retro-Active.* The regulations prescribed in Section II (subsection (2)) and Section III (subsection (3)) of this ordinance (section) shall not be constructed to require the removal, lowering or other change or alteration of any non-conforming use, except as otherwise provided by Section VII(b) (subsection (7)b.).
 - b. *Changes.* Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, if the construction or alteration of such was begun prior to the effective date of this ordinance (section), and if such is diligently prosecuted.
 - c. *Removal.* This section shall not interfere with the removal of non-conforming uses by purchase of the use of eminent domain.
- (6) *Administration.* It shall be the duty of the city building inspector to administer and enforce the regulations prescribed therein. Applications for permits and vacancies shall be made to the city building inspector upon a form furnished by the city. Applications for permits or variances shall be granted or denied within 30 days of the date of filing the applications, unless Federal Aviation Administration approval is requested. Applications for action by the board of appeals shall be forthwith transmitted by the city building inspector to the board for hearing and decision. There shall be not change for application or permits.
- (7) *Permits.*
 - a. *Future Uses.* No structure shall hereafter be constructed, erected or installed, or be permitted to remain in any zone created by Section II (subsection (2)) of this ordinance (section) until the owner or his or her agent shall have applied in writing for a permit therefor and obtained such permit from the city building inspector, except structures less than 50 feet in height above the ground. Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment. Application for such permit shall indicate the use for which the permit is desired, and shall describe and locate the use with sufficient particularity to permit the city building inspector to determine whether such use would conform to the regulations

