TITLE 13

Zoning

Chapter 1 Zoning Code
Chapter 2 Floodplain and Shoreland-Wetland Zoning
Chapter 3 Mobile Homes and Trailer Parks

Title 13 – Chapter 1
Zoning Code

Article A – Introduction
13-1-1 Authority
13-1-2 Title
13-1-3 General Purpose
13-1-4 Intent and Purposes in View
13-1-5 Abrogation and Greater Restrictions
13-1-6 Interpretation; Standard Industrial Classifications
13-1-7 Severability and Non-Liability
13-1-8 Repeal and Effective Date
13-1-9 through
13-1-19 Reserved for Future Use

Article B - General Provisions
13-1-20 Jurisdiction and General Provisions
13-1-21 Use Regulations
13-1-22 Site Regulations
13-1-23 Modifications
13-1-24 Screens and Buffers
13-1-25 Filling Activities
13-1-26 Annexation of Territory
13-1-27 Extension of Utilities Outside Corporate Limits
13-1-28 through
13-1-39 Reserved for Future Use

Article C – Zoning Districts
13-1-40 Zoning Districts Designated
13-1-41 District Boundaries
13-1-42 R-l Single-Family Residential District
13-1-43 R-2 Single-Family Residential District (Unsewered)
13-1-44 R-3 Two-Family Residential District
13-1-45 R-4 Multi-Family Residential District
13-1-46 R-5 Residential Estate District
13-1-47 C-l Conservancy District
13-1-48 B-1 Central Business District
13-1-49 B-2 Highway Commercial District
13-1-50 B-3 Business Park District
13-1-51 I-1 Industrial District
13-1-52 A-1 Agricultural District (Non-Livestock)
13-1-53 A-2 Agriculture Enterprise District (Livestock)
13-1-54 AEO Adult Entertainment Overlay District
13-1-55 E-l Mineral Extraction or Landfill Overlay District
13-1-56 WP Wellhead Protection Overlay District

13-1-57 through
13-1-59 Reserved for Future Use

Article D - Planned Unit Development (PUD) Overlay District Procedures
13-1-60 Planned Unit Development Overlay District-Intent
13-1-61 Types of Planned Unit Developments
13-1-62 General Requirements for Planned Unit Developments
13-1-63 Physical Requirements for Planned Unit Developments
13-1-64 Requirements as to Public Services and Facilities
13-1-65 Subsequent Land Division
13-1-66 Procedural Requirements-Intent
13-1-67 Procedural Requirements for Planned Unit Developments
13-1-68 Basis for Approval of the Petition for Planned Unit Development
13-1-69 Determination of Disposition of the Petition
13-1-70 through
13-1-79 Reserved for Future Use

Article E – Conditional Uses
13-1-80 Statement of Purpose-Conditional Uses
13-1-81 Authority of Plan Commission; Requirements
13-1-82 Initiation of Conditional Use
13-1-83 Application for Conditional Use
13-1-84 Hearing on Application
13-1-85 Notice of Hearing on Application
13-1-86 Standards-Conditional Uses
13-1-87 Denial of Application for Conditional Use Permit
13-1-88 Conditions and Guarantees
13-1-89 Validity of Conditional Use Permit
13-1-90 Complaints Regarding Conditional Uses; Revocation of Permit
13-1-91 Bed and Breakfast Establishments
13-1-92 Home Occupations/Professional Home Offices
13-1-93 Public and Semipublic Conditional Uses
13-1-94 Town Houses Conditional Uses
13-1-95 Miscellaneous Conditional Uses
13-1-96 Large Livestock Facilities Conditional Use
13-1-97 through
13-1-99 Reserved for Future Use

Article F – Nonconforming Uses, Structures and Lots
13-1-100 Intent – Nonconforming Uses, Lots and Structures
13-1-101 Article Definitions
13-1-102 Common Ownership of Abutting Nonconforming Lots
13-1-103 Existing Nonconforming Structures
13-1-104 Existing Nonconforming Uses
13-1-105 Changes and Substitutions
13-1-106 Floodplain and Shoreland – Wetland Nonconforming Uses and Structures
13-1-107 Nonconforming Performance Standards
13-1-108 through
13-1-119 Reserved for Future Use

Article G - Traffic Visibility, Loading, Parking and Access
13-1-120 Traffic Visibility Triangle
13-1-121 Loading Requirements
13-1-122 Parking Requirements
13-1-123 Highway Access
13-1-124 Off-Street Parking Restrictions in Residential Areas
13-1-125 through
13-1-139 Reserved for Future Use

Article H - Signs, Canopies, Awnings and Billboards
13-1-140 Purpose of Sign, Canopy and Awning Regulations
13-1-141 Signs, Canopies, Awnings and Billboards-Definitions
13-1-142 Required Permits for Signs, Canopies and Awnings
13-1-143 Signs Not Requiring a Permit
13-1-144 Permitted Sign Types and Locations
13-1-145 Permitted Residential, Agricultural and Conservancy Signs
13-1-146 Landscape Features
13-1-147 Prohibited Signs
13-1-148 Dangerous and Abandoned Signs; Violations
13-1-149 Variances or Exceptions
13-1-150 Construction and Maintenance Regulations for Signs
13-1-151 Special Sign Requirements
13-1-152 Nonconforming Signs
13-1-153 Awnings and Canopies
13-1-154 Violations of Sign Code
13-1-155 through
13-1-159 Reserved for Future Use

Article I- Performance Standards-Industrial Developments
13-1-160 Article Intent
13-1-161 Vibration
13-1-162 External Lighting
13-1-163 Odor
13-1-164 Particulate Emissions
13-1-165 Visible Emissions
13-1-166 Hazardous Pollutants
13-1-167 through
13-1-179 Reserved for Future Use

Article J - Signal Receiving Antennas; Wind Energy Systems, Wireless Telecommunications Systems
13-1-180 Signal Receiving Antennas (Satellite Dishes)
13-1-181 Wind Energy Systems
13-1-182 Mobile Tower Siting
13-1-183 through
13-1-199 Reserved for Future Use

Article K - Accessory Uses and Structures; Screening and Landscaping; Fences and Hedges
13-1-200 Accessory Uses or Structures
13-1-201 Outside Storage of Firewood
13-1-202 Fences and Hedges
13-1-203 Swimming Pools and Hot Tubs
13-1-204 Retaining Walls
13-1-205 through
13-1-219 Reserved for Future Use

Article L – Administration
13-1-220 General Administrative System
13-1-221 Zoning Administrator
13-1-222 Role of Specific City Officials in Zoning Administration
13-1-223 Land Use Permit
13-1-224 Certificate of Compliance
13-1-225 Site Plan Approval
13-1-226 Violations and Penalties
13-1-227 through
13-1-239 Reserved for Future Use

Article M - Changes and Amendments to the Zoning Code
13-1-240 Authority
13-1-241 Initiation of Changes and Amendments
13-1-242 Procedure for Changes and Amendments
13-1-243 Protest
13-1-244 Substandard Lots
13-1-245 through
13-1-259 Reserved for Future Use

Article N – Appeals
13-1-260 Appeals to the Zoning Board of Appeals
13-1-261 Hearing of Appeals
13-1-262 Decisions of Board of Appeals
13-1-263 Variances
13-1-264 Review by Court of Record
13-1-265 through
13-1-279 Reserved for Future Use

Article 0 – Definitions
13-1-280 Definitions

Article A: Introductions

Sec. 13-1-1: Authority.

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

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

Sec. 13-1-2 Title.

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

Sec. 13-1-3 General Purpose.

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

Sec. 13-1-4 Intent and Purposes in View.

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

(a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people;
(b) Divide the City into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
(c) Protect the character and the stability of the residential, business, manufacturing and other districts within the City and to promote the orderly and beneficial development thereof;
(d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
(e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
(f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
(g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;
(h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the City;
(i) Preserve and protect the beauty of the City of Westby;
(j) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
(k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
(1) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
(m) Further the maintenance of safe and healthful water conditions;
(n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
(o) Provide for and protect a variety of suitable commercial and industrial sites;

(p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
(q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the City of Westby;
(r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

Sec. 13-1-5 Abrogation and Greater Restrictions.

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

Sec. 13-1-6 Interpretation; Standard Industrial Classifications.

(a) In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be construed to be a limitation or repeal of any other power now possessed by the City of Westby.
(b) Uses allowed in Commercial and Industrial Districts may be cross-referenced with the Standard Industrial Classification. The SIC number is shown in [ ].

Sec. 13-1-7 Severability and Non-Liability.

(a) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
(b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
(c) The City does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the Common Council, its agencies or employees for any flood damages, or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

Sec. 13-1-8 Repeal and Effective Date.

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

Sec. 13-1-9 through Sec. 13-1-19 Reserved for Future Use.

Article B: General Provisions

Sec. 13-1-20 Jurisdiction and General Provisions.

(a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the City of Westby. The provisions of this Chapter shall be held to be the minimum requirements for carrying out the intent and purpose of this Chapter.

(b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.

(c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.

(d) **Relationship with Other Laws.** Where the conditions imposed by any part of this Chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Chapter or any other laws, ordinances, resolutions, rules or regulations of any kind, the regulations which are more restrictive (or impose higher standards or requirements) shall be enforced.

(e) **Legal Remedies.** No provision of this Chapter shall be construed to bar an action to enjoin or abate the use or occupancy of any land, buildings or other structures as a nuisance under the appropriate state laws.

Sec. 13-1-21 Use Regulations.

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

(a) **Permitted Uses.** Permitted uses, being the principal uses, specified for a district.

(b) **Accessory Uses.** Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.

(c) **Conditional Uses.**

(1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval in accordance with Article E of this Chapter excepting those existent at time of adoption of the Zoning Code.

(2) Conditional use(s), when replaced by permitted use(s), shall terminate. In such case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval in accordance with Article E of this Chapter.

(3) Conditional uses authorized by the Common Council shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.

(4) Conditional uses authorized by the Common Council shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Common Council approval and the procedures required in Article E of this Chapter.

(d) **Classification of Unlisted Uses.** Any use not specifically listed as a permitted use or a conditional use in the districts established in Article C shall be considered to be prohibited except as may be otherwise specifically provided hereinafter. In case of question as to the classification of an unlisted use, the question shall be submitted to the Zoning Board of Appeals for determination, following a recommendation from the Planning Commission, in accordance with the following procedure:

(1) ***Application.*** Application for determination for classification of an unlisted use shall be made in

made in writing to the Zoning Administrator and shall include a detailed description of the proposed use and such other information as may be required by the Zoning Board of Appeals to facilitate the determination.

(2) ***Investigation.*** The Zoning Board of Appeals shall make or have made such investigations as it deems necessary in order to compare the nature and characteristics of the proposed use with those of the uses specifically listed in the Chapter and to recommend its classification.

(3) ***Determination.*** The determination of the Zoning Board of Appeals shall be rendered in writing within sixty (60) days from the application and shall include findings supporting the conclusion. The Zoning Board of Appeals shall determine if the classification of the unlisted use is a permitted use, conditional use or prohibited use in one (1) or more of the districts established in Article C.

(4) ***Effective Date of Determination.*** At the time of this determination of the classification of the unlisted use by the Zoning Board of Appeals, the classification of the unlisted use shall become effective.

Sec. 13-1-22 Site Regulations.

(a) **Street Frontage.** All lots shall abut upon a public street or other officially approved means of access, and each lot shall have a minimum frontage of seventy-five (75) feet; however, to be buildable, the lot shall comply with the frontage requirements of the zoning district in which it is located.

(b) **Principal Structures.**

(1) All principal structures shall be located on a lot. Except in the case of planned unit developments, not more than one (1) principal building or use and two (2) accessory structures, including a private garage, may be located on a lot in any residential district.

(2) The Common Council may permit as a planned unit development more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Common Council may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.

(c) **Dedicated Street.** All lots shall abut a public street or approved private road or way which is constructed to applicable standards. No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

(d) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Common Council, upon the recommendation of the Planning Commission, by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community. The Planning Commission, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Planning Commission may affirm, modify or withdraw its determination of unsuitability when making its recommendation to the Common Council.

(e) **Preservation of Topography.** In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the

Common Council, upon the recommendation of the Planning Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion.

(f) **Setbacks - Decks, Porches, Handicapped Ramps, and Fireplace Chases.** For purposes of this Chapter, handicapped ramps, decks, porches and fireplace chases shall be considered a part of a building or structure for determining setback compliance.

(g) **Vacated Streets.** Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding.

(h) **Obstruction of Unplatted Lands.** All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features of proper subdivision and land platting.

(i) **Dwelling Units.** No cellar, basement or unfinished home, garage, tent, recreational vehicle, trailer or accessory building shall, at any time, be used as a dwelling unit. Basements shall not be used as dwelling units, except where specifically designed for such use through proper damp-proofing, fire-protecting walls and other requirements as may be imposed by the building and housing codes.

(j) **Temporary Uses.** Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Zoning Administrator. The Zoning Administrator may impose conditions on such temporary uses.

(k) **Screening Regulations.** Any use required by this Chapter to be screened in accordance with this Section shall be confined within an opaque fence or wall eight (8) feet high or a visual screen consisting of evergreen or evergreen type hedges or shrubs, spaced at intervals of not more than six (6) feet located and maintained in good condition or in any way out of view of the public.

(1) **Number of Tenants.** No owner of any dwelling shall lease or enter any lease of any one (1) dwelling unit to more than five (5) persons not related by blood, marriage, adoption or legal guardianship, living together as a single housekeeping unit and using common cooking facilities, or more than ten (10) persons living together as a single housekeeping unit and using common cooking facilities in a foster home wherein the foster parents have been licensed by the Wisconsin Department of Health and Social Services.

(m) **Yard Reduction or Joint Use.**

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

(2) No yard or other open space allocated to a structure or parcel of land shall be used to satisfy yard, other open spaces or minimum lot area requirements for any other structure or parcel.

(n) **Lots Abutting More Restrictive District.** Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two (2) districts which abut the district boundary line.

(o) **Double-Frontage Lots.** Buildings on through lots and extending from street to street may have waived 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.

(p) **Area Required for Rubbish Containers.** On all premises on which there will be constructed after the effective date of this Chapter a new structure which will house six (6) or more dwelling units, any existing building converted to six (6) or more dwelling units after such date, or any rooming house or other residential structure having six (6) or more occupants, there shall be provided a sufficient area as determined by the Plan Commission for screened refuse/recycling collection containers. Such areas shall not be located in the front or street side yard and shall be accessible by motorized vehicles or other motorized equipment. Such areas shall not be a required off-street parking area and shall be

shown on the plot plan submitted at the time of application for a permit.

Sec. 13-1-23 Modifications.

(a) **Height.** The district height limitations stipulated elsewhere in this Chapter may be exceeded, but such modification shall be in accord with the following:

(1) ***Architectural Structures.*** Agricultural structures, such as barns, silos and windmills, shall not exceed in height twice their distance from the nearest lot line.

(2) ***Special Structures,*** such as elevator penthouses, gas tanks, grain elevators, scenery lots, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks, are exempt from the height limitations of this Chapter.

(3) ***Essential Services,*** utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Chapter.

(4) ***Communication Structures,*** such as radio and television transmission and relay towers, aerials and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line.

(5) ***Public or Semipublic Facilities.*** Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, government offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

(b) **Yards.** The yard requirements stipulated elsewhere in this Chapter may be modified as follows:

(1) ***Agricultural Projections.*** Chimneys, flues, sills, eaves, belt courses, ornaments, etc., may project into any required yard, but such projection shall not exceed two (2) feet.

(2) ***Essential Services,*** utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.

(3) ***Landscaping and Vegetation*** are exempt from the yard requirements of this Chapter.

(c) **Average Building Setbacks.** In Residential and Business Districts, except for corner lots, required setbacks shall be modified in the following cases:

(1) ***Average Front Yards.*** The required front yards may be decreased in any residential or business district to the average of the existing street yards of the abutting principal structures on each side. Where fifty percent (50%) or more of the frontage on a block is occupied by principal structures having setbacks less than that required by this Chapter, setback on each remaining lot shall be determined in accordance with the following rule. The front building line of a proposed structure shall be no nearer the front lot line than a line joining adjacent front corners of the nearest principal structures which are in the same block frontage on either side of the proposed structure. If, on a block frontage, no principal structure exists to one side of a proposed structure, a structure may be assumed to exist on the corner lot which conforms to the minimum setback and side yard width requirements of this Chapter.

(2) ***Additions.*** Additions in the front yard of existing structures shall not project beyond the average of the existing front yards on the abutting lots or parcels.

(d) **Corner Side Yards.** The required side yard on the street side of corner lots shall be at least fifty percent (50%) greater than the minimum specified for the district.

Sec. 13-1-24 Screens and Buffers.

(a) **Required Screens and Buffers.** Where screens or buffers are required by this Chapter or the Common Council to reduce the impact of existing or proposed uses on adjacent properties, the following standards in Subsections (b) and (c) shall be followed. Buffer yards and screens may be

required jointly or separately.

(b) **Buffer Yards.** Buffer yards are horizontal separations along lot lines that are intended to increase the physical separation between incompatible uses. The width of the required buffer yard shall be determined by the Planning Commission, upon the recommendation of the Zoning Administrator. The minimum width shall be ten (10) feet.

(c) **Screens.** Screens are barriers located in a limited space [ten (10) feet or less] intended to perform a buffering effect, particularly for noise reduction or visual screening. Screens may consist of existing or planted vegetation, fences, walls, earth berms or similar techniques. Plant screens shall be sufficient to provide a year-round screen within three (3) years of installation. Walls or earth berms shall be required where noise reduction is necessary. Screen plantings shall be permanently maintained by the owner of the property, and any plant materials which do not live shall be replaced within six (6) months. The design of all screens shall be approved by the Zoning Administrator.

Sec. 13-1-25 Filling Activities.

(a) **Purpose.** The purpose of this Section is:

(1) To regulate filling activities in order to avoid or mitigate negative impacts of changes to existing drainage patterns.

(2) To monitor the amount and type of material brought into the City or transferred between sites within the City of Westby.

(3) To prevent the creation of hazardous conditions or nuisances from filling activities.

(4) To prevent conflict with the installation of future underground public utilities.

(5) To promote the public health, safety and general welfare of the citizens of the City of Westby without preventing the reasonable development of land.

(6) To encourage site development on public and private property in such a manner as to minimize hazards to life, health, property and natural resources.

(7) To preserve and enhance the City's physical and aesthetic character.

(8) To minimize surface water runoff and diversion which may contribute to flooding and erosion.

(9) To reduce siltation in the City's streams and storm sewer system, and public roadside improvements, and in area streams and waterways.

(10) To promote building and site planning practices that are consistent with the City's natural topography, soils, and vegetative features.

(11) To implement and further the City's Comprehensive Plan and its components.

(b) **Scope.** This Section is not intended to apply to businesses such as landscaping, nurseries, excavating businesses, or others that regularly stockpile fill material as defined herein, on the same property as the business. This Section does not apply to activities regulated by the State of Wisconsin pursuant to NR 718, Wis. Adm. Code "Management of Solid Waste Excavated During Remedial Actions", or any successor regulation.

(c) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) ***Acceptable Organic Materials.*** Wood chips, shredded or chopped bark, sawdust, or similar material.

(2) ***Acceptable Earth Materials.*** Soil, topsoil, clay, sand, gravel, rock, stone, or other similar material.

(3) ***Acceptable Fill Material.*** Acceptable organic materials and acceptable earth materials as defined above, which are free from cinders, ashes, refuse, soft or plastic clays, and vegetable or other similar organic matter such as food waste, trees, branches, or stumps. Acceptable fill material shall be capable of being compacted. Up to ten percent (10%) of acceptable fill material may be cobbles (small boulders) or bricks, not more than twenty-four (24) inches in size in any direction.

(4) ***Completed Application.*** An application which meets all of the requirements as set forth

in this Section, and which has been submitted to the City along with the required number of copies and required fee.

(5) ***Fill Material.*** Any material of any description which is capable of being deposited on land.

(6) ***Filling; Filling Activities.*** Any depositing or stockpiling of any fill material.

(d) **Prohibitions.**

(1) No person shall engage in any activity that involves fill material without a permit, except as provided by this Section.

(2) No person shall use in any fill material *anything* other than acceptable fill material as defined in this Section.

(e) **Permit Required; Exceptions.**

(1) A permit shall be required for any activity that involves fill material as defined herein being brought onto a property from an off-site location.

(2) A permit is not required for the following fill activities:

a. When the total amount of fill material to be brought onto a property is less than fifty (50) cubic yards. A permit is required when the cumulative total amount of fill material brought onto a property over any period of time, starting with the original effective date of this Section, is fifty (50) cubic yards or greater, even though an individual fill activity may involve less than fifty (50) cubic yards of fill.

b. When the fill material is to be brought onto a site for a public improvement project which has been duly authorized by the appropriate public agency or agencies. For the purposes of this Section, a public improvement project shall be defined as a project funded with federal, state or municipal monies such as roads, utilities, parks, public buildings, or similar projects.

c. The construction of any use which is subject to site plan review in accordance with the requirements of this Zoning Code.

d. Ground restoration activities for public utility construction.

(f) **Application.**

(1) An application for a fill permit shall be made by the land owner and shall be filed with the Zoning Administrator who shall provide the application form. The application shall include a fee as determined by Common Council resolution from time to time.

(2) An application for a fill permit shall contain the following information:

a. The address and signature of the property owner and the business address of the person who will conduct the filling operation;

b. The tax parcel number of the property where the fill activity will take place;

c. The nature of the proposed project, the type of fill material to be brought onto the site, an estimate of the number of cubic yards of materials involved, and the depth and composition of proposed fill materials;

d. A statement of the manner in which the project work is to be completed, the kind of equipment proposed to be used, and estimated frequency of vehicle trips;

e. The proposed route which the applicant proposes to use over the public streets and over private property in transporting fill materials;

f. The time within which the project is to be commenced after the granting of the permit and the time when it is to be completed;

g. The measures that will be taken by the applicant to control noise, vibration, dust, and traffic, and the measures that will be provided during the project to prevent soil, dust, or other materials from being deposited on adjoining lands or public or private streets or in waterways through erosion by wind or water;

h. A description of any traffic control devices, public facilities, or public services which will be required for the proposed operation, and a statement indicating how these will be provided;

i. Any measures which the applicant proposes to take to insure public safety, especially the prevention of trespass by children or recreational vehicles on land where filling activities may create a hazardous situation.

j. A drawing of the property which shall contain the following information unless waived by the Zoning Administrator:
   1. North arrow,
   2. The dimensions of the lot and acreage,
   3. Dimensions of area to be filled and proposed phasing and method of stabilization for each phase,
   4. The location of all roads bordering or on the property,
   5. The location of any power or gas lines on the property,
   6. The location of any easements on the property,
   7. Existing drainage patterns on the site,
   8. Natural features, such as significant vegetation, bodies of water, wetlands, and streams on the site as well as within five hundred (500) feet of the site,
   9. The location, size and use of buildings, structures, or other improvements on the land to which the Permit is to apply, as well as any buildings, structures, or other improvements within one hundred (100) feet of the property to which the Permit is to apply,
   10. Ingress and egress to the property,
   11. If the estimated fill volume is five hundred (500) cubic yards or more, a drawing of the property at a scale not to exceed one (1) inch equals two hundred (200) feet, showing any driveways or roads within one hundred twenty-five (125) feet of the driveway to the site, and which must illustrate existing and proposed contours at four (4) feet intervals (minimum) on the site and extending one hundred (100) feet beyond the boundaries of the site. Such contours shall be certified by a registered engineer, surveyor, or landscape architect.
   12. Additional information as the Zoning Administrator may reasonably require to assist in reviewing the application.

k. The names and addresses of all owners of property within two hundred (200) feet of the property where the fill activity will take place.

(3) The applicant shall submit two (2) copies of the application if the estimated fill volume is greater than fifty (50) and less than five hundred (500) cubic yards. The applicant shall submit eighteen (18) copies of the application if the estimated fill volume is five hundred (500) cubic yards or more.

(g) **Notice to Neighboring Landowners.** Upon receipt of a completed application, the Zoning Administrator shall by regular mail provide notice of the application to the record address of all owners of property within two hundred (200) feet of the property where the fill activity will take place. The notice shall inform each owner of a right to file comments on the application within two (2) weeks of the date the notice is mailed.

(h) **Review by Zoning Administrator.** The Zoning Administrator shall approve or disapprove all applications for fill activities involving between fifty (50) and five hundred (500) cubic yards of fill material. The Zoning Administrator may, however, refer any such application to the Planning Commission and Common Council for review and disposition. If, in the opinion of the Zoning Administrator, the proposal described in the application is in compliance with the requirements of this Section, and if the application is for a permit involving less than five hundred (500) cubic yards, a fill permit shall be issued to the applicant. If the applicant or the proposal described therein does not meet the requirements of this Section, the Zoning Administrator shall so notify the applicant in writing, stating the reasons for denial of the permit. Any person or party who is adversely affected by a

decision of the Zoning Administrator under this Section may appeal such decision as provided in Article N of this Chapter.

(i) **Review by Plan Commission and Common Council.** The Zoning Administrator shall review for completeness and compliance with this Section all applications for fill activities involving over five hundred (500) cubic yards of fill material. The Zoning Administrator shall refer to the Planning Commission for review all completed applications for such fill activities. The Zoning Administrator shall return to the applicant any application that is not a completed application. After review and recommendation by the Planning Commission, the Common Council shall approve, disapprove or conditionally approve all completed applications for fill activities involving over five hundred (500) cubic yards of fill material, and any completed application for less than five hundred (500) cubic yards of fill material referred by the Zoning Administrator for Common Council decision under Subsection (h), pursuant to the procedures set forth below:

(1) The Zoning Administrator shall place the application on the next appropriate Planning Commission agenda for a public hearing. The Zoning Administrator shall follow the public hearing notification procedures as set forth in Section 13-1-84.

(2) The Planning Commission shall hold a public hearing on the application and shall make a recommendation on the application based on the information presented to it.

(3) The Planning Commission may recommend to approve, deny, modify, or approve with conditions the application.

(4) If the proposed operation is in compliance with the requirements of this Section, the Planning Commission shall recommend the application for approval.

(5) The Common Council shall consider the recommendation of the Planning Commission, and if it determines that the proposed operation is in compliance with the requirements of this Section, it shall instruct the Zoning Administrator to issue a fill permit. If the proposed operation fails to meet the requirements of this Section, the Common Council shall deny the permit and instruct the Zoning Administrator to notify the applicant, in writing, of the reasons for denial.

(j) **Standards for Approval.** The following standards shall serve as the basis for decisions involving fill permits. In making the following determinations, the Zoning Administrator or Plan Commission and Common Council, as the case may be, shall take into account any comments received in response to the notice provided under Subsection (g) above. In order to issue a permit, the Zoning Administrator or Common Council, as the case may be, must find that each of the following standards is met:

(1) The operation shall not interfere with existing drainage patterns. If the fill does interfere with existing drainage patterns, the applicant shall bear the burden of establishing that the interference does not have a negative impact on adjoining properties or on other properties, streams, or waterways, including, but not limited to, the creation or contribution to landslides, flooding, erosion, increased turbidity, siltation, or other form of pollution to a water course or water body.

(2) The operation shall not result in hazardous traffic situations from vehicles entering or leaving the site.

(3) The operation shall not result in hazardous traffic situations from vehicles entering or leaving the site.

(4) The operation will be carried out in a manner that will not be detrimental to nearby persons or property by reason of excessive production of traffic, noise, dust, fumes, or odor.

(5) The fill material is not hazardous, toxic or otherwise a threat to the public health, safety, and general welfare, and complies with the type of fill permitted by this Section.

(6) The resulting elevation of the land will be compatible with elevations on adjacent properties.

(7) The fill will not restrict a floodway or destroy the storage capacity of a floodplain.

(8) Fill slopes shall not be constructed on natural slopes which are steeper than two (2) horizontal to one (1) vertical.

(9) The slopes of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes

exceeding five (5) feet in depth shall be no steeper than two (2) horizontal to one (1) vertical, except where approved retaining walls are engineered and installed.

(10) When the owner of any parcel shall raise, lower or alter the level or existing grade of a site by a fill or excavation, he/she shall at his/her own expense protect all adjoining property from encroachment by such fill or from danger of collapse due to such excavation either by the erection of an engineered retaining wall or by sloping the sides of such fill or excavation entirely within the confines of the site in a manner approved by the Zoning Administrator or Common Council.

(11) Cut and fill slopes shall be provided with subsurface and surface drainage as necessary to retain slope stability.

(12) The faces of slopes shall be prepared and maintained to control erosion. Check dams, riprap, plantings, terraces, diversion ditches, sedimentation ponds, straw bales or other devices or methods shall be employed where necessary to control erosion and provide safety. Devices or procedures for erosion protection shall be initiated or installed before grading operations and shall be maintained in operable condition by the owner.

(k) **Restrictions Governing Permit Holders.** Every person to whom any permit is granted under this Section shall comply with the following:

(1) The topsoil for the area to be filled shall first be removed before any fill is brought onto the site. If stockpiled on site, the topsoil shall be no higher than twelve (12) feet and comply with Subsection (j)(7) herein.

(2) All vehicles transporting fill materials from or to a project over public streets in the City shall follow the truck route approved with the application.

(3) The resulting elevation of the land shall be compatible with the surrounding area and the land shall be left in a condition suitable for subsequent development for uses permitted in the zoning district in which the land is zoned.

(4) If, at the time the permit is granted, the Zoning Administrator shall determine that any project will present a dangerous condition if left open and unfenced, then such project shall be enclosed by chain link, wire mesh, or snow fence completely surrounding the portion of the land where the project extends; said fence to be not less than four (4) feet in height and to be complete with gates, such gates to be kept locked when operations are not being carried on. Barbed wire shall not be used as part of any such fence.

(5) Any fill materials that may be spilled on any public street or public place from any vehicle transporting materials from the project site shall be immediately removed without damage to the public street or public place at the expense of the permit holder.

(6) Any on-site roads used for the purpose of ingress and egress to the site which are located within three hundred (300) feet of any occupied residential, commercial or industrial establishment must be treated to reduce airborne dust by hand-topping with concrete, asphalt, chemical treatment, or such other means as may be proposed by the applicant and approved by the Zoning Administrator or Common Council at the time a permit is granted.

(7) The slopes of the banks of the materials dumped, stockpiled, or used as fill shall not exceed two (2) horizontal to one (1) vertical and shall be compatible with adjoining grades and land uses. However, the Zoning Administrator or Common Council may, at the time a permit is granted, prescribe more lenient or stricter requirements.

(8) Filling activities shall not interfere with or change existing surface water drainage so as to be detrimental to nearby properties.

(9) When phases of the fill operation are completed, they shall be stabilized by ground cover by the applicant to prevent erosion by wind and water. The Zoning Administrator shall approve the stabilization plan so that continuing fill activities will avoid newly stabilized areas.

(10) The Planning Commission or Zoning Administrator may require additional performance standards or stricter performance standards than are provided herein where, because of peculiar conditions, such standards are necessary to achieve the purposes of these regulations. In addition, the Common Council may also attach and impose conditions, restrictions, or requirements as it shall determine are necessary to achieve the purposes of these regulations. Violations of any performance standard, condition, restriction, or requirements imposed by the Common Council shall be deemed a violation of these regulations.

(11) Conditions imposed by the Zoning Administrator or Common Council shall remain unchanged unless a change is mutually agreed to by the applicant and the Zoning Administrator or Common Council in writing.

(12) An authorized inspection official of the City of Westby may, at all reasonable times, enter upon any public or private premises for inspection purposes and may require production of the permit and plans for any and all excavation and topography changes. No person shall interfere with or refuse to permit access to any such premises to such inspector while in the performance of his/her duties.

(l) **Project Completion.** In order to insure that fill activities authorized by this Section are carried out to completion, the following procedures shall be followed:

(1) Upon completion of a project or expiration of a Fill Permit, the applicant shall contact the Zoning Administrator to arrange for an inspection of the site. If the requirements have not been met, the Zoning Administrator shall notify the applicant in writing of the permit deficiencies and shall pursue permit compliance as authorized by this Section.

(2) For those permits approved by the Common Council, the above procedure shall be followed. In addition to this, the applicant shall retain the services of a registered engineer or surveyor to certify that the final elevations of the fill activity comply with those illustrated by this Section.

(m) **Bond and Insurance.** The Common Council or Zoning Administrator may require as a condition to the granting of a permit that the applicant file or deposit with the City Clerk or Treasurer performance securities in the form of a performance bond, cash, certified or cashier's check payable to the City of Westby, or an irrevocable bank letter of credit, in a form satisfactory to the City Attorney. The Common Council or Zoning Administrator shall, in establishing the amount of the surety, consider the scale of the operations, the prevailing cost to rehabilitate the property upon default of the operator, court costs, and other reasonable expenses to guarantee that the applicant will fully and faithfully perform all applicable performance standards, conditions, restrictions, and requirements of these regulations. An engineer may be consulted in determining the amount of the surety, and such consultation costs shall be added to the permit fee. The Common Council may also require, as a condition to the granting of any such permit, that the applicant deposit a certificate of an indemnity company licensed to do business in the State of Wisconsin or a letter of credit, in an amount reasonably relevant to the proposed work to be done as specified by the Common Council, insuring the City of Westby against any loss or damage to persons or property arising directly or indirectly from the operations of the applicant, or any person acting on his/her behalf, in carrying on any work connected directly or indirectly with the issuance of said permit.

(n) **Expiration of Permit.** A permit granted under this Section shall be valid for one (1) year, at which time it shall automatically expire. A permit holder may apply to the Zoning Administrator for renewal of a permit upon payment of the renewal fee as set from time to time by the City of Westby.

(o) **Suspension or Revocation of Permit.** Any permit granted under these regulations may be suspended or revoked for failure to comply with any provisions of this Section or with any of the performance standards, conditions, restrictions or requirements attached and imposed as part of the issuance of a permit. The Zoning Administrator or his/her designee may suspend a permit and issue a stop-work order if there are grounds to reasonably believe that any provision of this Section or any condition of the permit is being violated. The Common Council may revoke a permit after a hearing

held on ten (10) days' written notice to the permit holder stating the grounds for the revocation, and stating the time and place where such hearing will be held.

Sec. 13-1-26 Annexation of Territory.

(a) **Definitions.** In this Section, the following definitions shall be applicable unless the context clearly requires otherwise:

(1) ***Assessed Value.*** The value for general tax purposes as shown on the tax roll for the year next preceding the filing of any petition for annexation.

(2) ***Legal Description.*** A complete description of land to be annexed without internal references to any other internal references to any other document, and shall be described in one of the following ways:

a. By metes and bounds commencing at a monument at the section or quarter section corner or at the end of a boundary line of a recorded private claim or federal reservation in which the annexed land is located and in one of the following ways:

1. By government lot.
2. By recorded private claim.
3. By quarter section, section, township and range.

b. If the land is located in a recorded subdivision or in an area subject to a certified survey map, by reference as described in Sections 236.28 or 236.34(3), Wis. Stats.

(3) ***Owner.*** The holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his or her interest.

(4) ***Petition.*** Includes the original petition and any counterpart thereof.

(5) ***Real Property.*** Land and the improvement thereon.

(6) ***Scale Map.*** A map that accurately reflects the legal description of the property to be annexed and the boundary of the annexing city or village, and that includes a graphic scale on the face of the map.

(b) **Methods of Annexation.** This Section explains annexation procedures by municipalities pursuant to the Wisconsin Statutes. Subject to Section 66.0307, Wis. Stats., territory contiguous to any city or village may be annexed thereto in the following ways:

(1) ***Direct Annexation.*** A petition for direct annexation may be filed with the City Clerk-Treasurer if it has been signed by either of the following:

a. A number of qualified elector(s) residing in the territory subject to the proposed annexation equal to at least the majority of votes cast for governor in the territory at the last gubernatorial election, and either of the following:

1. The owners of one-half of the land in area within the territory.
2. The owners of one-half of the real property in assessed value within the territory.

b. If no electors reside in the territory subject to the proposed annexation, by either of the following:

1. The owners of one-half of the land in area within the territory.
2. The owners of one-half of the real property in assessed value within the territory.

(2) ***Annexation By Referendum.*** A petition for a referendum on the question of annexation may be filed with the city or village clerk signed by a number of qualified electors residing in the territory equal to at least twenty percent (20%) of the votes cast for governor in the territory at the last gubernatorial election, and the owners of at least fifty percent (50%) of the real property either in area or assessed value. The petition shall conform to the requirements of Section 8.40, Wis. Stats.

(3) ***Elector Determination.*** Whenever a number of electors cannot be determined on the basis of

reported election statistics, the number shall be determined in accordance with the Wisconsin Statutes.

(c) **Notice.**

(1) ***Notice Publication.*** The annexation shall be initiated by publishing in the territory proposed for annexation a Class I notice, under Ch. 985, Wis. Stats., of intention to circulate an annexation petition. The notice shall contain:

a. A statement of intention to circulate an annexation petition.

b. A legal description of the territory proposed to be annexed and a copy of a scale map.

c. The name of the city or village to which the annexation is proposed.

d. The name of the town or towns from which the territory is proposed to be detached.

e. The name and post-office address of the person causing the notice to be published who shall be an elector or owner in the area proposed to be annexed.

(2) ***Service of Notices.*** The person who caused the notice to be published shall serve a copy of the notice, within five (5) days after its publication, upon the clerk of each municipality affected, upon the clerk of each school district affected and upon each owner of land in a town if that land will be in a city or village annexation. Such service may be either by personal service or by registered mail with return receipt requested.

(d) **Petition.**

(1) ***Petition Contents.*** The petition shall state the purpose of the petition, contain a legal description of the territory proposed to be annexed and have attached thereto a scale map. The petition shall also specify the population, as defined in Section 66.0201(2), Wis. Stats., of the territory.

(2) ***Finality of Signatures.*** No person who has signed a petition shall be permitted to withdraw his or her name therefrom. No additional signatures shall be added after a petition is filed.

(3) ***Circulation Timing.*** The circulation of the petition shall commence not less than ten (10) days or more than twenty (20) days after the date of publication of the notice of intention to circulate. The annexation petition shall be void unless filed within six (6) months of the date of publication of the notice.

(e) **Referendum.**

(1) ***Notice.***

a. Within sixty (60) days after the filing of the petition, the Common Council may accept or reject the petition and, if rejected, no further action shall be taken thereon. Acceptance may consist of adoption of an annexation ordinance.

b. Failure to reject the petition shall obligate the city or village to pay the cost of any referendum favorable to annexation. If the petition is not rejected, the clerk of the city or village with whom the annexation petition is filed shall give written notice thereof by personal service or registered mail with return receipt requested to the clerk of any town from which territory is proposed to be detached and shall give like notice to any person who files a written request therefore with the clerk. Such notice shall indicate whether the petition is for direct annexation or whether it requests a referendum on the question of annexation.

c. If the notice indicates that the petition is for a referendum on the question of annexation, the town clerk shall give notice as provided in Subsection (c) above of a referendum of the electors residing in the area proposed for annexation to be held within thirty (30) days after the date of personal service or mailing of the notice required under this paragraph.

d. If the notice indicates that the petition is for direct annexation, no referendum shall be held unless within thirty (30) days after the date of personal service or mailing of the notice required under this paragraph, a petition conforming to the requirements of Section 8.40, Wis. Stats., requesting a referendum is filed with the town clerk signed by at least twenty percent (20%) of the electors residing in the area proposed to be annexed. If such a petition is filed, the clerk shall give notice as provided in Subsection (c) above of a referendum of the electors

residing in the area proposed for annexation to be held within thirty (30) days of the receipt of the petition and shall mail a copy of such notice to the clerk of the city or village to which the annexation is proposed.

e. Any referendum shall be held at a convenient place within the town to be specified in the notice.

(2) ***Clerk To Act.*** If more than one town is involved, the city or village clerk shall determine as nearly as is practicable which town contains the most electors in the area proposed to be annexed and shall indicate in the notice required under Subsection (e)(1) such determination. The clerk of the town so designated shall perform the duties required hereunder and the election shall be conducted in such town, as are other elections and conducted therein.

(3) ***Publication of Notice.*** The notice shall be published in a newspaper of general circulation in the area proposed to be annexed on the publication day next preceding the referendum election and one week prior to such publication.

(4) ***How Conducted.*** The referendum shall be conducted by the town election officials but the town board may reduce the number of such officials for that election. The ballots shall contain the words "For Annexation" and "Against Annexation" and shall otherwise conform to the provisions of Section 5.64(2), Wis. Stats. The election shall be conducted, as are other town elections in accordance with Chs. 6 and 7, Wis. Stats., insofar as applicable.

(5) ***Canvass; Statement To Be Filed.*** The election inspectors shall make a statement of the holding of the election showing the whole number of votes cast, and the number cast for and against annexation, attach thereto their affidavit and immediately file it in the office of the town clerk. They shall file a certified statement of the results in the office of the clerk of each municipality affected.

(6) ***Costs.*** If the referendum is against annexation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be annexed, voting in the referendum, bears to the total number of electors in such territory, voting in the referendum.

(7) ***Effect.*** If the result of the referendum is against annexation, all previous proceedings shall be nullified. If the result of the referendum is annexation, failure of any town official to perform literally any duty required by this Section shall not invalidate the annexation.

(f) **Qualifications.** Qualifications as to electors and owners shall be determined as of the date of filing any petition, except that all qualified electors residing in the territory proposed for annexation on the day of the conduct of a referendum election shall be entitled to vote therein. Residence and ownership must be bonafide and not acquired for the purpose of defeating or invalidating the annexation proceedings.

(g) **Annexation Ordinance.**

(1) ***Enactment.*** An ordinance for the annexation of the territory describing in the annexation petition may be enacted by a two-thirds (2/3)vote of the elected member of the governing body not less than twenty (20) days after the publication of the notice of intention to circulate the petition and not later than one hundred twenty (120) days after the date of filing with the city or village clerk of the petition for annexation or of the referendum election if favorable to the annexation. If the annexation is subject to Subsection (k), the governing body shall first review the reasons given by the Wisconsin Department of Administration that the proposed annexation is against the public interest. Subject to Section 59.692(7), Wis. Stats., such an ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in Section 62.23(7)(d), Wis. Stats. Before introduction of an ordinance containing such temporary classification, the proposed classification shall be referred to and recommended by the Planning Commission. The authority to make such temporary classification shall not be effective when the county ordinance prevails during litigation as provided in Section 59.69(7),

Wis. Stats.

(2) ***Wards.*** The ordinance may annex the territory to an existing ward or may create an additional ward.

(3) ***Effective Date of Annexation.*** The annexation shall be effective upon enactment of the annexation ordinance. The board of school directors in any city of first class shall not be required to administer the schools in any territory annexed to any such city until July I following such annexation.

(h) **Filing Requirements; Surveys.**

(1) ***Recordings.*** The clerk of a city or village which has annexed territory shall file immediately with the secretary of state a certified copy of the ordinance, certificate and plat, and shall send one copy to each company that provides any utility service in the area that is annexed. The clerk shall also record the ordinance with the register of deeds and file a signed copy of the ordinance with the clerk of any affected school district. Failure to file, record or send shall not invalidate the annexation and the duty to file, record or send shall be a continuing one. The ordinance that is filed, recorded or sent shall describe the annexed territory and the associated population. The information filed with the Secretary of State shall be utilized in making recommendations for adjustments to entitlements under the federal revenue sharing program and distribution of funds under Ch. 79, Wis. Stats. The clerk shall certify annually to the Secretary of State and record with the Register of Deeds a legal description of the total boundaries of the municipality, as those boundaries existed on December 1, unless there has been no change in the twelve (12) months proceeding.

(2) ***State Agency Review.*** Within ten (10) days of receipt of the annexation ordinance, certificate and plat, the Secretary of State shall forward two (2) copies of the ordinance, certificate and plat to the Wisconsin Department of Transportation, one (1) copy to the Wisconsin Department of Administration, one (l) copy to the Wisconsin Department of Revenue, one (l) copy to the Wisconsin Department of Public Instruction, one (1) copy to the Wisconsin Department of Commerce, one (1) copy to the Wisconsin Department of Natural Resources, and one (1) copy to the Wisconsin Department of Agriculture, Trade and Consumer Protection, and two (2) copies to the clerk of the municipality from which the territory was annexed.

(3) ***Special Survey.*** Any city or village may direct a survey of its present boundaries to be made, and when properly attested, the survey and plat may be filed in the Office of the Register of Deeds in the county in which the city or village is located, whereupon the survey and plat shall be prima facie evidence of the facts therein set forth.

(i) **Validity of Plats.** Where any annexation is declared invalid but prior to such declaration and subsequent to such annexation a plat has been submitted and has been approved as required in Section 236.l0(1)(a), Wis. Stats., such plat shall be deemed validly approved despite the invalidity of the annexation.

(j) **Action Contesting Validity of Annexation.**

(1) ***Time of Commencement.*** An action on any grounds whatsoever, whether denominated procedural or jurisdictional, to contest the validity of an annexation shall be commenced within the time after adoption of the annexation ordinance provided by Section 893.73(2), Wis. Stats.

(2) ***Preference in Circuit Court.*** An action contesting an annexation shall be given preference in circuit court.

(k) **Review of Annexations.**

(1) ***Annexations Within Populous Counties.*** No annexation proceeding within a county having a population of fifty thousand (50,000) or more shall be valid unless the person causing a notice of annexation is published under Subsection (c) shall within five (5) days of the publication mail a copy of the notice, legal description and a scale map of the proposed annexation to the clerk of each municipality affected and the Wisconsin Department of Administration (Department). The

Department may within twenty (20) days after the receipt of the notice mail to the clerk of the town within which the territory lies and to the clerk of the proposed annexing village or city a notice that in its opinion the annexation is against the public interest. No later than ten (10) days after mailing the notice, the Department shall advise the clerk of the town in which the territory is located and the clerk of the village or city to which the annexation is proposed of the reasons the annexation is against the public interest as defined in Subsection (k)(2) below. The annexing municipality shall review the advice before final action is taken.

(2) ***Definition of Public Interest.*** For purposes of this Subsection, "public interest" is determined by the Wisconsin Department of Administration after consideration of the following:

a. Whether the government services, including zoning, to be supplied to the territory could clearly be better supplied by the town or some other village or city whose boundaries are contiguous to the territory proposed for annexation which files with the circuit court a certified copy of a resolution adopted by a two-thirds vote of the elected members of the governing body indicating a willingness to annex the territory upon receiving an otherwise valid petition for the annexation of the territory.

b. The shape of the proposed annexation and the homogeneity of the territory with the annexing village or city and any other contiguous village or city.

(l) **Unanimous Approval Annexations.** If a petition for direct annexation signed by all of the electors residing in the territory and the owner of all of the real property in the territory is filed with the city or village clerk, and with the town clerk of the town or towns in which the territory is located, together with a scale map and a legal description of the property to be annexed, an annexation ordinance for the annexation of the territory may be enacted by a two-thirds vote of the elected members of the governing body of the city or village without compliance with the notice requirements of Subsection (c) above. In such annexations, subject to Subsection (k), the person filing the copy of the scale map and a legal description of the territory to be annexed to the Wisconsin Department of Administration and the governing body shall review the advice of the Department, if any, before enacting the annexation ordinance.

(m) **Review Requirements.** The provisions of Subsection (1) do not eliminate the necessity for review as required by Subsection (k).

(n) **Annexation of Town Islands.** Upon its own motion, a city or village by a two-thirds vote of the entire membership of its governing body may enact an ordinance annexing territory which comprises a portion of a town or towns and which was completely surrounded by territory of the village or city on December 2, 1973. The ordinance shall include all surrounded town areas except those exempt by mutual agreement of all of the governing bodies involved. The annexation ordinance shall contain a legal description of the territory and the name of the town or towns from which the territory is detached. Upon enactment of the ordinance, the city or village clerk immediately shall file six (6) certified copies of the ordinance in the office of the Wisconsin Secretary of State, together with six (6) copies of the scale map. The Secretary of State shall forward two (2) copies of the ordinance and scale map to the Wisconsin Department of Transportation, one (1) copy to the Wisconsin Department of Natural Resources, one (1) copy to the Wisconsin Department of Revenue, and one (1) copy to the Wisconsin Department of Administration. This subsection does not apply if the town island was created only by the annexation of a railroad right-of-way or drainage ditch. This Subsection does not apply to land owned by a town government which has existing town government buildings located thereon. No town island may be annexed under this Subsection if the island consists of over sixty-five (65) acres or contains over one hundred (100) residents. After December 2, 1973, no city or village may, by annexation, create a town island, which is completely surrounded by the city or village.

(o) **Effective Date of Annexations.** Because the creation of congressional, legislative, supervisory and aldermanic districts of equal population is a matter of statewide concern, any annexation action that

affects a tract of land that is the subject of an ordinance enacted or resolution adopted by any city during the period from January I, 1990 to April 1, 1991, or any later date, expressing an intent to not exercise the city's authority to annex territory before April 1, 1991, or the specified later date, taken by a municipality during the period beginning on April 1 of the year commencing after each federal decennial census of population and ending on June 30 of the year commencing after that census, is effective on July 1 of the year commencing after that census or at such later date as may be specified in the annexation ordinance. This Subsection first applies to annexations effective after March 31, 1991.

(p) **Annexation of Municipal-Owned Territory.** In addition to other methods provided by law and subject to Sections 59.692(7), 66.0223 and 66.0307, Wis. Stats., territory owned by and lying near but not necessarily contiguous to a village or city may be annexed to a village or city by ordinance enacted by the board of trustees of the village or the common council of the city, provided that in the case of noncontiguous territory the use of the territory by the village or city is not contrary to any town or county zoning regulation. The ordinance shall contain the exact description of the territory annexed and the names of the towns from which detached and shall operate to attach the territory to the village or city upon the filing of six (6) copies of a plat showing the boundaries of the territory attached. Two (2) copies of the ordinance and plat shall be forwarded by the Wisconsin Secretary of State to the Wisconsin Department of Transportation, one (1) copy to the Wisconsin Department of Natural Resources, one (1) copy to Wisconsin Department of Revenue, and one (1) copy to the Wisconsin Department of Public Instruction.

Sec. 13-1-27 Extension of Utilities Outside Corporate Limits.

City public utilities will only be extended into and provided to those areas which are within the corporate limits of the City of Westby at the time of the utility extension unless provided otherwise by intergovernmental agreement.

Sec. 13-1-28 through Sec. 13-1-39 Reserved for Future Use.

Article C: Zoning Districts

Sec. 13-1-40 Zoning Districts Designated.

(a) For the purpose of this Chapter, the City of Westby is hereby divided into the following fifteen (15) zoning districts:
   (1) R-1 Single-Family Residential District
   (2) R-2 Single-Family Residential District (Unsewered)
   (3) R-3 Two-Family Residential District
   (4) R-4 Multi-Family Residential District
   (5) R-5 Residential Estate District
   (6) C-1 Conservancy District
   (7) B-1 Central Business District
   (8) B-2 Highway Commercial District
   (9) B-3 Business Park District
   (10) I-1 Industrial District
   (11) A-1 Agricultural District (Non-Livestock)
   (12) A-2 Agriculture Enterprise District (Livestock)
   (13) AEO Adult Entertainment Overlay District
   (14) E-I Mineral Extraction or Landfill Overlay District
   (15) WP Wellhead Protection Overlay District

Sec. 13-1-41 District Boundaries.

(a) **Zoning Map.** The boundaries of the districts enumerated in Section 13-1-40 above are hereby established as shown on a map entitled "Zoning Map, City of Westby," dated October, 1974, as amended, which is adopted by reference and made a part hereof. The map shall bear upon its face the attestation of the Mayor and the City Clerk-Treasurer and shall be available to the public in the office of the City Clerk-Treasurer.

(b) **Boundary Lines.** The boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property lines; center lines of streets, highways, alleys, easements and railroad rights-of-way; or such lines extended unless otherwise noted on the Zoning Map. 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 shall be construed to be lot lines and whether the designations on the Zoning Map are approximately bounded by lot lines, such lot line shall be construed to be the boundary of the district.

(c) **Rules for Interpretation of Zone Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:
   (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
   (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
   (3) Boundaries indicated as approximately following municipal boundaries shall be construed as following municipal boundaries.
   (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(d) **Vacation.** Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

(e) **Annexations and Consolidations.** Annexations to or consolidations with the City subsequent to the effective date of this Chapter shall be placed in the A-1 Agricultural District unless the annexation

ordinance temporarily placed the land in another district. Within ninety (90) days, the Planning Commission shall evaluate and recommend a permanent district classification to the Common Council.

Sec. 13-1-42 R-1 Single-Family Residential District.

(a) **Purpose.** The purpose of the R-l District is:
   (1) To provide the opportunity for construction and maintenance of primarily single family detached dwelling units.
   (2) To maintain compact residential development around existing residential development or in areas presently served, or readily serviceable by public sewer.
   (3) To delineate those areas where predominantly residential development has occurred or will be likely to occur in accordance with the general plan, or overriding economic consideration.
   (4) To guard against surface and subsurface water pollution.
   (5) To protect the integrity of residential areas by prohibiting the incursion of incompatible residential and nonresidential uses.
   (6) To create and preserve the general aesthetics of an area by regulating land use.
   (7) To locate this zone in areas with a soil suitability for residential development of slight or moderate restriction.

(b) **Permitted Uses.** The following uses of land are permitted in the R-1 District:
   (1) Single-family detached dwellings, excluding all mobile homes; for purposes of this Chapter, manufactured homes are included in the definition of single-family dwelling.
   (2) Manufactured homes complying with all of the following requirements and limitations:
      a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
      b. The home shall be installed on an approved foundation system (not a full frost wall) in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or City Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
      c. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
      d. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the City of Westby.
   (3) Private garage facilities not exceeding three (3) total standard stalls for each residential parcel, per Section 13-1-40.
   (4) Accessory uses and buildings as follows:
      a. Off-street parking facilities.
      b. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures per Article K.
      c. Signs as permitted by City ordinances.
   (5) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
   (6) Foster family care.
   (7) Home occupations and professional home offices.
   (8) Libraries, museums, parks and playgrounds.
   (9) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.
   (10) Uses customarily incident to any of the above uses, provided that no such use generates traffic or

noise that would create public or private nuisance.

(c) **Conditional Uses.** The following are permitted as conditional uses within the R-1 District:

(1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.
(2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)
(3) Bed and breakfast inns [7011].
(4) Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops.
(5) Public utility structures, except those incompatible with the characteristics of the district.
(6) Agricultural and gardening uses, except those incompatible with the characteristics of the district, such as the raising of livestock.
(7) Planned residential developments.
(8) Golf courses and private clubs.
(9) Barbering and beauty culture.
(10) Sewage disposal facilities.
(11) Kennels as prescribed in Section 7-1-3(b).
(12) Mobile home parks meeting the requirements of this Code (Title 13, Chapter 3).
(13) Town houses.
(14) Recreational conditional uses.
(15) Public and semipublic conditional uses.
(16) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(d) **Area, Height and Yard Requirements.**

(l) ***Lot.***
a. Area: Minimum eight thousand (8,000) square feet.
b. Width: Minimum seventy-five (75) feet.

(2) ***Building Height.*** Maximum thirty-five (35) feet.

(3) ***Yards.***
a. Street: Minimum twenty-five (25) feet from City's right-of-way line, or in line with existing houses.
b. Rear: Minimum ten (10) feet.
c. Side: Minimum five (5) feet each, except new construction which shall be ten (10) feet.

(4) ***Percent Ground Coverage by All Structures.*** No more than forty percent (40%) coverage of lot area.

(5) ***Percent Slope.*** No building shall be permitted on slopes twenty percent (20%) or greater, except as a conditional use.

Sec. 13-1-43 R-2 Single-Family Residential District (Unsewered).

(a) **Purpose.** The purpose of the R-2 District is:

(1) To delineate those areas where predominantly residential development has occurred or will be likely to occur in accordance with the general plan, without benefit or public sewers.
(2) To guard against surface and subsurface water pollution.
(3) To protect the integrity of residential areas by prohibiting the incursion of incompatible residential and nonresidential uses.
(4) To create and preserve the general aesthetics of an area by regulating land use.
(5) To locate this zone in areas with a soil suitability for residential development without public sewers on lots of twenty thousand (20,000) square feet or more of slight or moderate restriction.

(b) **Permitted Uses.** The following uses of land are permitted in the R-2 District:

(1) Single-family and two-family detached dwellings, not served by public sewer, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.

(2) Manufactured single-family homes complying with all of the following requirements and limitations:

a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.

b. The home shall be installed on an approved foundation system (not a full frost wall) in conformity with the uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or City Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.

c. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.

d. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the City of Westby.

(3) Private garage facilities (attached, detached or a combination of both) not exceeding three (3) total standard stalls for each residential unit, per Section 13-1-40.

(4) Accessory uses and buildings as follows:

a. Off-street parking facilities.

b. Uses and structures customarily accessory and clearly incidental to permissible principal uses and structures per Article K.

c. Signs as permitted by City ordinances.

(5) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.

(6) Foster family care.

(7) Home occupations and professional home offices.

(8) Parks and playgrounds.

(9) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(10) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.

(c) **Conditional Uses.** The following are permitted as conditional uses within the R-2 District:

(1) Community living arrangements and day care centers which have a capacity for nine (9) or more persons.

(2) Utilities (electric substations, telephone switching stations, gas regulators, etc.)

(3) Bed and breakfast inns [7011].

(4) Churches and public buildings, except public buildings housing uses incompatible with the characteristics of the district, such as sewage systems, incinerators and shops.

(5) Public utility structures, except those incompatible with the characteristics of the district.

(6) Agricultural and gardening uses, except those incompatible with the characteristics of the district, such as the raising of livestock.

(7) Mobile home parks meeting the requirements of this Code (Title 13, Chapter 3).

(8) Recreation conditional uses.

(9) Planned residential developments.

(10) Golf courses and private clubs.

(11) Barbering and beauty culture.

(12) Sewage disposal facilities.

(13) Nursery schools.
(14) Kennels as prescribed in Section 7-1-3(b).
(15) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(d) **Area, Height and Yard Requirements.**
(1) ***Lot.***
a. Area: One-half (1/2) acre.
b. Width: One hundred (100) feet, unless the Zoning Administrator approves an alternative method of sewage disposal. Lots shall have a minimum depth of two hundred (200) feet.
(2) ***Building Height.*** Maximum thirty-five (35) feet.
(3) ***Yards.***
a. Street: Minimum twenty-five (25) feet.
b. Rear: Minimum ten (10) feet.
c. Side: Minimum five (5) feet each side, except new construction shall be ten (10) feet.
(4) ***Sanitary Criteria.*** No more than seventy-five percent (75%) of the minimum lot area shall be on a slope greater than twelve percent (12%) or of soil conditions unsuitable for septic tanks. [At least twenty-five percent (25%) of the lot area shall be under twelve percent (12%) and with soil suitable for septic tanks.]
(5) ***Percent Ground Coverage by All Structures.*** No more than forty percent (40%) coverage of lot area.
(6) ***Percent Slope.*** No building shall be permitted on slopes twenty percent (20%) or greater, except as a conditional use.

Sec. 13-1-44 R-3 Two-Family Residential District.

(a) **Purpose.** The purpose of the R-3 District is to provide the opportunity for construction and maintenance of primarily two-family dwelling units served by public sewer.
(b) **Permitted Uses.** The following are permitted uses in the R-3 District:
(1) Two-family dwellings (duplex).
(2) Community living arrangements and day care centers which have a capacity for eight (8) or fewer persons.
(3) Foster family care.
(4) Home occupations and professional home offices.
(5) Garages and accessory buildings as permitted in the R-l District.
(6) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.
(7) Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create public or private nuisance.
(c) **Special Permitted Use – Zero Lot Line Duplexes.** Zero-lot line duplexes are a permitted use allowing for a single-family residential use in each unit in the R-3 Two-Family Residential District providing the following standards are met:
(1) ***Lot Area; Width***.
a. Area: A zero-lot line duplex may be built/divided on the dividing line between two (2) halves of a legal lot of record having at least eight thousand (8,000) square feet in area [four thousand (4,000) square feet per unit side]. Neither unit of a zero-lot line duplex, after division of the lot, may be conveyed unless each unit is located on a portion of the lot which is a minimum of four thousand (4,000) square feet in surface area.

b. Width: Minimum of at least seventy-five (75) feet of lot width [sixty-six (66) feet for post-conversion or construction of units].

(2) ***Side Yard Setbacks.*** Zero (0) feet on side of common wall with adjacent unit. Opposite side yard setback shall be five (5) feet; ten (10) feet with new construction. The minimum side yard setback shall be measured along a line parallel to the street from the closest point of the single structure to the side property line. A two (2) foot eave protrusion shall be permitted across the zero-lot line into the adjoining lot.

(3) ***Street and Rear Yard Setbacks; Height Limitations.*** Same as for undivided two-family dwelling structures in the R-3 District.

(4) ***Common Dividing Wall***. The common wall dividing the zero-lot line duplex shall be centered on the dividing line between the two (2) halves of the lot, and shall be a minimum of one (1) hour fire wall construction per State Building Code standards. The common fire wall shall be constructed from the lowest floor level, including the basement, to the underside of the roof sheathing. Such common wall shall be masonry in the basement area.

(5) ***Separate Utilities Required.*** Each lot/unit shall have separate water laterals and shut-off valves, separate sewer laterals, separate water meters, and separate electrical service meters. Each unit shall be equipped with its own forced-air furnace heating system. When zero-lot line duplex dwelling units are created, the plans, specifications, and construction of such building shall require that the installation and the construction of sewer, water and other utility services be done in such a manner so as to provide separate systems to each dwelling unit.

(6) ***Joint Maintenance Agreement.*** When zero-lot line duplex dwelling units are created, a joint maintenance agreement shall be entered into by the owners of both zero-lot line units to ensure that equal and reasonable maintenance and repairs are performed for both single-family attached residential units. Prior to the issuance of a building or zoning permit for the construction or conversion of a zero-lot line duplex, or occupancy of either unit, the property owners(s) shall cause the fully executed joint maintenance agreement to be recorded with the County Register of Deeds so that the terms and conditions of the agreement will be a covenant running with each of the lots and binding upon all owners of each of the lots on which the zero-lot line duplex is located. A copy of the recorded joint maintenance agreement, showing the recording information, shall be filed with the City of Westby at the time of issuance of a building, zoning or occupancy permit, or prior to occupancy of a unit. The joint maintenance agreement deed restriction shall include the following provisions, but not be limited to:

a. Each side of the building shall be constructed at the same time and in such a manner as to be harmonious with the other side so that the overall effect is aesthetically pleasing. The agreement shall address the provision of common siding, roofing, and driveway materials.

b. The duplex structure shall be painted, stained, or sided one (1) color scheme and any subsequent repainting, staining, or siding shall be of one (1) color scheme, or according to the plan established by the covenants. The agreement shall include provisions on the allocation of costs and method of determining if repairs or replacement are necessary.

c. Each side of the zero-lot line duplex shall be provided with a minimum of two (2) trees and foundation plantings covering two-thirds (2/3) of the street side of the unit. Lots shall be maintained equally with respect to lawn care, pruning of shrubs and trees.

d. No fences shall be permitted along the zero-lot line in the front or rear yards.

e. Each unit shall have an attached garage for at least one (1) vehicle.

f. A basement shall be provided across zero-lot lines as necessary for water, sewer, and other utilities services.

g. A twelve (12) foot maintenance easement [six (6) feet on each side of the zero-lot line side property line] to allow for normal maintenance of each single-family residential unit shall be recorded with the County Register of Deeds and a recorded copy filed with the City of

Westby. This easement shall also be provided on the Certified Survey Map (CSM) or plat dividing the property.

h. A provision against the construction of a detached single-family residence on either lot in the event either or both sides of the zero-lot line duplex are destroyed.

i. A dispute resolution system shall be provided for in the agreement.

j. Violation of these covenants contained in the agreement shall be addressed by the signing parties to the agreement; the City shall not be held responsible for the same. The City, however, reserves the right to enforce violations of the requirements of a conditional use permit.

k. The written agreement shall provide that it may not be terminated, amended, or otherwise altered without the approval of the City. Changes to the agreement, covenants or deed restrictions shall require an amendment to the conditional use permit required by the Zoning Code.

(7) ***Division of Lots.*** Each lot on which is located a zero-lot line duplex, prior to conveyance into separate ownership, shall be described by a Certified Survey Map (CSM) or plat showing lots that comply with the requirements of this Subsection and other applicable City ordinances, and that is recorded with the County Register of Deeds.

(d) **Conditional Uses.** The following are conditional uses in the R-3 District:

(1) Parks and playgrounds.
(2) Golf courses and private clubs.
(3) Planned residential developments.
(4) Barbering and beauty culture.
(5) Lodge and fraternal buildings.
(6) Nursing home.
(7) Retirement homes.
(8) Utilities.
(9) Schools and churches.
(10) Government, cultural and public buildings or uses such as fire and police stations, community centers, libraries, public emergency shelters and museums.
(11) Sewage disposal facilities.
(12) Single-family homes.
(13) Kennels as prescribed in Section 7-1-3(b).
(14) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(e) **Area, Height and Yard Requirements.**

(1) ***Lot.***

a. Area: Minimum eight thousand (8,000) square feet.

b. Width: Minimum seventy-five (75) feet.

(2) ***Building Height.*** Maximum thirty-five (35) feet.

(3) ***Yards***

a. Street: Minimum twenty-five (25) feet from City's light-of-way line, or in line with existing houses.

b. Rear: Minimum ten (10) feet.

c. Side: Minimum five (5) feet each, except new construction which shall be ten (10) feet.

(4) ***Percent Ground Coverage by All Structures.*** No more than forty percent (40%) coverage of lot area.

(5) ***Percent Slope.*** No building shall be permitted on slopes twenty percent (20%) or greater, except as a conditional use.

Sec. 13-1-45 R-4 Multi-Family Residential District.

(a) **Purpose.** The purpose of the R-4 District is to provide the opportunity for construction and maintenance of primarily multi-family dwelling units served by public sewer.

(b) **Permitted Uses.** The following are permitted uses in the R-4 District:
   (1) Multi-family residential uses provided they conform to the regulations below.
   (2) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(c) **Conditional Uses and Structures.**
   (1) Cemeteries.
   (2) Churches.
   (3) Governmental and community service buildings and functions.
   (4) Greenways and open spaces.
   (5) Nursing homes.
   (6) Parks.
   (7) Playgrounds.
   (8) Pumping stations.
   (9) Public and private schools.
   (10) Single-family planned residential development.
   (11) Utility lines.
   (12) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(d) **Area, Height and Yard Requirements.**
   (1) ***Lot Size.***
      a. Width. Ninety (90) feet minimum.
      b. Area. Twelve thousand (12,000) square feet.
   (2) ***Building Height.*** Maximum thirty-five (35) feet or two (2) stories whichever is the least (or greater heights, a Fire Department approved sprinkler system is required).
   (3) ***Yards.***
      a. Street: Thirty (30) feet minimum from City's right-of-way line.
      b. Rear: Twenty-five (25) feet minimum.
      c. Side: Ten (10) feet minimum each side.
   (4) ***Percentage Ground Coverage by All Structures.*** No more than fifty percent (50%) coverage of lot area.
   (5) ***Percent Slope.*** No building shall be permitted on slopes twenty percent (20%) or greater, except as a conditional use.

Sec. 13-1-46 R-5 Residential Estate District.

(a) **Purpose.** The R-5 Residential Estate District is intended to provide for a single-family residential development, at densities not to exceed one (1) dwelling unit per gross two (2) or more acres, served by municipal sewer and water facilities.

(b) **Permitted Uses.** The following uses are permitted in the R-5 District:
   (1) Single-family detached dwellings, excluding all mobile homes; for purposes of this Chapter manufactured homes are included in the definition of single-family dwelling.
   (2) Manufactured homes complying with all of the following requirements and limitations:
      a. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
      b. The home shall be installed on an approved foundation system in conformity with the

uniform building code. The wheels and axles must be removed. The enclosed foundation system shall be approved by the Building Inspector and/or City Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.

c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.

d. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.

e. The home shall have a pitched roof, overhanging eaves and such other design features required of all new single-family dwellings located within the City of Westby.

(3) Community living arrangements which have a capacity for eight (8) or fewer persons subject to the limitations set forth in Sec. 62.23(7)(i), Wis. Stats.

(4) Essential services.

(5) Home occupations.

(6) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(c) **Conditional Uses.** The following are conditional uses in the R-5 District:

(1) Utility substations.

(2) Solar collectors erected as an accessory structure.

(3) Community living arrangements which have a capacity for nine (9) or more persons.

(4) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(d) **Area, Height and Yard Requirements.**

(1) ***Lot.***

a. Area. Lots shall be a minimum of two (2) acres in area and shall be not less than one hundred twenty-five (125) feet in width at front setback.

b. Height. No building or parts of a building shall exceed thirty-five (35) feet in height.

c. Building Area.

1. The total floor area of a dwelling shall be not less than one thousand six hundred (1,600) square feet.

2. Building coverage on the lot shall not exceed thirty-five percent (35%) of the total lot area.

(2) ***Yards.***

a. Street: There shall be a minimum building setback of thirty-five (35) feet from the street right-of-way.

b. Side: There shall be a side yard on each side of all buildings not less than twenty (20) feet in width.

c. Rear: There shall be a rear yard of not less than fifty (50) feet.

(e) **Other Development Standards.**

(1) Rural cross section streets may be permitted with special permission from the Common Council under the following circumstances and conditions of development:

a. Minimum roadway design standards:

1. Twenty-two (22) feet blacktop pavement width per City standards.

2. A one and one-half (1-1/2) foot rolled curb concrete shoulder or curb with a minimum of seven (7) inches on each side of the blacktop.

3. Sixty-six (66) foot tight-of-way.

4. One hundred thirty-two (132) feet cul-de-sac bulb right-of-way.

b. Where rural cross sections are used, the developer shall submit and the Common Council

shall approve detailed grading plans for the swale network. The swale system shall be installed at time of street work and shall be designed as a component of the storm water management plan.

c. A culvert installation permit and detailed lot grading permit shall be granted by the Building Inspector prior to any disturbance of the site associated with grading, excavation or culvert installation. The developer shall secure a performance bond or deposit of Five Hundred Dollars ($500.00) plus twenty-five percent (25%) of the total cost to ensure appropriate culvert installation and shall pay an administrative and inspection fee of One Hundred Dollars ($100.00) prior to the grading of a culvert installation permit.

(2) Livestock such as, but not limited to, cattle, swine, horses, ponies, poultry and other fowl, may only be allowed in the R-5 District following issuance of a conditional use permit after public hearing. As a general policy guideline, the R-5 District is not intended to be used for intensive raising or boarding of livestock or fowl. A conditional use permit for livestock or fowl may only be issued if such use is compatible with the neighborhood. Livestock numbers on a parcel zoned R-5 shall not exceed the following:

a. Cattle, horses, ponies: four (4) animals.
b. Swine: six (6) animals.
c. Poultry, fowl: fifteen (15) birds.

Sec. 13-1-47 C-1 Conservancy District.

(a) **Purpose.** The purpose of the C-1 District is

(1) To preserve, protect, and maintain the natural environment and character of areas exhibiting significant natural resource features which contribute to the productive, recreational, or aesthetic value of the community.

(2) To delineate those areas where substantial development of the land in the form of buildings or structures is prohibited due to:

a. Special or unusual conditions of topography, drainage, flood plain, or other natural conditions, whereby considerable damage to buildings or structures natural and possible loss of life may occur due to the processes of nature.
b. The lack of proper facilities or improvement at the present time.

(3) To delineate areas subject to flooding by adjacent lakes or streams and deem suitable for development.

(4) To preserve and protect scenic, historic, scientific and biologically important areas, and to protect ground water sources.

(b) **Permitted Uses.** The following are permitted uses in the C-l District:

(l) Grazing when conducted in accordance with conservation standards.
(2) Forest and game management.
(3) Hunting, fishing and hiking.
(4) Parks and recreation areas; arboreta; botanical gardens; greenways.
(5) Stables.
(6) Utilities.
(7) Non-residential buildings used solely in conjunction with the raising of water, fowl or fish.
(8) Harvesting of wild crops.
(9) Recreation related structures not requiring basements.
(10) Soil and water conservation.
(11) Flood plains, wildlife habitat.
(12) Drainage, water measurement and water control facilities.
(13) Orchards.

(14) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(c) **Conditional Uses.** The following are conditional uses in the C-l District:
(1) Animal hospitals, shelters and kennels.
(2) Archery and firearm ranges, sports fields and skating rinks.
(3) Land restoration, flowage, ponds.
(4) Golf courses and clubs.
(5) Ski hills and trails.
(6) Yacht clubs and marinas.
(7) Recreation camps.
(8) Public and private campgrounds.
(9) Riding stables.
(10) Planned residential developments.
(11) Sewage disposal plants.
(12) Governmental, cultural and public buildings or uses.
(13) Utilities.
(14) Hunting and fishing clubs.
(15) Professional home offices.
(16) Farm structures.
(17) Wind energy turbines.
(18) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(d) **Prohibited Uses.** No structures permitted except those housing essential services accessory to the principal or permitted uses. Uses involving the dumping, filling, cultivation, mineral, soil, or peat removal or any other use that would disturb the natural fauna, flora, water courses, water regimen, natural landforms, or topography. All uses not specifically permitted.

(e) **Area, Height and yard Requirements.**
(1) ***Lot***
a. Area: None.
b. Width: None.
(2) ***Building Height.*** Maximum thirty-five (35) feet.
(3) ***Other Structures Height.*** Maximum one-half (1/2) the distance from the structures nearest lot line.
(4) ***Yards.***
a. Street: Minimum twenty (20) feet.
b. Rear: Minimum ten (10) feet.
c. Side: Minimum ten (10) feet except structures used for the housing of shelters of animals must be one hundred (100) feet from lot lines.

Sec. 13-1-48 B-1 Central Business District.

(a) **Purpose.** The B-1 Central Business District is intended to provide an area for the business, financial, professional, and commercial needs of the community, especially those which can be most suitably located in a compact and centrally located business district.

(b) **Permitted Uses.** Except as provided below, all uses within this District are conditional, requiring a public hearing and consideration of specific site factors and impacts on surrounding land uses. All conditional uses must be approved in accordance with the procedures established in Article E.

The following uses of land are permitted in the B-1 District:

(1) Paint, glass and wallpaper stores. [523]
(2) Hardware stores. [525]
(3) Department stores, variety stores, general merchandise stores. [53]
(4) General grocery stores, supermarkets, fruit and vegetable stores, delicatessens, meat and fish stores and miscellaneous food stores. [54]
(5) Candy, nut or confectionery stores. [544]
(6) Dairy products stores, including ice cream stores. [545]
(7) Retail bakeries, including those which produce some or all of the products sold on the premises, but not including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery. [546]
(8) Clothing and shoe stores. [56]
(9) Furniture, home furnishings, floor covering and upholstery shops/stores. [57]
(10) Restaurants, lunch rooms and other eating places, except drive-in type establishments. [5812]
(11) Taverns, bars and other drinking places with permit by Common Council. [5813]
(12) Drug stores and pharmacies. [591]
(13) Liquor stores. [592]
(14) Antique stores and secondhand stores. [593]
(15) Sporting goods stores and bicycle shops. [5941]
(16) Bookstores, not including adult books. [5942]
(17) Stationery stores. [5943]
(18) Jewelry and clock stores. [5944]
(19) Camera and photographic supply stores. [5946]
(20) Gift, novelty and souvenir shops. [5947]
(21) Florist shops. [5992]
(22) Tobacco and smokers' supplies stores. [5993]
(23) News dealers and newsstands. [5994]
(24) Wholesale merchandise establishments, only for retail items listed above; e.g., #19 would allow wholesale camera sales.
(25) Banks and other financial institutions. [60-62]
(26) Offices of insurance companies, agents, brokers and service representatives. [63-64]
(27) Offices of real estate agents, brokers, managers and title companies. [65-67]
(28) Miscellaneous business offices.
(29) Heating and plumbing supplies.
(30) Retail laundry and dry cleaning outlets, including coin-operated laundries and dry cleaning establishments, commonly called laundromats and launderettes. Tailor shops, dressmakers' shops, and garment repair shops, but not garment pressing establishments, hand laundries, or hat cleaning and blocking establishments. [721]
(31) Photographic studios and commercial photography establishments. [722]
(32) Barbershops, beauty shops and hairdressers. [723-4]
(33) Shoe repair shops and shoe shine parlors. [725]
(34) Trade and contractor's offices (office only).
(35) Advertising agencies, consumer credit reporting, news agencies, employment agencies. [731-2, 735-6]
(36) Duplicating, blueprinting, photocopying, addressing, mailing, mailing list and stenographic services; small print shops. [733]
(37) Computer services. [737]
(38) Commercial parking lots, parking garages, parking structures. [752]

(39) Watch, clock and jewelry repair services. [763]
(40) Motion picture theaters, not including drive-in theaters. [7832]
(41) Miscellaneous retail stores. [5999
(42) Offices/clinics of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, optometrists and chiropractors, but not veterinarian's offices. [801-4]
(43) Law offices. [811]
(44) The offices, meeting places, churches, and premises of professional membership associations; civic, social, and fraternal associations; business associations, labor unions and similar labor organizations; political organizations; religious organizations; charitable organizations; or other non-profit membership organizations. [86]
(45) Engineering and architectural firms or consultants. [891-3]
(46) Accounting, auditing and bookkeeping firms or services. [8721]
(47) Professional, scientific, or educational firms, agencies, offices, or services, but not research laboratories or manufacturing operations. [899]
(48) The offices of governmental agencies and post offices. [91-92, 431]
(49) Public transportation passenger stations, taxicab company offices, taxicab stands, but not vehicle storage lots or garages. [411-14]
(50) Telephone and telegraph offices. [481-2]
(51) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(c) **Conditional Uses.** The following are permitted as conditional uses in the B-1 District; provided that no nuisance shall be afforded to the public through noise, the discharge of exhaust gases from motor-driven equipment, unpleasant odors, smoke, steam, harmful vapors, obnoxious materials, unsightly conditions, obstruction of passage on the public street or sidewalk, or other conditions generally regarded as nuisances; and provided that where operations necessary or incident to the proper performance of these services or occupations would tend to afford such nuisances, areas, facilities, barriers, or other devices shall be provided in such a manner that the public is effectively protected from any and all such nuisances. These uses shall be subject to the consideration of the Common Council, upon the recommendation of the Plan Commission, with regard to such matters.

(1) Miscellaneous repair shops and related services. [769]
(2) Garment pressing establishments, hand laundries, hat cleaning and blocking shops and coin-operated dry cleaning establishments. [721]
(3) Establishments engaged in the publishing and printing of newspapers, periodicals or books. [2711]
(4) Dwelling units, provided that no dwelling shall be permitted below the second floor and business uses are not permitted on any floor above the ground floor, except in those buildings or structures where dwelling units are not established.
(5) Farm supplies, wholesale trade. [5191]
(6) Establishments engaged in the retail sale of automobiles, trailers, mobile homes, or campers. [Vehicles parked for sale purposes shall have a setback of five (5) feet from the full public light-of-way]. [551-2,556]
(7) Stores for the sale and installation of tires, batteries, mufflers or other automotive accessories. [553]
(8) Gasoline service stations; provided, further, that all gasoline pumps, storage tanks and accessory equipment must be located at least thirty (30) feet from any existing or officially proposed street line. [5541]
(9) Establishments engaged in the daily or extended-term rental or leasing of house trailers, mobile homes or campers. [703]

(10) Establishments engaged in daily or extended-term rental or leasing of passenger automobiles, limousines or trucks, without drivers, or of truck trailers or utility trailers. [751]
(11) Establishments for the washing, cleaning or polishing of automobiles, including self-service car washes. [754]
(12) Hotels, motor hotels, motels, tourist courts, tourist rooms, etc. [70]
(13) Parking more than one (1) vehicle at any one time on the premises for purposes of sale.
(14) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(d) **Lot, Yard and Building Requirements.**
(1) ***Lot Frontage.*** None.
(2) ***Lot Area.*** Minimum eight thousand (8,000) square feet.
(3) ***Principal Building.***
a. Front Yard: Minimum twenty-five (25) feet.
b. Side Yard: Minimum ten (10) feet where adjacent to R-l or R-2 Districts.
c. Rear Yard: Minimum twenty (20) feet.
NOTE: Pre-existing structures may be nonconforming.
(4) ***Building Height.*** Maximum forty-five (45) feet.
(5) ***Percent* of *Lot Coverage.*** Maximum ninety percent (90%).
(6) ***Lot Area per Dwelling Unit.*** Minimum two thousand seven hundred (2,700) square feet.
(7) ***Alley Setback.*** Minimum fifteen (15) feet.
(8) ***Percent Slope.*** No building shall be permitted on slopes twenty percent (20%) or greater, except as a conditional use.

Sec. 13-1-49 B-2 Highway Commercial District.

(a) **Purpose.** The purpose of the B-2 District is
(1) To encourage the growth and development of business activities and establishments which require highway frontage and exposure due to their automobile and vehicular orientations.
(2) To delineate areas appropriate for commercial uses which are either oriented to the highway user or intended as service to vehicles.
(3) To delineate predominantly retail shopping areas outside of central business districts, or areas of similar compact development.
(4) To define standards for development of freeway interchanges.
(5) To locate this zone in areas with public sewer with a soil suitability for urban development of slight or moderate restriction.
(6) To locate this zone in areas without public sewer with a soil suitability for Urban Development.

(b) **Permitted Uses.** Except as provided below, all uses within this District are conditional, requiring a public hearing and consideration of specific site factors and impacts on surrounding land uses. All conditional uses must be approved in accordance with the procedures established in Article E.
(l) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(c) **Conditional Uses.** The following are specific conditional uses in this Chapter:
(1) Amusement activities.
(2) Automobile and truck retail services [vehicles parked for sale purposes shall have a setback five (5) feet from the full public light-of-way].
(3) Automobile repair services.
(4) Bars and taverns.

(5) Candy, nut and confectionery sales.
(6) Gasoline service stations.
(7) Gift, novelty and souvenir sales.
(8) Hotels, motels and tourist courts.
(9) Night clubs and dance halls.
(10) Restaurants.
(11) Sales, service and installation of tires, batteries and accessories.
(12) Residential dwelling units.
(13) Animal hospital, shelters and kennels.
(14) Yachting clubs and marinas.
(15) Public assembly uses.
(16) Commercial recreation facilities.
(17) Off-season storage facilities.
(18) Lodges and fraternal buildings.
(19) Nursing homes.
(20) Nursery and day care centers.
(21) Retirement homes.
(22) Drive-in food and beverage establishments.
(23) Drive-in banks.
(24) Drive-in theaters.
(25) Vehicle sales and service.
(26) Public parking lots.
(27) Taxi stands.
(28) Sewage disposal plants.
(29) Governmental, cultural, and public buildings or uses, such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums.
(30) Utilities.
(31) Schools and churches.
(32) Mobile home sales.
(33) Dwellings as a part of the primary building or permitted use.
(34) The parking of more than one (1) vehicle at any time for the purpose of sale if the primary business at that location is not automotive sales.
(35) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(d) **Area, Height and Yard Requirements.**

(1) ***Lot***

a. Area: Eight thousand (8,000) square feet when sewered; twenty thousand (20,000) square feet when not sewered.
b. Width: Minimum ninety (90) feet.

(2) ***Building Height.*** Maximum thirty-five (35) feet.

(3) ***Yards.***

a. Street: Minimum forty (40) feet (may include parking).
b. Rear: Minimum twenty (20) feet.
c. Side: Minimum twenty (20) feet.

(4) ***Minimum Lot Depth.*** One hundred (100) feet, two hundred twenty (220) feet if not sewered.

(5) ***Sanitary Criteria (When No Public Sewer).*** No more than seventy-five percent (75%) of the minimum lot area shall be on a slope greater than twelve percent (12%) of soil conditions

unsuitable for septic tanks. [At least twenty-five percent (25%) of the lot area shall be under twelve percent (12%) and with soil suitable for septic tanks].

(6) ***Percent Slope.*** No building shall be permitted on slopes twenty percent (20%) or greater except as a conditional use.

Sec. 13-1-50 B-3 Business Park District (adopted January 18, 2022, revised June 17, 2025).

(a) **Purpose.** The B-3 Business Park District is established to provide an aesthetically attractive working environment. The essential purpose of this District is to achieve development, which is an asset to the owners, neighbors and the City of Westby, and to promote and maintain desirable economic development in a park like setting.

(b) **Permitted Uses.** Except as provided herein, no uses are permitted as a matter of right within the B-3 District, and all uses within this District are conditional, requiring and subject to consideration of the Common Council and Planning Commission.

(c) **Conditional Uses.** The following uses are allowed in lots within nine hundred (900) feet of center line of State Highway 27:

(1) Auto dealerships, service and repair
(2) Bars and restaurants
(3) Clothing stores
(4) Convenience shopping
(5) Department stores or shopping centers
(6) Discount retail stores
(7) Drug stores
(8) Event spaces
(9) Food stores
(10) Furniture stores
(11) Gym, fitness or sports centers
(12) Lodging facilities and tourist accommodations
(13) Print shops
(14) Professional service office
(15) Salons and spas
(16) Specialty retail stores and gift shops
(17) Sporting goods stores
(18) Theaters

**Other conditional uses may be added with recommendation of the Planning Commission and approval of the Common Council.

(d) **Industrial Uses.** For lots beyond nine hundred (900) feet of the center line of State Highway 27, refer to Section 13-151 I-1 Industrial District for conditional uses. While still meeting all aesthetic, prohibited use requirements, building standards and parking requirements included in B-3 Business Park, See 13-1-50.

(e) **Prohibited Uses.** Unless otherwise provided in this Title, land or buildings may not be used for the following uses:

(1) Abattoirs (slaughterhouses)
(2) Acid Manufacturing
(3) Asphalt Manufacturing
(4) Cement, lime, gypsum or plaster of paris manufacturing
(5) Child care facilities

(6) Explosive manufacturing or storage
(7) Fertilizer manufacturing
(8) Foundry
(9) Garbage, rubbish, offal or dead animal reduction
(10) Glue manufacturing
(11) LP Distributor
(12) Mini-storage type unit
(13) Nursing Home
(14) Paper mill
(15) Petroleum refining
(16) Residential
(17) Salvage yard
(18) Sawmills
(19) Sexually-orientated adult businesses
(20) Smelting of ferrous and non-ferrous metal
(21) Solid waste transfer stations
(22) Stockyards
(23) Tannery

(f) **Lot, Yard and Building Requirements:**
(1) Lot frontage – no minimum
(2) Lot area – minimum twenty-one thousand, seven hundred eighty (21,780) square feet
(3) Front yard – minimum twenty-five (25) feet
(4) Side yard – minimum twenty (20) feet
(5) Rear yard – minimum thirty (30) feet
(6) Building height – maximum one hundred (100) feet

**Requirements may be modified by conditional use permit.

(g) **Other Requirements:** Conditional uses in the B-3 District are subject to the following requirements:

(1) Building: No building or improvement shall be erected, placed or altered on any lands in the B-3 District until the plans for such building or improvement including site, landscaping, building plan and specifications, have been approved by the Common Council, following recommendation from the Planning Commission. The Common Council and Planning Commission shall review and approve, approve conditionally, or disapprove such plans with respect to conformity with deed restriction and protective covenants placed on the land in the B-3 District. The deed restriction and protective covenants must be approved by the Common Council, after recommendation of the Planning Commission. The approved deed restriction and protective covenants must be recorded on the land prior to re-zoning to the B-3 District.

(2) Design Standards: Design standards in the B-3 District shall include as a minimum the following standards:

(a) Uses. All uses shall comply with City performance standards for air pollution, fire and explosive hazards, glare heat, liquid or solid waste, noise and vibration, odors, radioactivity and electrical disturbances and refuse.

(b) Land/building ratio. The building coverage on any zoning lot shall not exceed seventy percent (70%).

(3) Parking, Driveways, and Sidewalks:

(a) Parking setbacks. Parking areas shall be located at least ten (10) feet from any public street and at least ten (10) feet from any parcel line.

(b) On Site Parking Required. Parking shall be provided to sufficiently accommodate for employee and visitor vehicles. Employee and visitor parking will not be allowed on public streets in the Westby Business Park. Shared parking with adjacent property owners is encouraged.

(c) Minimum Parking Area. Total parking space shall be a minimum of one hundred and eighty (180) square feet per parking stall, excluding drives and approaches.

(d) Surfaces. All driveways, walks and permanent parking areas shall be surfaced with asphalt or concrete.

(4) Building Exteriors and Lighting:

(a) Materials. All building exteriors shall be finished in an attractive manner in keeping with the accepted standards used for commercial and industrial buildings.

(b) Design. All elevations of the building shall be designed in a consistent and coherent architectural manner. Changes in material, color, and/or texture shall occur at points relating to the massing and overall design concept of the building.

(c) HVAC and Miscellaneous Building Systems. Cooling towers, rooftop and ground-mounted mechanical and electrical units and other miscellaneous equipment shall either be integrated into the design of the building or screened from view from the primary public street whenever possible.

(d) Building Lighting. The size, scale and location of light and illumination should match site and building scale, color and theme.

(e) Driveway, Sidewalk and Parking Lot Lighting. Lighting shall be high cutoff luminaries which keep off-site over spill and night sky lighting to a minimum. Location of the fixtures shall emphasize intersections and pedestrian access routes, yet provide a uniform level of illumination. Scale of fixtures shall be lowered in pedestrian areas to emphasize walking surfaces.

(f) Signs (adopted June 17, 2025): All requests for signs will be solely approved by the Common Council. A sign permit request will be required.

(5) Loading and Storage Areas:

(a) Loading Docks. No loading or unloading shall be permitted on, or which results in obstruction of public streets. Loading areas shall be hard surface paved and dust free.

(b) Outdoor Storage Provisions. Outdoor storage shall be limited to the rear two thirds (2/3)of the property and within building setback lines and be screened from public view behind a visual barrier and be limited to materials, supplies, merchandise, garbage dumpsters, equipment or finished manufactured goods scheduled for delivery.

(c) Screening. Screening shall be attractive in appearance and in keeping with the architectural quality of the main structure. Screening methods including fences, walls, or hedges may not extend forward of building setback lines. All lots abutting residential areas must be screened.

(d) Oil and Bulk Fluids. Storage of fuel oils or other bulk fluids must be screened from public view in the rear two-thirds (2/3) of the property.

(e) Display. Finished manufactured goods for the purpose of sales or promotional display are not subject to the conditions set herein for loading and storage areas.

(6) Landscaping. All unimproved areas of every lot on which a building is constructed in the Westby Business Park shall be landscaped in a suitable manner so that it will produce an acceptable appearance, excepting only those areas as may be required for driveways, visitor parking, or walks. Owners are required to care and maintain all landscaping on their lot.

(7) Property Maintenance. The owner of any property in the Westby Business Park must at all times keep the premises, building's improvements, and appearance in a safe, neat and clean condition and comply in all respects with all government, health and local policy requirements.

Sec. 13-1-51 I-1 Industrial District.

(a) **Purpose.** The I-1 District is intended to provide an area for manufacturing, marketing, and industrial and agribusiness activities. It is also intended to provide an area for a variety of uses which require relatively large installations, facilities or land areas, or which would create or tend to create conditions of public or private nuisance, hazard, or other undesirable conditions, or which for these or other reasons may require special safeguards, equipment, processes, barriers, or other forms of protection, including spatial distance, in order to reduce, eliminate, or shield the public from such conditions.

(b) **Permitted Uses.** Except as provided herein, no uses are permitted as a matter of right within the I-1 District, and all uses within this District are conditional, requiring a public hearing and consideration of specific site factors and impacts on surrounding land uses. All conditional uses must be approved in accordance with the procedures established in Article E:

(l) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(c) **Conditional Uses.** The following are permitted as conditional uses within the I-1 District. Such use shall be subject to the consideration of the Common Council and Plan Commission with regard to such matters as the creation of nuisance conditions for the public or for the users of nearby areas, the creation of traffic hazards, the creation of health hazards, or other factors:

(1) Manufacturing establishments, usually described as factories, mills or plants, in which raw materials are transformed into finished products, and establishments engaged in assembling component parts of manufactured products. [20, 23-28, 30, 32-39]

(2) Other industrial or commercial activities which possess the special problem characteristics described above relating to the creation of hazards or nuisance conditions.

(3) The outdoor storage of industrial products, machinery, equipment, or other materials, provided that such storage be enclosed by a suitable fence or other manner of screening. [50, 51]

(4) Railroads, including rights-of-way, railroad yards, and structures normally incident to the operation of railroads, including station houses, platforms, and signal towers, but not including warehouses owned by companies other than railroad companies or road terminal companies.

(5) Wholesale establishments and warehouses. [50-51]

(6) Building construction contractors. [15-17]

(7) Highway passenger and motor freight transportation. [41-42]

(8) Light Industry and Service Uses.

a. Automotive body repair.
b. Automotive upholstery.
c. Cleaning, pressing, dyeing.
d. Commercial bakeries.
e. Commercial greenhouses.
f. Distributors.
g. Food locker plants.
h. Printing and publishing.
1. Trade and contractor's facilities.
J. Offices. k. Painting services.
1. Retail sales and service facilities such as retail and surplus outlet stores, and restaurants and food service facilities when established in conjunction with a permitted manufacturing or processing facility.
m. Recreation vehicle, boat and miscellaneous storage.

(9) Public Facilities and Uses.

a. Governmental, cultural and public buildings or uses, such as fire and police stations,

community centers, libraries, public emergency shelters, parks, playgrounds and museums.

b. Schools and churches.

c. Airports, airstrips and landing fields.

(10) Agriculture Related Industry and Service Uses.

a. Production of natural and processed cheese.

b. Production of shortening, table oils, margarine and other edible fats and oils.

c. Production of condensed and evaporated milk.

d. Wet milling of corn.

e. Production of creamery butter.

f. Drying and dehydrating fruits and vegetables.

g. Preparation of feeds for animal and fowl.

h. Pea veneries.

1. Creameries.

1. Production of flour and other grain mill products; blending and preparing of flour.

k. Fluid milk processing.

1. Production of frozen fruits, fruit juices, vegetables and other specialties.

m. Fruit and vegetable sauces and seasoning, and salad dressing preparation.

n. Poultry and small game dressing and packing providing that all operations be conducted within an enclosed building.

o. Production of sausages and other meat products

p. Corn shelling, hay baling and threshing services.

q. Grist mill services.

r. Horticultural services.

s. Canning of fruits, vegetables, preserves, jams and jellies.

t. Canning of specialty foods.

u. Grain elevators and bulk storage of feed grains.

v. Fertilizer production, sales, storage, mixing and blending.

w. Sales or maintenance of farm implements and related equipment.

x. Animal hospitals, shelters and kennels, and petting zoos.

y. Veterinarian services.

(11) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(d) **Lot, Yard and Building Requirements.**

(1) ***Lot Frontage.*** No minimum.

(2) ***Lot Area.*** Eight thousand (8,000) square feet if sewered; one (1) acre if not sewered (only if permitted by Common Council).

(3) ***Front Yard.*** Minimum twenty-five (25) feet.

(4) ***Side Yards.*** Minimum twenty (20) feet. *

(5) ***Rear Yard.*** Minimum thirty (30) feet. *

(6) ***Building Height.*** Maximum one hundred (100) feet.

(7) ***Percentage* of *Lot Coverage.*** Maximum seventy percent (70%).

(8) ***Minimum Lot Depths.*** One hundred (100) feet if sewered. Two hundred twenty (220) feet if not sewered.

(9) ***Sanitary Criteria (When No Public Sewer).*** No more than seventy-five percent (75%) of the minimum lot area shall be on a slope greater than twelve percent (12%) or of soil conditions unsuitable for septic tanks. [At least twenty-five percent (25%) of the lot area shall be under twelve percent (12%) and with soil suitable for septic tanks].

(10) ***Percent Slope.*** No building shall be permitted on slopes twenty percent (20%) or greater, except as a conditional use.

* **Required Buffer Strips in Industrial Districts.** Where an Industrial District abuts a Residential District, there shall be provided along any rear, side or front line, coincidental with any industrial-residential boundary, a buffer strip not less than forty (40) feet in width as measured at light angles to said lot line. Plant materials at least six (6) feet in height of such variety and growth habits as to provide a year-round, effective visual screen when viewed from the Residential District shall be planted in the exterior twenty-five (25) feet abutting the Residential District. If the required planting screen is set back from the industrial-residential boundary, the portion of the buffer strip facing the Residential District shall be attractively maintained. Fencing may be used in lieu of planting materials to provide said screening. The fencing shall be not less than four (4) nor more than eight (8) feet in height, and shall be of such materials as to effectively screen the industrial area. The exterior twenty-five (25) feet of the buffer strip shall not be devoted to the parking of vehicles or storage of any material or accessory uses. The interior fifteen (15) feet may devoted to parking of vehicles.

Sec. 13-1-52 A-1 Agricultural District (Non-Livestock).

(a) **Purpose.** The A-1 Agricultural District is intended to provide for the continuation of general non-livestock fanning and related uses in those areas of the City of Westby that are not yet committed to urban development. It is further intended for this District to protect lands contained therein from urban development until their orderly transition into urban oriented districts is required.

(b) **Permitted Uses.** The following are permitted uses in the A-1 District:

(1) General non-livestock farming, including crop-raising agriculture, floriculture, forestry, grazing, hay, orchards, truck farming and viticulture (grape growing).

(2) Forestry, grazing, nurseries, orchards, and truck fanning.

(3) Harvesting of wild crops and management of wildlife including nonresidential buildings used solely in conjunction with such activity.

(4) In-season roadside stands for the sale of farm products produced on the premises, and up to two (2) unlighted signs not larger than eight (8) square feet each advertising such sale.

(5) Customary home occupations.

(6) One (1) and two (2) family farm residences.

(7) Woodlots and tree farms.

(8) Production of forest crops, including tree plantations.

(9) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(c) **Permitted Accessory Uses.**

(1) Attached or detached private garages and carports accessory to permitted or permitted accessory uses.

(2) General farm buildings including barns, silos, sheds, storage bins and including not more than one (1) roadside stand for the sale of farm products produced on the premises. Any such stand shall conform to the setback, sign and other provisions of this Chapter.

(3) One (1) farm dwelling. The only residences allowed as permitted uses on newly established parcels are those to be occupied by a person who or a family at least one (1) member of which earns a substantial part of his or her livelihood from farm operations on the parcel or is related to the operator of the larger farm parcel from which the new parcel is taken. Preexisting residences located in areas subject to zoning under this Section which do not conform to this paragraph may be continued in residential use. The minimum parcel size to establish a residence or a farm

operation is thirty-five (35) acres. No structure or improvement may be built on the land unless consistent with agricultural uses.

(4) Private garages and parking space.
(5) Private swimming pool and tennis court.
(6) Home occupation.
(7) Signs as regulated by the City.
(8) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed time necessary for such constructing.
(9) Gardening and other horticultural uses where no sale of products is conducted on the premises.

(d) **Conditional Uses.** The following are conditional uses in the A-1 District:

(1) Airports, airstrips and landing fields provided that the site is not less than twenty (20) acres.
(2) Housing for farm laborers and seasonal or migratory farm workers.
(3) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios.
(4) Utilities.
(5) Veterinary clinics, provided that no structure or animal enclosure shall be located closer than one hundred fifty (150) feet to a property boundary. [074, 075]
(6) Public and parochial schools, provided no building shall be located within fifty (50) feet of any lot line.
(7) Churches, including those related structures located on the same site which are an integral part of the church proper, convents or homes for persons related to a religious function on the same site, provided no more than ten (10) persons shall reside on the site and no building shall be located within fifty (50) feet of any lot line.
(8) Golf courses, country clubs, tennis clubs or public swimming pools serving more than one (1) family. The principal structure for any of the above listed uses shall be one hundred (l00) feet or more from any abutting lot in a Residential District, and accessory structures shall be a minimum of fifty (50) feet from any lot line.
(9) Essential service structures, including but not limited to buildings such as telephone exchange stations, booster or pressure-regulating stations, wells, pumping stations, elevated tanks, lift stations and electrical power substations, provided no building shall be located within ten (10) feet from any lot line of an abutting lot in a Residential District. Prior to granting such permit, it shall be found that the architectural design of service structures is compatible to the neighborhood in which it is to be located and thus will promote the general welfare.
(10) Hospitals for human care, sanitariums, rest homes, and nursing homes, provided that all structures, except fences, shall be located one hundred (100) feet or more from the lot line of any abutting lot in a Residential District.
(11) Cemeteries.
(12) Kennels, greenhouses and other agricultural uses that may cause noxious odors or noise, or create health or sanitation hazards.
(13) Campgrounds, subject to the provisions of this Chapter and the Wisconsin Administrative Code.
(14) Wind energy turbines.
(15) Golf courses.
(16) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(e) **Lot, Yard and Building Requirements.**

(1) ***Lot Frontage.*** Minimum two hundred (200) feet.

(2) ***Lot Area.*** Minimum two (2) acres.

(3) ***Principal Building.***

a. Front Yard: Minimum eighty (80) feet.

b. Side Yards: Minimum fifty (50) feet.

c. Rear Yard: Minimum fifty (50) feet.

(4) ***Accessory Building.***

a. Front Yard: Minimum one hundred (100) feet.

b. Side Yards: Minimum forty-five (45) feet.

c. Rear Yard: Minimum forty-five (45) feet.

d. Building Height: Maximum fifty (50) feet.

(5) ***Minimum Lot Depths.*** Two hundred (200) feet.

(6) ***Sanitary Criteria (When No Public Sewer).*** No more than seventy-five percent (75%) of the minimum lot area shall be on a slope greater than twelve percent (12%) or of soil conditions unsuitable for septic tanks. [At least twenty-five percent (25%) of the lot area shall be under twelve percent (12%) and with soil suitable for septic tanks].

(7) ***Percent Slope.*** No building shall be permitted on slopes twenty percent (20%) or greater, except as a conditional use.

Sec. 13-1-53 A-2 Agriculture Enterprise District (Livestock).

(a) **Purpose.**

(1) The A-2 Agriculture Enterprise District is intended to preserve and promote a full range of agricultural uses, secure land for livestock production and other agricultural uses that may be more intensive than crop production, strengthen agriculture's contribution to the City of Westby's tax base, support valued-added and other activities closely allied to the agriculture industry, and prevent the conversion of land identified as a valuable agricultural resource to uses that are not consistent with agriculture. The A-2 District's uses and regulations are intended to implement Comprehensive Plan goals by encouraging livestock and other intensive agricultural uses in areas where conditions are best suited to these agricultural pursuits, and discouraging residential development to avoid potential land use conflicts. Due to the more intensive nature of uses allowed, the A-2 District is not intended to be applied near moderately to densely populated areas, and it is not intended to accommodate residential uses as principal uses. The A-2 District is also intended to be compatible with any "exclusive agricultural" land use designation in the City Comprehensive Plan or pursuant to Chapter 91, Wis. Stats.

(2) The standards of Sec. 93.90, Wis. Stats. (Livestock Facility Siting Law), and ATCP, Wis. Adm. Code are adopted and incorporated herein by reference.

(b) **Permitted Uses.** The following uses are permitted by right in the A-2 District without any further noticed approval to or from the City of Westby:

(1) Agriculture uses, including livestock facilities under five hundred (500) units.

(2) One (1) agricultural-related residence.

(3) Value-added agriculture.

(4) Roadside stands.

(5) Agricultural research facilities.

(6) Commercial stables.

(7) Home occupations and professional home offices per Section 13-1-72.

(8) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.
(9) Other agriculturally-related structures and improvements.

(c) **Conditional Uses.** The following uses may be allowed in the A-2 District if reviewed and approved in accordance with the standards in Article E of this Chapter:
(1) Livestock facilities over five hundred (500) animal units.
(2) Agricultural sales and service.
(3) Agricultural grain and commodity storage.
(4) Commercial communications and wind energy towers.
(5) Mineral extraction and mining.
(6) Agricultural packing and processing.
(7) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(d) **Minimum Parcel Area.**
(1) No building, structure or use shall be established on any parcel less than forty (40) acres.
(2) The minimum lot size may be permitted to be reduced by action of the Common Council to twenty (20) acres for agricultural buildings and structures if required for biosecurity or other legitimate research- or operation-related reasons.

(e) **Property Line Setbacks.**
(1) Except as provided for waste storage structures, livestock structures shall be located a minimum of one hundred (100) feet from a property line if the livestock facility will have fewer than one thousand (1,000) animal units, and two hundred (200) feet from a property line if the livestock facility will have one thousand (1,000) or more animal units.
(2) This setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the original effective date of this setback requirement, except that a structure may not be expanded closer to a property line.
(3) Any residence in an A-2 District shall conform to the property line setback requirements of the A-1 District.

(f) **Public Right-of-Way Setbacks.**
(1) Except as provided for waste storage structures, livestock structures shall be located a minimum of one hundred (100) feet from a public right-of-way if the livestock facility will have fewer than one thousand (1,000) animal units, and one hundred fifty feet (150) feet from a public right-of-way if the livestock facility will have one thousand (1,000) or more animal units.
(2) This setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the original effective date of this setback requirement, except that a structure may not be expanded closer to the public right-of-way.
(3) Any residence in the A-2 District shall conform to the right-of-way setback requirements of the A-1 District.

(g) **Waste Storage Structure.**
(1) A new waste storage structure shall not be located within three hundred and fifty (350) feet of a property line, or within three hundred and fifty (350) feet of the nearest point of any public road right-of-way.
(2) A single new waste storage structure may be constructed closer to the property line or public road right-of-way if a new structure is:
a. Located on the same tax parcel as a waste storage structure in existence before May 1,2006.
b. No larger than the existing structure.

c. No further than fifty (50) feet from the existing structure.
d. No closer to the road or property line than the existing structure.

(3) This setback requirement does not apply to existing waste storage structures, except that an existing structure within three hundred and fifty (350) feet of a property line or road right-of-way may not expand toward that property line or road right-of-way.

(h) **Setbacks for Navigable Waters and Wetlands.** A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinances enacted within the scope of authority granted under Sections 59.692, 61.351 or 62.231, Wis. Stats. [Note: Essentially all navigable waters are now protected by ordinances that require building setbacks of seventy-five (75) feet or more].

(i) **Setbacks for Floodplains.** A livestock facility shall comply with setback and related requirements in any applicable floodplain zoning ordinance that is enacted within the scope of statutory authority under Section 87.30, Wis. Stats.

(j) **Setbacks for Wells.** All wells located within a livestock facility shall comply with the requirements of Chapters NR 811 and NR 812, Wis. Adm. Code. New or substantially altered livestock structures shall be separated from existing wells by the distances required in Chapters NR 811 and NR 812, Wis. Adm. Code, regardless of whether the livestock facility operator owns the land on which the wells are located. A livestock structure in existence on May 1, 2006 may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

(k) **Compliance with State Runoff Requirements.** Livestock operations under this Section shall comply with state runoff regulations prescribed in NR 151 and ATCP 50, Wis. Adm. Code.

State Law Reference: Sec. 93.90, Wis. Stats.; ATCP 50 and 51, Wis. Adm. Code; NR 151, Wis. Adm. Code.

Cross-Reference: Section 13-1-86 Large Livestock Facilities Conditional Use

Sec. 13-1-54 AEO Adult Entertainment Overlay District.

(a) **Authority.**

(1) The Common Council has authority, to be liberally construed in favor of the City, under its general police powers set forth in Ch. 62, Wis. Stats., to act for the good order of the municipality and for the health, morals, safety and welfare of the public; and may carry out its powers by regulation and suppression; and

(2) The Common Council recognizes it lacks authority to regulate obscenity under Sec. 66.0107(3), Wis. Stats., and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and

(3) Adult establishments in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and

(4) The Common Council recognizes the U.S. Supreme Court has held that material with adult content is within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected

rights, and wishes to act consistently with full protection of those rights; and

(5) However, the Common Council is aware, based on the experiences of other communities, that adult establishments may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the City of Westby; and

(6) Among these secondary effects are:

a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;

b. The potential depreciation of property values in neighborhoods where adult establishments featuring nude dancing exist;

c. Health risks associated with the spread of sexually transmitted diseases; and

d. The potential for infiltration by organized crime for the purpose of unlawful conduct; and

(7) The Common Council desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the City of Westby; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and

(8) The Common Council has determined that the enactment of a zoning ordinance provision allowing adult establishments viable areas in which to exist within the City while keeping those adult establishments separated from each other, residential areas, schools, churches, day care centers, or bars or taverns, promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such adult establishments.

(b) **Purpose.** The purpose of the AEO Adult Entertainment Overlay District is to create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses so as to ameliorate the negative secondary effects of adult uses while providing adult establishments sufficient area and opportunity to operate within the City so as not to suppress their existence.

(c) **Definitions.** For purposes of this District, the following definitions shall be applicable:

(1) ***Adult Establishment.*** Shall include, adult book stores, adult motion picture theaters, adult novelty stores, and further means any premises to which public patrons or members are invited or admitted that is substantially devoted to the purveyance, demonstration or display of specified sexual activities or specified anatomical areas.

(2) ***Adult Bookstore.*** An establishment which as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, videocassettes, magazines or other such media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.

(3) ***Adult Entertainment.*** Any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas.

(4) ***Adult Motion Picture Theater.*** Any establishment for the presentation of motion pictures that as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, or specified anatomical areas for observations by patrons therein.

(5) ***Adult Novelty Store.*** Any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex toys, sexual gratification appliances, or other similar products, excluding contraceptive or similar products of medical

value, that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.

(6) ***Specified Anatomical Areas.*** Means either:
   a. Less than completely and opaquely covered human genitals pubic region.
   b. Human male genitals in a discernible turgid state, even if opaquely covered.
   c. Less than completely and opaquely covered nipples or areolas of the human female breast.

(7) ***Specified Sexual Activities.*** Means simulated or actual:
   a. Showing of human genitals in a state of sexual stimulation or arousal; or
   b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
   c. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(8) ***Substantial Percentage.*** Forty percent (40%) or more of business stock in trade, display space, floor space or retail sales in any one month. Upon reasonable belief that an entity is in excess of the forty percent (40%) threshold, that entity shall provide all necessary records, receipts and documentation to the City upon request. Failure to do so shall result in a presumption that the entity is operating in excess of the threshold.

(d) **Location.**

(1) No adult establishment shall be located:
   a. Within any zoning district other than general commercial, limited commercial, highway commercial, industrial, and heavy industrial.
   b. Within two hundred fifty (250) feet (plus) of an existing adult establishment.
   c. Within two hundred fifty (250) feet of any dwelling as defined by this Zoning Code.
   d. Within two hundred fifty (250) feet of any pre-existing school, church or daycare, as defined in this Zoning Code.
   e. Within two hundred fifty (250) feet of any pre-existing establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.

(2) For purposes of this District, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult establishment, to the nearest property line of another establishment, dwelling, school, church, daycare or establishment selling or dispensing fermented malt beverages or intoxicating liquor.

(e) **Hours of Operation.**

(1) No adult establishment shall be open between the hours of 2:00 a.m. and 8:00 a.m., Monday through Friday, between the hours of 2:30 a.m. and 8:00 a.m. on Saturdays, or between the hours of 2:30 a.m. and 12:00 noon on Sundays.

(2) All adult establishments shall be open to inspection at all reasonable times by the Police Department, Zoning Administrator and/or other City representatives.

Sec. 13-1-55 E-l Mineral Extraction or Landfill Overlay District.

(a) **Purpose.** The intent of this District is to provide a means of properly siting, regulating and reclaiming mineral extraction and landfill sites.

(b) **Permitted Uses.**

(1) Mineral extraction operations and landfill sites that are presently in existence, provided that applicable provisions of this Section are complied with.

(2) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(c) **Conditional Uses.** Conditional uses in the District shall include all conditional uses listed in the underlying district. Conditional use procedures, as described in Article E, shall be adhered to as well

as the requirements of this Section, with the more restrictive provision being applicable. In addition, the following are permitted conditional uses:

(1) Extension of legally existing mineral extraction operation or the creation of a new such extraction operation.

(2) New mineral extraction operations and the following: landfills; solid waste management facilities, recycling centers; bio-remediation sites; and soil extraction or scraping for purposes of obtaining fill material for such large scale operations as landfill sealing, roadbed construction, etc; or similar uses. These uses shall be a conditional use in all zoning districts except in the R-l, R-2, R-3, R-4 and R-5 Districts.

(3) Siting and construction of any new mobile support structure and/or facility or a Class 1 collocation of a new mobile service facility on an existing support structure, per Section 13-1-182.

(d) **Basic District Standards.**

(1) ***Basic Standards.*** The basic standards in this District shall be controlled by those of the underlying district unless more restrictive standards are established in the conditional use approval. Also, excavations or fill areas within two hundred (200) feet from any right-of-way or property line shall not be permitted unless the Common Council determines that the operational plans adequately provide for:

a. Safety of abutting land uses and for safe ingress to, egress from and traffic flow past the site.

b. Aesthetic screening from abutting properties.

c. Dust control from the operation and/or any stockpiling.

d. Staging of the operation to produce a minimal time frame between commencing of operations and restoration within this two hundred (200) foot area.

(2) ***Permit Validity; Operational Requirements.*** The conditional use permit shall be in effect for a period not to exceed one (1) year and may be renewed upon application for a period not to exceed one (1) year; a shorter period may be established by Common Council action. There shall be an annual fee as prescribed by Section 1-3-1 for such permit. Modifications or additional conditions may be imposed upon application for renewal. Operational requirements shall include the following where applicable, and all require Common Council approval:

a. Fencing or other suitable barriers shall be erected as necessary to protect the public.

b. Machinery, roads and equipment used in the extractive operation shall be constructed, maintained and operated in such a manner as to minimize dust.

c. Crushing, washing, refining or other processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of permit.

d. Planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the City and other applicable agencies.

e. Hours of operation may be established and enforced by the Common Council.

f. Other requirements deemed necessary by the Common Council.

(3) ***Plan of Reclamation.*** A reclamation plan meeting the standards of NR 135, Wis. Adm. Code, shall be submitted and approved by all applicable agencies and the Common Council.

(e) **Existing Operations.** Existing operations shall be subject to the following further requirements:

(1) ***Permit.*** Within sixty (60) days after the original adoption of this Section all existing extractive operations shall be required to register with the Zoning Administrator, submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A permit shall be granted to such existing operation, subject to compliance with the operational requirements, listed above where they can be reasonably applied under existing circumstances.

(2) ***Plan for Restoration.*** There shall be required within one (1) year after original adoption of this Section, the submission of a plan for restoration of the site of existing extractive operation as provided above. The plan for restoration in such case shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this Section.

(f) **Renewal Permit.** Within one year after the original enactment date of this Section, any such existing operation shall be required to make application for a renewal permit the same as for reapplication in the case of a new operation under this Section.

(g) **Plan of Operation.** All mineral extraction operations including those operations and activities which lawfully existed prior to the original adoption of this Section shall prepare a plan of operation for the site which shall include the following information:

(1) Statement of ownership of the parcel and control of the operations.

(2) A site plan, drawn to scale, showing the lateral extent of existing and proposed excavations; the location and width of all easements and right of way on or abutting the site; existing water bodies, water courses and drainage ways and proposed modifications; estimated direction of now or groundwater; the location of existing and proposed buildings, structures, machinery and equipment; and the location of all existing and proposed storage and stockpiling areas.

(3) Cross sections of the site, drawn to scale, showing the vertical extent of existing and proposed excavations.

(4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;

(5) Methods of screening from adjacent properties and proximity to adjacent properties.

(6) Hours of operation and, if applicable, a phasing plan for future operations.

(7) Dust and noise control.

(8) Maximum depth.

(9) Blasting procedures.

(l0) Location and height of stockpiles.

(11) Such other information the Common Council deems pertinent to the operation.

(h) **Gravel Crushing; Permit Requirement.** In addition to all other conditional use permit and other requirements prescribed in this Section, an annual permit is required for the placement or operation at any mineral extraction site of any portable or fixed gravel crushing equipment. Such gravel crushing operation permit shall be valid for one (1) year; the Common Council may attach reasonable conditions to such permit. The annual fee for the permit shall be as prescribed in Section 1-3-1.

(i) **Definitions.** As used in this Section:

(1) ***Environmental Pollution.*** Has the meaning specified under Sec. 144.01(3), Wis. Stats.

(2) ***Nonmetallic Mining or Mineral Extraction Operation.*** Operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.

(3) ***Nonmetallic Mining or Mineral Extraction Refuse.*** Waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining or mineral extraction operation. This term does not include merchantable by-products resulting directly from or displaced by the nonmetallic mining or mineral extraction operation.

(4) ***Nonmetallic Mining or Mineral Extraction Site.*** The location where a nonmetallic mining or mineral extraction operation is proposed or conducted, including all surface areas from which

materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the mineral extraction operation by activities such as the construction or improvement of roads or haulageways.

(5) ***Operator.*** Any person who is engaged in a mineral extraction operation or mineral extraction site reclamation or who applies for or holds a nonmetallic mining permit issued under this mineral extraction reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

(6) ***Reclamation.*** The rehabilitation of a mineral extraction site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if practical, restoration of plant, fish and wildlife habitat.

(7) ***Replacement* of *Topsoil.*** The replacement of the topsoil which was removed or disturbed by a mineral extraction operation or the provision of soil which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

(j) **Exempt Activities.** The reclamation of sites within this District shall not apply to the following activities:

(1) Excavations or grading by a person solely for domestic use at his or her residence.

(2) Excavations or grading conducted for highway construction purposes within the highway right-of-way.

(3) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.

(4) Excavations for building construction purposes.

(5) Any mining operation, the reclamation of which is required in a permit obtained under Sections 144.80 to 144.94, Wis. Stats.

(6) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(k) **Financial Assurance.** Before rezoning and a reclamation plan is approved by the Common Council, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:

(1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Common Council.

(2) Guaranteed completion of the required reclamation within a period determined by the Common Council.

(3) Payment by the operator for all costs incurred by the City for review and inspection. This would include preparation and review of plans and specifications by the City Engineer and Attorney, as well as other costs of a similar nature.

(4) The City may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.

(5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1-1/4) times the City Engineer's estimated cost of the required improvements.

(6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the City and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Common Council, at its option, may extend the bond period for additional periods.

(l) **Fences.** Prior to reclamation, mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.

(m) **Inspection.** An authorized agent of the City may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.0119, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Section.

(n) **Prohibitions and Orders.** Mineral extraction mining operations within the City are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Section or if other requirements of this Section are not met.

State Law Reference: NR 135, Wis. Adm. Code.

Sec. 13-1-56 WP Wellhead Protection Overlay District.

(a) **Purpose; Authority.**

(1) ***Purpose.*** The residents of the City of Westby depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of the WP District is to institute land use regulations and restrictions to protect the City municipal water supply and well fields, and to promote the health, safety and general welfare of the residents of the City of Westby.

(2) ***Authority.*** These regulations are established pursuant to the authority granted to cities in Sections 60.61(1), (2)(g) and 60.62, Wis. Stats., to adopt ordinances to protect groundwater,

(3) ***Intent.*** The area that is to be protected within the WP Wellhead Protection Overlay District is that portion of the City of Westby's well fields' recharge areas extending to the groundwater divide contained within the City of Westby's boundary limits and shown on the map referenced in Subsection (b) below. These lands are subject to land use and development restrictions because of their close proximity to the well fields and the corresponding high threat of contamination.

(b) **Applicability.** The regulations specified in this Section for the WP Wellhead Protection Overlay District shall apply within the City boundaries as shown on the map on file with the City Clerk-Treasurer, which is adopted and incorporated herein by reference.

(c) **Definitions.** The following definitions shall be applicable for this Section:

(1) ***Existing Facilities.*** Current facilities, practices and activities which may cause or threaten to cause environmental pollution within that portion of the City's wellhead protection area that lies within the corporate limits of the City. "Existing facilities" include, but are not limited to, the type(s) listed in the Wisconsin Department of Natural Resources' Form 3300-215 Public Water Supply Potential Containment Use Inventory Form, which is incorporated herein by reference as if fully set forth herein.

(2) ***Groundwater Divide.*** A ridge in the water table or the potentiometric surface from which groundwater flows away at right angles in both directions a groundwater divide is represented by the line of highest hydraulic head in the water table or potentiometric surface.

(3) ***Groundwater Protection Overlay District ("District").*** That area described within the City's wellhead protection plan, on file with the City Clerk-Treasurer and incorporated herein by reference.

(4) ***Recharge Area.*** The land area which contributes water to a well by infiltration of water into the subsurface and movement with groundwater toward the well.

(5) ***Time of Travel.*** The determined or estimated time required for a contaminant to move in the saturated zone from a specific point to a well.

(6) ***Well Field.*** A piece of land used primarily for the purpose of supplying a location for construction of wells to supply a municipal water system.

(d) **Permitted Uses.** Subject to the exemptions listed in Subsection (g), the following are the only permitted uses within the WP Overlay District; uses not listed are to be considered non-permitted uses:

(1) Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.

(2) Playgrounds.

(3) Wildlife areas.

(4) Non-motorized trails, such as biking, skiing, nature and fitness trails.

(5) Municipally-sewered residential development, free of flammable and combustible liquid underground storage tanks.

(6) Municipally-owned business development zoned B-1, B-2, B-3, I-I or C-l, except the following uses:

a. Above-ground storage tanks.

b. Asbestos product sales.

c. Automotive services and repair garages; body shops.

d. Blue printing and photocopying services.

e. Car washes.

f. Equipment repair services.

g. Laundromats and diaper services.

h. Dry cleaning.

i. Gas stations.

j. Holding ponds or lagoons.

k. Infiltration ponds.

1. Nurseries, lawn and garden supply stores.

m. Small engine repair services.

n. Underground storage tanks.

o. Wells, private, production, injection or other.

p. Any other use determined by the Zoning Administrator to be similar in nature to the above-listed items.

(7) Agricultural uses in accordance with the County Soil Conservation Department's best management practices guidelines.

(8) Class 2 collocation of a new mobile service facility on an existing support structure without substantial modification, per Section 13-1-182.

(e) **Separation Distances.** The following separation distances as specified in NR 8l1.16(4)(d), Wis. Adm. Code, shall be maintained and shall not be exempted as listed in Subsection (g):

(1) A separation distance of five hundred (500) feet as documented in the current wellhead protection plan shall be maintained around all wells.

(2) Fifty (50) feet between a well and a storm sewer main.

(3) Two hundred (200) feet between a well and any sanitary sewer main, lift station or a single family

residential fuel oil tank. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current AWWA 600 specifications. In no case may the separation distance between a well and a sanitary sewer main be less than fifty (50) feet.

(4) Four hundred (400) feet between a well and a septic system, tank, or drain field, and receiving less than eight thousand (8,000) gallons per day, a cemetery or a storm water drainage pond.

(5) Six hundred (600) feet between a well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce ("Commerce") or to its designated agent under COMM 10.10, Wis. Adm. Code.

(6) One thousand (1,000) feet between a well and land application of municipal, commercial or industrial waste, industrial, commercial or municipal wastewater, lagoons or storage structures; manure stacks or storage structures, and septic tanks or soil absorption units receiving eight thousand (8,000) gallons per day or more.

(7) Twelve hundred (1,200) feet between a well and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, one-time disposal or small demolition facility; sanitary landfill; coal storage area; gasoline or fuel oil storage tanks that have not received written approval from the Wisconsin Department of Commerce or its designated agent under COMM 10.10, Wis. Adm. Code; bulk fuel storage facilities and pesticide handling or storage facilities.

(f) **Requirements for Existing Facilities.**

(l) Existing facilities shall provide copies of all federal, state and local facility operation approvals or certificate and on-going environmental monitoring results to the City.

(2) Existing facilities shall provide additional environmental or safety structures/monitoring as deemed necessary by the City, which may include but is not limited to stormwater runoff management and monitoring.

(3) Existing facilities shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.

(4) Existing facilities shall have the responsibility of devising and filing with the City a contingency plan satisfactory to the City for the immediate notification of City officials in the event of an emergency.

(g) **Exemptions and Waivers.**

(1) Individuals and/or facilities may request the City in writing, to permit additional land uses in the District.

(2) All requests shall be in writing, whether on or in substantial compliance with forms to be provided by the City and may require an environmental assessment report prepared by a licensed environmental engineer. Said report shall be forwarded to the City and/or designated for recommendation and final decision by the Common Council.

(3) The individual/facility shall reimburse the City for all consultant fees associated with this review in the invoiced amount plus administrative costs.

(4) Any exemptions granted shall be conditional and may include required environmental and safety monitoring consistent with local, state and federal requirements, and/or bonds and/or securities satisfactory to the City.

(h) **Enforcement.**

(1) In the event that an individual and/or facility causes the release of any contaminants which endanger the District, the individual and/or facility causing said release shall immediately stop the release and clean up the release to the satisfaction of the City.

(2) The individual/facility shall be responsible for all costs of clean up, including all of the following:
   a. City consultant fees at the invoice amount plus administrative costs for oversight, review and recommendation.
   b. The cost of City employees' time associated in any way with clean up 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.
   c. The cost of City equipment employed.
   d. The cost of mileage reimbursed to City employees attributed to the clean up.
(3) Following any such discharge, the City may require additional test monitoring and/or bonds/securities.
(4) Enforcement and penalties shall be provided pursuant to Section 1-1-7.

Sec. 13-1-57 through Sec. 13-1-59 Reserved for Future Use.

Article D: Planned Unit Development (PUD) Overlay District Procedures

Sec. 13-1-60 Planned Unit Development Overlay District-Intent.

(a) The Planned Unit Development (PUD) Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. A Planned Unit Development under this Chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while, at the same time, maintaining insofar as possible, the land use density and other standards or use requirements as set forth in the underlying basic zoning district:

(b) The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the City upon specific petition under Section 13-1-67 of this Chapter and after public hearing, with such development encompassing one (l) or more principal uses or structures and related accessory uses or structures when all regulations and standards as set forth in this Section of the Chapter have been met.

Sec. 13-1-61 Types of Planned Unit Developments.

This Article contemplates that there may be a Residential, Commercial, Industrial Planned Unit Developments and Mixed Compatible Use Developments as Planned Unit Development (PUD) Overlay Districts.

Sec. 13-1-62 General Requirements for Planned Unit Developments.

A Planned Unit Development shall be consistent in all respects to the expressed intent of this Article and to the spirit and intent of this Chapter and underlying districts; shall be in conformity with the adopted Master Plan (comprehensive land use and thoroughfare plan), Neighborhood Plan or any adopted component thereof; and shall not be contrary to the general welfare and economic prosperity of the community.

Sec. 13-1-63 Physical Requirements for Planned Unit Developments.

(a) **Minimum Area Requirements.** Areas designated as planned unit developments shall contain a minimum development area as follows:

Principal Uses	Minimum Area of PUD
Residential PUD	3 acres
Commercial PUD	5 acres
Industrial PUD	10 acres
Mixed Compatible Use	10 acres

(b) **Density Requirements (Lot Area, Width and Yard Requirements).** The district area, width and yard requirements of the basic use district may be modified; however, in no case shall the average density in a residential district exceed the number of dwelling units that would have been permitted if the planned unit development regulations had not been utilized.

(c) **Building Height and Area Requirements.**
   (1) Buildings in a Planned Unit Development shall not exceed the height permitted in the basic use district.
   (2) Buildings in a Planned Unit Development shall have a minimum area that is equal to or greater than that required in the basic use district.
(d) **Single Parcel, Lot or Tract.** At the time of filing, the Planned Unit Development shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract.

Sec. 13-1-64 Requirements as to Public Services and Facilities.

(a) The development site shall be provided with adequate drainage facilities for surface and storm waters.
(b) The site will be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the development.
(c) No undue constraint or burden shall be imposed on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm drainage, and maintenance of public areas by the developments.
(d) The streets and driveways on the site of the development shall be adequate to serve the residents of the development and, in the case of public dedicated streets, will meet the minimum standards of all applicable ordinances or administrative regulations of the City.
(e) Public water and sewer facilities shall be provided.

Sec. 13-1-65 Subsequent Land Division.

The division of any land or lands within a Planned Unit Development for the purpose of change or conveyance of ownership may be accomplished pursuant to the land division/subdivision regulations of the City when such division is contemplated.

Sec. 13-1-66 Procedural Requirements-Intent.

Sections 13-1-60 through 13-1-65 set forth the basic philosophy and intent in providing for Planned Unit Development Overlay Districts, the kinds thereof, the general requirements, physical requirements and requirements as to public services and facilities. The following sections are intended to set forth the procedures and considerations involved leading to possible approval of such developments.

Sec. 13-1-67 Procedural Requirements for Planned Unit Developments.

(a) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a Planned Unit Development, the owner or his/her agent making such petition shall meet with the Common Council or its staff to discuss the scope and proposed nature of the contemplated development.
(b) **Petition for Approval.** Following the pre-petition conference, the owner or his/her agent may file a petition with the City Clerk-Treasurer for approval of a Planned Unit Development Overlay District. Such petition shall be accompanied by a review fee as prescribed by Section 1-3-1, as well as incorporate the following information:
   (1) ***Informational Statement.*** A statement which sets forth the relationship of the proposed PUD to the City's adopted Master (comprehensive land use and thoroughfare plan) Plan, Neighborhood Plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:

a. Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
b. A general summary of the estimated value of structures and site improvement costs, including landscaping and special features.
c. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
d. Any proposed departures from the standards of development as set forth in the City zoning regulations, land subdivision ordinance, other City regulations or administrative rules, or other universal guidelines.
e. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.

(2) ***A General Development Plan Including:***

a. A legal description of the boundaries of the subject property included in the proposed PUD and its relationship to surrounding properties.
b. The location of public and private roads, driveways, sidewalks and parking facilities.
c. The size, arrangement and location of any individual building sites and proposed building groups on each individual site.
d. The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainage ways.
e. The type, size and location of all structures.
f. General landscape treatment.
g. The existing and proposed location of public sanitary sewer, water supply facilities and storm water drainage facilities.
h. The existing and proposed location of all private utilities or other easements.
i. Existing topography on the site with contours at no greater than two (2) foot intervals.
j. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
k. If the development is to be staged, a staging plan.
1. A plan showing how the entire development can be further subdivided in the future.

(c) **Public Hearing.** The Common Council shall hold public hearing on the petition for a PUD Overlay District in the manner provided in Sections 13-1-83 through 13-1-84 for Conditional Uses.

Sec. 13-1-68 Basis for Approval of the Petition for Planned Unit Development.

(a) **Requirements.** The Planning Commission, in making a recommendation, and the Common Council, in making a determination approving a petition for Planned Unit Development Overlay District, shall find as follows:

(l) That the general requirements made and provided in Section 13-1-62 will be met;
(2) That the applicable physical requirements made and provided in Section 13-1-63 will be met;
(3) That the requirements as to public services and facilities made and provided in Section 13-1-64 will be met.

(b) **Proposed Construction Schedule.** The Plan Commission and Common Council, in making their respective recommendations and determinations, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PUD, commencement of the physical development within one (1) year of approval being deemed reasonable.

(c) **Residential PUD, Considerations.** The Plan Commission and Common Council, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:

(1) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.

(2) The total net residential density within the planned unit development will be compatible with the City Master Plan (comprehensive land use and official map), Neighborhood Plan, or components thereof, and shall be compatible with the density of the district wherein located.

(3) Structure types will be generally compatible with other structural types permitted in the underlying basic use district. To this end, structure type shall be limited as follows:

a. Planned residential developments in the residential districts shall not exceed sixteen (16) dwelling units per structure.

(4) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.

(5) Provision has been made for adequate, continuing fire and police protection.

(6) The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.

(7) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.

(d) **Commercial PUD, Considerations.** The Planning Commission and Common Council, in making their respective recommendation and determination as to a proposed commercial planned unit development, shall further consider whether:

(1) The economic practicality of the proposed development can be justified.

(2) The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.

(3) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

(4) The locations of entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.

(5) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.

(e) **Industrial PUD, Considerations.** The Planning Commission and Common Council, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:

(1) The operational character and physical plant arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.

(2) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water sanitary sewer and storm water drainage and maintenance of public areas.

(3) The proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy access rail and/or arterial

highway facilities.

(4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

(f) **Mixed Use PUD, Considerations.** The Planning Commission and Common Council, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:

(1) The proposed mixture of uses procedures a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.

(2) The various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use and character.

(3) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

Sec. 13-1-69 Determination of Disposition of the Petition.

(a) **General.** The Common Council, following a recommendation from the Planning Commission and public hearing thereon and after due consideration, shall either deny the petition, approve the petition as submitted or approve the petition subject to any additional conditions and restrictions the Common Council may impose.

(b) **Approval.** The general and detailed approvals of a Planned Unit Development Overlay District shall be based on and include, as conditions thereto, the building, site and operational plans for the development as approved by the Common Council.

(1) ***General Approval.*** The general development plan submitted with the PUD application need not necessarily be completely detailed at the time of petition provided it is in sufficient detail to satisfy the Common Council as to the general character, scope and appearance of the proposed development. Such plan shall designate the pattern of proposed streets and the size and arrangement of individual buildings and building sites. The approval of such general development plan, by way of approval of the petition, shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.

(2) ***Detailed Approval.*** Detail plans must be furnished to the Common Council for its consideration and the detailed approval by the Common Council of any part or stage of the proposed development shall be required before construction of such part or stage of the development may be commenced. Before plans submitted for detailed approval within the corporate limits will be approved, the petitioner shall give satisfactory proof that he has contracted to install all improvements or file a performance bond insuring that such improvements will be installed within the time required by the Common Council.

(c) **Changes and Additions.** Any subsequent substantial change or addition to the plans or uses shall be submitted for approval to the Common Council and if, in the opinion of the Common Council, such change or addition constitutes a substantial alteration of the original plan, it shall schedule an additional public hearing in which event the Common Council shall schedule a notice of public hearing as for the original petition. Following such public hearing, the Common Council shall deny, approve or approve the same subject to any additional conditions and restrictions it may impose.

Sec. 13-1-70 through Sec. 13-1-79 Reserved for Future Use.

Article E: Conditional Uses

Sec. 13-1-80 Statement of Purpose-Conditional Uses.

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

Sec. 13-1-81 Authority of the Planning Commission and Common Council; Requirements.

(a) The Common Council hereby authorizes the Zoning Administrator to issue a conditional use permit after review, public hearing, and approval from the Planning Commission and Common Council, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. Such Commission or Common Council action, and the resulting conditional use permit, when, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Common Council shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.

(b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Planning Commission and Common Council shall request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.

(c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Planning Commission and Common Council upon their finding that these are necessary to fulfill the purpose and intent of this Chapter.

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

Sec. 13-1-82 Initiation of Conditional Use.

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

Sec. 13-1-83 Application for Conditional Use.

An application for a conditional use shall be filed on a form prescribed by the City. The application shall be accompanied by the fee prescribed in Section 1-3-1 and a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, the existing and proposed use of each structure and lot, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 13-1-86 hereinafter. The Planning Commission or Common Council may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

Sec. 13-1-84 Hearing on Application.

All requests for conditional uses shall be to the Common Council and Planning Commission or the Planning Commission or Common Council can, on their own motion, apply conditional uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Common Council on its own motion from referring the request for conditional use to the Planning Commission. Upon receipt of the application and statement referred to in Section 13-1-83 above, the Planning Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by the Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Planning Commission shall, by rule, prescribe from time to time.

Sec. 13-1-85 Notice of Hearing on Application.

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 1 Notice under the Wisconsin Statutes in the official City of Westby newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Common Council and Planning Commission, and the owners of record as listed in the office of the City Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least ten (10) days prior to the date of such public hearing, except that in the case of livestock siting conditional use public hearings, such notice shall be sent to owners of property within three hundred (300) feet, per Section 13-1-96(d). The Planning Commission shall report its action to the Common Council within forty-five (45) days after a matter has been referred to it, after which the Common Council shall take formal action.

Sec. 13-1-86 Standards-Conditional Uses.

(a) **Standards.** No application for a conditional use shall be recommended for approval by the Planning Commission, or granted by the Common Council, unless the Commission shall find all of the following conditions are present:
   (1) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
   (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is

compatible with the use of adjacent land.

(3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

(5) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(6) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.

(7) That the proposed use does not violate flood plain regulations governing the site.

(8) That adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.

(b) **Application of Standards.** When applying the above standards to any new construction of a building or an addition to an existing building, the Common Council and Planning Commission shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

(c) **Additional Considerations.** In addition, in passing upon a Conditional Use Permit, the Planning Commission shall also evaluate the effect of the proposed use upon:

(l) The maintenance of safe and healthful conditions.

(2) The prevention and control of water pollution including sedimentation.

(3) Existing topographic and drainage features and vegetative cover on the site.

(4) The location of the site with respect to floodplains and floodways of rivers and streams.

(5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.

(6) The location of the site with respect to existing or future access roads.

(7) The need of the proposed use for a shoreland location.

(8) Its compatibility with uses on adjacent land.

(9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

Sec. 13-1-87 Denial of Application for Conditional Use Permit.

When an advisory recommendation of denial of a conditional use application is made by the Planning Commission or an actual denial by the Common Council, the Planning Commission and/or Common Council shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Commission and/or Common Council has used in determining that each standard was not met.

Sec. 13-1-88 Conditions and Guarantees.

The following conditions shall apply to all conditional uses:

(a) **Conditions.** Prior to the granting of any conditional use, the Planning Commission may recommend and the Common Council may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 13-1-86 above. In all cases in which conditional uses are granted, the City shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific

enumeration:

(1) Landscaping;
(2) Type of construction;
(3) Construction commencement and completion dates;
(4) Sureties;
(5) Lighting;
(6) Fencing;
(7) Operational control;
(8) Hours of operation;
(9) Traffic circulation;
(10) Deed restrictions;
(11) Access restrictions;
(12) Setbacks and yards;
(13) Type of shore cover;
(14) Specified sewage disposal and water supply systems;
(15) Planting screens;
(16) Piers and docks;
(17) Increased parking; or
(18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.

(b) **Site Review.** In making its recommendation, the Planning Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.

(c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless approved by the Common Council, after recommendation from the Planning Commission.

(d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Common Council may require the use of certain general types of exterior construction materials and/or architectural treatment.

(e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.

Sec. 13-1-89 Validity of Conditional Use Permit.

Where a conditional use application has been approved or conditionally approved, such approval shall become null and void within twenty-four (24) months of the date of the approval unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Board may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Common Council at least thirty (30) days before the expiration of said permit.

Sec. 13-1-90 Complaints Regarding Conditional Uses.

The Common Council shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Common Council shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 13-1-86 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 13-1-85 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Common Council may, in order to bring the subject conditional use into compliance with the standards set forth in Section 13-1-86 or conditions previously imposed by the Common Council, modify existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 13-1-86 will be met, the Common Council may revoke the subject conditional approval and direct the Zoning Administrator and the City Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Common Council shall be furnished to the current owner of the conditional use in writing stating the reasons therefor.

Sec. 13-1-91 Bed and Breakfast Establishments.

(a) **As Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residence Districts pursuant to this Article.

(b) **Definition.** "Bed and Breakfast Establishment" means any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

(c) **State Standards.** Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wis. Adm. Code.

Sec. 13-1-92 Home Occupations/Professional Home Offices.

(a) **Intent.** The intent of this Section is to provide a means to accommodate a small family home-based business or professional home office as a conditional use without the necessity of a rezone into a commercial district. A home occupation or professional home office exceeding the standards for a permitted use may possibly be maintained as a conditional use under Article E. The total number of home occupations or professions conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations or professions conducted within the dwelling unit or on the premises thereof shall not be greater than the impact of one (1) home occupation. The regulations of this Section dealing with home occupations and professional home offices are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities may be carried on in the home. This Section recognizes that, when properly limited and regulated, such activities can take place in a residential structure without changing the character of either the neighborhood or the structure.

(b) **Home Occupations/Professional Home Office Permitted Use; Restrictions on.**
Except as provided in Subsection (c) below, home occupations and professional home offices are a permitted use in all Residential Districts, provided the requirements of the District in which the use is

located and addition to the following:

(1) The occupation or profession shall be carried on wholly within the enclosed areas of the principal building or other structure accessory thereto, but it shall utilize no more than thirty percent (30%) of the gross floor area of the building.

(2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.

(3) No storage or display of materials, goods, supplies or equipment related to the operation of the home occupation/profession shall be visible outside any structure located on the premises. There shall not be outside storage of any kind related to the home occupation/profession.

(4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.

(5) Only one (1) sign may be used to indicate the type of occupation or business as allowed by Article H of this Chapter. Such sign shall not be illuminated and shall comply with district sign regulations.

(6) The home occupation shall not involve the use of commercial vehicles, other than those owned by the applicant for delivery of products or materials to and from the premises. This shall not be interpreted to include delivery and/or pickup services such as United Parcel Service, Federal Express, etc., in the conduct of their normal operations.

(7) To the extent that there is any sale of any item related to a home occupation, delivery of that item to the buyer should occur off the premises.

(8) No traffic shall be generated by such home occupation/profession in greater volumes than would normally be expected in a residential neighborhood.

(9) There shall be no demand for parking beyond that which is normal to the neighborhood. In no case shall the home occupation cause more than two (2) additional vehicles to be parked on or near the premises.

(10) The home occupation is restricted to a service-oriented business; the manufacturing of items or products or the retail sale of items or products on the premises is prohibited.

(11) The types and number of equipment or machinery may be restricted by the Common Council.

(12) No more than one (1) non-resident employee may work on the premises. The home occupation is to be conducted only by members of the family residing in the dwelling unit, plus no more than one nonresident assistant or employee employed on the premises at any one time. Persons engaged in building trades, similar fields and other activities using their dwelling units or residential premises as an office for business activities carried on off the premises, may have more employees than the limitations set forth herein if they are not employed on the premises.

(13) No activity associated with the home occupation may occur outside on the premises prior to 8:00 a.m. or after 8:00 p.m.

(14) Retail sales on premises shall be prohibited including the retail sales of merchandise, products, supplies or goods produced or fabricated on the premises as a result of the home occupation, provided that incidental retail sales may be made in connection with other permitted home occupations. (Example: a dressmaker would be permitted to sell only clothing produced or fabricated onsite and would not be allowed to purchase stocks of dresses for sale to the general public onsite.)

(c) **When Conditional Use Permit Required.** A home occupation or professional home office exceeding the standards prescribed in Subsection (b) above for a permitted home occupation/professional home office use may apply for a conditional use permit under Article E of this Chapter. Approval of an expansion of a home occupation or professional home office as a conditional use is not automatic. The Common Council may place conditions on the continuation of such home occupation or professional home office, or may require the relocation of the business to an

area that is appropriately zoned. Sale or transfer of the property shall cause the conditional use permit to be null and void.

(d) **Permitted Home Occupations/Professions.** Permitted home occupations/professions consistent with Subsection (b) not requiring a conditional use permit include, but are not necessarily limited to, the following examples:
   (1) Artists, sculptors, authors or composers.
   (2) Home crafts such as model making, and rug weaving.
   (3) Office facility of a minister, rabbi, or priest.
   (4) Office facility of an attorney, architect, professional engineer, surveyor, author, interior decorator, photographer, income tax preparer, accountant, landscape architect, insurance agent or real estate agent, or similar profession which serves several clients onsite per day.
   (5) Private tutoring limited to three (3) pupils at any one time.
   (6) Musical instruction limited to three (3) pupils at a time; this requirement limiting class size shall not be construed to prohibit occasional exceptions for events such as recitals, demonstrations and other similar gatherings.
   (7) Dressmaking and millinery work.
   (8) Computer-oriented support services, such as consulting, clerical services, claims processing, internet-related businesses, etc.
   (9) Day care of not more than eight (8) nonresident children.
   (10) Office for sales representative or manufacturer's agent when no retail or wholesale goods transactions occur on the premises.
   (11) Telemarketing and telephone answering service.

(e) **Home Occupations/Professions Permitted With Conditional Use Permit.** The following uses, by the nature of the investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations/ professions and thereby impair the use and value of a residentially zoned area for residence purposes. Therefore, home occupations are permitted only after issuance of a conditional use permit, and such occupations include, but are not necessarily limited to, the following:
   (1) Barber shops, beauty salons or hair stylist.
   (2) Antique shops.
   (3) Stables and kennels.
   (4) Medical offices, including, but not necessarily limited to, physicians, surgeons, dentists, chiropractors, acupuncturists, massage therapists, psychiatrists, psychologists, psychotherapists, or optometrists for the general practice of the profession, except for consultation or emergency treatment.
   (5) Automobile or boat repair or body/paint work (conducted inside only).
   (6) Restaurants and bakeries.
   (7) Taxidermy shop.
   (8) Use that involves primarily catalog sales or order processing and which does not involve volumes of stock or merchandise being distributed at the site may be deemed a home occupation, subject to the provisions hereof, provided that such use meets the intent of all standards set forth herein.
   (9) Cabinet-making or woodworking for profit (conducted inside a building only).

Sec. 13-1-93 Public and Semipublic Conditional Uses.

The following public and semipublic uses shall be conditional uses and may be permitted as specified:

(a) **Airports, Airstrips, and Landing Fields** in the Agricultural District, providing that these facilities meet the regulations contained in Chapter 114, Sections 135 and 136, Wis. Stats.

(b) **Government and Cultural Uses,** such as administrative offices, fire and police stations, community

centers, libraries, public emergency shelters, parks, playgrounds, and museums, in all Residential, Business and Industrial Districts.

(c) **Utilities** in all districts provided all principal structures and uses are not less than fifty (50) feet from any Residential District lot line.

(d) **Public Passenger Transportation Terminals,** such as heliports, bus and rail depots, except airports, airstrips, and landing fields, in all Business and Industrial Districts provided all principal structure and uses are not less than one hundred (100) feet from any Residential District boundary.

(e) **Public, Parochial, and Private, Preschool, Elementary, and Secondary schools** and churches in the R-1 and R-2 Residential provided the lot area is not less than one (1) acre and all principal structures and uses are not less than fifty (50) feet from any lot line.

(f) **Colleges, Universities, Hospitals,** sanitariums, religious, charitable, penal and correctional institutions, cemeteries and crematories in the R-l and R-2 Districts provided all principal structures and uses are not less than one hundred (100) feet from any lot line.

Sec. 13-1-94 Town Houses Conditional Uses.

(a) The following standards and not the standards contained in the schedules of regulations shall be applied to the construction of town houses:

(b) The overall density shall not exceed twenty-five (25) dwelling units per acre.

(c) The average lot width shall be at least twenty (20) feet; however, no individual lot shall be narrower than eighteen (18) feet.

(d) The average maximum lot coverage of principal and accessory buildings shall not exceed fifty percent (50%) and no individual lot shall be covered more than sixty percent (60%).

(e) The average front yard setback shall be twenty (20) feet but no building shall be located closer to the front property line than fifteen (15) feet.

(f) Side yards of not less than twenty (20) feet in width shall be provided at least everyone hundred sixty (160) feet and for every corner lot.

(g) The rear yard shall be not less than twenty percent (20%) of the depth of the lot.

(i) No structure shall be higher than three (3) stories or thirty-five (35) feet.

(j) One (1) off-street parking space of not less than one hundred eighty (180) square feet in area, exclusive of access drive or aisle, shall be provided for each dwelling unit.

Sec. 13-1-95 Miscellaneous Conditional Uses.

(a) **Mobile Home Parks.** Mobile home parks shall be conditional uses in the R-l and R-2 Districts. The design and operation of mobile home parks, and the placement of individual mobile homes within the community shall be regulated by such separate Mobile Home Ordinances as the community shall have adopted.

(b) **Trailer Parks.** Recreational and sport trailer parks shall be a conditional use in the Agricultural and Conservancy Districts. The design and operation of trailer parks, and the placement of individual trailers within the City shall be regulated by such separate trailer park ordinances as the community shall have adopted.

(c) **Junk and Salvage Yards.**

(1) ***License Required.*** No person shall use any building or premises for the buying, selling, gathering, delivery, shipping, storing or salvaging of old iron, bottles, paper, rags, farm machinery, vehicles or other materials commonly included in the term "junk" without obtaining a license for the operation of a junk and salvage yard. Storage of one (1) or more unlicensed vehicles on the same premises shall be prima facie evidence of operation of a junk or salvage yard.

(2) ***Application.*** Application for a license hereunder shall be made in writing to the Zoning

Administrator stating:

a. The location and description of the premises to be licensed.
b. The nature of the business to be conducted on the premises.
c. The type of construction of any building to be used in connection with the business.
d. The applicant's name and address, and, if a firm or corporation, the names and addresses of all officers thereof.

(3) ***Fee, Term.*** The fee for a license issued hereunder shall be as prescribed by Section 1-3-1 per year. Licenses shall expire twelve (12) months after issue, but may be renewed by the Council if it is satisfied that the license and the premises comply with this Section.

(4) ***Hearing.*** The Zoning Administrator shall refer an application for a license hereunder to the Common Council which shall conduct a hearing of such application within a reasonable time, notice of which shall be given by publication in a newspaper having general circulation in the county at least once during the ten (10) days preceding the hearing. If the Common Council is satisfied from the evidence produced at the hearing, that the applicant is a fit person to conduct the business and that the premises are suitable therefore, the Common Council shall authorize issuance of the license.

(5) ***Location.*** No junk or salvage yard shall be located within five hundred (500) feet of any residence other than the owner of the premises or any residential or business district or one hundred fifty (150) feet from a lake, river or stream. No junk or salvage operations shall be carried on within twenty-five (25) feet of any street right-of-way.

(d) **Recreational Uses.**

(1) The following public recreational facilities shall be conditional uses and may be permitted as specified by the Common Council: Archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, firearm ranges, golf courses, hunting, ice boating, marinas, riding academies, skating rinks, sport fields, swimming pools, snowmobile courses, resort lodges, and zoological and botanical gardens in the districts as allowed by the Common Council, provided that the lot area is not less than one-half (.5) acres and all structures are not less than twenty-five (25) feet from any district boundary.

(2) Commercial recreation facilities such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, turkish baths, skating rinks, and theaters are conditional uses and may be permitted in the B-1, B-2 and I-1 Districts.

(e) **Campgrounds and Camping Resorts.** Private camping areas shall have a minimum size of one (1) acre and shall comply with H78, Wis. Adm. Code.

Sec. 13-1-96 Large Livestock Facilities Conditional Uses.

(a) **General Applicability.** The procedures in this Section apply to large livestock facilities that require a conditional use under this Chapter and are supplementary to the general conditional use procedures of this Article. The other provisions of this Article regarding the review and granting of conditional use permits shall not be applicable to large livestock facilities conditional uses unless specifically referred to by this Section.

(b) **Conditional Use Permits for Existing Livestock Facilities.**

(1) ***When Required.*** A conditional use permit is required for the expansion of a preexisting or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:

a. The applicable size threshold for a conditional use permit established for the A-2 Zoning District in Article C where the facility is located.
b. The maximum number previously approved or, if no maximum number was previously

approved, a number that is twenty percent (20%) greater than the number of animal units kept on the original effective date of this Chapter.

(2) ***When Permit Is Not Required.***

a. A permit is not required for a livestock facility that existed before the original effective date of this Chapter.

b. A permit is not required for a livestock facility that was previously issued a conditional use permit or other local approval, except as provided in Subsection (b)(1) above. [Note: A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility].

(c) **Application Procedure.**

(1) ***Filing Requirements.*** A livestock operator filing for a livestock facility conditional use permit shall complete the application and worksheets of the Wisconsin Department of Agriculture, Trade and Consumer Protection prescribed in ATCP 51, Wis. Adm. Code, which are incorporated herein by reference without reproduction in full. The application form and worksheets establish compliance with the standards of ATCP 51, Wis. Adm. Code, and this Chapter. The livestock operator shall file four (4) duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application. If the conditional use permit application is locally approved, one (1) duplicate copy of the conditional use permit application must be filed with the Wisconsin Department of Agriculture, Trade and Consumer Protection, and one (1) duplicate copy marked "approved" shall be given back to the applicant. It is advisable that the applicant also record a duplicate "approved" copy with County Register of Deeds.

(2) ***Fees.*** A nonrefundable application fee as prescribed in Section 1-3-1 shall accompany an application. Processing of the application shall not proceed until such fee is paid.

(d) **Application Review Procedure.**

(1) ***Notice* of *Application Completeness.*** Within forty-five (45) days after the City Clerk-Treasurer, or the Zoning Administrator, receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within fourteen (14) days after the applicant provides all of the required information, the Zoning Administrator or City Clerk-Treasurer shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.

(2) ***Notification of Adjacent Landowners.*** Within fourteen (14) days after the Zoning Administrator or City Clerk-Treasurer notifies an applicant that his/her application is complete, the Zoning Administrator or City Clerk-Treasurer shall notify adjacent landowners of the application pursuant to the procedures in Section 13-1-85, and this Article, including the public hearing notice requirements below. The Zoning Administrator shall use the approved notice form in ATCP 51, Wis. Adm. Code, and mail a written notice to each property owner situated within three hundred (300) feet of the boundaries of the applicant's property pursuant to the procedures in Section 13-1-85.

(3) ***Public Hearing.*** The City shall schedule a public hearing on the application/notification pursuant to the requirements of Sections 13-1-84 and 13-1-85 before both the Planning Commission and Common Council meetings, or a joint public hearing may be held.

(e) **General Standards.** The general standards to be satisfied for issuance of a conditional use permit are as follows:

(1) ***State Livestock Facility Siting Standards.*** The State of Wisconsin livestock facility siting

standards prescribed under ATCP, Wis. Adm. Code These state standards are incorporated herein by reference, without reproducing them in full.

(2) ***Ordinance Setbacks.*** Setbacks authorized by this Chapter by applicable zoning district.

(f) **Criteria for Issuance of a Permit.**

(1) ***Compliance With Standards.*** A permit shall be issued if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets the standards specified in this Section.

(2) ***Basis for Denial.*** A conditional use permit application under this Section may be denied if any of the following apply:

a. The application, on it face, fails to meet the standard for approval.

b. The Common Council finds, based on other clear and convincing information in the record, that the proposed livestock facility does not comply with applicable standards in this Section.

c. Other grounds exist authorized by Section 93.90, Wis. Stats., that warrant disapproving the proposed livestock facility.

(3) ***Conditions.*** No conditions may be imposed on a conditional use permit under this Section other than standards described and provided in this Section.

(g) **Determination.**

(1) ***Planning Commission Advisory Recommendation.***

a. Following referral of the conditional use permit application under this Section, the Planning Commission may recommend that the Common Council issue a conditional use for livestock uses specified under this Chapter after review and public hearing, provided such uses are in accordance with the purpose and intent of the underlying zoning district, and, more specifically, the standards for such conditional use permits under this Section.

b. The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request as the Planning Commission deems necessary to carry out the intent and purpose of this Section.

(2) ***Common Council Action.***

a. Upon receiving the recommendation of the Planning Commission, the Common Council shall place the application and such recommendation(s) on the agenda for a subsequent Common Council meeting. The hearing requirements of Subsection (d)(3) shall be followed.

b. If, following the recommendations of the Planning Commission, the Common Council finds that specific inconsistencies exist in the review process or significant new facts have now been made available and thus the final determination of the Common Council could differ from the advisory recommendation of the Planning Commission, the Common Council may, before taking final action, refer the matter back to the Planning Commission with the written record or separate statement/report, explaining the specific reason(s) for referral. This referral action shall only be permitted one (1) time with each conditional use permit application under this Section.

c. At the Common Council's discretion, the Common Council shall have the option to set and hold a public hearing at the next regular Common Council meeting. Such hearing shall be noticed and conducted as prescribed in Sections 13-1-84 and 13-1-85.

d. The Common Council shall issue its decision in writing, which may be the minutes of the Common Council's meeting. The Common Council's decision shall be based on written findings of fact supported by evidence in the record. In the event that a livestock facility conditional use permit application is approved, the applicant shall receive a duplicate copy of the approved application, marked "approved". The duplicate copy must include worksheets, maps and other documents included in the application.

e. The Common Council shall grant, deny or conditionally approve a livestock facility

conditional use permit application within ninety (90) days after the notice of a complete application is provided as required under Subsection (d) above.

f. The Common Council may extend this time for good cause, including any of the following:
   1. The Common Council needs additional information to act on the application.
   2. The applicant materially modifies the application or agrees to an extension.

g. The Common Council shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Common Council will act on the application.

(h) **Notice To The State.** As required by ATCP 51.36, Wis. Adm. Code, within thirty (30) days of the Common Council's decision on the application, the City Clerk-Treasurer shall:

(1) ***Notice of Decision.*** The City Clerk-Treasurer shall give the Wisconsin Department of Agriculture, Trade and Consumer Protection written notice of the Common Council's decision.

(2) ***Filing Of Final Application/Worksheets.*** The City Clerk-Treasurer shall file with the Wisconsin Department of Agriculture, Trade and Consumer Protection ("Department") a copy of the final application granted or denied, if the City has granted or denied an application under this Section. Such copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.

(3) ***Approval Withdrawal.*** If the City has withdrawn a local animal livestock facility conditional use permit approval under this Section, the City Clerk-Treasurer shall file with the Department a copy of the City's final notice or order withdrawing the local approval.

(i) **Permit Expiration.** A conditional use permit under this Section remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under such permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the Common Council may treat a conditional use permit under this Section as lapsed and withdraw the permit if the permit holder fails to do all of the following within two (2) years after issuance of the permit:

(1) ***Animal Populating Requirement.*** Begin populating the new or expanded livestock facility; and

(2) ***Construction Requirement.*** Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the conditional use permit application.

(j) **Permit Modifications.** The operator may make reasonable changes that maintain compliance with the standards in this Section, and the Common Council shall not withhold authorization for those changes

(k) **Compliance Monitoring.** The City of Westby shall monitor compliance with this Section as follows:

(1) ***Inspections.*** Upon notice to the livestock facility owner request the right of the Zoning Administrator or designee to personally view the permitted facility at a reasonable time and date to insure that all commitments of the application as approved are being complied with.

(2) ***Inspection Refusal.*** If the livestock facility owner refuses the Zoning Administrator or designee the right to view the permitted facility, the Zoning Administrator or designee may request the assistance of the Police Department to obtain an inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under Section 66.0119, Wis. Stats.

(3) ***Noncompliance; Time to Correct.*** If a permitted facility is found not to be in compliance with the commitments made in the approved application, the Zoning Administrator or designee shall issue a written notice to the livestock facility owner stating the conditions of noncompliance and directing that compliance of the commitments of the approved application and be complied with in a reasonable amount of time stated in the written notice.

(4) ***Failure to Correct.*** If noncompliance of the conditional use permit conditions as described in the written notice given by the Zoning Administrator continue past the stated reasonable time to comply, the Zoning Administrator may take further action as provided in this Section and Zoning

Code, including, but not limited to, issuance of a citation or seeking of injunctive relief.

(5) ***Compliance Disputes; Hearing.*** If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing, such request to be in writing to the City Clerk-Treasurer within five (5) days of receipt of the notice of noncompliance. Upon receipt of such written hearing request, the Common Council shall schedule a hearing within five (5) days to determine if the conditions of the permit have been complied with or whether noncompliance of the commitments of the approved application and local approval exists.

(l) **Terms of the Permit; Violations.**

(1) ***Compliance With Permit Standards.*** A livestock facilities conditional use permit, and the privileges granted by such a permit under this Section, is conditioned on the livestock operator's compliance with the standards in this Section, and with the commitments made in the application for a permit.

(2) ***Violations; Penalties.***

a. The City of Westby is authorized to suspend a livestock facilities conditional use permit or seek other redress in this Section and Zoning Code for noncompliance, including, but not limited to, penalties under Section 13-1-226 of this Chapter and permit revocation or suspension, forfeiture and/or injunctive relief. In considering permit suspension or revocation, the Common Council shall consider extenuating circumstances, such as adverse weather conditions, that may affect an operator's ability to comply.

b. In addition to any penalties herein, the cost of abatement of any public nuisance on the permitted facility by the City may be collected under this Section or Section 823.06, Wis. Stats., against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Section 66.0627, Wis. Stats., unless paid earlier.

(m) **Transferability.**

(1) ***Permit To Run With Land.*** A livestock facilities conditional use permit and the privileges granted by the permit run with the land, and remain in effect, despite a change in ownership of the livestock facility, provided the new operator does not violate the terms of the City approval. An applicant may record with the Register of Deeds, at the applicant's expense, the duplicate copy of the approved application.

(2) ***Requirements Upon Change of Ownership.*** Upon a change of ownership of the livestock facility, the new owner of the facility shall file information with the City Clerk-Treasurer providing pertinent information, including, but not limited to, such information as the name and address of the new owner and date of transfer of ownership.

(n) **Appeals.**

(1) ***Appeals Under This Chapter.*** Appeals to this Section shall be taken pursuant to Article N of this Chapter.

(2) ***Appeals* To *State Livestock Facility Siting Board.***

a. In addition to other appeal rights provided by law and this Chapter, Section 93.90(5), Wis. Stats., provides that any aggrieved person may request review by the Livestock Facility Siting Review Board of any decision by the City in connection with a permit application.

b. An aggrieved person may challenge the decision on the grounds that the City incorrectly applied the standards under this Section or violated Section 93.30, Wis. Stats.

c. An "aggrieved person" under this Section as defined in Section 93.90(5), Wis. Stats., means a person who applied to a political subdivision, i.e. City, for approval of a livestock siting or expansion, a person who lives within two (2) miles of the livestock facility that is proposed to be sited or expanded, or a person who owns land within two (2) miles of a livestock facility that is proposed to be sited or expanded.

d. Any appeal to the State Livestock Facility Siting Review Board brought under this Subsection shall be requested within thirty (30) days of the Common Council approval or disapproval or within thirty (30) days after the decision on appeal before the Zoning Board of Appeals.

Sec. 13-1-97 through Sec. 13-1-99 Reserved for Future Use.

Article F: Nonconforming Uses, Structures and Lots

Sec. 13-1-100 Intent - Nonconforming Uses, Lots and Structures.

(a) **Intent; Interpretation.**

(1) Within the zoning districts established by this Zoning Code or amendment thereof, there may exist lots, structures and uses of land which were lawful before this Zoning Code was enacted or amended, but which would be prohibited in the future under the terms of this Zoning Code or amendment thereto.

(2) It is the intent of the City of Westby to permit nonconforming uses, lots and structures to remain and continue in accordance with the provisions hereinafter set forth until they are removed due to economic forces, public health or safety grounds, or otherwise. It is not the intent of this Zoning Code to perpetuate and/or encourage the long-term continuance of nonconformities because they are inconsistent with the requirements and character of the districts involved, or to permit nonconformities to be generally enlarged upon, expanded, or extended except as provided for herein. Existing nonconformities shall not be used to justify adding structures or uses prohibited in the zoning district.

(b) **Classification of Nonconformities.** Zoning nonconformities are classified into three (3) categories as follows:

(1) Nonconforming uses.

(2) Nonconforming lots.

(3) Nonconforming structures.

(c) **General Guidelines.** It is the intention of the City of Westby that standards be set forth for the purpose of determining:

(1) That the nonconforming use, lot or structure existed prior to the effective date of this Chapter or amendment thereto;

(2) The ways in which the right of the nonconforming use, lot or structure to remain can be preserved and the ways in which the right to continue nonconforming use, lot or structure can be lost;

(3) The extent of permissible variation in the nonconforming use, lot or structure; and

(4) The devices available for eliminating such nonconforming uses, lots or structures, where appropriate.

(d) **Burden of Proof Regarding Nonconforming Uses.** Any property owner asserting as a defense to a charge of violating this Chapter because his/her property is a valid nonconforming use has the burden of demonstrating to reasonable certainty by the greater weight of credible evidence that:

(1) The nonconforming use was legally in existence at the time the zoning ordinance provision that now prohibits that use was adopted. The use must be lawful under then existing zoning regulations and cannot contravene such zoning requirements.

(2) That the use of the property prior to the nonconformity came into being was so active and actual that the property owner can properly assert that the property owner has acquired a vested interest in its continuance. Such use cannot be occasional or sporadic. For purposes of this Chapter, a property owner shall be deemed to have a vested right in the use of his/her property where that use at the time the nonconformity came into being is both actual and active and a substantial degree of activity or expense had been undertaken prior to the effective date the zoning provision that caused the nonconformity to come into being. Such use must be more than incidental or accessory to the principal use of the property.

(3) That the use is substantially the same use that existed prior to the enactment of the ordinance or amendment thereto that caused the nonconformity.

Sec. 13-1-101 Article Definitions.

In addition to the definitions contained in Section 13-1-280(a) of this Chapter, the following definitions shall be applicable in Article; in the event of conflict, the more specific definition shall be applicable:

(a) **Assessed Value (Lot).** The full market value placed upon the lot by the City Assessor as of the date that the nonconformity came into being. Such valuation by the Assessor shall be prima facie evidence of an assessed value of the lot.

(b) **Nonconforming Lot.** [See definition in Sec. 13-1-280(a)].

(c) **Nonconforming Structure.** [See definition in Sec. 13-1-280(a)].

(d) **Nonconforming Use.** [See definition in Sec. 13-1-280(a)].

Sec. 13-1-102 Common Ownership of Abutting Nonconforming Lots.

Nonconforming lots of record owned by the same individual or other legal entity shall be combined prior to the issuance of a zoning permit.

Sec. 13-1-103 Existing Nonconforming Structures.

(a) **Continuation of Nonconforming Structures.**

(1) The use of a structure existing on the date that the nonconformity came into being may be continued although the structure's size or location does not conform with the development regulations, parking, loading, or access provisions of this Chapter.

(2) Any lawful nonconforming structure may be extended, enlarged, reconstructed, or structurally altered, provided that said extension, enlargement, reconstruction, movement or alteration complies with the setback and building requirements of the specific zoning district. However, the nonconforming feature of said structure shall not be allowed to become more nonconforming by being extended, enlarged, reconstructed, moved, or structurally altered except under one (1) or more of the following fact situations:

a. As when required to do so by law, or order.

b. To comply with the provisions of this Chapter.

c. With the approval of a conditional use permit under the procedures of Article E of this Chapter for the purpose of making required alterations to maintain the structural integrity of the building.

d. With the approval of a variance by the Zoning Board of Appeals.

(b) **Yard Encroachments by Nonconforming Structures.** Nonconforming structures which encroach upon the yard (setback) requirements of this Chapter, but which met yard requirements at the time the nonconformity came into being at the time of construction, may be structurally enlarged or expanded if the existing structure is located at a minimum of at least fifty percent (50%) of the minimum setback requirement(s) and further provided that the alteration does not create a greater degree of encroachment on yard, height, parking, loading, or access requirements. Placement of a new foundation or basement under an existing nonconforming structure shall be allowed as long as no further encroachment is permitted. The setbacks of the zoning district in which the structure is located shall be met if the lot size and existing location of the structure permits the setbacks to be met.

(c) **Unsafe Nonconforming Structures.** Nothing in this Chapter shall preclude the Building Inspector or any other City official from initiating remedial or enforcement actions when a lawful nonconforming structure is declared unsafe or presents a danger to the public health, safety, or welfare, constitutes a public nuisance, or is in violation of a licensing regulation.

(d) **Maintenance, Repair and Remodeling of Nonconforming Structures.** This Chapter does not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

(e) **Restoration of Certain Damaged Nonconforming Structures.**

(1) In the case of damaged or destroyed nonconforming structures, the restoration of a nonconforming structure is permitted if the structure will be restored to the size, subject to Subsection (e)(2) below, location and use that it had immediately before the damage or destruction occurred, or impose any limits on the costs of the repair, reconstruction, or improvement if all of the following apply:

a. The nonconforming structure was damaged or destroyed on or after March 2, 2006.

b. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(2) Where the criteria under Subsection (e)(1) above exist for a nonconforming structure to be restored, the size of the structure may be larger than the size it was immediately before the damage or destruction if necessary for the structure to comply with applicable federal or state requirements.

(f) **Shoreland Nonconforming Structures.** Nonconforming structures in shoreland areas damaged or destroyed by violent wind, fire, flood, or vandalism may be reconstructed or repaired, as provided by state law, to the size, location, and use it had immediately before the damage occurred if the landowner can establish that the damage was not due to deliberate act by the landowner or his/her agent, or due to general deterioration or dilapidated condition.

(g) **Relocation of Nonconforming Structures.** A nonconforming structure shall not be moved or relocated to any other location on the lot unless such structure is made to conform to all regulations of the zoning district in which it is located.

Sec. 13-1-104 Existing Nonconforming Uses.

Pursuant to Section 62.23(7)(h), Wis. Stats., a nonconforming use may not be extended. The total structural repairs and alterations in such a nonconforming use's building, premises, structure, or fixtures shall not during its life exceed fifty percent (50%) of the assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use. The nonconforming use of a structure, land, or water existing on the date that the nonconformity came into being may be continued although the use does not conform with the provisions of this Chapter, except that:

(a) **Change to More Restrictive Use Category.** The nonconforming use of a structure may be changed to a use of the same or more restricted classification, but where the nonconforming use of a structure is hereafter changed to a use of a more restrictive classification, it shall not thereafter be changed to a use of a less restricted classification.

(b) **Discontinuation of Nonconforming Use.** If a nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land or water shall conform to the provisions of this Chapter.

(c) **Maintenance of Nonconforming Use Parcels.** Parcels containing a nonconforming use of land or water may be maintained or repaired including grading, paving, and surfacing, or the repair and replacement of bumper or wheel stops, fences, screening and drainage ways, provided that the amount of land, water or storage (i.e. vehicles, equipment and/or materials) devoted to such nonconforming use as it existed prior to the date that the nonconformity came into being is not extended, enlarged or moved.

Sec. 13-1-105 Changes and Substitutions.

Once a nonconforming use or structure has been changed or altered so as to comply with the pertinent district provisions of this Chapter, it shall not revert back to a nonconforming use or structure. Once the Zoning Board of Appeals has permitted the substitution of a more or equally restrictive nonconforming

use for an existing nonconforming use pursuant to the provisions of Article N, the existing use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Zoning Board of Appeals and pertinent zoning district. Substitution of new equipment may be permitted by the Zoning Board of Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

Sec. 13-1-106 Floodplain and Shoreland-Wetland Nonconforming Uses and Structures.

(a) **Nonconformities in Floodplain Zoning Areas.** Nonconformities in Floodplain Zoning areas shall be governed by the provisions of the City of Westby Code of Ordinances regulating floodplain zoning (if adopted by the City) and pertinent sections of the Wisconsin Statutes and Wisconsin Administrative Code.

(b) **Nonconformities in Shoreland-Wetland Zoning Areas.** Nonconformities in Shoreland Wetland Zoning areas shall be governed by the provisions of the City of Westby Code of Ordinances regulating shoreland-wetland zoning (if adopted by the City) and pertinent sections of the Wisconsin Statutes and Wisconsin Administrative Code.

State Law References: Sec. 87.303, Wis. Stats., and NR 116.15, Wis. Adm. Code

Sec. 13-1-107 Nonconforming Performance Standards.

The use of any lot or parcel failing to comply with the performance standards set forth in this Chapter at the time of the adoption of this Chapter shall not be expanded unless the expansion conforms with the performance standards set forth in this Chapter.

Sec. 13-1-108 through Sec. 13-1-119 Reserved for Future Use.

Article G: Traffic Visibility, Loading, Parking and Access

Sec. 13-1-120 Traffic Visibility Triangle.

(a) **Vision Setback at Intersections of Public Streets.**

(1) Where two (2) public streets intersect at grade level, the intersection shall be daylighted by excluding all buildings, structures and other obstructions to view; including shrubbery and trees (except highway and street signs) from the triangles adjacent to the intersection described as follows:

Bounded on two (2) sides by the near boundaries of the intersecting streets and on the third side by a line drawn so as to intersect the street boundaries at points thirty-five (35) feet distant from the point of intersection of the street boundaries at the corner.

(2) In situations where trees of large diameter, large numbers of trees, or some combination of these are present, this provision shall be construed to mean that a sufficient number of trees shall be removed so as to render an object such as a motor vehicle clearly visible across the vision clearance triangle from one street or road to another, the intent being to provide for the public safety; but it shall not necessarily be construed to mean that every tree in the vision clearance triangle must be removed.

(b) **Exception.** In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

Sec. 13-1-121 Loading Requirements.

(a) **Loading Space Requirements.** On every lot on which a new business, commercial or industrial use is hereafter established, off-street loading space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:

Uses	**Square Feet of Gross Floor Area**	**Required Off-Street Loading space**
School		1
Hospital	Under 10,000	1
	From 10,000 - 30,000	1
	For each additional 30,000 or major fraction thereof	1 Additional
Funeral home		1
Office, hotel,	Under 10,000	1
retail, service,	From 10,000 – 25,000	1
wholesale, warehouse,	From 25,001 – 40,000	2
manufacturing,	From 40,001 – 60,000	3
processing or	From 60,001 – 100,000	4
repairing uses	For each additional 50,000 or major fraction thereof	1 Additional

(b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.

(c) **Location.** All loading areas shall be off-street and shall be located on the same lot as the building or use to be served. A loading area shall not be located less than twenty-five (25) feet from any street right of way; nor less than fifty (50) feet from a residential district unless within a building. Loading areas shall not occupy more than one-half (1/2) the required front yard setback. No loading space shall

be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street.

(d) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than seven (7) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.

(e) **Size.** An individual loading space shall be at least twelve (12) feet wide by seventy (70) feet long and have a minimum high clearance of sixteen (16) feet.

(f) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

(g) **Central Loading.** Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:

(1) Each zoning lot served shall have direct access to the Central Loading Area without crossing streets or alleys at grade.

(2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)

(3) No zoning lot served shall be more than three hundred (300) feet removed from the Central Loading Area.

(4) The tunnel or ramp connecting the Central Loading Area with the zoning lot served shall be not less than seven (7) feet in width and have a clearance of not less than seven (7) feet.

(h) **Unlawful Truck Use.** No truck or semi-trailer, or part thereof, shall be used for the purpose of permanent storage of goods or material, or for advertising purposes within the City. Use for a period in excess of two (2) weeks for the purpose of storage or advertising shall, for the purpose of construction of this Zoning Code, be deemed permanent use in violation of this Chapter.

Sec. 13-1-122 Parking Requirements.

The off-street parking provisions of this Chapter shall apply to all buildings and structures erected after the effective date of this Chapter, accessory parking shall be according to the provisions of this Article; where an intensity of the use of any building structure or premises shall be increased, additional parking to match the increased intensity of use shall be provided; or wherever an existing building or structure is converted to a new use, parking shall be provided according to the requirements of the new use. All new nonresidential parking lots and all alterations of existing lots shall be subject to the approval of the Zoning Administrator. Requests for said parking lots shall be accompanied with detailed plans on landscaping, parking layout, drainage provisions and driveway locations. In all districts, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

(a) **Access.** Each off-street parking space shall open directly upon an aisle or driveway designed to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.

(b) **Design Standards.** Each parking space shall not be less than one hundred eighty (180) square feet in area, eighteen (18) feet in length and ten (10) feet in width, exclusive of aisles and access drives. No parking area of more than two (2) spaces shall be designed as to require any vehicle to back into a public street. Any parking area of more than five (5) spaces shall be sufficiently screened in the form of a solid fence or shrubbery to protect adjacent residential uses. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.

(c) **Location.**

(1) All parking spaces required herein shall be located on the same lot with the building or use served, or may be located not to exceed five hundred (500) feet from the principal use.

(2) Off-street parking is permitted in all yards of all districts except in the non-driveway front yards of single-family and two-family residence districts but shall not be closer than five (5) feet to a nonresidential side lot line or rear lot line or closer than fifteen (15) feet to a right-of-way. No parking space or driveway, except in residential districts, shall be closer than twenty-five (25) feet to a residential district lot line.

(3) Off-street parking in the single-family and two-family residence districts is permitted in the front yard in the driveway, even though closer than five (5) feet to a side lot line providing the driveway conforms to the requirements in Sections 6-3-1 and 6-3-2 of this Code of Ordinances.

(d) **Surfacing.** All off-street parking areas, except parking spaces accessory to a single-family or two (2) family dwelling, shall be surfaced with a dustless all-weather material capable of carrying a wheel load of four thousand (4,000) pounds (normally, a two [2] inch blacktop on a four [4] inch base or five [5] inches of Portland cement will meet this requirement). Any parking area for more than ten (10) vehicles shall have the aisles and spaces clearly marked. Compacted stone or gravel may be used only with the approval of the Common Council. All parking lots three thousand (3,000) square feet or larger shall be internally drained with catch basins connected to a municipal storm sewer.

(e) **Landscaping.**

(1) ***Accessory Landscape Area.*** All public and private off-street parking areas which serve four (4) vehicles or more, are located within fifteen (15) feet of any lot line or public right-of-way and are created or redesigned and rebuilt subsequent to the adoption of this Code shall be provided with accessory landscape areas totaling not less than ten percent (10%) of the surfaced area. The minimum size of each landscape area shall not be less than one hundred (100) square feet.

(2) ***Location.*** Location of landscape areas, plant materials and protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Zoning Administrator.

(3) ***Plans.*** All plans for such proposed parking areas, at the discretion of the Zoning Administrator, shall include a topographic surveyor grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.

(4) ***Special residential requirements.*** Those parking areas for five (5) or more vehicles if adjoining a residential use shall be screened from such use by a solid wall, fence, evergreen planting of equivalent visual density or other effective means, built and maintained at a minimum height of four (4) feet. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five (5) feet from said lot line. Said fence shall be located a minimum of one (1) foot from the said lot line.

(5) ***Repair and Service.*** No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in Residence Districts.

(6) ***Lighting.*** Any lighting used to illuminate off-street parking areas shall be directed away from adjacent properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) foot candles measured at the lot line.

(7) ***Street Setback Area.*** No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.

(f) **Curbs.** Curbs or barriers shall be installed a minimum of four (4) feet from a property line so as to prevent the parked vehicles from extending over any lot lines.

(g) **Number of Stalls.** Number of parking stalls required are shown in the following table:

Use	**Minimum Parking Required**
Single-family dwellings, duplexes, one bedroom apartments or efficiencies and mobile homes	2 stalls for each dwelling unit
Multi-family dwellings (2 bedrooms or more)	Minimum of 2 stalls for each dwelling unit; 2 or more bedrooms, 1 stall per bedroom
Hotels, motels	1 stall for each guest room, plus 1 stall for each 3 employees
Hospitals, clubs, lodges, lodging and boardinghouses	1 stall for each 2 beds, plus 1 stall for each 3 employees
Sanitariums, institutions, rest and nursing homes	1 stall for each 5 beds, plus 1 stall for each 3 employees
Medical and dental clinics	8 stalls for each practitioner on the staff?
Churches, theaters, auditoriums, community centers, vocational and night schools and other places of public assembly Colleges, secondary and elementary schools	1 stall for each employee, plus 1 stall for each 5 students of 16 years of age or more
Restaurants, bars, places of entertain-ment and clubs	1 stall for each 150 sq. ft. of floor area
Manufacturing and processing plants, laboratories and warehouses	1 stall for each 3 employees, plus sufficient stalls to accommodate all trucks and other vehicles used in connection with the business
Financial institutions; governmental and professional offices	1 stall for each 300 square feet of floor area
Funeral homes	1 stall for each 5 seats
Bowling centers	3 stalls for each lane
Bed and breakfast establishments	1 off-street stall for each guest room
Retail stores and repair service shops	1 stall for each 150 square feet of floor area
Shopping centers	1 stall for each 100 square feet of floor area

(h) **Employee Parking.** In addition to the requirements in Subsection (g), in all districts except industrial there shall be employee off-street parking provided at the ratio of one off street parking space for each full-time employee. A full-time employee shall be one working forty (40) hours per week. Required parking spaces for part-time employees shall be arrived at by finding the equivalent hours of number of parking spaces needed for fulltime employees based on hours worked. The number of employee parking spaces shall be based on employment at the time the building is erected, enlarged, structurally altered or changed to a higher classification use.

(i) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply, as determined by the Common Council.

(j) **Computing Requirements.** In computing the number of spaces required, the following rules shall govern:

(1) Floor space shall mean the gross floor area of the specific use.

(2) For structures containing more than one (1) use, the required number of spaces shall be computed by adding the space required for each use.

(3) Where parking spaces are calculated according to the use of the parcel.

(k) **Combined Uses.** Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use. Two (2) or more uses may provide required off-street parking spaces in a common parking facility less than the sum of the spaces required for each use individually, provided such uses are not operated during the same hours. The following conditions must be met for any joint use:

(1) The proposed joint parking space is within four hundred (400) feet of the use it will serve.

(2) The applicant shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.

(3) A properly drawn legal instrument approved by the Common Council, executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the City Clerk-Treasurer. Said instrument may be a three (3) party agreement, including the City and all private parties involved. Such instrument shall first be approved by the City Attorney.

(l) **Handicapped Parking Requirements.**

(1) ***State Code Requirements.*** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 10 1.13, 346.503 and 346.56, Wis. Stats., and any Wisconsin Administrative Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed. In case of conflict, the most restrictive provision shall be applicable.

(m) **ADA Requirements for Parking Spaces.**

(1) ***Accessible Parking Space Requirements.***

a. In any self-park facility, a certain number of spaces must be set aside for wheelchair access as summarized in the following table:

Total Spaces	Minimum Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total
1001 & over	20 plus 1 per 100 over 1000 spaces

b. Exceptions:
   1. Outpatient units at medical care facilities - 10% of total spaces for that facility.
   2. Medical care facilities specifically for treatment of the mobility impaired 20% of the total spaces for that unit.

(2) ***Accessible Parking Space Dimensions.***
   a. Standard Accessible Spaces. Accessible spaces shall consist of a sixteen (16) foot wide parking stall adjacent to an eight (8) foot wide access aisle.
   b. Vertical Clearance. Along at least one (1) aisle to and from each accessible space, a minimum clearance of eight feet two inches (8'2") [ninety-eight (98) inches] is required.

(3) ***Location* of *Accessible Spaces.***
   a. Accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel to an accessible entrance.
   b. Accessible parking spaces need not be provided in each parking structure provided the different location has equivalent or greater accessibility in terms of distance from an accessible entrance.

(4) ***Accessible Route.***
   a. At least one (1) accessible route with a continuous minimum clearance of thirty-six (36) inches must be provided from accessible parking spaces to the nearest accessible pedestrian entrance.
   b. If an accessible route has less than sixty (60) inches clear width then passing spaces at least sixty (60) inches by sixty (60) inches must be located at reasonable intervals not to exceed every two hundred (200) feet.
   c. The floor slope along an accessible route shall not exceed one in twelve (1:12) with a maximum rise of thirty (30) inches for any run.
   d. A level landing shall be provided at the bottom of each ramp and top of each ramp run. The width of the landing shall be at least as wide as the ramp run and at least sixty (60) inches long. At changes in direction a sixty (60) inch by sixty (60) inch landing shall be provided.
   e. The cross slope of ramps shall not exceed one in fifty (1:50).
   f. The floor slope at loading zones shall not exceed one in fifty (1:50).
   g. It is preferable to provide the accessible route at the front of the stalls. Also, the accessible route shall avoid crossing lanes of vehicular travel. When crossing vehicular travel lanes is necessary, the route of travel shall be designated and marked by a crosswalk.

(n) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of twenty-five percent (25%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of fifty percent (50%) or more in the floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.

(0) **Off-Lot Parking.**

(1) Required off-street parking spaces shall be located on the same lot with the principal use, or such parking spaces may be located off-lot provided the parking spaces are located in the same district and not over four hundred (400) feet from the principal use. In cases where off-street parking facilities are permitted on land other than the same lot as the principal use, such facilities shall be in the same possession as the lot occupied by the use to which the parking facilities are necessary or in the possession of the controller of the principal use to which the parking facilities are accessory. Such possession shall be by deed whereby the owner of the land on which the parking facilities are to be located shall be bound by a covenant filed and recorded in the Office of the County Register of Deeds requiring such owner, his heirs or assigns to maintain the required facilities for the duration of the use served.

(2) Off-lot parking spaces for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the spaces are reserved while the farthest portions of a parking lot for all other uses shall be within four hundred (400) feet of the entrance of the establishment.
(3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a commercial, business or industrial zoning district.
(4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.

(p) **Signs.** Signs located in parking areas necessary for orderly operation of traffic movement shall be permitted in addition to others permitted in this Chapter.

(q) **Reduction of Parking Areas.** Off-street parking spaces shall not be reduced in number unless said number exceeds the requirement set forth herein.

Sec. 13-1-123 Highway Access.

(a) **Highway Access.** No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance ramps). No driveway openings shall be permitted within one hundred (100) feet of the intersection of an arterial street right-of-way line.

(b) **Access Barriers.** Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specifies streets or highways.

(c) **Temporary Access.** Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

Sec. 13-1-124 Off-Street Parking Restrictions in Residential Areas.

(a) **Where Permitted.** Unless the district regulations provide otherwise, off-street vehicle parking is permitted in the following yards of property in a residentially zoned district:
(1) A rear yard.
(2) A side yard not adjoining a street.
(3) A front yard, but only on one (1) paved or graveled driveway not exceeding twenty-four (24) feet in width and for not more than three (3) vehicles parked not nearer than five (5) feet to a front property line or three (3) feet to a side lot line.

(b) **Additional Permitted Areas.** Regardless of the provisions of Subsection (a) above, the Common Council may permit off-street vehicle parking in any yard of a residential development where the overall housing plan and design for such development, in the judgment of the Common Council, is substantially improved thereby, as compared to where off-street parking is limited by Subsection (a) above, and where sole access from such development is to local and collector streets. In this Subsection, "substantially improved" means a substantial increase in the value of the property. Such permission shall be granted only after a conditional use proceeding under Article E of this Code of Ordinances. No such permission shall be granted for any residential development which is adjacent

to either a public right-of-way or other residences unless sufficient and suitable screening is provided so as to prevent, to as great a degree as practicable, direct view of such off-street parking areas from such adjacent areas.

(c) **Vehicle Limitations.**

(1) In a residential district, accessory off-street parking facilities provided for uses listed herein shall be solely for the parking of passenger automobiles of patrons, occupants or employees and not more than two (2) trucks limited to one (1) ton capacity.

(2) Only two (2) vehicles licensed as trucks may be parked on a residential lot. Such vehicles are limited in size to a maximum of one (1) ton capacity.

(3) All vehicles parked on a residential lot shall be in condition for safe and effective performance of the function for which they are designed.

(4) All motor vehicles parked on a residential lot shall display current license plates.

Sec. 13-1-125 through Sec. 13-1-139 Reserved for Future Use.

Article H: Signs, Canopies, Awnings and Billboards

Sec. 13-1-140 Purpose of Sign, Canopy and Awning Regulations.

The purpose of this Article is to establish minimum standards to safeguard life and property and promote public welfare and community aesthetics by regulating the appearance, construction, location and maintenance of all signs, awnings, canopies and billboards. The provisions herein contained shall be binding alike upon every owner of a building, every lessee and every person in charge or responsible for or who causes the construction, repair, relocation or alteration of any outdoor sign and other advertising structures in the City of Westby; painting, posting and general maintenance are excepted.

Sec. 13-1-141 Signs, Canopies, Awnings and Billboards-Definitions.

The following definitions are used in this Article:

(a) **Area of Sign.** The area is the perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the sign may be placed unless they are designed as part of the sign. If the sign consists of more than one section or module, all areas will be totaled. The area of an irregularly shaped sign shall be computed using the actual sign face surface. The area of the irregularly shaped sign shall be the entire area within a single continuous rectilinear perimeter of not more than eight (8) straight lines.

(b) **Awning.** A temporary hood or cover which projects from the wall of the building, which can be retracted, folded or collapsed against the face of a supporting structure.

(c) **Billboard.** A sign which advertises goods, products or facilities, or services not necessarily on the premises where the sign is located or directs persons to a different location from where the sign is located.

(d) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign.

(e) **Canopy.** A canopy is a shelter, with or without a sign, attached to or connected with a building and extending into a setback or over the public sidewalk.

(f) **Day.** A day shall be designated as a period of time in terms of calendar days.

(g) **Directly Illuminated Sign.** Any sign designed to give any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.

(h) **Directory Sign.** Shall mean any sign on which the names and locations of occupants or the use of a building is given. This shall include offices and church directories. Directory signs shall be encouraged for use with advertising of multiple-occupied commercial and industrial buildings.

(i) **Electronic Message Unit Sign.** Any sign whose message may be changed by electronic process, including such messages as copy, art, graphics, time, date, temperature, weather or information concerning civic, charitable or the advertising of products or services for sale on the premises. This also includes traveling or segmented message displays.

(j) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.

(k) **Freestanding (Ground and/or Pole Sign).** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.

(1) **Identification Sign.** Any sign which carries only the name of the firm, major enterprise, institution or principal products offered for sale on the premises or combination of these.

(m) **Indirectly Illuminated Sign.** Shall mean a sign that is illuminated from a source outside of the actual sign.

(n) **Marquee Sign.** Shall mean any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.

(0) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Article.

(p) **Off-Premise Sign.** Any sign, device or display which advertises goods other than that commonly available or services other than that commonly performed on the premise on which the sign is located.
(q) **Political Sign.** Any sign displaying a candidate for an election, or a current referendum or election subject matter.
(r) **Portable Sign/Message Boards.** Any sign not permanently attached to the ground which is designed to be easily moved from one location to another. A "sandwich-style" portable sign is a sign not permanently attached to the ground, meant to be temporarily placed outside on a sidewalk or right-of-way adjacent to a business, and not exceeding three (3) feet by three (3) feet on each side. The placement of planters, benches, hanging flower pots, and fixtures shall be governed by Section 6-2-6(b) and (c).
(s) **Projecting Sign.** Any sign extending more than eighteen (18) inches, but less than four (4) feet from the face of a wall or building; such sign may not extend more than three (3) feet into the right-of-way.
(t) **Real Estate Sign.** Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.
(u) **Roof Sign.** Any sign erected upon or over the roof or parapet of any building.
(v) **Sign.** A sign shall include anything that promotes, calls attention or invites patronage (or anything similar to the aforementioned) to a business, location or product.
(w) **Temporary Sign.** Any sign which is erected or displayed for a limited period of time not to exceed twenty-eight (28) consecutive days or which is displayed only during regular business hours and removed for storage at other times. A temporary sign shall not exceed eight (8) square feet in area. Examples of temporary signs include banners and decorative type displays. For purposes of this Chapter, a portable sign is not a temporary sign.
(x) **Wall Sign.** Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than sixteen (16) inches from such wall.
(y) **Window Sign.** Any sign located completely within an enclosed building and visible from a public way.

Sec. 13-1-142 Required Permits for Signs, Canopies and Awnings.

(a) **Application.** Except those specified in Section 13-1-143, no signs, billboards, awnings or canopies shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Article. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the City of Westby. Signs shall not be erected or altered until a permit has been issued by the Zoning Administrator. "Altered" shall be defined as any modification in the size, height, dimensions, location or mounting of a sign other than routine maintenance.
(b) **Required Information.** Application for a sign permit shall be made in writing upon forms furnished by the Zoning Administrator which contain the following information about the sign: dimensions, including display surface; materials; illumination; wiring; height above grade; distance from lot lines; and the person, firm or corporation erecting or altering the sign. A permit is not required for a copy change when no change in business name is involved.
(c) **Permit Fees.** A permit fee shall be paid to the Zoning Administrator for each sign permit issued under this Article, provided, however, that a fee shall not be charged for putting an existing sign in conformity with this Article, or for a copy change when no change in business name is involved.
(d) **Insurance.** Any person, firm or corporation engaged in the business of erecting, repairing, maintaining or relocating any sign shall maintain in effect at all times a policy of liability insurance with limits of Three Hundred Thousand Dollars ($300,000.00) for bodily injury and One Million Dollars ($1,000,000.00) aggregate and One Hundred Thousand Dollars ($100,000.00) property damage. Proof of insurance shall be presented to the Zoning Administrator before the sign permit is

granted.

(e) **Inspection.** The applicant shall, upon completion of the installation, relocation or alteration of the sign, notify the Zoning Administrator who will assure the sign complies with the regulations of this Article. Every sign shall be inspected and approved by the Zoning Administrator within thirty (30) days after it is erected or altered.

(f) **Appeals.** The Zoning Administrator may, at any time for a violation of this Article, revoke a permit or require changes so the sign conforms with this Article. The holder of a revoked permit shall be entitled to an appeal before the Zoning Board of Appeals. Any person, firm or corporation aggrieved by any permit denial or decision by the Zoning Administrator relative to the provisions of these sign regulations may appeal and seek review of such decision to the Zoning Board of Appeals.

Sec. 13-1-143 Signs Not Requiring a Permit (Revised 02-18-2025)

The following signs do not require a sign permit, provided that they are not located over a public road right-of-way or in, on or over public water (unless specifically excepted):

(a) **Commercial, Industrial and Planned Unit Development (Commercial/Industrial) Districts.**

(1) Real estate signs not to exceed eight (8) square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.

(2) Name, occupation and warning signs not to exceed four (4) square feet located on the premises.

(3) Bulletin boards for public, charitable or religious institutions not to exceed thirty-five (35) square feet in area located on the premises.

(4) Sandwich-style portable signs used only for the purpose of identification of a business and advertising the products for sale therein. A portable sandwich-style sign shall not exceed nine (9) square feet in gross area per side, may be placed at the right-of-way line of the street, and only be placed in the sidewalk/terrace area directly in front of the business premises being advertised in a manner as not to unreasonably obstruct pedestrian or vehicular traffic. Such signs shall be removed at the end of each business day. The placement of planters, benches, hanging flower pots, and fixtures which may be related to the use of sandwich-style portable signs shall be governed by Section 6-2-6(b) and (c).

(5) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against the structure.

(6) Official signs, such as traffic control, parking restriction, information and notices.

(7) Rummage or garage sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours per sale. Such signs shall not be attached to utility or traffic control signs. Such signs shall be removed within twenty-four (24) hours after the end of such sale. Property owners shall be billed under Sec. 66.60(16), Wis. Stats., if City personnel must remove such signs.

(8) Signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to functional operation of the building or premises shall be permitted without limitation other than reasonable size and necessity.

(9) Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers or names of occupants of premises.

(10) Flags and insignia of any government, except when displayed in connection with commercial promotion.

(11) Legal notices, identification information or directional signs erected by governmental bodies.

(12) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

(13) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

(14) Political signs may be posted forty-five (45) days before an election and must be removed within seven (7) days after said election. Said sign shall be a maximum of twenty (20) square feet. Said sign cannot be within fifteen (15) feet of edge of road and cannot be within five (5) feet of neighboring property lines.

(b) **Residential, Conservancy and Agricultural Districts.**

(1) Real estate signs not to exceed eight (8) square feet in area which advertise the sale, rental or lease of the premises upon which said signs are temporarily located.

(2) Nameplate signs not to exceed two (2) square feet located on the premises.

(3) Bulletin boards for public, charitable or religious institutions not to exceed eight (8) square feet in area located on the premises.

(4) Memorial signs, tablets, names of buildings and dates of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

(5) Official signs, such as traffic control, parking restrictions, information and notices.

(6) Awnings or canopies servicing only a particular single-family dwelling unit, provided the same shall conform to the regulations applicable to the zoning district in which the same are located.

(7) House numbers or signs identifying parks or country clubs or official bulletin boards.

(8) An approved professional sign shall be a sign not exceeding two (2) square feet in area, stating only the name and business or profession of the home occupant or the character or the use of the premises on which the sign is maintained. It shall not be illuminated and shall not move. Only one (1) such approved professional sign shall be maintained on a premises.

(9) Political signs may be posted forty-five (45) days before an election and must be removed within seven (7) days after said election. Said sign shall be a maximum of twenty (20) square feet. Said sign cannot be within fifteen (15) feet of edge of road and cannot be within five (5) feet of neighboring property lines.

(10) Rummage or garage sale signs not to exceed eight (8) square feet in area, but use of this type of sign shall be limited to seventy-two (72) hours per sale.

Sec. 13-1-144 Permitted Sign Types and Locations.

(a) **Permitted Locations of Signs.**

Zoning District	Types of Signs Permitted
R-l, R-2, R-3, R-4, R-5	2, 3, 6, 8
B-1, B-2, B-3	1, 2, 3, 4, 5, 6, 7
I-1	1, 2, 3, 4, 5, 6, 7
A-1	1 ,2, 3, 6, 7
C-l	1, 3, 6, 7

(b) **Types of Signs, Maximum Size, Number and Location.**

(1) ***Type 1.*** Directory signs advertising a business or activity conducted, an area of interest, or a service available, at a specific location. Such signs shall be not more than twelve (12) square feet in gross area. There shall be not more than two (2) such signs relating to any one (1) such use in the approaching direction along any one (1) street. No such sign shall be more than ten (10) miles away from the location to which it relates. Such signs may be placed at the right-of-way line of the street. A larger number of signs may be permitted by the Zoning Board of Appeals if the Board shall find it necessary for directing the traveling public. *Permit required.*

(2) ***Type 2.*** Signs advertising a customary home occupation or professional office. Such signs shall not exceed four (4) square feet in gross area, shall be attached to the building, and if illuminated shall be directly lighted (self-contained lighting). Such signs shall be turned off by 9:00 p.m. *No permit required.*

(3) ***Type 3.*** Signs advertising the sale, rent or lease of the property on which the sign is placed. Such sign shall not exceed four (4) square feet in gross area and may be placed at the right-of-way line of the street. *No permit required.*

(4) ***Type 4.*** Signs located off premises advertising a general brand or product; an area of interest; a business conducted; or a service available. Such signs shall not be more than one hundred (100) square feet in gross area and erected outside a line parallel to and fifty (50) feet from the street right-of-way line. *Permit required.*

(5) ***Type 5.*** Signs on the premises of commercial and industrial buildings advertising a business conducted or a service available on the premises. No sign shall exceed forty (40) square feet in gross area, be higher than four (4) feet above the top of the roof line or exceed the maximum height limitation permitted in the district. *Permit required.*

(6) ***Type 6.*** On-premise signs advertising a public or semipublic use. Such signs shall not exceed thirty-two (32) square feet in gross area. There shall be no more than one (1) sign for each street upon which the property faces. *Permit required.*

(7) ***Type 7.*** Recreational directory signs indicating the direction to a cottage, resort, residence or similar use. Such signs shall not be more than one (1) square foot in gross area. Where a common posting standard is provided all such signs shall be attached to the standard recreational directory. *Permit required.*

(8) ***Type 8.*** Signs located only on the premises of allowable Conditional Uses in a Residential Zone advertising a professional office, a business conducted or a service available on the premises. Such signs shall not be allowed on any city street in a Residential Zone, except on a State System (U.S.H. 14-61). Such signs shall not exceed twenty (20) square feet in gross area and lighting will not be permitted. *Permit required.*

(c) **Lighting.** Business and industrial signs may be internally lighted or illuminated by a hooded reflector, provided, however, that such lighting shall be arranged to prevent glare and no sign shall be lighted by a lighting of intermittent or varying intensity. Animated signs, or signs having moving parts, or signs which may be mistaken for traffic signal devices, or which diminish the visibility or effectiveness of such traffic signal devices are prohibited.

(d) **Signs Causing Obstruction Prohibited.** Any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, window, door or opening used as means of ingress or egress, or for firefighting purposes, or placed so as to interfere with any opening required for legal ventilation is prohibited.

(e) **Signs at Intersection Prohibited.** No sign or advertising device shall be erected or maintained at the intersection of streets in such a manner as to obstruct clear vision of the intersection.

(f) **Canopy Signs Restricted.** Signs shall be permitted to hang from canopies or covered walks in Business or Industrial Districts provided that there shall be only one (1) sign, not to exceed five (5) square feet, for each business and that the sign shall be at least ten (10) feet above ground level.

(g) **Total Sign Area.** No sign shall contain more than one hundred (100) square feet in gross area.

Sec. 13-1-145 Permitted Residential, Agricultural and Conservancy Signs.

In addition to those permitted signs not requiring a permit pursuant to Section 13-1-143(b) and those types authorized by Section 13-1-144(b), the following non-flashing, non-illuminated signs are permitted under the conditions specified in all residential, planned unit development (residential), agricultural and conservancy districts established by this Chapter:

(a) **Nameplate and Identification Signs.** Subject to the following:

(1) ***Area and Content - Residential.*** There shall be not more than one (1) nameplate, not exceeding

two (2) square feet in area, for each dwelling unit, indicating the name or address of the occupant or a permitted home occupation. On a corner lot, two (2) such nameplates for each dwelling unit (one facing each street) shall be permitted.

(2) ***Area and Content - Nonresidential.*** For agricultural or conservancy buildings, a single identification sign, not exceeding nine (9) square feet in area and indicating only the name and address of the building, may be displayed. On a corner lot, two (2) such signs (one facing each street) shall be permitted.

(3) ***Projection.*** Such signs shall be affixed flat against the wall of the building.

(4) ***Height.*** No sign shall project higher than one (1) story or fifteen (15) feet above curb level, whichever is lower.

(b) **"For Sale" and "To Rent" Signs.** Subject to the following:

(1) ***Area and Number.*** There shall be not more than one (1) sign per zoning lot, except that on a corner zoning lot two (2) signs (one facing each street) shall be permitted. No sign shall exceed eight (8) square feet in area nor be closer than eight (8) feet to any other zoning lot.

(2) ***Height.*** No sign shall project higher than one (1) story or fifteen (15) feet above curb level, whichever is lower, when attached to a building; detached or free-standing signs shall not be more than seven (7) feet in height, measured from the soil grade to the top of the sign post.

(c) **Signs Accessory to Parking Area.** Subject to the following:

(1) ***Area and Number.*** Signs designating parking area entrances or exits are limited to one (1) sign for each such exit or entrance, and to a maximum size of two (2) square feet each. One (1) sign per parking area, designating the conditions of use or identity of such parking area and limited to a maximum size of nine (9) square feet, shall be permitted. On a corner lot, two (2) such signs (one facing each street) shall be permitted.

(2) ***Projection.*** No sign shall project beyond the property line into the public way.

(3) ***Height.*** No sign shall project higher than seven (7) feet above curb level.

(d) **Signs Accessory to Roadside Stands.** Subject to the following:

(1) ***Content.*** The signs shall be only for the purpose of identification of the roadside stand and advertising the agricultural products for sale therein.

(2) ***Area and Number.*** The signs shall be on the same zoning lot (either zoned agricultural or with a conditional use permit) as the roadside stand, and there shall be not more than two (2) signs per lot. No sign shall exceed twelve (12) square feet in area nor be closer than fifty (50) feet from any other zoning lot.

(3) ***Projection.*** No sign shall project beyond the property line into the public way.

(4) ***Height.*** No sign shall project higher than fifteen (15) feet above curb level.

(5) ***Permit.*** A sign permit is required for this type of sign.

(e) **Temporary Signs Accessory to Subdivision Developments or Other Permitted Improvements in Residential Districts.** Subject to the following:

(1) ***Content.*** The signs shall be only for the purpose of identification of homes for sale or rent in the subdivision under construction, or for the identification of other nonresidential uses under construction.

(2) ***Area, Number and Setback.*** Such signs shall not exceed two (2) in number for each subdivision nor thirty-two (32) square feet each in area. They shall observe the front yard requirement of the principal use and shall be located at least fifty (50) feet from all other boundaries of the site.

(3) ***Height.*** No sign shall project higher than five (5) feet above curb level.

(4) ***Time Limitations.*** The sign or signs shall be removed by the applicant or property owner within two (2) years of the date of the issuance of a sign permit.

(5) ***Permit.*** A sign permit is required for this type of sign.

(f) **Subdivision Identification Signs.** Subject to the following:
   (1) ***Content.*** The signs shall bear only the name of the subdivision or development.
   (2) ***Area and Number.*** There shall be not more than one (1) sign located at each entrance to a subdivision. No sign shall exceed twenty-four (24) square feet in area.
   (3) ***Height.*** No sign shall project higher than six (6) feet above curb level; the Common Council may, however, temporarily authorize a larger sign for a period not to exceed two (2) years.
   (4) ***Permit.*** A sign permit is required for this type of sign. Drawings showing the specific design, appearance and location of the sign shall be submitted to the Zoning Administrator for approval. The location of any such sign shall be at the discretion of the Zoning Administrator based upon the character of the area, the type and purpose of the sign and the length of time permitted.

(g) **Non-flashing, Illuminated Church Bulletins.** Subject to the following:
   (1) ***Area and Number.*** There shall be not more than one (1) sign per lot, except that on a corner lot, two (2) signs (one facing each street) shall be permitted. No sign shall exceed sixteen (16) square feet in area nor be closer than eight (8) feet from any other zoning lot.
   (2) ***Projection.*** No sign shall project beyond the property line into the public way.
   (3) ***Height.*** No sign shall project higher than one (1) story or fifteen (15) feet above the curb level, whichever is lower.
   (4) ***Permit.*** A sign permit is required for this type of sign. Drawings showing the specific design, appearance and location of the sign shall be submitted to the Zoning Administrator for approval. The location of any such sign shall be at the discretion of the Zoning Administrator based upon the character of the area, the type and purpose of the sign and the length of time permitted.

Sec. 13-1-146 Landscape Features.

Landscape features such as plant materials, berms, boulders, fencing and similar design elements unincorporated or in conjunction with the freestanding signs are encouraged and shall not be counted as allowable sign area.

Sec. 13-1-147 Prohibited Signs.

(a) **Traffic Interference.** Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs or devices. Signs, canopies and awnings shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices or the safe flow of traffic. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign, awning or canopy shall be placed so as to obstruct or interfere with traffic visibility.

(b) **Moving or Flashing Signs.** No sign shall be erected which has any flashing, rotating or brilliant intermittent parts or lights or bare reflecting-type bulbs, except those giving public service information such as time, date, temperature, weather or similar information or where allowed by conditional use permit. No signs, billboards or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.

(c) **Number of Signs Permitted.**
   (1) No more than two (2) signs of any type shall be located on any premises, except that premises occupied by a shopping center may, as an alternative, have one (1) detached sign plus one (1) flat sign illuminated or otherwise for each place of business located in said shopping center provided that the aggregate total area of all signs located on any premises so occupied shall not exceed the total area permitted for one (1) detached sign and one (1) flat sign as set forth in this Article.

(2) Businesses with streets fronting both sides shall be allowed two (2) types of signs for each street frontage; no street frontage buildings shall be allowed two (2) of the same type of sign for that particular business.

(d) **Signs on Public Rights-of-Way.** Signs shall not be permitted on public rights-of-way, except for municipal traffic control, parking and directional signs and as otherwise specified in this Chapter, or be located within five (5) feet of a property line.

(e) **Distance Between Freestanding Signs.** The distance between freestanding signs shall be a minimum of seventy-five (75) feet between freestanding signs throughout the street frontage in order to prevent congestion and maintain traffic visibility.

Sec. 13-1-148 Dangerous and Abandoned Signs.

(a) **Removal.** All signs shall be removed by the owner or lessee of the premises upon which the sign is located when a business which it advertises has not been conducted for a period of thirty (30) days or when, in the judgment of the Zoning Administrator, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Zoning Administrator or Common Council, or a designee, may remove the sign at cost of the owner, following adequate written notice. The owner may appeal the decision of the Zoning Administrator, Common Council or designee to the Board of Appeals.

(b) **Alterations.** For signs erected before the adoption of this Sign Code, said signs shall be rebuilt or relocated to conform to this Article if the cost of reconstruction or relocation is fifty percent (50%) or more of its replacement value.

(c) **Violations.** All signs constructed or maintained in violation of any of the provisions of this Article are hereby declared public nuisances within the meaning of this Code of Ordinances. In addition to the above penalty provisions and the provisions of Section 13-1-226 for violations of this Chapter, the Zoning Administrator, Common Council or designee may bring an action to abate the nuisance in the manner set forth in the Wisconsin Statutes.

Sec. 13-1-149 Variances or Exceptions.

Variances or exceptions to these sign regulations may be granted by the Board of Appeals, following a recommendation from the Planning Commission, pursuant to the standards of Section 13-1-263.

Sec. 13-1-150 Construction and Maintenance Regulations for Signs.

(a) **Installation.** All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Zoning Administrator.

(b) **General Requirements.**

(1) ***Construction Standards.*** All signs, except flat signs and those signs weighing less than ten (10) pounds, shall be designed, fastened and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area and shall be constructed, attached, fastened or anchored to adequately support the dead load and any anticipated live loads (i.e., ice, snow) of the sign.

(2) ***Illuminated Signs.*** Any illuminated signs shall not interfere with surrounding properties or traffic.

(3) ***Prohibited Mounting.*** No signs shall be painted on, attached to or affixed to any trees, rocks, or

other similar organic or inorganic natural matter, including utility poles or apparatus.

(4) ***Blanketing.*** Blanketing of signs shall not be allowed.

(5) ***Maintenance.*** All signs, including supports and attachments, shall be properly maintained and have an appearance that is neat and clean. All signs shall be kept in good structural condition, well painted, and clean at all times and the immediate premises shall be maintained in a clean, sanitary and inoffensive condition and kept free and clear of all obnoxious substances, rubbish and weeds.

(6) ***Annexed Areas.*** All signs in newly annexed areas shall comply with this Article within five (5) years of annexation.

Sec. 13-1-151 Special Sign Requirements.

(a) **Search Lights.** The Zoning Administrator may permit the temporary use of a search light for advertising purposes in any district provided that the search light will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Search light permits shall not be granted for a period of more than five (5) days in any six (6) month period.

(b) **Electronic Message Unit Signs.**

(1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.

(2) Segmented messages must be displayed for not less than five (5) seconds and more than ten (10) seconds.

(3) Traveling messages may travel no slower than sixteen (16) light columns per second and no faster than thirty-two (32) columns per second.

(c) **Portable Signs/Message Boards.**

(1) Such signs shall be limited in use to thirty (30) days at a time following approval by the Zoning Administrator, provided, however, that the Zoning Administrator shall not give approval for placement of a portable sign/message board if it presents a vision obstruction and shall not be displayed more frequently than three (3) times per year at any one (1) location.

(2) The maximum size shall be twenty-five (25) square feet on each face, back-to-back.

Cross-Reference: Section 13-1-143(a)(4) "Sandwich-style Portable Signs".

Sec. 13-1-152 Nonconforming Signs.

(a) **Signs Eligible For Characterization as Legal Nonconforming.** Any sign located within the City of Westby limits of the date of adoption of this Chapter hereafter which does not conform with the provisions of this Article is eligible for characterization as a legal nonconforming sign and is permitted, providing it meets the following requirements:

(1) The sign was covered by a proper sign permit prior to the date of adoption of this sign ordinance;

(2) If no permit was required under the applicable law for the sign in question and the sign was, in all respects, in compliance with applicable law on the date of adoption of this sign ordinance.

(b) **Loss of Legal Nonconforming Status.** A sign loses its nonconforming status if one (1) or more of the following occurs:

(1) If said sign is damaged by fire, flood, explosion, earthquake, war, riot or Act of God; or structurally altered in any way, except for normal maintenance and repair; the sign may be reconstructed and used as before if it is reconstructed within three (3) months after such calamity, unless the damage to the sign is fifty percent (50%) or more of its replacement value, in which

case, the constructed sign shall comply with the provisions of this Article.

(2) The sign is relocated;

(3) The sign fails to conform to the City requirements regarding maintenance and repair, abandonment or dangerous or defective signs;

(4) On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Article with a new permit secured therefor or shall be removed.

(c) **Legal Nonconforming Sign Maintenance and Repair.** Nothing in this Article shall relieve the owner or use of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Article regarding safety, maintenance and repair of signs.

Sec. 13-1-153 Awnings and Canopies.

(a) **Permitted Awnings.** No awnings shall be erected or maintained, except such awnings as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:

(1) ***Support.*** Awnings shall be securely attached to and supported by the building and shall be without posts or columns beyond the setback line.

(2) ***Height.*** All awnings shall be constructed and erected so that the lowest portion thereof shall be not less than eight (8) feet above the level of the public sidewalk or public thoroughfare.

(3) ***Setback from Curb Line.*** No awning shall extend beyond a point four (4) feet into the right-of-way.

(4) ***Advertising.*** No advertising shall be placed on any awning, except that the name of the establishment within the building to which the awning is attached may be painted or otherwise permanently placed in a space not exceeding eight (8) inches in height on the front and side edges.

(5) ***Awning Insurance Requirements.*** Every applicant for a permit for an awning which will overhang the public street or sidewalk shall, before the permit is granted, file with the City Clerk-Treasurer a liability insurance policy with minimum limits of Fifty Thousand Dollars ($50.000.00) for personal injury to any person and One Hundred Thousand Dollars ($100,000.00) for property damage which shall indemnify and save harmless the City of Westby from any and all damages, judgments, costs or expense which the City may incur or suffer by reason of the granting of said permit.

(b) **Permitted Canopies.** No canopies shall be erected or maintained, except such canopies as comply with the following requirements, and then only if the permit required hereunder is first obtained and the same conform to the regulations of the zoning district in which the same are to be located:

(1) ***Support.*** The structural support of all canopies shall be designed by a licensed professional engineer and approved by the Building Inspector as in compliance with the Building Code of the City. All frames and supports shall be of metal and designed to withstand a wind pressure as provided in Section 13-1-150 of this Code. All canopies shall be attached to a building, and no supports shall exist beyond the setback line between the canopy and the sidewalk or ground below.

(2) ***Height Above Sidewalk.*** All canopies shall be constructed and erected so that the lowest portion thereof shall not be less than eight (8) feet above the level of the sidewalk or public thoroughfare.

(3) ***Setback From Curb.*** No canopy shall extend beyond a point four (4) feet from the face of a wall or building.

(4) ***Advertising.*** No advertising shall be placed on any canopy, except that the name of the establishment may be painted or placed in a space not exceeding twenty-four (24) inches in average height on the front and side edges. Such name may be so painted or placed irrespective of

any prohibition otherwise applicable hereunder, providing, however, that if such canopy shall contain more or other than the name of the establishment in letters more than eight (8) inches high on the front and side edges, it shall be considered as a sign and be subject to all the provisions hereof.

(5) ***Canopy Insurance Requirements.*** Every applicant for a permit for a canopy which will overhang the public street or sidewalk shall, before the permit is granted, file with the City Clerk-Treasurer a liability insurance policy with minimum limits of Fifty Thousand Dollars ($50,000.00) for personal injury to any person and One Hundred Thousand Dollars ($100,000.00) for any one (1) accident and Ten Thousand Dollars ($10,000.00) for property damage which shall indemnify and save harmless the City of Westby from any and all damages, judgments, costs or expense which the said City may incur or suffer by reason of the granting of said permit.

Sec. 13-1-154 Violations of Sign Code.

(a) Any person, firm or corporation who begins, erects or completes the erection or construction of any sign, awning or canopy controlled by this Article prior to the granting of a sign permit shall pay a penalty double the amount of the permit otherwise required.

(b) (1) If the Zoning Administrator finds any sign, awning or canopy regulated herein unsafe or insecure or is a menace to the public, it shall give written notice to the sign owner and to the property owner.

(2) If such sign, awning or canopy owner fails to remove or alter the sign, awning or canopy so as to comply with the standards herein set forth within five (5) days after such notice, the Zoning Administrator may cause such sign, awning or canopy to be removed or altered at the expense of the owner of the sign, awning or canopy or the owner of the property upon which it is located so as to comply with the provisions of this Article.

(c) Any person, firm or corporation who violates any provision of this Article shall, in addition, be subject to the penalties prescribed in Section 13-1-226. Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.

Sec. 13-1-155 through Sec. 13-1-159 Reserved for Future Use.

Article I: Performance Standards-Industrial Developments

Sec. 13-1-160 Article Intent.

It is the intent of this Article to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects.

Sec. 13-1-161 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.

Sec. 13-1-162 External Lighting.

No operation or activity shall produce any intense glare or lighting with the source directly visible beyond an Industrial District's boundaries or register one-half candles at a residential property line.

Sec. 13-1-163 Odor.

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Chapter NR 154.18, Wisconsin Administrative Code.

Sec. 13-1-164 Particulate Emissions.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11, Wisconsin Administrative Code.

Sec. 13-1-165 Visible Emissions.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wisconsin Administrative Code.

Sec. 13-1-166 Hazardous Pollutants.

No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chapter NR 154.19, Wisconsin Administrative Code.

Sec. 13-1-167 through Sec. 13-1-179 Reserved for Future Use.

Article J: Signal Receiving Antennas; Wind Energy Systems; Wireless Telecommunications Systems

Sec. 13-1-180 Signal Receiving Antennas (Satellite Dishes).

(a) **Purpose.** In order to secure uniformity and compliance with Federal Communications Commission rules (FCC 96-328) on over-the-air reception devices implementing Section 207 of the Telecommunications Act of 1996, this Section regulating the placement of signal receiving antennas and over-the-air reception devices is adopted to:

(1) Provide uniform regulation where necessary of all signal receiving antenna devices;

(2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;

(3) Preserve the integrity of historic preservation districts;

(4) Protect the public from injury from roof-mounted antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the roof-mounted antenna; and

(5) Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.

(b) **Definitions.**

(1) For purposes of this Section, a "signal receiving antenna" is defined as any apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas, and over-the-air reception devices, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.

(2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one (1) owner shall be considered an owner.

(c) **Limited Permit Requirement.**

(1) No owner shall, within the City of Westby, build, construct, use or place any type of signal receiving antenna or over-the-air reception device that is roof-mounted or proposed to be located in a designated historic preservation district until a permit shall have first been obtained from the Building Inspector.

(2) Application for a signal receiving antenna permit when required under Subsection (c)(1) shall be made in writing to the Building Inspector. With such application, there shall be submitted a sufficient set of mounting plans and specifications to allow a determination to be made that the device can be safely roof-mounted, or, in the case of a historic preservation district, can be located in such a manner as to not seriously detract from the historic character of the district. There is no fee for such permit. If such application meets the requirements of this Section, the application shall be approved.

(d) **Exemption.** Signal receiving devices less than twenty-four (24) inches in diameter are exempt from the requirements of this Section, except for the requirements in Subsection (e)(1), (6), (8) and (11).

(e) **Installation Standards.** Signal receiving antennas installed in any zoning district within the City shall comply with the following provisions:

(l) ***Setbacks.***

a. Any signal receiving antenna and its mounting post shall be located a minimum of ten (10) feet from any property line. The purpose of setback regulations is to protect the aesthetics of the area and to preserve adequate access for emergency equipment and personnel.

b. Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property following compliance with Subsection (c) above. For corner lots, a side yard is only a yard that does not face a street.

c. If side yard, front yard or roof mounting is requested, the Zoning Administrator shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.

(2) ***Mounting.*** Signal receiving antennas attached to the roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Building Inspector may require engineering calculations.

(3) ***Diameter.*** The diameter of the signal receiving antenna shall not exceed twelve (12) feet for the ground-mounted antenna and ten (10) feet for the roof-mounted antenna, except for stations used to provide community antenna television services.

(4) ***Height.***

a. A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed twelve (12) feet in height, as measured from the ground to the highest point of the dish.

b. A roof-mounted antenna may not exceed ten (10) feet in height above the surrounding roof line as measured from the lowest point of the existing roof line.

(5) ***Wind Pressure.*** All signal-receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.

(6) ***Electrical Installations.*** Electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the signal receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal receiving antenna is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal receiving antennas shall be grounded against direct lightning strikes.

(7) ***Temporary Placement.*** No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section.

(8) ***Advertising.*** No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.

(9) ***Interference with Broadcasting.*** Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

(10) ***Compliance with Federal Regulations.*** The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.

(11) ***Aesthetic Considerations.*** Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.

(f) **Enforcement.**

(1) It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this Section. In the event of any violation, the Common Council, a City enforcement official or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.

(2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-7.

Sec. 13-1-181 Wind Energy Systems.

(a) **Construction of Wind Energy Systems.** No person shall construct or operate a wind energy conversion system (WECS) without having fully complied with the provisions of this Section.

(b) **Permits Required.**

(1) A zoning permit shall be obtained to allow construction of a WECS.

(2) A WECS permit shall be obtained from the City Zoning Administrator for the construction of all WECS, upon payment of the fee per Section 1-3-l.

(c) **Application Requirements.** An application for a permit to build a wind energy system shall include the following:

(1) The property lines of the proposed site of construction.

(2) Proposed location of the WECS.

(3) Location and description of all structures located on the property where the WECS site is proposed.

(4) Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS.

(5) Location of all underground utility lines on the property where a WECS site is proposed.

(6) Dimensional representation of the structural components of the tower construction including the base and footings.

(7) Schematic of electrical systems associated with the WECS including all existing and proposed electrical connections.

(8) Manufacturer's specifications and installation and operation instructions or specific WECS design information.

(9) Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirements for structure as defined by the Uniform Building Code.

(d) **Blade Clearance.** The minimum distance between the ground and any protruding blade(s) utilized on a WECS shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

(e) **Climbing Towers, Tower Access.** Access to towers shall be controlled by fences six (6) feet in height around the tower and anti-climbing devices. Existing local regulations regarding attractive nuisances shall cover wind systems as well. A sign indicating shock hazard shall be placed on the tower. Such sign shall state: "Warning. Electrical shock hazard. No unauthorized persons on tower. No trespassing." Cables, ropes or wires used to secure the WECS shall be appropriately marked to prevent accidental bodily harm.

(f) **Tower Construction.** Tower construction shall be in accordance with all applicable sections of the

Wisconsin State Building Code including, but not limited to, COMM Sections 50.12, 53.10, 53.12, 62.37, 62.38, 62.39, 62.40, 62.41, Wis. Adm. Code, and any future amendments, additions, and/or revisions to same.

(g) **Utility Interconnection.** The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's then-current service regulations applicable to WECS; these standards are subject to review by the Public Service Commission.

(h) **Setback Requirements.**
   (1) No WECS shall be constructed in any setback, dedicated easement, nor dedicated roadway.
   (2) Installation of any WECS may not be nearer to any property lines or right-of-way for overhead electrical transmission or distribution lines than three (3) times the height of the WECS structure.

(i) **Noise.** During all operations, from commencement through abandonment, all noise and vibrations shall conform with the requirements of the City of Westby Code of Ordinances.

(j) **Interference with Navigational Systems.** No WECS shall be installed or operated in such a manner that is not in compliance with Federal Aviation Administration regulations.

(k) **Electrical Distribution Lines.** All WECS electrical distribution lines shall be located underground.

(1) **Required Safety Features.**
   (1) All WECS shall be designed with an automatic overspeed control to render the system inoperable when winds are blowing in excess of the speeds for which the machine is designed.
   (2) All WECS shall have a manually operable method to render the system inoperable in the event of a structural or mechanical failure of any part of the system including the automatic overspeed control.
   (3) All WECS shall be designed with an automatic control to render the system inoperable in case of loss of utility power to prevent the WECS from supplying power to a de-energized electrical distribution system.
   (4) Any WECS thereof declared to be unsafe by the Zoning Administrator by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in the City of Westby Code of Ordinances.

(m) **Maintenance.** The Zoning Administrator or his/her representative shall have the right, at any reasonable time, to enter, in the company of the owner or his agent, the premises on which a WECS has been constructed to inspect all parts of said WECS installation and require that repairs or alterations be made within thirty (30) days if, in his/her judgment, there exists a deficiency in the structural stability of the system.

(n) **Inspections.** A yearly inspection at a fee to be determined from time to time by resolution of the Common Council shall be made by the Zoning Administrator to certify the safety and maintenance of the WECS and accessory structures.

Sec. 13-1-182 Mobile Tower Siting.

(a) **Title; Purpose; Authority.**
   (1) ***Title.*** This Section is entitled the City of Westby Mobile Tower Siting Ordinance.
   (2) ***Purpose.*** The purpose of this Section is to regulate by zoning permit:
      a. The siting and construction of any new mobile service support structure and facilities;
      b. With regard to a Class I collocation, the substantial modification of an existing support structure and mobile service facilities; and
      c. With regard to a Class II collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

(3) ***Authority.*** The City of Westby Common Council has the specific authority under Secs. 62.23 and 66.0404, Wis. Stats., to adopt and enforce this Section.

(b) **Definitions.** The following definitions shall be applicable in this Section:

(1) ***Antenna.*** Communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

(2) ***Building Permit.*** A permit issued by the City that authorizes an applicant to conduct construction activity that is consistent with the City's Building Code (Title 15, Chapter 1 of the Code of Ordinances).

(3) ***Class 1 Collocation.*** The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.

(4) ***Class 2 Collocation.*** The placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.

(5) ***Collocation.*** Class 1 or Class 2 collocation or both.

(6) ***Distributed Antenna System.*** A network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.

(7) ***Equipment Compound.*** An area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

(8) ***Existing Structure.*** A support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with the City.

(9) ***Fall Zone.*** The area over which a mobile support structure is designed to collapse.

(10) ***Mobile Service.*** Has the meaning given in 47 USC 153(33).

(11) ***Mobile Service Facility.*** The set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a planned geographic area, but does not include the underlying support structure.

(12) ***Mobile Service Provider.*** A person who provides mobile service.

(13) ***Mobile Service Support Structure (Tower).*** A freestanding structure that is designed to support a mobile service facility.

(14) ***Permit.*** A permit, other than a building permit, or approval issued by the City which authorizes any of the following activities by an applicant:

a. A Class 1 collocation.
b. A Class 2 collocation.
c. The construction of a mobile service support structure.

(15) ***Public Utility.*** Has the meaning given in Sec. 196.01(5), Wis. Stats.

(16) ***Search Ring.*** A shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

(17) ***Substantial Modification.*** The modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:

a. For structures with an overall height of two hundred (200) feet or less, increases the overall height of the structure by more than twenty (20) feet.
b. For structures with an overall height of more than two hundred (200) feet, increases the overall height of the structure by ten percent (10%) or more.
c. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by twenty (20) feet or more, unless a larger area is necessary for collocation.

d. Increases the square footage of an existing equipment compound to a total area of more than two thousand five hundred (2,500) square feet.

(18) ***Support Structure.*** An existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

(19) ***Utility Pole.*** A structure owned or operated by an alternative telecommunications utility, as defined in Sec. 196.01(1d), Wis. Stats.; public utility, as defined in Sec. 196.01(5), Wis. Stats.; telecommunications utility, as defined in Sec. 196.01(10), Wis. Stats.; political subdivision; or cooperative association organized under Ch. 185, Wis. Stats.; and that is designed specifically for and used to carry lines, cables, or wires for telecommunications service, as defined in Sec. 182.017(lg)(cq), Wis. Stats.; for video service, as defined in Sec. 66.0420(2)(y), Wis. Stats.; for electricity; or to provide light.

(c) **Siting and Construction of Any New Mobile Service Support Structure and Facilities; Regulation Limitations.**

(1) ***Application Process.***

a. A City zoning permit is required for the siting and construction of any new mobile service structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the City obtainable with this permit through the conditional use permit process.

b. A written permit application shall be completed by the applicant and submitted to the City Clerk-Treasurer. The application shall contain, at a minimum, the following information:

1. The name and business address of, and the contact individual for, the applicant; applicable telephone number(s), fax number, and email address shall be provided.
2. The location of the proposed or affected support structure.
3. The location of the proposed mobile service facility.
4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

c. A permit application will be provided by the City upon request to any applicant, or, in the alternative, the applicant can provide the required information in the form of correspondence or report with supporting documentation.

d. If an applicant submits to the City an application for conditional use and zoning permits to engage in an activity described in this Section, which contains all of the information required under this Section, the City shall consider the application complete. If the City determines that the application is incomplete, the City shall notify the applicant in writing, within ten (10)

days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is considered complete.

e. Within ninety (90) days of its receipt of a complete application, the City shall complete all of the following or the applicant may consider the application approved, except that the applicant and the City may agree in writing to an extension of the ninety (90) day period:
   1. Review the application to determine whether it complies with all applicable aspects of the City's Building Code and, subject to the limitations in this Section, provisions of this Zoning Code.
   2. Make a final decision whether to approve or disapprove the application.
   3. Notify the applicant, in writing, of its final decision.
   4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

f. The City may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement under Subsection (c)(l)b6.

g. If the applicant provides the City with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in the Zoning Code, that Zoning Code provision does not apply to such a structure unless the City provides the applicant with substantial evidence that the engineering certification is flawed.

h. The fee for the permit shall be as provided in Section 1-3-1 [but may not exceed Three Thousand Dollars ($3,000.00) per Sec. 66.0404(4)(d), Wis. Stats.].

(2) ***Regulatory and Application Limitations.*** With regard to the siting and construction of a new mobile service support structure/facilities, the substantial modification of an existing support structure and mobile service facility as part of a Class 1 collocation, or a Class 2 collocation, the City, pursuant to Sec. 66.0404(4), Wis. Stats., shall not:

a. Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.

b. Enact a moratorium ordinance on the permitting, construction, or approval of any such activities.

c. Enact an ordinance regulation prohibiting the placement of a mobile service support structure in particular locations within the City.

d. Charge a mobile radio service provider a fee in excess on the amounts prescribed in Sec. 66.0404(4)(d), Wis. Stats.

e. Charge a mobile radio service provider any recurring fee for an activity described in Sec. 66.0404(2)(a), Wis. Stats., or a Class 2 collocation.

f. Permit third-party consultants to charge the applicant for any travel expenses incurred in the consultant's review of mobile service permits or applications.

g. Disapprove of an application to conduct an activity described in Sec. 66.0404(2)(a), Wis. Stats., based solely on aesthetic concerns.

h. Disapprove an application to conduct a Class 2 collocation on aesthetic concerns.

i. Enact or enforce a City ordinance related to radio frequency signal strength or the adequacy of mobile service quality.

j. Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the City which fall into disuse. [Note: Per Sec. 66.0404(4)(i), Wis. Stats., there is a rebuttable presumption that a surety requirement of Twenty Thousand

Dollars ($20,000.00) or less complies with this Subsection.]

k. Prohibit the placement of emergency power systems.

1. Require that a mobile service support structure be placed on property owned by the political subdivision.

m. Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.

n. Condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the City at less than market rate, or provide the City other services via the structure or facilities at less than the market rate.

o. Limit the duration of any permit that is granted.

p. Require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in collocation.

q. Disapprove an application based on an assessment by the City of the suitability of other locations for conducting the activity.

r. Require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.

s. Impose a setback or fall zone requirement for a mobile service support structure that is different from a requirement that is imposed on other types of commercial structures.

t. Consider an activity a substantial modification under Subsection (b)(l7)a-b above if a greater height is necessary to avoid interference with an existing antenna.

u. Consider an activity a substantial modification under Subsection (b)(l7)c above if a greater protrusion is necessary to shelter the antenna from increment weather or to connect the antenna to the existing structure by cable.

v. Limit the height of a mobile support structure to under two hundred (200) feet.

w. Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the City in connection with the City's exercise of its authority to approve the application.

x. Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the City to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the City or an entity in which the City or other political subdivision has a governance, competitive, economic, financial or other interest.

(d) **Class 1 Collocation.**

(1) ***Application Process.***

a. A zoning permit is required for a Class 1 collocation. A Class 1 collocation is a conditional use in the City obtainable with this permit through the conditional use process of this Chapter.

b. A written permit application shall be completed by the applicant and submitted to the City. The application must contain, at a minimum, the following information:

1. The name and business address of, and the contact individual for, the applicant; applicable telephone number(s), fax number, and email address shall be provided.
2. The location of the proposed or affected support structure.
3. The location of the proposed mobile service facility.
4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

c. A permit application will be provided by the City upon request to any applicant, or, in the alternative, the applicant can provide the required information in the form of correspondence or report with supporting documentation.

d. If an applicant submits to the City an application for a permit to engage in an activity described in this Section, which contains all of the information required under this Section, the City shall consider the application complete. If the City does not believe that the application is complete, the City shall notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

e. Within ninety (90) days of its receipt of a complete application, the City shall complete all of the following or the applicant may consider the application approved, except that the applicant and the City may agree in writing to an extension of the ninety (90) day period:
1. Review the application to determine whether it complies with all applicable aspects of the City's Building Code and, subject to the limitations of this Section, zoning ordinances.
2. Make a final decision whether to approve or disapprove the application.
3. Notify the applicant, in writing, of its final decision.
4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

f. The City may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under Subsection (d)(1)b6.

g. If an applicant provides the City with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that Zoning Code provision does not apply to such a structure unless the City provides the applicant with substantial evidence that the engineering certification is flawed.

h. The fee for the permit shall be as provided in Section 1-3-1 [but may not exceed Three Thousand Dollars ($3,000.00) per Sec. 66.0404(4)(d), Wis. Stats.].

(2) ***Regulatory and Application Limitations.*** The regulatory and application parameters and limitations prescribed in Subsection (c)(2) above shall be applicable.

(e) **Class 2 Collocation.**

(1) ***Application Process.***

a. A City zoning permit is required for a Class 2 collocation. A Class 2 collocation is a permitted use in the City but still requires the issuance of City building permits.

b. A written permit application shall be completed by the applicant and submitted to the City.

The application must contain, at a minimum, the following information:

1. The name and business address of, and the contact individual for, the applicant; applicable telephone number(s), fax number, and email address shall be provided.
2. The location of the proposed or affected support structure.
3. The location of the proposed mobile service facility.

c. A permit application will be provided by the City upon request to any applicant, or, in the alternative, the applicant can provide the required information in the form of correspondence or report with supporting documentation.

d. Per Title 15, Chapter 1 of this Code of Ordinances, a Class 2 collocation is also subject to the same requirements for the issuance of a building permit to which any other type of commercial development/construction or land use development is subject.

e. If an applicant submits to the City an application for a permit to engage in an activity described in this Section, which contains all of the information required under this Section, the City shall consider the application complete. If any of the required information is not in the application, the City shall notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

f. Within forty-five (45) days of its receipt of a complete application, the City shall complete all of the following or the applicant may consider the application approved, except that the applicant and the City may agree in writing to an extension of the forty-five (45) day period:

1. Make a final decision whether to approve or disapprove the application.
2. Notify the applicant, in writing, of its final decision.
3. If the application is approved, issue the applicant the relevant permit.
4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

g. The fee for the permit shall be as provided in Section 1-3-1 [but may not exceed Five Hundred Dollars ($500.00) or the commercial building permit fee equivalent, per Sec. 66.0404(4)(d)].

(2) ***Regulatory and Application Limitations.*** The regulatory and application parameters and limitations prescribed in Subsection (c)(2) above shall be applicable.

(f) **Penalty Provisions.** Any person, partnership, corporation or other legal entity that fails to comply with the provisions of this Section shall, upon conviction, be subject to the penalties and/or forfeitures prescribed in Section 13-1-226, plus applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this Section. In addition, the City of Westby may seek injunctive relief from a court of record to enjoin further violations.

Sec. 13-1-183 through Sec. 13-1-199 Reserved for Future Use.

Article K: Accessory Uses and Structures; Fences and Hedges

Sec. 13-1-200 Accessory Uses or Structures.

(a) **Building Permit Required for Accessory Buildings.**

(1) ***Permit Required.*** No owner shall, within the City of Westby, build, construct, use or place any type of an accessory building, including prefabricated accessory buildings, until a permit shall have first been obtained from the Building Inspector. Application for an accessory building permit shall be made in writing to the Building Inspector. With such application, there shall be submitted a fee pursuant to the City Building Code and a complete set of plans and specifications, including a plot plan or drawing accurately showing the location of the proposed accessory building with respect to adjoining alleys, lot lines and buildings. If such application meets all requirements of this Section, the application shall be approved.

(2) ***Applicability to Temporary, Movable and Permanent Buildings.*** For purposes of this Section, no regulatory distinction is made between temporary, permanent or movable accessory buildings (such as those mounted on skids).

(b) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.

(c) **Number of Permitted Garages and Accessory Buildings on Residential Lots.** An accessory use or structure in a residential district may be established subject to the following regulations:

(1) ***Accessory Building Number Limits.*** In any residential district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building and one (1) children's play structure may be placed on a lot, except as provided in Subsection (c)(2) below.

(2) ***Limitation on Number of Detached Garages and Accessory Buildings.***

a. Residentially zoned parcels with a single garage attached to the dwelling are permitted to have an additional one (1) or two (2) car detached garage on the parcel. If a detached garage is erected, no other detached accessory buildings may be constructed or maintained on the parcel.

b. Residentially zoned parcels with more than a one (1) stall garage attached to the dwelling are permitted to have an additional one (1) stall garage on the parcel. If a detached garage is erected, no other detached accessory buildings may be constructed or maintained on the parcel.

c. Garages attached to dwellings shall be three (3) stalls or less.

d. Residential lots determined to be a minimum of twice the size of a regular residential lot may, at the discretion of the Zoning Administrator, have one (1) additional accessory building, not to exceed the size of a two (2) car garage, provided the lot and accessory building meet all other requirements of both Section 13 and 15 of the Code of Ordinances.

(3) ***Attached Accessory Buildings.***

a. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.

b. When accessory buildings are attached to the principal building by a breezeway, passageway or similar means, they become part of the principal building and shall comply in all respects with the yard requirements and local building code requirements for the principal building.

(4) ***Detached Accessory Buildings; Lot Area Coverage.***

a. No detached accessory building shall occupy any portion of the required front or side yard.

b. Single-story garages and other single-story detached accessory buildings shall be fifteen (15)

feet or less in height. Two-story garages and other detached accessory buildings shall be sixteen (16) feet or less in height.

c. No detached accessory building(s) shall occupy more than twenty percent (20%) of the required rear yard or exceed one thousand (1,000) square feet in size, whichever is more restrictive.

d. No detached accessory building shall be located within five (5) feet of any other accessory building.

e. The dimensions of any swimming pool, children's play structure, detached garage, tennis court and other detached accessory buildings/structures shall be included in the determination of available lot area coverage for accessory structures.

f. An accessory building shall not be nearer than ten (10) feet to the principal structure unless the applicable building code regulations in regard to one (1) hour fire-resistive construction are complied with. In no event can the accessory uses or structures be forward of the front line of the principal structure.

g. Accessory structures shall not be closer than three (3) feet to any lot.

(5) ***Carports.*** For purposes of this Section, a carport, as defined in Section 13-l-280(a), shall be considered to be a garage.

(d) **Exterior Finishes.** All accessory structures and garages shall be constructed of durable materials and shall not utilize fabric/plastic/rubber materials used in such a fashion or manner so as to be a substitute for building walls and/or roof or roofs of said accessory structure or garage.

(e) **Lot Area Coverage Determination.** The dimensions of any swimming pool, children's play structure, detached garage, tennis court and other detached accessory buildings/ structures shall be included in the determination of available lot area coverage for accessory structures.

(f) **Use Restrictions - Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for permitted home occupations as defined herein and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes.

(g) **Placement Restrictions – Nonresidential Districts.** An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall not be nearer than five (5) feet to any side or rear lot line.

(h) **Corner Lots.** When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear nor nearer than three (3) feet to the side line of the adjacent structure.

(i) **Landscaping Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens. Under no circumstances may a tent be used as a dwelling or an accessory structure.

(j) **Temporary Accessory Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.

(k) **Garages in Embankments in Front Yards.** Where the mean natural grade of a front yard is more than eight (8) feet above the curb level, a private garage may be erected within the front yard, provided as follows:

(1) That such private garage shall be located not less than five (5) feet from the front lot line;

(2) That the floor level of such private garage shall be not more than one (1) foot above the curb level; and

(3) That at least one-half (1/2) the height of such private garage shall be below the mean grade of the front yard.

(l) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties and shall not register more than one-half foot candles at the property line.

(m) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, sun dials, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.

(n) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls.

(o) **Children's Play Structures.** For purposes of this Section, children's play structures, including play houses, three houses or elevated play structures and climbing gyms, shall be considered accessory structures and shall comply with the requirements of this Section, whether such play structures are placed on a foundation or not. Swing sets, slides and sandboxes are not considered children's play structures for purposes of this Section. A building permit is not required for the construction of a play structure. Play structures shall not be used for storage or be constructed out of materials that would constitute a nuisance.

(p) **Terrace Area Restrictions.** In addition to the definitions and restrictions contained in Title 6, Chapter 2 of this Code of Ordinances, no person shall place any accessory structure or use, including landscaping ornaments, stones, and basketball backboard/hoops, in the terrace area.

(q) **Offensive Uses Prohibited.** No accessory use shall be dangerous, obnoxious or offensive to persons residing in the vicinity, nor shall it impair the use, enjoyment or value of any property.

(r) **Prohibited Dwelling Use.** No accessory dwelling unit in any Residential District shall be used or let for living purposes, whether for compensation or not.

(s) **Gardening.** Home gardening is a permitted accessory use on any swelling lot or the principal use on any vacant lot or parcel.

(t) **Dog Houses/Runs.** Dog houses and/or runs shall comply with the setback requirements in Section 13-1-202.

(u) **Agricultural Structures.** Agricultural structures in properly zoned agricultural districts such as barns, silos and windmills shall not exceed in height twice their distance from the nearest lot line.

(v) **Tents; Fabric-Covered Structures; Hoop-Supported Structures.**

(1) ***Prohibited Use as Permanent Accessory Structure.*** No tent, plastic or fabric-covered structure, or a structure supported by hoops or a tubular frame, may be used as a permanent accessory structure in a non-agricultural district; such structures may be erected and used no more than six (6) months per year without being removed. An exception is that a plastic or fabric-covered hoop-supported or tubular greenhouse may be maintained if used exclusively for personal greenhouse use.

(2) ***Anchoring Requirement.*** Any permitted tent, plastic or fabric-covered structure, or a structure supported by hoops or a tubular frame shall be fastened or anchored in a stable manner to the ground.

(3) ***Limitations on Utility Service.*** No plumbing, electrical, heating or other utility service may be installed in a tent, plastic or fabric-covered structure, or a structure supported by hoops or a tubular frame except for seasonal use in personal greenhouses. A tent shall not be used as a dwelling other than for temporary recreational use.

(4) ***Compliance with Accessory Building Requirements.*** Any tent, plastic or fabric-covered structure, or a structure supported by hoops or a tubular frame, shall comply with the dimensional and yard/setback requirements of this Secton.

Sec. 13-1-201 Outside Storage of Firewood.

(a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.

(b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.

(c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.

(d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.

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

Sec. 13-1-202 Fences (Revised 2-17-2026).

(a) **Definitions.** The following words and terms shall have the meanings herein provided in this Section:

(1) ***Arbor.*** A decorative solid or latticework structure or trellis which is used as an entrance focal point along a barrier which serves the purpose of a fence.

(2) ***Berm.*** A mound of earth higher than the final elevation of a lot.

(3) ***Fence.*** An enclosed barrier or vertical screen devise consisting of wood, stone, vinyl or metal intended to limit ingress or egress and/or provide privacy and containment. This definition also includes, but is not limited to, trellises, railings and walls around the perimeter of a property.

(4) ***Fence, Agricultural/Farm.*** A fence meeting the agricultural fence standards of Chapter 90, Wis. Stats., consisting of wire strands, high tensile strands or other types of material used for agricultural purposes meeting the statutory requirements.

(5) ***Fence, Architectural or Aesthetic.*** A fence constructed to enhance the appearance of the structure or the landscape.

(6) ***Fence, Boundary.*** A fence placed on or within five (5) feet of the property lines of adjacent properties.

(7) ***Fence, Good Neighbor.*** A fence constructed of solid or spaced boards where the face boards are installed at the center of the posts so that the fence looks the same from both sides.

(8) ***Fence, Protective.*** A fence constructed to enclose a hazard to the public health, safety and welfare.

(9) ***Install, Installation, Installed.*** To construct, erect, install, place, or replace over sixteen (16) lineal feet.

(10) ***Lot, Double Frontage.*** An interior lot having street frontage on the front and the rear of the lot.

(11) ***Trellis.*** A frame or structure of open latticework.

(b) **Fence Permit Required.** No person shall install a fence in the City without first obtaining a fence permit from the City, including special purpose fences under Subsection (n), paying the required permit fee prescribed by Sec. 1-3-1, and complying in all respects with the terms and conditions of this Section. A fence permit shall be valid only for the term of issuance, unless sooner revoked. A fence permit is not required for painting, maintenance, or repair or replacement of less than sixteen (16) lineal feet of a fence within a five (5) year period. A fence permit may include reasonable conditions required by the City. A fence permit application shall be filed with the City and include the following:

(1) ***Fee Payment.*** Payment of the permit fee and completed application forms required by the

Building Inspector or City.

(2) ***Plan.*** A drawing, site plan or plat map displaying property boundaries, the location of buildings and structures on the property, the proposed location of the fence and its distances from other structures on the parcel.

(3) ***Design Information.*** Accurate design information for the proposed fence, including height and materials to be utilized.

(4) ***Leased Property – Owner's Consent.*** If the fence is proposed to be installed on leased or rented property, the written consent of the owner.

(c) **Responsibilities of Property Owner; Location Determination.**

(1) ***Proper Location Responsibility.*** The property owner installing a fence is solely responsible for ensuring that the fence is properly located on his/her property, and is in compliance with height, setback, vision clearance and materials requirements. If uncertainty exists regarding the actual location of lot lines, it is the owner's responsibility to secure a lot survey.

(2) ***Covenant/Easement Compliance.*** The property owner is responsible for complying with any private subdivision covenants or deed restrictions or utility easement(s) restrictions, including any applicable plan review/approval requirements.

(d) **Fence Installation General Requirements.** No fence shall be installed except in strict compliance with this Section:

(1) ***Digger's Hotline.*** Prior to fence installation, the applicant shall contact Digger's Hotline service to have the project site marked.

(2) ***Good Neighbor Placement Requirement.*** Structural and support components of a fence shall face internally into the applicant's lot, facing away from adjacent properties. Fences shall be installed with the finished side facing adjacent properties or the public right-of-way. Fence posts shall be located on the inside of the fence facing the property on which the fence is located, except when the style of fence is of a design commonly known as a "Good Neighbor Fence".

(3) ***Grade; Contour.*** Fences shall be installed plumb and the top finish of the fence shall be uniform. Fences shall follow the contour of the ground to the extent practical. Adjustments for grade shall occur at the bottom of the fence.

(4) ***Height.*** Fence height shall be measured from the surface of the ground immediately below the fence. Berms, retaining walls or other methods to raise the elevation of the fence site shall require approval by the Building Inspector prior to installation. The height of fences and walls shall be measured vertically from the finished grade on the exterior side of the fence. Raising the finished grade by placing fill solely for the purpose of additional height to a fence is prohibited. If a fence is placed on a berm, the term shall be included in the height of the fence and the height will be measured vertically from the base of the berm.

(5) ***Placement Near Sidewalks.*** Fences shall be installed no closer than six (6) inches to a public sidewalk.

(e) **Approved Fence Materials. (Revised 8-5-2026)**

(1) ***Proper Materials.*** Fences located in side and/or rear yards of residential parcels shall be constructed using materials suitable for residential-style fencing, including, but not limited to: brick, fieldstone, wrought iron, vinyl, chain line [with a required top rail support and a minimum nine (9) gauge thickness], split rail wood, stockade or board-on-board wood.

(2) ***Open Visibility Standard.*** Residential front yard fences shall be fifty percent (50%) open (see-through) and be of wrought iron, picket or split rail design. Chain link fencing is permitted in side or rear yards and its use is only permitted in residential front yards with council approval.

(3) ***Agricultural Fences.*** Agricultural/farm fences shall only be permitted in agriculturally-zoned or used districts, as determined by the City, and shall comply with Ch. 90, Wis. Stats.

(4) ***Improper Materials.*** No fence shall be constructed of used, discarded or scrap materials in disrepair, including but not limited to, pallets, tree branches/stumps, crates, vehicle parts, refuse

or other similar items. Materials not specifically manufactured for fencing, such as doors, railroad ties, landscape timbers or utility poles shall not be used in fences. Fences shall not be constructed of luminous materials or smooth or corrugated metal materials.

(5) ***Finish.*** All fences, including privacy fences, shall only be painted or stained in neutral colors.

(f) **Modifications to Existing Fences.** All modifications to a pre-existing fence shall comply with this Section. Any existing fence shall not be enlarged, extended or replaced for more than sixteen (16) linear feet in a three (3) year period except in compliance with this Section.

(g) **Height and Placement of Residential Fences Regulated.**

(1) ***Height.*** Residential fences six (6) feet or less in height are permitted on rear and side lot lines, but shall not continue beyond the front of the principal structure or the required front yard setback, whichever is furthest from the street right-of-way. Residential fences less than or equal to three (3) feet in height are permitted in the street yard setback area but shall not be closer than two (2) feet to any public right-of-way.

(2) ***Narrow Lot Standards.*** In any residential district or on any lot or premises, the principal use of which is for residential purposes, no lengthwise fence or other lengthwise barrier or obstruction shall be erected, placed, installed or reinstalled in any area where there is a distance between main residential buildings of ten (10) feet or less.

(3) ***Non-Residential Fences Adjacent to Residential Parcels.*** No fence or wall shall be erected, placed or maintained along a lot line on any non-residentially zoned property, adjacent to a residentially zoned property, to a height exceeding eight (8) feet.

(h) **Setback for Residential Fences.** Fences in or adjacent to a residential property (or property primarily residential in use) are permitted along lot lines. Fences may be constructed alongside lot lines but shall not extend into the front setback area as extended to the side lot lines.

(i) **Industrial / Commercial Security Fences.** Security fences are permitted on the property lines in all districts, but shall not exceed eight (8) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

(j) **Corner Lot Vision Clearance Requirements.**

(1) ***Standards.*** In order to provide adequate vision clearance on corner lots, no fence shall be erected or maintained within the triangular space formed by two (2) intersecting street, alley, or driveway (public or private) property lines and a line joining points on such property lines (or projections thereof) located less than:

a. A minimum of twenty (20) feet from the intersection of the two street property lines;
b. A minimum of fifteen (15) feet from the intersection of the two alley property lines; or
c. A minimum of ten (10) feet from the intersection of the two driveway property lines.

(k) **Prohibited Fences.**

(1) ***Dangerous Condition; Barbed Wire.*** No fence shall be constructed which is of a dangerous condition, or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are eight (8) feet above the ground or height and project toward the fenced property and away from any public area.

(2) ***Electric Fences.*** Although fences which conduct electricity or are designed to electrically shock are generally prohibited, such fences using smooth wire are allowed for the limited purpose of deer control if located five (5) feet from a lot line.

(3) ***Improper Wire Fencing.*** No wove, twisted, welded or interlaced wire fence of farm-type woven wire, such as using chicken wire, shall be located in a non-industrial district, unless such fencing is ornamental in character.

(4) ***Improper Wood-Slat Fencing.*** No wood-slat or plastic snow fence shall be permitted as a regular use in a Residential District, except as a temporary use under Subsection (m)

(5) ***Post-Only Fences.*** No fence shall consist solely of fence posts or be maintained as an

incompletely constructed fence consisting only of posts and supporting members.

(l) **Fences to be Repaired; Corrective Action.**

(1) ***Good Repair Requirement.*** All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property. Fences shall be maintained in a manner as to prevent rust, corrosion and deterioration, so as not to become a public or private nuisance, and so as not to be dilapidated or a danger to adjoining property owners or the public. Fences shall not create an appearance of patchwork, which is indicative of a state of disrepair. Every fence installed shall be maintained by the owner in such a way that it will remain plumb and in good repair.

(2) ***Compliance Standards for Existing Fences.*** Any existing fences which do not conform to the requirements of this Section and which are damaged, or in need of repair to the extent that exceeds fifty percent (50%) of the then value of the fence, said entire fence shall either be completely dismantled or reconstructed in compliance with the provision of this Section.

(3) ***Failure to Maintain.*** All new and existing fences shall be maintained in such a manner so as not to allow rust, dents or deterioration to take place. Failure to maintain a fence in good condition and repair will result in the City issuing an order to the property owner to take whatever steps are necessary to correct the condition. Said notice shall set forth a reasonable time for compliance and shall set forth a notice that failure to comply will result in a violation and with a penalty set forth in Section 1-1-7.

(m) **Temporary Fences; Permit Not Required.**

(1) ***Standards.*** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.

(2) ***Seasonal Fences.*** This Section is not intended to regulate seasonal or temporary fences such as garden or snow fences except that such fences shall be removed when the condition or season for the said fence was erected no longer exists. Under no circumstances shall a snow fence be erected for more than five (5) months.

(n) **Special Purpose Fences.**

(1) ***Swimming Pool / Hot Tub Fences.*** Swimming pool and hot tub fences shall comply with the requirements of Section 13-1-203.

(2) ***Pet Enclosures; Dog Runs.*** Pet enclosures and dog runs shall be permitted in residential districts subject to the following conditions:

a. A fence permit is required prior to installation of a pet enclosure or dog run.

b. No pet enclosure or dog run shall be in excess of two hundred and fifty (250) square feet in area, or be more than six (6) feet in height above the surface of the ground.

c. Pet enclosures and dog runs may be constructed of any material permitted for a residential fence.

d. No pet enclosure or dog run shall be constructed contrary to required vision clearance area requirements.

e. Pet enclosures and dog runs shall be located no closer than ten (10) feet to a side or rear lot line, and shall not be located to the front of the principal structure.

(3) ***Anhydrous Ammonia Sites.*** Anhydrous ammonia tank sites shall be fenced as prescribed in Section 8-1-13.

Sec. 13-1-203 Swimming Pools and Hot Tubs.

(a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of

water in a receptacle or other container having a depth for water at any point greater than two (2) feet located above or below the surface of ground elevation, having an area greater than one hundred fifty (150) square feet, used or intended to be used solely by the owner, operator or lessee thereof and his/her family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.

(b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of twenty-four (24) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section. Inflatable pools of all types are exempt.

(c) **Permit; Construction Requirements.**

(1) ***Permit Required.*** Before work is commenced on the construction or erection of private or residential swimming pools or hot tubs or on any alterations, additions, remodeling or other improvements, an application for a swimming pool or hot tub building permit to construct, erect, alter, remodel or add must be submitted in writing to the Building Inspector. Plans and specifications and pertinent explanatory data shall be submitted to the Building Inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. The required building permit fee pursuant to the City Building Code shall accompany such application.

(2) ***Construction Requirements.*** In addition to such other requirements as may be reasonably imposed by the Zoning Administrator, the Zoning Administrator shall not issue a permit for construction or installation of a swimming pool or hot tub unless the following construction requirements are observed and the fee as prescribed in Section 1-3- is paid:

a. All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements for pool or hot tub installation shall be in accord with all state regulations and with any and all Ordinances of the City of Westby now in effect or hereafter enacted.

b. All plumbing work shall be in accordance with all applicable Ordinances of the City of Westby and all state codes. Every private or residential swimming pool or hot tub shall be provided with a suitable draining method and, in no case, shall waters from any pool or hot tub be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.

c. All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool or hot tub shall be in conformance with the state laws and City Ordinances regulating electrical installations.

(d) **Setbacks and Other Requirements.**

(1) ***Permissible Locations.*** Private swimming pools or hot tubs shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool or hot tub shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.

(2) ***Setbacks.*** All swimming pools and outdoor hot tubs shall be at least ten (10) feet from any lot line or building, measured at the water line, unless designed and approved by the City as an addition to a building.

(3) ***Prohibited Placement Areas.*** Swimming pools and hot tubs shall not be constructed in the front yard or in a required corner side yard.

(4) ***Area Calculations.*** Swimming pools either open or enclosed shall be considered the same as accessory buildings for purposes of calculating the maximum area they may occupy in a required rear yard.

(e) **Enclosure.**

(1) ***Fence; In-ground Pools.*** All outdoor, below grade swimming pools shall have a fence or other solid structure not less than four (4) feet in height completely enclosing the pool with no opening therein (other than doors or gates) larger than three (3) inches square. All gates or doors opening through the enclosure shall be kept securely closed and locked at all times when not in actual use and shall be equipped with a self-closing and self-latching device designed to keep and be capable of keeping such door or gate securely locked at all times when not in actual use.

(2) ***Above-Ground Pools; Pool Wall Barrier.***

a. An approved barrier shall consist of a solid wall of durable material of which the pool itself is constructed and shall extend directly above the vertical water enclosing wall of the pool. Such walls shall extend more than three (3) feet above the level of the ground immediately adjacent to the pool. Such a solid pool wall barrier shall not be located within six (6) feet of any other wall or fence or other structure which can be readily climbed by children. Every entrance to a pool, such as a ladder, must be secured or adequately safeguarded to prevent unauthorized entry into the pool.

b. The pool enclosure may be omitted where portable pools are installed above ground and have a raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on top.

(3) ***Miscellaneous Requirements.***

a. Swimming pools and hot tubs surrounded in whole or in part by a deck which has steps leading to the swimming pool or hot tub shall be equipped with a gate a minimum of four (4) feet in height and capable of being latched and locked with a combination lock or by a lock worked by a key to secure access to the swimming pool or hot tub when not in use.

b. Service gates and gates which are part of a fence or wall enclosing a swimming pool or hot tub which are located across a driveway shall be kept closed and latched at all times by the property owner or occupier when not in use for ingress or egress. When such areas are not in use, such gates shall be locked with a combination lock or by a lock worked by a key.

c. Hot tubs equipped with a fitted cover and capable of supporting a minimum of two hundred (200) pounds shall be exempt from required fencing.

(f) **Draining and Approval Thereof.** No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer nor to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Plumbing Inspector.

(g) **Filter System Required.** All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.

(h) **Dirt Bottoms Prohibited.** All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.

Sec. 13-1-204 Retaining Walls.

(a) **Purpose.** The purpose of this Section is to protect public and private property from the effects of poorly designed and constructed retaining walls.

(b) **Permit Required.** A permit shall be required for all retaining walls constructed that exceed twenty-four (24) inches in height, including terraced retaining wall projects where the total height of all walls exceeds twenty-four (24) inches, and are closer than fifteen (15) feet to a property line.

(c) **Application.** Application shall be made to the Zoning Administrator on forms provided and shall include a site plan and a set of construction plans. Plans sealed by a professional engineer registered in the State and/or other information necessary to adequately review the proposed retaining wall may

also be required by the Zoning Administrator.

(d) **Performance Standards.** A retaining wall shall be designed to resist the lateral pressure of the retained material in accordance with accepted engineering practice. Walls retaining drained earth may be designed for pressure equivalent to that exerted by an equivalent fluid weighing not less than thirty (30) pounds per cubic foot and having a depth equal to that of the retained earth. Any surcharge shall be in addition to the equivalent fluid pressure.

(e) **Setbacks.** Setbacks for retaining walls shall be the same as for fences under Section 13-1-202(c),

Sec. 13-1-205 through Sec. 13-1-209 Reserved for Future Use.

Article L: Administration

Sec. 13-1-220 General Administrative System.

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

Sec. 13-1-221 Zoning Administrator.

(a) **Appointment.** The Common Council shall designate the Zoning Administrator as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter.

(b) **Duties.** In enforcing and administering this Chapter, the Administrator shall perform the following duties:
   (1) Issue the necessary building permits and occupancy and zoning use permits required by the provisions of this Chapter, provided its provisions have been complied with.
   (2) Keep an accurate record of all permits, numbered in the order of issuance, in a record book for this purpose.
   (3) In case of any finding of a violation of a provision of this Chapter, notify, in writing, the actual violator where known, the owner of the property on which the violation has taken place and the Common Council, indicating the nature of the violation and the action necessary to correct it.
   (4) Receive, file and process for action all applications for conditional uses, variances and amendments to this Chapter which are filed in the zoning office.
   (5) Initiate, direct and review, from time to time, a study of the provisions of this Chapter and make reports of the recommendations to the Planning Commission for investigation and appropriate action.
   (6) Carry out such additional responsibilities as are hereinafter set forth by the provisions of this Chapter.

(c) **Authority.** In the enforcement of this Chapter, the Administrator shall have the power and authority for the following:
   (1) At any reasonable time and for any proper purpose to enter upon any public or private premises and make inspection thereof.
   (2) Upon reasonable cause or question as to proper compliance, to revoke any building or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Chapter, such revocation to be in effect until reinstated by the Administrator or the Board of Appeals, or take any other action as directed by the Common Council to insure compliance with or to prevent violation of its provisions.
   (3) In the name of the City and with authorization of the Common Council commence any legal proceedings necessary to enforce the provisions of this Chapter or the Building Code, including the collection of forfeitures provided for herein.

Sec. 13-1-222 Role of Specific City Officials in Zoning Administration.

(a) **Planning Commission.** The Planning Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the City to the Common Council, other public officials and other interested organizations and citizens. In general, the Planning Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Chapter, its functions are primarily recommendatory to the Common Council pursuant to guidelines set forth in this Chapter as to various matters and, always, being mindful of the intent and purposes of this Chapter. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing. The Planning Commission shall have the powers to conduct and hold public hearings on all proposed amendments to the City Zoning Ordinance as provided in Sec. 62.23(7)(d) of the Wisconsin Statutes.

(b) **Common Council.** The Common Council, the governing body of the City, subject to recommendations by the Planning Commission and the holding of public hearings by said Council, has ultimate authority to grant planned unit development applications, issue conditional use permits, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this Chapter. The Common Council may delegate to the Planning Commission the responsibility to hold some or all public hearings as required under this Chapter.

(c) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article N of this Chapter for detail provisions.

Sec. 13-1-223 Land Use Permit.

(a) **Permit Required.** No building shall be erected, moved or structurally altered until a land use permit therefor shall have been applied for and issued.

(b) **Application.** All applications for a land use permit shall be accompanied by a location sketch in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing or intended use of each building, or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of these zoning regulations.

(c) **Application; Dimensions.** All dimensions shown relating to the location and size of the lot shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

(d) **Issuance or Denial.** Except as otherwise provided in these zoning regulations, the Zoning Administrator shall issue or refuse to issue a land use permit within ten (10) days after receipt of an application therefor. Refusal to issue a land use permit shall be given in writing, with the reasons for such refusal.

(e) **Proper Applicants; In General.** The following shall be considered proper applicants for a land use permit or certificate of compliance under the terms of these zoning regulations:
   (1) Record title owner under properly recorded instrument of conveyance;
   (2) Vendee under properly recorded land contract;
   (3) Vendee under written contract of sale, agreement to sell, earnest money agreement, or similar real estate agreement;
   (4) Duly authorized agent for any of the above.

(f) **Identification.** The Zoning Administrator may request proper proof of the applicant showing that he

is a proper applicant, under the terms of this Chapter. His application for a land use permit or certificate of compliance shall not be considered filed until such time as the requested proof is filed with the Zoning Administrator office. The Zoning Administrator may revise the form of application for land use permit and certificate of compliance to conform with the terms of this Chapter. If the applicant is not the fee simple owner of the property involved, the name of the owner of any lienholder shall be included in the application.

(g) **Time Limitations.** Any land use permit granted under this Chapter shall become null and void within six (6) months after it is issued if construction on the property for which the permit is granted has not been commenced within the six (6) month period. In all such cases where a permit has become null and void, a new application must be filed for a new land use permit before any construction can be commenced at such location. All land use permits granted under the terms of this Chapter shall be valid for only twelve (12) months. Land use permits shall expire on the first anniversary date from their issuance. If a certificate of compliance has not been issued for the property by the expiration date of the land use permit, application for a new land use permit must be made in order to continue work on the premises involved.

(h) **Conditions for Refusal; Appeal Procedure.** The Zoning Administrator or City Engineer shall not issue a land use permit for any property, the improvement of which might tend to interfere with the exterior lines of planned new streets, highways, parkways, parks or playgrounds, or the exterior lines of planned widening or extending of existing streets, highways, parkways, parks or playgrounds. Any person who feels aggrieved by the decision of the Zoning Administrator or City Engineer may appeal to the Zoning Board of Appeals, which has power in a specific case, by the vote of a majority of its members, to grant a permit for a building or such street, highway, parkway, park or playground, which will as little as practicable increase the cost of opening such street, highway, parkway, park or playground and such board may impose reasonable requirements as a condition of granting such permit, which requirements shall be designed to promote the health, convenience, safety or general welfare of the City. Such board shall refuse a permit where the applicant will not be substantially damaged by placing his building outside the planned street, highway, parkway, park or playground.

(i) **Fees.** Prior to issuing a land use permit the Zoning Administrator shall collect from the applicant to defray the cost to the City of processing the application, a permit fee.

(j) **Additional Requirements.** In addition to other requirements of this Chapter, no building, land use or moving permit shall be issued unless:

(1) Sanitary sewer and water is available, or installation thereof has been approved by the Council or, alternatively;

(2) A sanitary sewer system in accordance with COMM 82.30, Wis. Adm. Code, and related sections thereof, has been approved for the premises and the premises is in compliance with NRl12.01 through NRl12.25, Wis. Adm. Code.

Sec. 13-1-224 Certificate of Compliance.

(a) **In General.** No vacant land shall be occupied or used, and no building erected, altered or moved shall be occupied until a certificate of compliance has been issued by the Zoning Administrator. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of these zoning regulations. Such certificate shall be applied for when the application is made for a land use permit and shall be issued within ten (10) days after the completion of the work specified in such land permit application, but only if the building or premises and the proposed use thereof conform with all the requirements of these zoning regulations.

(b) **Temporary Certificate.** Under such rules and regulations as may be established by the Common Council, the Zoning Administrator may issue a temporary certificate of compliance for part of a building.

(c) **Issuance.** Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises certifying, after inspection, the extent and kind of use made of the building or premises, and whether or not such use conforms to the provisions of this Chapter.

Sec. 13-1-225 Site Plan Approval.

(a) **Site Plan Approval.** All applications for Zoning Permits for any construction, reconstruction, expansion or conversion, (including mobile home parks and subdivisions) except for one (1) and two (2) family residences in Residential Districts, shall require site plan approval by the Planning Commission in accordance with the requirements of this Section.

(b) **Application.** The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Planning Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.

(c) **Administration.** The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Planning Commission within ten (10) days. The Planning Commission shall review the application and may refer the application and plans to any expert consultants selected by the Common Council to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within forty (40) days of its receipt of the application, the Commission shall authorize the Zoning Administrator to issue or refuse a Zoning Permit.

(d) **Requirements.** In acting on any site plan, the Planning Commission shall consider the following:

(1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.

(2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.

(3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.

(4) The landscaping and appearance of the completed site. The Planning Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section.

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

Sec. 13-1-226 Violations and Penalties.

(a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Common Council, the Zoning Administrator, the Planning Commission or any property owner who would be specifically

damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.

(b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, the resident agent or occupant of the premises, the Common Council, the Zoning Administrator or the City Attorney may institute appropriate legal action or proceedings.

(c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-7 of this Code of Ordinances.

Sec. 13-1-227 through Sec. 13-1-239 Reserved for Future Use.

Article M: Changes and Amendments to the Zoning Code

Sec. 13-1-240 Authority.

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

Sec. 13-1-241 Initiation of Changes or Amendments.

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

Sec. 13-1-242 Procedure for Changes or Amendments.

(a) **Petition.**

(1) Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Common Council and shall be filed with the City Clerk-Treasurer. The person requesting such action shall provide all information requested on the petition including:

a. Name and street address of the petitioner.

b. The lot number of any real estate owned by the petitioner adjacent to the area proposed to be changed.

c. Legal description of the property to be altered.

d. The existing use of all buildings on such land.

e. The principal use of all properties within three hundred (300) feet of such land.

f. Purpose for which such property is to be used.

g. Reciting of facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this Chapter.

h. Names and addresses of all abutting and opposite property owners within three hundred (300) feet of the property to be altered.

i. Plot plan or survey plat, drawn to scale, showing the property to be rezoned, location of structures, and property lines within three hundred (300) feet of the parcel.

j. Any further information requested to the petition or which may be required by the Planning Commission to facilitate the making of a comprehensive report to the Council.

(2) Failure to supply such information shall be grounds for dismissal of the petition.

(3) A petition for change or amendment submitted by a private property owner shall be prepared in triplicate and filed with the City Clerk-Treasurer and shall be accompanied by the appropriate fee to defray the cost of giving notice, investigation and other administrative processing.

(b) **Recommendations.** The Common Council or the City Clerk-Treasurer shall cause the petition to be forwarded to the Planning Commission for its consideration and recommendation. The Planning Commission shall review all proposed amendments to the text and zoning map(s) within the corporate

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

(c) **Hearings.**

(1) The Common Council, following receipt of recommendation of the Planning Commission, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes. At least ten (10) days' prior, written notice shall also be given to the clerk of any municipality within one thousand (l,000) feet of any land to be affected by the proposed change or amendment.

(2) The Common Council may delegate to the Planning Commission the responsibility to hold public hearings as required under this Section.

(d) **Common Council Action; Rezoning Voting; Down Voting.**

(1) Following such hearing and after consideration of the Planning Commission's recommendation, the Common Council shall vote on the proposed change or amendment. A three-fourths (3/4) vote of the full Common Council membership is required to override the Planning Commission's recommendation.

(2) The Common Council may enact a down zoning ordinance only if the ordinance is approved by at least two-thirds (2/3) of the members-elect, except that if the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, the ordinance may be enacted by a simple majority of the members-elect.

(3) "Down zoning ordinance" means a zoning ordinance that affects an area of land in the following ways:

a. By decreasing the development density of the land to be less dense than was allowed under its previous usage; or

b. By reducing the permitted uses of the land that are specified in a zoning ordinance, or other land use regulation, to fewer uses than were allowed under its previous usage.

State Law Reference: Sec, 66.1005, Wis. Stats.

Sec. 13-1-243 Protest.

(a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Common Council membership.

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

Sec. 13-1-244 Substandard Lots.

(a) **Definition.** Per Sec. 66.10015(1)(e), Wis., Stats., a "substandard lot" is a legally created lot or parcel that met any applicable lot size requirements when it was created, but does not meet current

lot size requirements.

(b) **Prohibited Actions Regarding Substandard Lots.** Notwithstanding any other law or rule, or any action or proceeding under common law, the City of Westby, and its subunits and officials, may not enact or enforce an ordinance or take any other action that prohibits a property owner from doing any of the following:

(1) Conveying an ownership interest in a substandard lot.

(2) Using a substandard lot as a building site if all of the following apply:

a. The substandard lot or parcel has never been developed with one (1) or more of its structures placed partly upon an adjacent lot or parcel.

b. The substandard lot or parcel is developed to comply with all other ordinances of the City of Westby.

(c) **Prohibited Lot Merger Requirement.** Notwithstanding the authority granted under Secs. 61.35 and 62.23, Wis. Stats., the City may not enact or enforce an ordinance or take any other action that requires one (1) or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged.

State Law Reference: Sec. 66.10015, Wis. Stats.

Sec. 13-1-245 through Sec. 13-1-259 Reserved for Future Use.

Article N: Appeals

Sec. 13-1-260 Appeals to the Zoning Board of Appeals.

(a) **Scope of Appeals.** Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Common Council. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.

(b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(c) **Powers of Zoning Board of Appeals. In** addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:

(l) ***Errors.*** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.

(2) ***Variances.*** To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.

(3) ***Interpretations.*** To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Planning Commission has made a review and recommendation.

(4) ***Substitutions.*** To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Planning Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

(5) ***Unclassified Uses.*** To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Planning Commission has made a review and recommendation.

(6) ***Temporary Uses.*** To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Planning Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.

(7) ***Permits.*** The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

Sec. 13-1-261 Hearing on Appeals.

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less

than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) days prior to the hearing of the fee owners of records of all land within one hundred (100) feet of any part of the subject building or premises involved in the appeal.

Sec. 13-1-262 Decisions of Board of Appeals.

(a) **Timeframe.** The Board of Appeals shall decide all appeals and applications within thirty (30) days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.

(b) **Conditions.** Conditions may be placed upon any zoning permit ordered or authorized by the Board of Appeals.

(c) **Validity.** Variances, substitutions or use permits granted by the Board shall expire within eighteen (18) months unless substantial work has commenced pursuant to such grant.

Sec. 13-1-263 Variances.

(a) **Purpose.**

(1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.

(2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection that the flood protection elevation for the particular area or permit standards lower than those required by state law.

(3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

(b) **Application for Variances.** The application for variation shall be filed with the City Clerk-Treasurer. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:

(1) Name and address of applicant and all abutting and opposite property owners of record.

(2) Statement that the applicant is the owner or the authorized agent of the owner of the property.

(3) Address and description of the property.

(4) A site plan showing an accurate depiction of the property.

(5) Additional information required by the Planning Commission, City Engineer, Board of Zoning Appeals or Zoning Administrator.

(c) **Public Hearing of Application.**

(1) The application shall be referred to the Common Council which may submit a report to the Board of Appeals.

(2) The Board of Appeals shall conduct at least one (1) public hearing on the proposed variation. Notice of such hearing shall be given not more than thirty (30) days and not less than seven (7) days before the hearing in one (1) or more of the newspapers in general circulation in the City, and shall give due notice to the parties in interest, the Zoning Administrator and the Planning

Commission. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant, Zoning Administrator and Planning Commission.

(d) **Action of the Board of Appeals.** For the Board to grant a variance, it must find that:

(1) Denial of variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.

(2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

(3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.

(4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

(5) The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code.

(e) **Conditions.** The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

(f) **Standards for Qualifying for a Variance.** To qualify for a variance, the applicant must demonstrate that their property meets the following three (3) requirements:

(l) ***Unique Property Limitations.***

a. The applicant must show that the property has conditions that are unique or special to that property, that such unique physical characteristics prevent compliance with the regulations of this Zoning Code. Examples, but not limited to, of such conditions are physical limitations unique to the property such as wetlands or exceptionally unique steep slopes.

b. The following are non-exclusive examples of items Wisconsin courts have decided cannot be a basis for granting a variance under the "unique property limitation" test:

1. Financial considerations of the applicant.
2. The personal circumstances of the applicant (i.e. need for an expanded garage, a growing family, an unemployed family member returning home, etc.).
3. The existence of nearby Zoning Code violations.
4. Lack of objections from neighbors.

(2) ***No Harm To Public Interests.*** To qualify for a variance, the applicant must demonstrate that the proposed variance is not contrary to the public interest. In applying this test, the Board of Appeals must consider the impacts of the variance proposal, and, if setting a precedent, the cumulative impacts of similar projects on the interests of the neighbors, the overall City and the general public. Such factors are generally identified in Section 13-1-4.

(3) ***Unnecessary Hardship.***

a. To qualify for a variance, the applicant must demonstrate that the special condition(s) of the property creates an unnecessary hardship. When determining whether an unnecessary hardship exists, the property as a whole shall be considered rather than a portion of the property.

b. The following are non-exclusive examples of items Wisconsin courts have decided cannot be a basis for granting a variance under the "unnecessary hardship" test:

1. Conditions which are self-imposed or created by a prior owner (i.e. owner expands home and then argues there is no suitable location for a proposed new garage).

2. Economic or financial hardship to the applicant (i.e. construction of a new garage in a complying location would cost more than placing the garage in a location requiring a variance).
3. Lack of objections from neighbors.

c. Due to Wisconsin court decisions, the "unnecessary hardship" determination requires that the Board of Appeals apply different tests for *use variances* and *area variances:*
   1. For a *use variance*, unnecessary hardship can be determined to exist only if the property owner can show that he/she would have *no reasonable use of the property* without a variance. A *use variance* would permit a property owner to put property to an otherwise prohibited use.
   2. For an *area variance*, unnecessary hardship can be determined to exist only if the property owner can show that compliance with the requirements of the Zoning Code would *unreasonably prevent the property owner from using the land for a permitted purpose* (leaving the property owner without any use that is permitted for the property under the Zoning Code) or would render *conformity with such zoning restrictions unnecessarily burdensome.* *Area variances* are intended to provide an increment of relief (usually small) from a physical dimensional requirement of the Zoning Code such as building height or setback requirements. In applying the test for an *area variance*, the Board of Appeals shall consider the purpose of the Zoning Code, the Zoning Code's restrictions on the applicant's property, and the cumulative effects granting of a variance would have on the neighborhood, community and on the public interests.
   3. Unless the Board of Appeals finds that a property cannot be used for any permitted purpose, *area variances* shall not be granted for greater than a forty percent (40%) deviation in the area, setback, height or density requirements specified in this Chapter.

(Note: The above standards reflect the Wisconsin Supreme Court's decisions in *State ex rel. Ziervogel v. Washington County Board of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401 and *State v. Waushara County Board of Adjustment*, 2004 WI 56, Wis. 2d, 679 N.W.2d 514).

Sec. 13-1-264 Review by Court of Record.

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

Sec. 13-1-265 through Sec. 13-1-279 Reserved for Future Use.

Article 0: Definitions

Sec. 13-1-280 Definitions.

(a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section, subsection or in Title 1, Chapter 1 of this Code of Ordinances. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive. The word "person" includes individuals, all partnerships, associations, and bodies political and corporate. The word "lot" includes the word "plot" or "parcel" or "tract". The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be used or occupied".

(1) ***A Zones.*** Areas of potential flooding shown on the City's "Flood Insurance Rate Map" which would be inundated by the regional flood as defined herein. These zones may be numbered as A0, Al to A99, or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

(2) ***Abutting.*** Have a common property line or district line, or are separated only by a river, stream, or transportation or utility right-of-way.

(3) ***Accessory Apartment.*** A separate complete housekeeping unit that is substantially contained within the structure of a single-family dwelling, but can be isolated from it.

(4) ***Accessory Building.*** A subordinate building or portion of the main building, the use of which is incidental to the permitted use of the main building.

(5) ***Accessory Structure.*** A subordinate structure, the use of which is incidental to, customarily found in connection with, and located on the same lot as the principal structure or use of the property. Accessory structures include, but are not limited to, detached garages, sheds, barns, gazebos, swimming pools, hot tubs, fences, retaining walls and detached stairways and lifts; and impervious, pervious or porous driveways, parking lots, sidewalks, patios and decks (both detached and attached).

(6) ***Accessory Use.*** See "Use, Accessory".

(7) ***Acre, Net.*** The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within forty-three thousand five hundred sixty (43,560) square feet.

(8) ***Adjacent Property Owner.*** The owner of property located within one hundred (100) feet [300 feet under Section 13-1-96] of a subject property under this Code.

(9) ***Adult-Oriented Establishment.*** Any premises including, without limitation, "adult bookstores," or "adult motion picture theaters." It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, whether or not such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. "Adult-Oriented Establishment" further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.

(10) ***Agriculture, Animal.*** The use of land for animal feeding operations, including areas for the storage, treatment and disposal of manure and other related waste products.

(11) ***Agriculture, Crop.*** The use of land for the production of row crops, field crops, tree crops, timber, bees, apiary productions, and fur-bearing mammals.

(12) ***Agriculturally-Related Residence.*** A residence which is occupied by:

a. A person who, or a family at least one (1) member of which earns a substantial part of his/her

livelihood from farm operations on the land; or

b. A parent or child of the owner of the farm.

(13) ***Agricultural Processing and Packaging.*** An establishment primarily engaged in refining, processing or otherwise adding value to raw agricultural goods, including, but not limited to, washing, sorting, cutting, bagging, freezing, canning, packing, bottling or butchering.

(14) ***Agricultural Research and Development.*** The use of land or buildings for agriculture research and the cultivation of new agricultural products.

(15) ***Agricultural Sales and Service.*** An establishment primarily engaged in:

a. The sale or rental of farm tools and implements, feed and grain, tack, animal care products, farm supplies and the like; or

b. Performing agricultural or horticultural services on a fee or contract basis, including, but not limited to, crop dusting and spraying services, harvesting and plowing services, agricultural land grading services, farm equipment service and repair, and large animal veterinary services.

(16) ***Agricultural Storage.*** Grain elevators and other facilities for the warehousing and storage of agricultural products.

(17) ***Agricultural Use.*** Beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; wholesale plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least thirty-five (35) acres of which are enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk production termination program under 7 USC 1446(d); and vegetable raising.

(18) ***Aircraft Landing Strip.*** A site maintained for occasional use by manned aircraft for landing or take off.

(19) ***Airport, Public.*** Any airport which complies with the definition contained in Sec. 114.013(3), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.

(20) ***Alley.*** A public or private right-of-way not more than twenty-one (21) feet wide which affords only a secondary means of access to the side or rear of an abutting property.

(21) ***Alley.*** A public or private way which affords only secondary vehicular access to abutting property.

(22) ***Animal Hospital/Veterinary Services.*** A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use of a kennel shall be limited to short-term boarding and shall be only incidental to such hospital use.

(23) ***Animal Unit.*** As defined in Ch. NR 243.03(3), Wis. Adm. Code.

(24) ***Animal Waste.*** Manure, milking center waste and other organic waste generated by livestock, farm animals, or any number combination of animal units or portion thereof. It includes animal bedding, water, soil, hair, feathers, and other debris that becomes intermingled with animal excreta in normal waste handling operations.

(25) ***Animal Waste Storage Structure.*** A waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. Does not include equipment used to apply waste to land. For purposes of ATCP 51.12(2) and 51.14, Wis. Adm. Code, does not include any of the following:

a. A structure used to collect and store waste under a livestock housing facility.

b. A waste digester consisting of a sealed structure in which animal waste is subject to managed biological decomposition.

(26) ***Animal Waste Utilization.*** The application of animal waste on suitable land in a manner which will achieve compliance with livestock performance standards and prohibitions established in

Ch. NR 151, Wis. Adm. Code, NRCS Conservation Practice Standard Code 590 and meet other designated water quality objectives. Land suitable for animal waste utilization excludes wetlands or lands below the OHWM, closed depressions, slopes in excess of twenty-five percent (25%) and other areas that may be determined as sensitive and adversely affecting surface water or groundwater quality.

(27) ***Antenna.*** Any device or equipment used for the transmission or reception of electromagnetic waves, which may include an omni-directional antenna (rod), a directional antenna (panel) or a parabolic antenna (dish).

(28) ***Apartment.*** A suite of rooms or a room in a multiple dwelling, which suite or room is arranged, intended or designed to be occupied as a residence of a single family, individual or group of individuals, with separate facilities and utilities which are used or intended to be used for living, sleeping, cooking and eating.

(29) ***Arterial Street.*** A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.

(30) ***Authority.*** A person, committee, or board to whom the power to issue a permit, or make a determination, decision, or judgment has been delegated.

(31) ***Automobile Wrecking/Salvage Yard.*** Any premises on which is kept more than one (1) vehicle, not in running order or operating condition, or in a general state of disrepair, which is not completely enclosed within a building.

(32) ***Basement.*** A story partly or wholly underground. The height of a basement shall be the vertical distance between the surface of the basement floor and the surface of the floor next above it. A basement shall be counted as a story for the purposes of height measurements if the vertical distance between the ceiling and the main level of the adjoining ground is more than five (5) feet, or if used for business purposes, or if used for living purposes by other than the owner and his immediate family, and a janitor or servants of the owner.

(33) ***Bed and Breakfast Establishment Building.*** A building that provides ten (10) or fewer sleeping rooms for temporary occupancy for compensation by transient guests who are traveling for business or pleasure and is the owner's personal residence and occupied by the owner at the time of rental. The partnership form of ownership shall be allowed under this definition.

(34) ***Best Management Practices (BMPs).*** Practices and industry standards designed to minimize environmental damage.

(35) ***Block.*** A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.

(36) ***Bluffline.*** A line along the top of a slope preservation zone. There can be more than one bluffline.

(37) ***Boarding House.*** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for three (3) or more persons not members of a family, but not exceeding ten (10) persons and not open to transient customers.

(38) ***Boathouse.*** A building or portion thereof used for the housing or care of boats and other associated marine equipment for noncommercial purposes and not permitted to be used for human habitation.

(39) ***Buffer Zone.*** A designated neutral area designed to separate conflicting land uses. A natural vegetative screening of trees, shrubs or other plantings is usually employed in such a designated area.

(40) ***Buildable Lot Area.*** The portion of a lot remaining after required yards have been provided.

(41) ***Building.*** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part

shall be deemed a separate building.

(42) ***Building, Accessory.*** A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises. An automobile trailer or other vehicle or part thereof or other building shall not be used as a dwelling or lodging place and shall not be considered an accessory building or use.

(43) ***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.

(44) ***Building Area.*** The total area bounded by the exterior walls of a building at the floor levels, but not including basements, utility rooms, garages, porches, breezeways and unfinished attics.

(45) ***Building, Detached.*** A building surrounded by open space on the same lot.

(46) ***Building, Front Line of.*** A line parallel to the street intersecting the foremost point of the building, excluding uncovered steps.

(47) ***Building, Height of.*** The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.

(48) ***Building, Principal or Main.*** The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.

(49) ***Building Setback Line.*** A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Zoning Code. A line measured across the width of a lot at that point where the principal structure is placed in accordance with setback provisions.

(50) ***Building, Principal.*** A building in which the principal use of the lot on which it is located is conducted.

(51) ***Bulkhead Line.*** A geographic line along a reach of navigable water that has been adopted by the City and approved by the Wisconsin Department of Natural Resources pursuant to Sec. 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary high water mark, except where such filling is prohibited by the floodway provisions of this Title.

(52) ***Business.*** An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.

(53) ***Camouflage Design.*** A wireless communication service facility that is disguised, hidden or screened, but remains recognizable as a tower or antenna.

(54) ***Campground.*** Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units, or which is advertised or represented as a camping area.

(55) ***Camping Unit.*** Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to a camping or travel trailer, motor home, bus, van, pickup truck, tent or other mobile recreational vehicle.

(56) ***Canopy.*** A rigid structure attached to and extending outward from a building, designed to protect the building and/or people under the canopy from the sun, rain or snow.

(57) ***Carport.*** An automobile shelter having one (1) or more sides open.

(58) ***Cellar.*** That portion of a building having more than half of the floor-to-ceiling height below the average grade of the adjoining ground. This portion is not a completed structure and serves as a substructure or foundation for a building.

(59) ***Centerline.*** A line connecting the points on highways from which setback distances shall be measured, at any point on the highway.

(60) ***Certificate* of *Compliance.*** A certification that the construction and the use of land or building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this Chapter.

(61) ***Channel.*** Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.

(62) ***Clinic, Medical or Dental.*** A group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including bed-patient care.

(63) ***Club or Lodge.*** A building or portion thereof or premises owned by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as business.

(64) ***Cluster Subdivision.*** A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located, in return for the provision of permanent undeveloped land.

(65) ***Complete Application for Local Approval - Livestock Facilities Conditional Use.*** An application that contains everything required under ATCP 51.30(1)-(4), Wis. Adm. Code.

(66) ***Compliant Building Location.*** An area on a lot where a building could be located in compliance with all applicable ordinance requirements.

(67) ***Conditional Use.*** The occupations, vocations, skills, arts, businesses, professions or uses specifically designated in each zoning district, which for their respective conduct, exercise or performance in such designated districts may require reasonable, but special, peculiar, unusual or extraordinary limitations, facilities, plans, structures, thoroughfares, condition modification, or regulations in such district for the promotion or preservation of the general public welfare, health, convenience or safety therein and in the City and, therefore, may be permitted in such district only by a conditional use permit.

(68) ***Community Living Arrangement.*** The following facilities licensed or operated or permitted under the authority of the Wisconsin Statutes: Child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(7m) and community-based residential facilities under Section 50.01, but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wisconsin Statutes, including Sections 46.03(22), 69.97(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.

(69) ***Conforming Use.*** Any lawful use of a building or lot which complies with the provisions of this Chapter.

(70) ***Controlled Access Arterial Street.*** The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.

(71) ***Corner Lot.*** On corner lots, the setback shall be measured from the street line on which the lot fronts. The setback from the side street shall be equal to seventy-five percent (75%) of the setback required on residences fronting on the side street – but the side yard setback shall in no case restrict the buildable width to less than thirty (30) feet. Said corner lots shall be consisting of a parcel of property abutting on two (2) or more streets at their intersection providing that the interior angle of such intersection is less than one hundred thirty-five degrees (135°).

(72) ***Conservation Standards.*** Guidelines and specifications for soil and water conservation practices and management enumerated in the *Technical Guide,* prepared by the USDA Soil Conservation Service for Vernon County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.

(73) ***Court.*** An open, unoccupied space other than a yard, on the same lot with a building, and which is bounded on two (2) sides by the building.

(74) ***Crawlways* or *Crawl Space.*** An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.

(75) ***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.

(76) ***Curb Level.*** The level of the established curb in the front of the building measured at the center of such front.

(77) ***Day Care Center, Family.*** A place or home which provides care for eight (8) or more children under the age of seven (7) years for less than twenty-four (24) hours a day and is licensed as provided for in Sec. 48.65, Wis. Stats.

(78) ***Day Care Center, Group.*** A dwelling or center that provides care and supervision for nine (9) or more children and is licensed by the Wisconsin Department of Health and Social Services.

(79) ***Deck.*** An unenclosed exterior structure that has no roof or sides, but has a permeable floor that allows the infiltration of precipitation.

(80) ***Development.*** Any artificial or man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

(81) ***Development Regulations.*** The part of a zoning ordinance enacted under Section 62.23(7), Wis. Stats., that applies to elements including setback, height, lot coverage, and side yard. [See Section 62.23(7)(hb)a, Wis. Stats.]

(82) ***Disabled.*** Having a physical or mental impairment that substantially limits one or more major life activities.

(83) ***District, Basic.*** A part or parts of the City for which the regulations of this Chapter governing the use and location of land and building are uniform.

(84) ***District, Overlay.*** Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.

(85) ***Double Wide Mobile Home.*** A double wide mobile home is a mobile home consisting of two (2) mobile home sections combined horizontally at the site while still retaining their individual chassis for possible future movement.

(86) ***Dwelling.*** A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.

(87) ***Dwelling Unit.*** A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.

(88) ***Dwelling, Efficiency.*** A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.

(89) ***Dwelling, Single-Family.*** A detached building designed for or occupied by one (1) family.

(90) ***Dwelling, Two-Family.*** A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.

(91) ***Dwelling, Multiple-Family.*** A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.

(92) ***Dwelling Unit.*** A building or portion thereof used exclusively for human habitation, including

single-family, two-family and multi-family dwellings, but not including hotels, motels or lodging houses.

(93) ***Elderly Day Care Home.*** Locations which provide day care and food service for adults who are unable to be left alone while other family members are at work or otherwise not at home during the day. Overnight lodging is not to be provided at a day care center.

(94) ***Emergency Shelters.*** Public or private enclosures designed to protect people from aerial, radiological, biological or chemical warfare; fire; flood; windstorm; riots; or invasions.

(95) ***Equal Degree of Hydraulic Encroachment.*** The effect of any encroachment into the floodway is to be computed by assuming an equal degree of hydraulic encroachment on the opposite side of a river or stream for a significant hydraulic reach, in order to compute the effect of the encroachment upon hydraulic conveyance. This computation assures that the property owners up, down or across the river or stream will have the same rights of hydraulic encroachment.

(96) ***Essential Services.*** Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

(97) ***Expanded Livestock Facility.*** The entire livestock facility that is created by the expansion after May 1, 2006, and includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered.

(98) ***Expansion.*** An addition to an existing structure regardless of whether the addition is vertical or horizontal or both.

(99) ***Expansion* of *Livestock Facility.*** An increase in the largest number of animal units kept at a livestock facility on at least ninety (90) days in any twelve (12) month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an "expansion" unless that operator increases the largest number of animal units kept at the combined livestock facilities for at least ninety (90) days in any twelve (12) month period.

(100) ***Family.*** One (1) or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in one (1) dwelling unit shall constitute a family. A family may include in addition thereto two (2) but not more than two (2) persons not related by blood, marriage or adoption. A person shall be considered to be related for the purpose of this Section if he is dwelling for the purpose of adoption or for a foster care program.
Exceptions: Nothing in this Chapter shall prohibit, under the definition of "Family," priests, laybrothers, nurses or such other collective body of persons living together in one (1) house under the same management and care, subsisting in common, and directing their attention to a common object or the promotion of their mutual interest and social happiness as set forth by the Wisconsin Supreme Court in *Missionaries of Our Lady of LaSallette vs. Village of Whitefish Bay Board of Zoning Appeals*, 267 Wis. 609, which is hereby incorporated by reference.

(101) ***Family Day Care Home.*** A dwelling also licensed as a day care center by the Wisconsin Department of Health and Family Services where, for compensation of consideration, a resident of the dwelling provides group care for at least four (4), but not more than eight (8), children between the ages of infancy and seven (7) years of age at a location other than the child's own home or the home of relatives or guardians.

(102) ***Farm.*** Land consisting of five (5) acres or more on which produce, crops, livestock or flowers are grown primarily for off-premise consumption, use or sale.

(103) ***Farm Animals.*** See "Livestock".

(104) ***Farming - General.*** General farming shall include floriculture, forest and game

management, orchards, raising of grain, grass, mint and seedcrops, raising of fruits, nuts and berries, sod farming and vegetable farming. General farming includes the operating of such an area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.

(105) ***Farmstead.*** A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.

(106) ***Flood.*** A temporary rise in streamflow or stage in lake level that results in water overtopping the banks and inundating the areas adjacent to the steam channel or lake bed.

(107) ***Flood Insurance Study.*** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mud flow) and/or floor-related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either numbered or unnumbered A Zones.

(108) ***Flood Profile.*** A graph showing the relationship of the floodwater surface elevation of a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.

(109) ***Flood Protection Elevation.*** A point two (2) feet above the water surface elevation of the 100-year recurrence interval flood. This safety factor, also called "freeboard," is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action and obstructions of bridge openings.

(110) ***Flood Stage.*** The elevation of the floodwater surface above an officially established datum plane, which is Mean Sea Level, 1929 Adjustment, on the Supplementary Floodland Zoning Map.

(111) ***Floodlands.*** For the purpose of this Code, the floodlands are all lands contained in the "regional flood" or l00-year recurrence interval flood. For the purpose of zoning regulation, the floodlands are divided into the floodway district, the floodplain conservancy district and the floodplain fringe overlay district.

(112) ***Floodplain Fringe.*** Those floodlands, outside the floodway, subject to inundation by the 100-year recurrence interval flood. For the purpose of this Code, the floodplain fringe includes the floodplain conservancy district and the floodplain fringe overlay district.

(113) ***Floodproofing.*** Measures designed to prevent and reduce flood damage for those uses which cannot be removed from, or which, of necessity, must be erected in the floodplain, ranging from structural modifications through installation of special equipment or materials, to operation and management safeguards, such as the following: reinforcing the basement walls; underpinning of floors; permanent sealing of all exterior openings; use of masonry construction; erection of permanent watertight bulkheads, shutters and doors; treatment of exposed timbers; elevation of flood vulnerable utilities; use of waterproof cement; adequate fuse protection; sealing of basement walls; installation of sump pumps; placement of automatic swing check valves; installation of seal-tight windows and doors; installation of wire reinforced glass; location and elevation of valuable items; waterproofing, disconnecting, elevation or removal of all electric equipment; avoidance of the use of flood-vulnerable areas; temporary removal of waterproofing of merchandise; operation of emergency pump equipment; closing of backwater sewer valve; placement of plugs and food drain pipes; placement of movable watertight bulkheads; erection of sand bag levees; and the shoring of weak walls or structures. Floodproofing of structures shall be extended at least to a point two (2) feet above the elevation of the regional flood. Any structure that is located entirely or partially below the flood protection elevation shall be anchored to protect it from larger floods.

(114) ***Floodway.*** A designated portion of the 100-year flood area that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.1 foot unless special legal measures are provided. The floodway, which includes the channel, is that portion of the floodplain not suited for human habitation. All fill, structures and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.

(115) ***Floor Area-Business and Manufacturing Buildings.*** For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

(116) ***Floor Area - Dwelling Units.*** The square feet of floor space of the several floors of a dwelling unit within the outside line of walls and includes the total of all space on all floors of a building, but not including porches, balconies, garages or space in a basement or cellar when the same is used for storage or incidental uses. Residential floor area is measured from the exterior faces of the exterior walls or from the center lines of walls or portions separating dwelling units.

(117) ***Floor Area - Business and Manufacturing Buildings.*** For uses other than residential, the floor area shall be measured from the exterior faces of the exterior walls or from the centerline of walls or partitions separating such uses, and shall include all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

(118) ***Footprint.*** The land area covered by a structure at ground level, measured on a horizontal plane. The "footprint" of a residence includes attached garages and porches, but excludes decks, patios, carports and roof overhangs.

(119) ***Foster Family Home.*** The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of the Wisconsin Statutes and amendments thereto.

(120) ***Frontage.*** All the property butting on one (1) side of a street between two (2) intersecting streets or all of the property abutting on one (1) side of a street between an intersecting street and the dead end of a street.

(121) ***Frontage, Reversed.*** Where the rear lot line of a corner lot coincides with all or part of the side lot line of an adjoining lot in the same block.

(122) ***Garage, Private.*** An accessory building or space for the storage only of not more than four (4) wheeled, licensed motor vehicles.

(123) ***Garage, Public.*** Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.

(124) ***Garage, Storage.*** Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements, not to transients, where no equipment, parts, fuel, grease or oil are sold and vehicles are not equipped, serviced, repaired, hired or sold.

(125) ***Garden Center.*** A place of business where retail and wholesale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

(126) ***Gasoline Station.*** Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such vehicles.

(127) ***Gift Stores.*** Retail stores where items such as art, antiques, jewelry, books and notions are sold.

(128) ***Grade.*** When used as a reference point in measuring the height of a building, the "grade" shall be the average elevation of the finished ground at the exterior walls of the main building.

(129) ***Gravel Pit.*** An open land area where sand, gravel, and rock fragment are mined or excavated including such on-site processing that are related to the mining or excavation of the sand, gravel, and rock fragment such as stockpiling of materials, blending mineral material aggregates or non metallic minerals, crushing, screening, scalping and dewatering.

(130) ***Group Foster Home.*** Any facility operated by a person required to be licensed by the State of Wisconsin under Section 48.62, Wis. Stats., for the care and maintenance of five (5) to eight (8) foster children.

(131) ***Hardware Stores.*** Retail stores where items such as plumbing, heating and electrical supplies, sporting goods and paints are sold.

(132) ***Home Occupation.*** Any business or profession carried on primarily by a member of the immediate family residing on the premises, carried on primarily within the principal building thereto and meeting the standards of Section 13-1-92.

(133) ***Hospital.*** An institution intended primarily for the medical diagnosis, treatment and care of patients being given medical treatment. A hospital shall be distinguished from a clinic by virtue of providing for bed-patient care.

(134) ***Hotel.*** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.

(135) ***Institution.*** A building occupied by a nonprofit corporation or a nonprofit establishment for public use.

(136) ***Junk.*** Any scrap, waste, reclaimable material or debris, whether or not stored or used use in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.

(137) ***Junkyard.*** Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or assorted, including but not limited to used or salvaged or new scrapped base metal or metals, their compounds or combinations, used for salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property, except animal matter; and used motor vehicles, machinery or equipment which are used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

(138) ***Kennel.*** Any facility where dogs or cats are kept for twenty-four (24) hours or more for boarding, training, or similar purposes for compensation, except that "kennel" does not include any of the following:

a. An animal shelter.

b. A facility owned or operated by a veterinarian licensed under Ch. 453, Wis. Stats., where

animals are boarded only in conjunction with the provision of veterinary care.

(139) ***Livestock.*** Domestic animals traditionally used in Wisconsin in the production of food, fiber or other animal products, and includes cattle, swine, poultry, sheep and goats. The term "livestock" does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.

(140) ***Livestock Facility.*** A feedlot, dairy farm or other operation where livestock are or will be fed, confined, maintained or stabled for a total of forty-five (45) days or more in any twelve (12) month period. A "livestock facility" includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single "livestock facility" for purposes of this Chapter, except that an operator may elect to treat a separate species facility as a separate "livestock facility".

(141) ***Livestock Structure.*** A building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. Livestock structure includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or animal waste storage structure. Livestock structure does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

(142) ***Loading Area.*** A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

(143) ***Lodging House.*** A building where lodging only is provided for compensation for not more than three (3) persons not members of the family.

(144) ***Lot.*** A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located.

(145) ***Lot Area.*** The area of contiguous land bounded by lot lines, exclusive of land designated for public thoroughfares.

(146) ***Lot, Corner.*** A lot situated at the intersection of two (2) streets.

(147) ***Lot Coverage (residential).*** The area of a lot occupied by the principal building or buildings and accessory building.

(148) ***Lot Coverage (except residential).*** The area of a lot occupied by the principal building or buildings and accessory buildings including any driveways, parking areas, loading areas, storage areas and walkways.

(149) ***Lot, Interior.*** A lot with frontage on only one (1) street.

(150) ***Lot, Reversed Corner.*** A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

(151) ***Lot, Substandard.*** A parcel of land held in separate ownership having frontage on a public street, or other officially approved access, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking area, or other open space provisions of this Chapter.

(152) ***Lot, Through.*** A lot having a pair of opposite lot lines along two (2) or more parallel public streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

(153) ***Lot Depth.*** The shortest horizontal distance between the front lot line and the rear lot line measured at a ninety (90) degree angle from the road right-of-way.

(154) ***Lot Line.*** Legally established lines dividing one (1) lot, plot of land or parcel of land from an adjoining lot or plot of land or parcel of land as defined herein.

(155) ***Lot Line, Front.*** A line separating the lot from the street or approved private road.

(156) ***Lot Line, Rear.*** A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line ten (10) feet in the length within the lot, parallel to and at the maximum distance from the front lot line.

(157) ***Lot Line, Side.*** Any lot boundary line not a front line or a rear lot line.

(158) ***Lot of Record.*** A lot which has been recorded in the Office of the Register of Deeds prior to the effective date of this Chapter.

(159) ***Lot Width.*** The horizontal distance between the side lot lines at the building setback line.

(160) ***Machine Shops.*** Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing; heating and electrical repair and overhaul shops.

(161) ***Marquee or Canopy.*** A roof-like structure of a permanent nature which projects from the wall of a building.

(162) ***Manufactured Dwelling.*** A dwelling structure or component thereof as is defined in SPS 320.07, Wis. Adm. Code, One- and Two-Family Uniform Dwelling insignia certifying that it has been inspected and found to be in compliance with Subchapter V of said Uniform Dwelling Code.

(163) ***Manufactured Home.*** A dwelling structure or component thereof fabricated in an offsite manufacturing facility for installation at the building site and certified and labeled as a manufactured home under 42 USC Secs. 5401-5426, which, when placed on the site:

a. Is set on an enclosed foundation in accordance with Sec. 70.43(1), Wis. Stats., and SPS 21, Subchapters III, IV and V, Wis. Adm. Code, or is set on a comparable enclosed continuous foundation system approved by the Building Inspector, who may require a plan for such foundation to be certified by a registered architect or engineer to ensure proper support for such structure;

b. Is installed in accordance with the manufacturer's instructions;

c. Is properly connected to utilities;

d. Has an area of at least eight hundred (800) square feet of living space, with a minimum of twenty-four (24) square feet in width in its smallest horizontal dimension, exclusive of attached garage, carport or open deck, and is used exclusively as a single-family residence; and

e. Meets other applicable standards of this Chapter.

(164) ***Manure Pit.*** A structure or earthen pond located outside of a barn or shelter and used for containment of manure and other wastes from livestock and poultry.

(165) ***Mini-Storage/Warehouse Structure.*** A structure where self-contained sections thereof are rented for storage purposes, typically serving residential and small business clients.

(166) ***Minor Structures.*** Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four (4) feet in height.

(167) ***Mobile Home.*** A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.

(168) ***Mobile Home (see also Manufactured Home).*** That which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway, and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; including any additions, attachments, annexes, foundations and appurtenances. In the purpose of this Section, a mobile home shall remain classified as a mobile home regardless of whether its wheels or other rolling devices have been removed or not, and even though assessable

value of additions, attachments, annexes, foundations and appurtenances or other added investments to the mobile home equal or exceed fifty percent (50%) of the assessable value of the mobile home. Excluded from this definition are "manufactured homes" as defined above.

Note: Mobile Homes vs. Modular Homes

"Mobile homes" have been required to follow construction standards, including heating, electrical and plumbing, since 1976 through a Federal Housing and Urban Development (HUD) program. In Wisconsin this is administered under contract by the Division of Safety and Buildings, Wisconsin Department of Commerce. The current proper and legal term for mobile homes is "manufactured homes". While the manufactured home itself is not covered by the Wisconsin Uniform Dwelling Code (UDC), any site-built addition to that home, such as a basement, crawl space or room addition attached to the home, does have to be constructed to meet the requirements of the UDC if the manufactured home was built after June 1, 1980. While manufactured homes are constructed to the HUD construction standards, "manufactured dwellings" must meet the UDC standards. Such non-HUD factory-built homes are referred to as "manufactured dwellings". However, doublewide manufactured mobile homes often are similar in appearance to modular homes. For purposes of identification, a manufactured (mobile) home is identified with a red metal rectangular label affixed to the rear of each full or half unit. This indicates the home has been constructed in accordance with the HUD manufactured home standards. In contrast, a modular home or manufactured dwelling will be identified with a red plastic sticker, called a "Wisconsin Insignia ", imprinted with the outline of the State of Wisconsin. It will usually be affixed to the electrical panel, vanity base cabinet or kitchen cabinet. Inspectors must first identify what they are looking at before applying the applicable code regulations.

(169) ***Mobile Home Lot.*** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

(170) ***Mobile Home Park.*** A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation, and where individual lots are rented to individual mobile home users. A mobile home park is also any lot on which two (2) or more mobile homes are parked for the purpose of permanent habitation and including any associated service, storage, recreations and other community service facilities designed for the exclusive use of park occupants.

(171) ***Mobile Home Subdivision.*** A land subdivision, as defined by Chapter 236 of the Wisconsin Statutes and any City Land Division Ordinance (Title 14, Chapter 1 of this Code of Ordinances), with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.

(172) ***Modular Unit.*** A prefabricated, detached single- or double-family dwelling unit designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, which is or was designed to be transported and mounted on a permanent foundation.

(173) ***Motel.*** A building containing lodging rooms having adjoining individual bathrooms, and where each lodging has a doorway opening directly to the outdoors, and more than fifty percent (50%) of the lodging rooms are for rent to transient tourists for a continuous period of less than thirty (30) days.

(174) ***Motor Freight Terminal.*** A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.

(175) ***Navigable Waters.*** Has the meaning in Section 30.01(4m), Wis. Stats.

(176) ***New Livestock Facility.*** A livestock facility that will be used as a livestock facility for the first time, or for the first time in at least five (5) years. "New livestock facility" does not include

an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding five (5) years.

(177) ***Nonconforming Lot.*** A lot of record existing on the date of passage of this Chapter which does not have the minimum width or contain the minimum area for the zone in which it is located.

(178) ***Nonconforming Structure.*** A dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one (1) or more of the development regulations in the current zoning ordinance. [See Section 62.23(7)(hb)b, Wis. Stats.]

(179) ***Nonconforming Use.*** A use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with the use restrictions in the current ordinance. [See Section 62.23(7)(ab), Wis. Stats.]

(180) ***Nonmetallic Mining.*** Operations or activities for the extraction from the earth for the sale or use by the operator of mineral aggregates or nonmetallic minerals such as stone, sand, gravel, asbestos, beryl, clay, feldspar, peat, talc, topsoil, including such operations or activities such as excavation, grading, and dredging.

(181) ***Nuisance.*** An injurious effect on the safety, health, or morals of the public, or use of property which works some substantial annoyance, inconvenience, or injury to the public and which causes hurt, inconvenience or damage.

(182) ***Nursery.*** Any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.

(183) ***Nursery School.*** Any building used routinely for the daytime care and education of preschool age children and including all accessory buildings and play areas other than the child's own home or the homes of relatives or guardians.

(184) ***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.

(185) ***Official Letter of Map Amendment.*** Official notification from the Federal Emergency Management Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

(186) ***Operator.*** A person who applies for or holds a local approval for a livestock facility.

(187) ***Ordinary Maintenance and Repair.*** Any work done on a nonconforming structure that does not constitute expansion, structural alteration or reconstruction and does not involve the replacement, alteration or improvement of any portion of the structure's foundation.

(188) ***Other Official Approved Access.*** A private road or easement extending from a private property to a component of the public street system which the Common Council has approved as a primary means of access.

(189) ***Outlot.*** A lot remnant or parcel of land within a plat remaining after platting, which is intended for open space use, for which no development is intended other than that which is accessory to the open space use. An outlot may not be developed for any use or structure that requires a private, onsite wastewater treatment system.

(190) ***Parking Area, Semi-Public.*** An open area other than a street, alley or place used for temporary parking of more than four (4) self-propelled vehicles and available for public uses, whether free, for compensation, or as an accommodation for clients or customers.

(191) ***Parking Lot.*** A structure or premises containing five (5) or more parking spaces open to the public.

(192) ***Parties in Interest.*** Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.

(193) ***Party Wall.*** A wall containing no opening which extends from the elevation of building footings to the elevation of the outer surface of the roof or above, and which separates contiguous buildings but is in joint use for each building.

(194) ***Person.*** An individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

(195) ***Places* of *Assembly.*** Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.

(196) ***Planned Unit Development.*** A large lot or tract of land containing two (2) or more principal buildings of uses developed as a unit where such buildings or uses may be located in relation to each other rather than to a lot line or zoning district boundaries.

(197) ***Populate (Animals).*** To add animal units for which a permit or other local approval is required.

(198) ***Porch.*** A building walkway with a roof over it, providing access to a building entrance.

(199) ***Private Individual Sewage Treatment System.*** A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same lot as the structure. This term includes alternative sewage systems, substitutes for the septic tank or soil absorption field, a holding tank, a system serving more than one (1) structure or a system located on a different parcel than the structure.

(200) ***Private Individual Water System.*** A system supplying water for human consumption with a well and pump serving a single structure located on the same lot as the structure. This term includes alternative water supply systems, substitutes for the well or pump, a system serving more than one (1) structure or a system located on a different parcel than the structure.

(201) ***Professional Home Offices.*** Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, tradesmen, authors, musicians or other recognized professions used to conduct their professions. Tradesmen shall be defined as a person or persons who hold themselves out with a particular skill including, but not limited to, carpenters, masons, plumbers, electricians, roofers and others involved in the building trade.

(202) ***Property Line.*** A line that separates parcels of land owned by different persons.

(203) ***Qualified Nutrient Management Planner.*** A person qualified under ATCP 50.48, Wis. Adm. Code.

(204) ***Quarrying.*** The removal of mineral aggregates, topsoil or other natural materials from the earth by excavating, stripping or any other mining process.

(205) ***Racetrack.*** A facility or track operated where vehicles of any type competitively race, whether for compensation or not.

(206) ***Railroad Right-of-Way.*** A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

(207) ***Rear Yard.*** A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one (1) of the street yards on a corner lot.

(208) ***Reasonable Accommodation.*** Allowing a disabled person to deviate from the strict requirements of the City's zoning ordinances if an accommodation is necessary and reasonable, in order not to unlawfully discriminate against the disabled person and to allow them equal housing opportunity.

(209) ***Recreational Vehicle.*** Any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications:

a. Is not used as the permanent residence of the owner or occupant;
b. Is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;
c. Is towed or self-propelled on public streets or highways incidental to such recreation or

vacation activities;

Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pickup campers, camping buses, and self-contained, self-propelled truck chassis mounted vehicles providing living accommodations. Manufactured or mobile homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "recreational vehicles". The term "recreational vehicle" does not include a temporarily placed "manufactured" or "mobile" home.

(210) ***Recreational Vehicle Camp.*** A part, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or accommodations for any recreational vehicles as defined herein, and upon which said recreational vehicles are parked.

(211) ***Recycling Center.*** A facility designed to be a collection point where only recyclable materials are sorted and temporarily stored prior to shipment to others who will use those materials for reuse and/or processing into new products. This shall not include junk yards.

(212) ***Regional Flood.*** This regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every one hundred (l00) years; this means that in any given year, there is a one percent (1 %) chance that the regional flood may occur or be exceeded. During a typical thirty (30) year mortgage period, the regional flood has a twenty-six percent (26%) chance of occurrence.

(213) ***Related Livestock Facilities.*** Livestock facilities that are owned or managed by the same person, and related to each other in at least one (1) of the following ways:

a. They are located on the same tax parcel or adjacent tax parcels of land. (Note: A mere acquisition of a neighboring livestock facility does not constitute an "expansion" unless more animal units are added to the combined facilities).
b. They use one (1) or more of the same livestock structures to collect or store manure.
c. At least a portion of their manure is applied to the same landscaping acreage.

(214) ***Restaurant.*** A business establishment consisting of a kitchen and dining room, whose primary purpose is to prepare and serve food to be eaten by customers seated in the dining room.

(215) ***Restaurant, Drive-in.*** A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to be eaten either off the premises or within automobiles parked on the premises.

(216) ***Retail.*** The sale of goods or merchandise in small quantities to the consumer.

(217) ***Roadside Stand.*** A building or part of a building no more than five hundred (500) square feet used for the retail sale of agricultural and related incidental products, excluding livestock, produced on the farm where the stand is located. There shall be no more than one (1) such stand on any one premises.

(218) ***Sanitary Landfill.*** A land disposal facility where solid waste is disposed on land by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to its smallest practical volume, and to cover it with a layer of earth or other approved material as required.

(219) ***School, Private.*** An elementary or intermediate school other than a parochial school giving regular instruction capable of meeting the requirements of state compulsory education laws and approved as such and operating at least five (5) days a week for a normal school year and supported by other than public funds, but not including a school for the mentally handicapped or a college or other institution of higher learning.

(220) ***School, Commercial.*** A school limited to special instruction such as business, art, music trades, handicraft, dancing or riding.

(221) ***Seat.*** Furniture upon which to sit having a linear measurement not less than twenty-four (24) inches across the surface used for sitting.

(222) ***Separate Species Facility.*** A livestock facility that meets all of the following criteria:

a. It has only one (1) of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related. (Note: See also definition for "related livestock facility"):
   1. Cattle.
   2. Swine.
   3. Poultry.
   4. Sheep.
   5. Goats.

b. It has no more than five hundred (500) animal units.

c. Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.

d. It meets one (1) of the following criteria:
   1. Its livestock housing and manure storage structures, if any, are located at least seven hundred and fifty (750) feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
   2. It and the other livestock facilities to which it is related have a combined total of fewer than one thousand (1,000) animal units.

(223) ***Setback.*** The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed twenty-four (24) inches. Any overhang of the cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback.

(224) ***Signs.*** Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.

(225) ***Site Plan.*** Includes but is not limited to a drawing to scale of not less than one (1) inch equals fifty (50) feet, showing all physical aspects such as buildings, setback dimensions, sidewalks, driveways, playgrounds, parking, and so forth which pertain to the proposed development and its relation to the surrounding area in conformance to the zoning of the area in which the development will exist.

(226) ***Stable, Commercial.*** A building or land where horses are kept for remuneration, hire, sale, boarding, riding or show.

(227) ***Story.*** That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.

(228) ***Story, Half.*** That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one (1) family dwellings, two (2) family dwellings and multi-family dwellings less than three (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.

(229) ***Street.*** A public or private thoroughfare which affords the principal means of access to

abutting property.

(230) ***Street Yard.*** A yard extending across the full width of the lot, the depot of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) street yards.

(231) ***Structural Alterations.*** Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.

(232) ***Structural Component.*** Any part of the framework of a building or other structure. The structural components of a building's exterior walls include the vertical studs, top and bottom plates, and window and doorsills and headers. A structural component may be non-loadbearing, such as the framework of a wall at the gable end of a one story house. Wall coverings, such as siding on the exterior and dry wall on the interior, are not included in the definition of structural component.

(233) ***Structural Erosion Control Measure.*** A retaining wall or other manmade structure whose primary function is to control erosion.

(234) ***Structure.*** Any man-made object with form, shape and utility, that is constructed or otherwise erected, attached to or permanently or temporarily placed, either upon the ground, a river bed, stream bed or lake bed or upon another structure. Structure includes swimming pools, hot tubs, patios, decks and retaining walls, but does not include landscaping or earthwork such as graded areas, filled areas, ditches, berms or earthen terraces. Structure does not include small objects that are easily moved by hand, such as lawn chairs, portable grills, portable picnic tables, bird feeders, birdhouses and birdbaths.

(235) ***Temporary Structure.*** A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.

(236) ***Tent or Hoop-Supported Structure.*** Any structure, building, enclosure, canopy, or tent top, with or without full sidewalls, temporary or permanent, primarily constructed of a frame of any material covered by a fabric of natural or synthetic material, whether opaque, translucent, or transparent, but does not include:

a. Family or individual camping tents used by the resident of the lot and the resident's non-paying guests for camping activities.
b. Party tents or canopies erected for a party or event.
c. Screen tents or picnic canopies of the type usually used to shelter a family picnic table or outdoor furniture.

(237) ***Tourist Camp.*** A tract or parcel of land on which one (1) or more automobile trailers, tents or camp cabins are located, open to the public free or for a fee.

(238) ***Transmission Services.*** Electric power lines, telephone and telegraph lines, communication towers, cables, sewage lift stations, sewer and water pipes, and other pipes, conduits and accessory structures that are used to transport power, convey information or transport material between two (2) points, other than wireless communication service facilities.

(239) ***Use.*** The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.

(240) ***Use, Accessory.*** A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.

(241) ***Use, Permitted.*** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.

(242) ***Use, Principal.*** The main use of land or building as distinguished from subordinate or accessory use.

(243) ***Utilities.*** Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.

(244) ***Utility Building or Structure.*** An accessory building used for storage of gardening or home-related supplies of limited size not exceeding ten by fourteen (10 x 14) feet and no greater than nine (9) feet in height.

(245) ***Utility Room.*** A room or area in the home used for the mechanicals of the home (furnace, water heater, water softener).

(246) ***Value Added Agriculture.*** A small commercial, manufacturing or service operation, which is accessory to an agricultural use. Examples of value added agriculture include, but are not limited to, small scale food processing, handcrafting, agriculture-related product packaging and marketing, and agricultural tourism. These farm-based activities cannot exceed a certain size and scale, but may involve new structures. Additional permits and licenses may be required to carryon these activities.

(247) ***Variance.*** A relaxation of the terms of this Chapter by the Board of Appeals where the literal enforcement of this Chapter would deny to the property owner a use of his/her property enjoyed as a right by other property owners within the same zoning district.

(248) ***Vehicle, Motor.*** Every device in, upon or by which any person or property is or may be transported.

(249) ***Vending Machine.*** A retail business device, electrically or manually operated, used by the general public to obtain dairy products, cigarettes, foodstuffs or other merchandise without entering a public shop, store, market or other such building.

(250) ***Vision Setback Area.*** An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets with railroads. Such vision clearance triangle shall be bounded by the intersecting highway, street or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines by measurement from this intersection as specified in this Chapter.

(251) ***Wall, Retaining.*** A structure designed to resist the lateral displacement of soil or other materials.

(252) ***Waste.*** Manure, milking center waste, and other organic waste generated by a livestock facility.

(253) ***Waste Storage Facility.*** One (1) or more waste storage structures, and includes stationary equipment and piping used to load or unload a waste storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. "Waste storage facility" does not include equipment used to apply waste to land.

(254) ***Waste Storage Structure.*** A waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. "Waste storage structure" does not include equipment used to apply waste to land. Pursuant to the purposes of ATCP 51.12(2) and 51.14, Wis. Adm. Code, "waste storage facility" does not include any of the following:

a. A structure used to collect and store waste under a livestock housing facility.

b. A manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

(255) ***Winter Grazing Area.*** Cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period October 1 to April 30. "Winter grazing area" does not include any of the following:

a. An area, other than a pasture, where livestock are kept during the period from May 1 to

September 30.

b. An area which at any time has an average of more than four (4) livestock animal units per acre.

c. An area from which livestock have unrestricted access to navigable waters of the state, such that the livestock access prevents adequate vegetative cover on banks adjoining the water.

d. An area in which manure deposited by livestock causes nutrient levels to exceed the standards in ATCP 51.16, Wis. Adm. Code.

(256) ***WPDES Permit.*** A Wisconsin pollutant discharge elimination permit issued by the Wisconsin Department of Natural Resources under NR 243, Wis. Adm. Code.

(257) ***Yard.*** An open space on the same lot with a building, unobstructed by structures except as otherwise provided herein.

(258) ***Yard, Front.*** A yard extending the full width of the lot between the front lot line and the nearest part of the principal building excluding uncovered steps. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimensions.

(259) ***Yard, Rear.*** A yard extending the full width of the lot between the rear lot line to the nearest part of the principal building.

(260) ***Yard, Side.*** A yard on each side of the principal building extending from the building to the lot line and from the front yard line to the rear yard line.

(261) ***Yard, Street.*** Yard abutting a street.

(262) ***Yard, Transitional.*** That yard which must be provided on a zoning lot in a Business District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Business District.

(263) ***Zero-Lot Line Duplexes.*** A horizontal (side-by-side) duplex intended to be sold and owned as separate legal residences within a building, where the common wall between the units creates zero space between said units and is approximately perpendicular to the street right-of-way and is centered in approximately the middle of a residential lot.

(264) ***Zero-Lot Line Lot.*** A lot created with no side yard setback on one (1) side of the lot to create a shared building envelope between the two (2) lots. This shared building envelope shall only be used to build or divide a horizontal duplex where the common wall between the two (2) units is built, or determined to be, the common boundary line to create two (2) separate attached single-family dwelling units. No lot can have more than one (1) side yard with a zero setback.

(265) ***Zoning Permit.*** A permit issued by the Zoning Administrator to certify that the use of lands, structures, air and waters subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.

Title 13 - Chapter 2
Floodplain and Shoreland-Wetland Zoning

(Reserved for Future Use)

Title 13 - Chapter 3
Mobile Homes and Trailer Parks

13-3-1 Definitions
13-3-2 Location of Mobile Homes and Trailers
13-3-3 Permanent Occupancy
13-3-4 Permit for Mobile Home and Trailer Parks
13-3-5 License for Mobile Home and Trailer Parks
13-3-6 Inspections
13-3-7 Notices, Hearings and Orders
13-3-8 Exemptions
13-3-9 Location of Mobile Home and Trailer Parks
13-3-10 Mobile Home Park General Requirements
13-3-11 Trailer Park Plan
13-3-12 Miscellaneous Requirements
13-3-13 Conflict of Ordinances

Sec. 13-3-1 Definitions.

The following definitions shall be applicable in this Chapter:

(a) **Accessory Structure.** All structures constructed on a Mobile Home or Trailer lot apart from the basic mobile home or trailer unit, and shall include awnings, cabanas, storage cabinets (or sheds), carports, windbreaks, attached porches and garages.

(b) **Common Area.** Any area or space designed for joint use of tenants occupying the mobile home park, or trailer park.

(c) **Driveway.** A minor private way used by vehicles and pedestrians or a mobile home or trailer lot or used for common access to a small group of lots or facilities.

(d) **License.** A written license issued by the City of Westby allowing a person to operate and maintain a mobile home park or trailer park under the provisions of the Chapter and Regulations issued hereunder.

(e) **Lot Area.** The total area reserved for exclusive use of the occupants of a mobile home or trailer.

(f) **Mobile Home.** A manufactured unit which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped, and used primarily for permanent, long term, sleeping, eating, and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations, and appurtenances and arrives at the sight complete and ready for occupancy, except for minor and incidental unpacking and assembly operations. This definition is not intended to include those vehicles less than eight (8) feet by thirty-five (35) feet intended primarily for nonpermanent, recreational use as camper trailers, or pick-up campers. Factors within the definition which serve to distinguish a mobile home from a trailer or a prefabricated home are:

(1) That a mobile home is designed for long-term, permanent occupancy versus the short term, recreational use of what is defined as a trailer.

(2) That a mobile home arrives at the site complete, usually with major appliances and furniture, and requires only minor work before occupancy versus a prefabricated home which may arrive on a trailer, but requires substantial effort at the site to prepare it for occupancy. (Units delivered to the site in halves and assembled on the site, obviously requiring substantial preparatory effort, would, therefore, be considered conventional single family residences and not mobile homes.)

(3) That the addition of foundations, annexes, etc. are included as part of the definition of a mobile home if so attached and do not have the effect of creating a conventional single family residence.

(g) **Mobile Home Lot.** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

(h) **Mobile Home Park.** A park, tract, or site of land, a minimum of three (3) acres in size which is owned as an entity by an individual, firm, trust, partnership, cooperative association or corporation for the purpose of supplying a location or accommodation for two (2) or more mobile homes with a permanent address. It shall include all of the necessary service buildings associated with such an operation.

(i) **Mobile Home Stand.** That part of an individual lot which has been reserved for the placement of one (1) mobile home unit, it is that location which the home itself will physically occupy.

(j) **Park Management.** The person who owns or has charge, care, or control of the mobile home park.

(k) **Park Street.** A private way which affords principal means of access to individual mobile home lots or auxiliary buildings.

(l) **Permit.** A written permit or certification issued by the governing body permitting the construction, alteration, and extension of a mobile home park under the provisions of the ordinance and regulations issued hereunder.

(m) **Person.** Any individual, firm, trust, partnership, public or private association, corporation, or licensee or agent of such person.

(n) **Service Building.** Any building owned and maintained by the park owner for the purpose of connecting the business of operating the park, or for providing amenities for the tenants or guests, such as offices, gate houses, laundry buildings and community halls.

(o) **Tenant Storage Area.** A fenced or otherwise enclosed space designed to provide auxiliary general storage space for an individual mobile home occupier.

(p) **Trailer** shall be considered to include the following:

(1) A vehicular, portable unit built on a chassis, designed as a temporary living unit for travel, recreation, and vacation, having a body width not exceeding eight (8) feet and body length not exceeding thirty-five (35) feet;

(2) A living unit designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation;

(3) A portable, temporary living unit to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle; or

(4) A canvas, folding unit mounted on wheels and designed for travel, recreation and vacation use.

(q) **Trailer, Dependent Unit.** A unit which does not have complete bathroom facilities and/or sanitary sewer connection.

(r) **Trailer, Nondependent Unit.** Complete bathroom facilities (hot and cold water, shower/tub - toilet, and sanitary sewer connection).

(s) **Trailer Park** means a parcel tract, or site of land owned by a person which is designed, maintained, intended, or used for the purpose of supplying a location or accommodation for two (2) or more trailers or recreation vehicles, not intended for long term occupancy, with a permanent address at another location. It shall include all of the necessary service buildings associated with such an operation. The density of a trailer park shall not be greater than fifteen (15) lots per acre.

Sec. 13-3-2 Location of Mobile Homes and Trailers.

(a) **Location of Mobile Homes Outside Parks.**

(1) It shall be unlawful, except as provided in this Chapter, for any person to park any travel trailer or mobile home on any street, alley, highway, or other public place, or on any tract of land owned by any person, within the City of Westby for a period of more than forty-eight (48) hours.

(2) Emergency or temporary stopping or parking is permitted on any street, alley or highway subject to any other regulations or limitations imposed by the traffic and parking laws for streets, alleys or highways.

(3) No person shall park or occupy any trailer or mobile home on any premises which is situated outside an approved mobile home park or trailer park [except under special permit as provided in Subsection (b), below, of this Section]. The parking of only one (1) unoccupied trailer or recreational unit in any accessory private garage building, or in a rear yard, is permitted, providing no living quarters shall be maintained or any business practiced in said mobile home while such mobile home is parked or stored.

(4) This Chapter does not affect mobile homes located within the City of Westby that are not in a mobile home park as of the original effective date of this Chapter. If a mobile home, not located in a mobile home park is removed from its location after the effective date of this Chapter, no mobile home shall be permitted to reoccupy that location unless the owner of the real estate at that location held title to said real estate on the original effective date of this Chapter.

(b) **Permit for Location Outside of Mobile Home Park.**

(1) The Zoning Administrator may issue special written permits allowing the location of a mobile home outside of a mobile home park; such permission however, will apply only to the provisions of this mobile home ordinance and shall not supercede nor be in conflict with any comprehensive zoning ordinance which may also be in effect within the City of Westby. Under such conditions the provisions of the Zoning Code shall also be met.

(2) A special permit shall be required for any mobile home of a size less than four hundred (400) square feet of living space.

(3) Permits shall be granted only upon written consent of the owner, legal agent of the owner or the lessee of the location for which the permit is issued.

(4) A permit shall be required for placement of a mobile home on an operating farm or rural site of one (1) acre or more. No more than one (1) mobile home shall be permitted per operating farm or one (1) acre site. After placement of the first mobile home on an operating farm each additional such one (1) acre site shall be a separately conveyed and legally described parcel. It is not the intent of this Chapter to permit uncontrolled proliferation of mobile homes on one (1) acre lots in an attempt to avoid the mobile home park regulations, nor to permit such development where conditions of soil, drainage, access, topography, and esthetics indicate such action is not in keeping with the long term best interests of the community.

(5) In the event of a fire or natural disaster, a special permit for a mobile home may be granted by the Zoning Administrator.

(6) Application for the permit shall be made to the Zoning Administrator and shall be accompanied by a fee per Section 1-3-1 and shall state the name and permanent addresses of the occupant of the mobile home, the intended length of stay, whether the occupants are non-resident tourist or seeking local employment, the exact location of the premises, the name of the owner, and any occupant of any dwelling on the premises; and the land owner's permission to locate; all locations shall be subject to the regulations of the Vernon County Sanitary Code and any other ordinances or regulations as from time to time shall be in effect regulating land use. If the mobile home is a dependent unit a statement of the nature and location of sanitary facilities and written permission for their use must accompany the permit application.

(7) All occupants for any mobile home or modular home located outside of a mobile home park shall be required to seek a zoning permit from the Zoning Administrator. If approved, a duplicate copy of the zoning request and permit shall be filed with the City Clerk-Treasurer. All provisions of this Chapter governing the location, use and sanitation of mobile homes located in a licensed mobile home park shall, so far as they are applicable, apply to any mobile home and modular home located outside of such park.

(8) Permission to place a mobile home within the City of Westby on other than a mobile home park for more than forty-eight (48) hours must be requested of the Common Council by a request placed on file at least two (2) weeks prior to the Council meeting which shall consider such petition. Notice of such petition shall be published as a Class 1 matter in a newspaper of general circulation in the area; such petition shall be accompanied by a fee of Twenty Dollars ($20.00); such petition shall contain an accurate description of the lot boundaries and a description of the dimensions of the proposed mobile home to be placed. The petitioner will be required to sign an agreement regarding special conditions relating to the placement of the mobile home. The Zoning Administrator shall issue a permit after all requirements are met. The petitioner may also be required to establish by a survey of the legal boundaries of his/her lot.

(9) Other than as permitted by this Chapter, the placement of a mobile home outside of a mobile home park and contrary to the agreement set forth in Subsection (b)(3) shall be punishable as prescribed in Section 1-1-7. Each day of such non-compliance shall be considered a separate violation.

(l0) All abandoned mobile homes within the City of Westby shall be condemned by order of the Common Council and removed from the premises.

Sec. 13-3-3 Permanent Occupancy.

(a) Mobile homes shall not be used as a place of permanent residence or dwelling, or for an indefinite period of time unless the provisions of this Chapter, specifically Sections 13-3-1 and 13-3-2, are complied with.

(b) No occupied mobile home or trailers within the limits of the City of Westby, Wisconsin, shall be located less than fifty (50) feet from any building or other trailer not in a mobile home or trailer park or from the boundary of the premises on which it is located.

Sec. 13-3-4 Permit for Mobile Home and Trailer Parks.

(a) It shall be unlawful for any person to construct, establish, alter, extend, operate, or maintain any mobile home park, or trailer park, within the limits of the City of Westby unless he/she holds a valid permit issued by the Zoning Administrator and in the name of the person for the specific construction, alteration, extension, or operation proposed. All mobile home parks and trailer parks shall be located wholly within the boundaries of the City of Westby.

(b) All applications for permit shall be filed with the Zoning Administrator and City Clerk-Treasurer reviewed by the Planning Commission, and shall contain the following:

(1) Name and address of applicant.

(2) Location and legal description of the proposed mobile home trailer park.

(3) Complete engineering plans and specifications of the proposed park showing, but not limited to, the following:

a. The area and dimensions of the tract of land;

b. The number, location and size of all mobile home lots, and the location of common areas;

c. The location and width of roadways and walkways;

d. The location of the mobile home stand within the mobile home lot:

e. Plans and specifications of all utilities including: sewage collection and disposal, storm water drainage, water distribution and supply, refuse storage and collection, lighting, electrical, telephone, and television antenna systems;

f. Landscaping plans for the entire park, including a planting plan for the buffer strip;

g. Plans and specifications for all buildings to be located within the park;

h. Such other plans and specifications and information as may reasonably be required by the

governing body.

(4) All applications for a permit shall be accompanied by the deposit of a fee as prescribed in Section 1-3-1 for the park site inspection plan review, plus normal construction permit fees for any service buildings to be included in the mobile home park. Mobile home parks are a conditional use in the R-1 and R-2 Residential Districts.

(5) When, upon review of the application, the Zoning Administrator, Planning Commission, and Common Council are satisfied that the proposed plan meets the requirement of this, and other applicable ordinances, a permit shall be issued.

(6) Any person whose application for a permit under this Chapter has been denied may request and shall be granted a hearing on the matter in accordance with the hearing provision of this Chapter.

Sec. 13-3-5 License for Mobile Home and Trailer Parks.

(a) It shall be unlawful for any person to operate and occupy any mobile home/trailer park within the limits of the City of Westby unless he/she holds a valid license issued annually by the City of Westby. All applications for licenses shall be made to the Council which may issue a license upon compliance of the applicant with the provisions of this Chapter. The permit shall already have been issued by the Zoning Administrator before a license shall be issued to operate and occupy a mobile home park.

(b) Application for the original license shall be in writing by the applicant, accompanied by an affidavit of the applicant as to the truth of the application, and by the deposit of a fee for each one hundred (100) lots or fraction thereof per Section 1-3-1, and shall contain the name and address of the applicant; the location and legal description of the mobile home/trailer park; and a site plan of the mobile home/trailer park showing all mobile home/trailer lots, structures, roads, walkways, and other service facilities as required by Sections 13-3-10 and 13-3-11.

(c) Applications for renewals of licenses shall be made in writing by the holders of the licenses, shall be accompanied by the deposit of a fee per Section 1-3-1 for each one hundred (100) lots, or fraction thereof, and shall contain any change in the information submitted since the original license was issued or the latest renewal granted. A transfer of license to a new operator shall require the same fee schedule and information. Every person holding a license shall give notice in writing to the governing body within three (3) days after having sold, transferred, given away, or otherwise disposed of interest of any mobile home park.

(d) In addition to the above license fee, the licensee, or the owner, or the occupant of every mobile home shall pay and be jointly and severally liable for the payment of a monthly parking permit fee to the City. Such monthly parking permit fees shall be collected by the licensee, who is primarily liable for the payment thereof. The determination of the amount of such fee, and the disposition of such fee shall be in accordance with the Wisconsin Statutes.

(e) Any person whose application for a license under this Chapter, has been denied may request and shall be granted a hearing on the matter before the Common Council under the procedure provided by Section 13-3-7 of this Chapter.

(f) The license shall be renewable each year with the same fee requirements as with an initial application. A re-inspection of the park by the proper authorities upon each renewal or transfer of application shall be required.

(g) Whenever, upon inspection of any mobile home park, the Common Council, or its authorized agents, find that conditions or practices exist which are in violation of any provision of this Chapter, the Common Council shall give notice in writing in accordance with Section 13-3-7(a) to the person to whom the license was issued that unless such conditions or practices are corrected within a reasonable period of time specified in the notice by the Common Council, the license shall be suspended. At the end of such period, the Common Council shall re-inspect such mobile home park and, if such conditions or practices have not been corrected, it shall suspend the license and give notice in writing

of such suspension to the person to whom the license is issued. Upon receipt of notice of such suspension, such person shall cease operation of such mobile home park except as provided in Section 13-3-7(b).

Sec. 13-3-6 Inspections.

(a) The City of Westby is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Chapter.

(b) The Common Council and its authorized agents shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this Chapter.

(c) The Common Council and its authorized agents shall have the power to inspect the register containing a record of all residents of the mobile home park.

(d) It shall be the duty of the park management to give the Common Council and its authorized agents free access to all lots at reasonable times for the purpose of inspection.

(e) It shall be the duty of every occupant of a mobile home park to give the owner thereof or his/her agent or employee access to any part of such mobile home park at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this Chapter.

Sec. 13-3-7 Notices, Hearings and Orders.

(a) **Notice of Violation.**

(l) Whenever the Common Council determines that there are reasonable grounds to believe that there has been a violation of any provision of this Chapter, the Common Council may order the discontinuance of such violation and shall give notice of such alleged violation to the person to whom the permit or license was issued. Such notice shall

a. Be in writing;

b. Include a statement for the reasons of its issuance;

c. Allow a reasonable time for the performance of the act it requires;

d. Contain an outline of remedial action, which if taken, will effect compliance with the provisions of this Chapter.

(2) Such notice and order shall have been properly served when a copy thereof has been sent by registered U.S. Mail to the last registered post office of the permittee or licensee as registered with the City Clerk-Treasurer, or when the same has been personally served upon the attorney-in-fact of such permittee or licensee, or when the same shall have been served in any other manner as provided by the Wisconsin Statutes for the service of process.

(b) **Hearing Request.** Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this Chapter, may request and shall be granted a hearing on the matter before the Common Council, provided, that such person shall file in the office of the Common Council a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within ten (l0) days after the day such notice or order was served.

(c) **Hearing.** The filing of the request for a hearing shall operate as a stay of the notice and of the order except in the case of an order issued under Subsection (d). Upon receipt of such petition, the Common Council shall set a time and place for such hearing, and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice and order should be modified or withdrawn. The hearing shall be commenced no later than ten (10) days after the day on which the petition was filed, provided, that upon application of the petitioner, the Common Council may postpone the date of the hearing for a reasonable time beyond such ten (10) day period when in its judgment the petitioner has submitted good and sufficient reasons for such

postponement.

(d) **Determination.** Upon the expiration of the time required in such notice or order, or after such hearing, as the case may be, the Common Council shall make findings as to the compliance with the provisions of this Chapter and shall issue an order in writing sustaining, modifying or withdrawing the notice and order which shall be served as provided in Subsection (a). Upon failure to comply with such order, either as sustained or modified, the license of the mobile home park affected by the order may be suspended or revoked.

(e) **Emergency.** Whenever the Common Council finds that an emergency exists which requires immediate action to protect the public health, it may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as it may deem necessary to meet the emergency including the suspension of the permit or license. Notwithstanding any other provisions of this Chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the Common Council shall be afforded a hearing as soon as possible.

Sec. 13-3-8 Exemptions.

(a) Where the Common Council finds that compliance with provisions of this Chapter would result in undue hardship, an exemption may be granted by the Common Council without impairing the intent and purpose of this Chapter. Deviations from design, construction, and installation provisions shall be brought into compliance with this Chapter within a reasonable period of time based on economic feasibility of improvement, nature, significance, and extent of deviation, depreciation of material, improvement, layout in use and other similar factors.

(b) Such period shall begin after the Common Council has given notice of a certain and special deviation from this Chapter to the person to whom the permit or certification was issued.

(c) Gradual improvements to a higher degree of conformity shall be permissive provided that there shall be complete conformity at the end of a period prescribed by the Common Council.

Sec. 13-3-9 Location of Mobile Home and Trailer Parks.

(a) The location of the park shall be in a zoning district where mobile home or trailer parks are permitted as a conditional use. The Zoning Administrator, Common Council and Planning Commission shall review the proposal not only from the point of the specific park design and adherence to the requirements of this Chapter, but also in regard to location based upon the requirements of the City of Westby Zoning Code.

(b) No occupied mobile home, trailer, service building, or accessory building located within a licensed mobile home park shall be located within fifty (50) feet of the boundary of the zoning district in which it is located. In any case, such location of the park shall be on a conditional use basis.

Sec. 13-3-10 Mobile Home Park General Requirements. (revised May 6, 2025)

Any person making application for a permit to construct a mobile home park shall meet the following design and system requirements:

(a) **Environmental Requirements.**

(1) ***Density.*** The maximum allowable density in a mobile home park development shall be ten (10) units, or lots, per gross acre.

(2) ***Minimum Lot Size.*** Individual lots within the mobile home park must contain an area of not less than four thousand (4,000) square feet, and shall have a minimum width, at the narrowest point, of forty (40) feet.

(3) ***Required Separation Between Mobile Homes.*** Mobile homes shall be separated from each other and from other buildings and structures by at least ten (10) feet. An accessory structure such as an awning, cabana, storage cabinet, carport, windbreak, or porch attached to the mobile home, shall for purposes of separation requirements, be considered a part of the mobile home. Detached accessory structures shall be allowed only if included and approved as part of the original or revised mobile home park plan.

(4) ***Setback and Buffer Strips.*** Each mobile home shall be located at least five (5) feet from any mobile home lot line. There shall be a minimum setback of the mobile home of twenty (20) feet from the front, a main street side of the lot and of at least ten (10) feet from the rear of the lot. All mobile homes shall be located at least ten (10) feet from any park property boundary line. In addition however, no mobile home shall be located closer than twenty-five (25) feet from any public street or highway. Required setbacks shall not be encroached upon by any mobile home, addition thereto, accessory structure/use or regular parking space.

(5) ***Screening.***

a. All mobile home parks shall be provided with screening of natural growth along the property boundary line separating the park and such adjacent properties, except where the adjoining property is also a mobile home park, or undeveloped area. The planting area shall have a minimum width of fifteen (15) feet. Within such a planting area, there shall be established within six (6) months after issuance of the license for the occupation of such mobile home park the following plantings:

1. A temporary planting of fast-growing material capable of reaching a height of fifteen (15) feet or more such as Lombardy poplar.
2. A permanent planting such as White or Norway Pine, or Arbor Vitae.

b. The individual trees to be of such a number and so arranged that within ten (10) years they will have formed a screen equivalent in opacity to a solid fence or wall. Such permanent planting shall be grown or maintained at a height of not less than fifteen (15) feet.

(6) ***Landscaping.*** All mobile home sites shall be sodded, or seeded, and the entire park shall be attractively landscaped in accordance with a plan submitted at the time of initial permit application.

(7) ***Recreation Areas.*** In all mobile home parks there shall be one (1) or more recreation areas which shall be easily accessible to all park residents. The size of the area shall be ten percent (10%) of the park area. Buffer strips, cul-du-sacs, parking lots, service areas or other obviously undesirable lands, shall not be considered recreation areas. Recreation areas shall be located so as to be free of traffic hazards and should, where the topography permits be centrally located. No outdoor recreation area shall contain less than two thousand five hundred (2,500) square feet.

(8) ***Allowable Uses.***

a. Single family mobile homes as defined by this Chapter shall be allowed, as shall any accessory structures approved by the park operator, provided they meet the minimum set back requirements prescribed for the basic mobile home. Parks, playgrounds, and the necessary streets and driveways shall also be permitted uses. Service buildings such as park offices, laundromats, convenience stores, community halls for social use of park residents, and picnic shelters shall be permitted uses. All such structures shall adhere to locally applicable building and sanitary codes and shall require building permits independent of the park construction permit. Signs used for identifying the park either on or off the property, shall adhere to any applicable zoning or sign control ordinance within the jurisdiction of location. Mobile home parks are residential areas and identification signs used shall not be neon, multi-colored, animated nor attract undue attention.

b. Convenience establishments of a commercial nature may be permitted in mobile home parks providing that such establishments shall not occupy residential character of the park, shall be

located, designed, and intended only to serve the specific needs of the park residents and shall present no visual evidence of commercial character from any portion of any residential district outside the park.

(9) ***Prohibited Uses.***

a. Commercial sales or service of mobile homes shall not be permitted. This does not exclude routine maintenance of mobile homes already on sites within the park, nor the private sales of individual mobile homes by the owners of on-site homes.

b. Dependent mobile homes or camping trailers shall specifically be prohibited from placement or occupancy within mobile home parks.

c. Vacant or unoccupied mobile home units shall not be placed or stored in a mobile home park.

(b) **Access Requirements.**

(1) ***General Requirements.*** All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Such access shall be provided by streets, driveways, or other means.

(2) ***Park Entrance.*** Entrances to mobile home parks shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets.

(3) ***Internal Streets.*** Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:

a. Roadway width, all streets twenty (20) feet.

b. Right-of-way width shall be sixty (60) feet.

(4) ***Street Construction and Design Standards.***

a. ***Pavements***. All streets shall be provided by the mobile home park developer (seal coat or asphalt hot mix) with a smooth hard surface which shall be durable and well drained under normal use and weather conditions.

b. ***Grades.*** Grades of all streets shall be sufficient to insure adequate surface drainage, but shall not be more than eight percent (8%). Drainage shall be away from mobile home stands.

c. ***Intersections.*** Within one hundred (100) feet of an intersection, streets shall be at approximately right angles. A distance of at least one hundred fifty (150) feet shall be maintained between center lines of offset intersecting streets. Intersections of more than two (2) streets at one (1) point shall be avoided.

d. ***Traffic Signs.*** All park streets shall be marked with standard shape and color traffic control signs where necessary. Speed limit signs shall be clearly visible, at sufficient points in the park.

(5) ***Parking Requirements.***

a. ***Parking Locations.*** A minimum of two and one-quarter (2-1/4) parking spaces shall be provided for each mobile home lot. One (1) of these spaces shall be located within fifty (50) feet of the mobile home it services.

b. ***Surfacing Requirements.*** The surface of the parking spaces shall meet the same minimum requirements as for streets.

c. ***Size.*** A parking space shall be defined as three hundred sixty (360) square feet configured in a shape readily suitable for the parking of a full size automobile.

d. ***Parking Restrictions.*** Parking of boats, trailers, and out-size vehicles shall be restricted to a storage area provided by the park management specifically for that purpose. On-street parking shall be prohibited. Parking in the street right-of-way shall be on an overflow basis only as directed by the park operator.

e. ***Open Storage Area (revised May 6, 2025).*** Any mobile home park expanded or newly built shall provide a well drained, dust free surfaced storage area for the use of the mobile home occupants. It shall be fenced to prevent direct access from outside the park. The minimum size shall be two thousand four hundred (2,400) square feet per each fifty (50) or less mobile

homes, and shall be at least twenty-four(24) feet deep.

(6) ***Walkways.*** Pedestrian walkways shall be provided by the park management in the area of the service buildings, and other locations of heavy foot traffic. The walkways shall be of a dust-free, well drained material, and kept free of snow and ice during the winter season. In addition each mobile home stand shall be provided with a dust-free, well drained walkway from the stand to a surfaced parking space or roadway.

(c) **Mobile Home Stand.**

(1) For the purpose of this Chapter, a mobile home stand shall be defined as an area seventeen (17) feet by seventy (70) feet intended for the actual placement of the mobile home on the lot. The area of the stand shall be improved to provide adequate support for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.

(2) The mobile home stand shall not heave, shift, or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the structure. The method to be used by the park operator shall be presented in plans to the Zoning Administrator at the time of permit application. The Planning Commission shall approve the method used.

(3) The mobile home stand shall be provided with anchors and tie-downs such as cast-in place concrete "dead men", eyelets embedded in concrete foundations, or runways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home.

(4) Anchors and tie-downs shall be placed at least at each corner of the mobile home stand and each shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds.

(d) **Site Suitability and Storm Water Drainage.**

(1) ***Ground Conditions.*** Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.

(2) ***Soil and Ground Cover Requirements.*** Exposed ground surfaces in all parts of the mobile home park that are not paved, covered with stone screenings, or other solid material, shall be protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(3) ***Site Drainage Requirements.*** The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner away from the mobile home stand.

(e) **Water Supply and Distribution System.** An adequate, safe and potable supply of water shall be provided in each mobile home park. Where a public supply of water of satisfactory quantity, quality and pressure is available at the site or at the boundary of the site, connection shall be made thereto and its supply used exclusively. When a satisfactory public water supply is not available, a private water supply system may be developed and used as approved by the Public Service Commission (Ch. PSC 184, Wis. Adm. Code) and the Department of Health and Social Services (Ch. H82 Section H82.18, Wis. Adm. Code).

(f) **Sewage Disposal System.**

(1) ***Availability.*** An adequate and safe sewer system shall be provided within all mobile home parks for conveying all sewage.

(2) ***Municipal Utilities.*** When acceptable municipal sewage facilities are available to the mobile home park, connection and use is required.

(3) ***Private Utilities.*** The term "private" shall not mean individual septic systems, but rather a public or common sewerage system maintained by the park operator. Plans for such a system shall be

presented to the Plan Commission at the time of initial permit application. Construction and subsequent maintenance of the system shall be according to standards set by the Wisconsin Department of Health and Social Services (Ch. H82, Section H82.04, Wis. Adm. Code), the Wisconsin Department of Natural Resources, and any other applicable state or local sanitary regulations.

(g) **Refuse Storage and Collection System.**

(1) The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

(2) All refuse shall be stored in flytight, watertight, rodent proof containers, which shall be located not more than one hundred (100) feet from any mobile home lot. Containers shall be provided in sufficient number and capacity to properly store all refuse.

(3) Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleansing around them.

(4) All refuse containing garbage shall be collected at regular intervals, at least weekly. Where suitable collection service is not available from public or private agencies, the mobile home park operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

(5) In no instance may disposal of the waste be carried out through incineration on the mobile home park site.

(h) **Public Utility Systems.** All necessary public utility service systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

(1) Public utility service outlets shall be provided at each mobile home stand for electric, telephone, water, sewer, central TV, and if used, gas service systems.

(2) All utility service lines shall be located not less than eighteen (18) inches underground within the mobile home park. Individual outdoor television receiving antennas will not be permitted.

(i) **Fire Protection.**

(1) The Fire Chief of the department serving the area must approve the park plan, and shall make periodic inspections as he/she deems necessary, but in any case at least annually prior to renewal of the park license.

(2) Hand fire extinguishers, and other fire fighting tools, shall be provided within the park in common or public areas by the operator, as may be required by the Fire Chief.

(3) If the park system is capable of handling them, fire hydrants shall be installed and maintained by the operator with the following requirements:

a. The water supply system shall permit the operation of a minimum of two (2) one and one-half (1-1/2) inch hose streams.

b. Each of two (2) nozzles, held four (4) feet above the ground, shall deliver at least seventy-five (75) gallons of water per minute at a flowing pressure of at least thirty (30) pounds per square inch at the highest elevation point of the park.

c. Fire hydrants, if provided, shall be located within five hundred (500) feet of any mobile home, service building or other structure in the park.

(4) Fires shall be made only in barbecue pits, fireplaces, stoves or other equipment intended for such purposes. Incinerators for the specific purpose of burning refuse shall be prohibited.

(5) Cooking shelters, barbecue pits, fireplaces, and wood burning stoves shall be located, constructed, maintained and used as to minimize fire hazards and smoke nuisances, both on the property on which used and on neighboring property. No open fire shall be permitted except in facilities provided. No open fire shall be left unattended. No fuel shall be used which emits dense smoke or objectionable odors.

(j) **State Seal Requirement.** Only mobile home units with a valid State of Wisconsin seal may be brought into a mobile home park.

Sec. 13-3-11 Trailer Park Plan and General Requirements.

(a) **General Requirements.**

(1) Any person making application for a permit to construct a trailer park shall meet the following design and system requirements.

(2) All the requirements of Ch. H78, Wis. Adm. Code, "Camp Grounds" and "Camping Resorts" will be met and shall apply unless stated differently in this Chapter.

(b) **Environmental Requirements.**

(1) ***Density.*** The maximum allowable density in a trailer park development shall be fifteen (15) units, or lots, per gross acre.

(2) ***Minimum Lot Size.*** Individual lots within the trailer park must contain an area of not less than one thousand (1,000) square feet and shall be no less than twenty-five (25) feet wide at the narrowest point.

(3) ***Required Separation Between Trailers.*** Recreational trailers shall be separated from each other and from other structures by at least ten (10) feet, except where a camp space has been developed to accommodate two (2) trailer vehicles. Any accessory structure such as attached awnings, carports, or individual storage facilities shall for purposes of this separation requirement, be considered to be part of the recreational trailer.

(4) ***Setbacks and Buffer Strips.*** Each trailer or camping vehicle shall be located at least five (5) feet from any trailer site lot line, ten (10) feet from any park street, and at least ten (10) feet from any park property boundary line. No trailer or camping vehicle shall be located closer than twenty-five (25) feet to any public street or highway.

(5) ***Screening.***

a. All trailer parks shall be provided with screening of natural growth along the property boundary line separating the park and such adjacent properties, except where the adjoining property is also a trailer park or undeveloped area. The planting area shall have a minimum width of fifteen (15) feet. Within such a planting area, there shall be established within six (6) months after issuance of the license for the occupation of such mobile home park the following plantings.

1. A temporary planting of fast growing material capable of reaching a height of fifteen (15) feet or more such as Lombardy poplar.
2. A permanent planting such as White or Norway Pine, or Arbor Vitae.

b. The individual trees to be of such a number and so arranged that within ten (10) years they will have formed a screen equivalent in opacity to a solid fence or wall. Such permanent planting shall be grown or maintained at a height of not less than fifteen (15) feet.

(6) ***Landscaping.*** All trailer sites shall be sodded, or seeded. Wherever possible native trees and shrubs shall be left in an undisturbed condition consistent with the safety and comfort of the guests.

(7) ***Recreation Areas.*** In all recreation vehicle parking areas there shall be at least one (1) common recreation area which shall be easily accessible from all recreational vehicle spaces. The total of such recreation area(s) shall be not less than eight percent (8%) of the gross site area or two thousand five hundred (2,500) square feet, whichever is greater.

(8) ***Allowable Uses.*** The placement of camping trailers, camping or recreational vehicles, house cars, busses, or tents intended for non-permanent recreational use shall be permitted in keeping with this Chapter and Ch. H78, Wis. Adm. Code. Such related uses as park streets, recreational areas,

park service facilities as laundromats, convenience stores, toilet facilities, and administrative offices shall also be permitted provided such facilities and their related parking areas shall not occupy more than ten percent (10%) of the area of the park; and such facilities shall be located, designed, and intended only to serve occupants of the park.

(9) ***Prohibited Uses.*** Sales or service of trailers, or recreational vehicles shall not be permitted. This Chapter is not intended however to prohibit on-site emergency repairs to equipment of registered guests. The length of stay of any recreational vehicle, or its occupants shall be limited to no more than fourteen (14) days. The locating or establishing of mobile homes or trailers for permanent occupancy is prohibited.

Sec. 13-3-12 Miscellaneous Requirements.

(a) **Responsibility of the Park Management - Mobile Home and Trailer Parks.**

(1) The person to whom a license for a mobile home park is issued shall operate the park in compliance with this Chapter and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

(2) The park management shall notify park occupants of all applicable provisions of this Chapter and inform them of their duties and responsibilities under this Chapter.

(3) The park management shall supervise the placement of each mobile home on its mobile home stand, or trailer on its site, which includes securing its stability and installing all utility connections.

(4) The mobile home park management shall maintain a register containing the names of all park occupants identified by lot number or street address. A copy of such register, listing as of the first day of each month, shall be mailed to the City Clerk-Treasurer by the park management on or before the tenth day of each month. The trailer park operator shall maintain a similar register identifying occupants by name, space, and permanent residence address and motor vehicle license number. This register shall be made available to the proper authorities upon request.

(5) The park management shall notify the Common Council immediately of any suspected communicable or contagious disease within the park.

(6) In every mobile home and trailer park, the park management shall locate an office for the attendant or person in charge of said park. A copy of the park license and this Chapter shall be posted therein, and the park register shall at all times be kept in said office.

(7) The mobile home park management shall collect the monthly parking permit fee provided for in Section 13-3-5(d). An account shall be kept showing the names of persons paying said service charges and the amount paid.

(b) **Responsibilities of Park Occupants - Mobile Home and Trailer Parks.**

(1) The park occupant shall comply with all applicable requirements of this Chapter and shall maintain his/her mobile home/trailer lot, its facilities and equipment in good repair and in a clean and sanitary condition.

(2) The park occupant shall be responsible for proper placement of his/her mobile home/trailer on its mobile home stand or trailer site and proper installation of all utility connections in accordance with the instructions of park management.

(3) Pets, if permitted in the park, shall be prevented from running at large or committing any nuisance within the limits of any mobile/trailer park.

(4) All mobile homes shall be skirted from the mobile home to the ground with the same material as, or equal to, that from which the mobile home is made and maintained.

(5) Porches, awnings, and other additions shall be installed only if permitted and approved by the park management. When installed, they shall be maintained in good repair. The space immediately underneath a mobile home shall be used for storage only if permitted by the park

management. If permitted, the following conditions shall be satisfied:

a. The storage area shall be provided with a base of impervious material.
b. Stored items shall be located so as not to interfere with the underneath inspection of the mobile home.
c. The storage area shall be enclosed by skirting.

(6) The park occupant shall store and dispose of all his/her rubbish and garbage in a clean, sanitary and safe manner. The garbage container shall be rodent-proof, insect-proof and water-tight.

(7) First aid fire extinguishers for Class Band C fires shall be kept at the premises and maintained in working condition.

Sec. 13-3-13 Conflict of Ordinances.

(a) **Conflict of Ordinance Provisions.** In any case where a provision of this Chapter is found to be in conflict with a provision of any other ordinance or code of this City existing on the effective date of this Chapter, the provision which, in the judgment of the Common Council, establishes the higher standard for the promotion and protection of the health and safety of the people, shall prevail. In any case where a provision of this Chapter is found to be in conflict with a provision of any other ordinance or code of this City existing on the effective date of this Chapter which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this Chapter shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Chapter.

(b) **Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this Chapter should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Chapter which shall remain in full force and effect; and to this declared to be severable.

(c) **Additions to Mobile Homes; Accessory Structures.** Porches, decks, room additions, etc., to mobile homes shall fully comply with the City's Building and Property Maintenance Code requirements and shall only be constructed after securing a building permit from the City. Mobile home lots shall also comply with all regulations in the City Zoning Code governing accessory buildings/uses, satellite dishes, fences and swimming pools.