

CHAPTER 19-ZONING ORDINANCE

CITY OF FENNIMORE

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19.01 INTRODUCTION

1.01 STATUTORY AUTHORIZATION: This ordinance is adopted under the authority granted by s. 62.23 of the Wisconsin Statutes.

1.02 PURPOSE: The zoning ordinance of the City of Fennimore is adopted for the following purposes:

- (1) To promote the health, safety, morals, prosperity, aesthetics and general welfare of this community.
- (2) To regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures, and land for trade, industry, residential or other purposes.
- (3) To maintain and promote pedestrian and vehicular circulation.
- (4) To secure safety from fire, panic and other dangers.
- (5) To provide adequate standards of light, air and open space.
- (6) To prevent the overcrowding of land.
- (7) To facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements.
- (8) To zone all properties with a view to conserving the value of building and encouraging the most appropriate use of land throughout the city.

1.03 INTENT:

- (1) It is the intent of this ordinance to divide the City into districts of such number, shape and area as are deemed best suited to carry out the purposes of this ordinance.
- (2) It is not the intent of this ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules or permits previously adopted or issued pursuant to law. However, wherever this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.
- (3) This City Council has concluded that among the purposes of this ordinance is the desire to encourage development of the commercial districts but in so

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doing this City Council recognizes that until further trends develop that it is desirable to the best interest of the City and its inhabitants to refrain from overly rigid requirements. As an example, there are presently numerous residential properties within areas hereinafter designated commercial. It is desirable to permit these residential areas to be continued if in so doing orderly expansion of commercial enterprises is not inhibited or prevented. However, if the residential uses are to be continued for an indefinite period, which appears desirable, then such uses should be entitled to reasonable extensions, repairs, alterations and restorations in order to provide some of the additional amenities desired by such users. It is also the intent of this ordinance to permit some additional new residential use in the commercial districts, particularly in the multi-family variety if in so doing unreasonable restrictions are not created for future commercial use. It is also conceivable that a former commercial use within the commercial district should be changed to residential because the type of structure, location or changing business conditions might be such that a continued commercial use is not particularly feasible. The determination of these questions is uncertain because of the uncertainties of possible commercial development in a city of this size. It is the further determination of this City Council that the necessary control of these somewhat conflicting uses can be best accomplished through conditional uses passed upon each time by the City Plan Commission. These facts, determinations and conclusions are included herein in order to show the intent of this City Council to maintain reasonable and desirable control in this area without straight jacketing such desirable present uses under the rigid restrictions provided in s. 62.23(7)(h), Wis. Stats., “nonconforming uses.” Such flexibility also appears desirable in other areas and for that reason this City Council in developing this ordinance has freely used the conditional use approach.

1.04 TITLE: This ordinance shall be known as, referred to, or cited as “ZONING ORDINANCE, CITY OF FENNIMORE, WISCONSIN.”

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

1.06 SEVERABILITY. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this ordinance shall be affected thereby.

1.07 REPEAL: All other ordinances or parts of ordinances of the City inconsistent or conflicting with this ordinance, shall be repealed and superseded to the extent of such conflict.

1.08 JURISDICTION: The jurisdiction of this ordinance shall include all lands and waters within the corporate limits of the City of Fennimore.

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19.02 DEFINITIONS

For the purposes of this ordinance, the following definitions shall be used. 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 directory.

ACCESSORY USE OR STRUCTURE: A use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto. All accessory uses and structures shall meet the requirements of the zoning district in which they are located and shall also meet the site and use requirements for accessory uses and structures under s. 7.02(4) of this chapter as well as any other regulation applicable to specific types of structure or use (e.g. sign regulations, parking regulations, etc...).

ALLEY: A street or thoroughfare affording only secondary access to abutting property.

AUTOMOBILE REPAIR: General repair and overhaul of automobiles and trucks including body work, framework and painting service. Auto reduction yards and junk yards or salvage yards shall not be operated as a part of this use.

BOARDER: One who pays a stipulated sum in return for meals and lodging.

BOARDINGHOUSE: A building used by a private family as their residence and which family rents out rooms in the building on a daily, monthly, weekly or other basis to transient or permanent guests and provides meals to the guests. The building shall have a common entrance and exit and a common living area. The room or rooms rented shall not be dwelling units.

BUILDING: Any structure having a roof which may provide shelter or enclosure of persons, animals or chattel, and when said structure is divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

BUILDING HEIGHT: The vertical distance from: (a) the average elevation of the adjoining ground level **or** (b) the established grade, whichever is lower to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

CARPORT: An open sided roofed automobile shelter, usually formed by extension of a roof from the side of a building.

CONDITIONAL USE: A use of land, water or building which is allowable only after the issuance of a special permit by the City Plan Commission under conditions specified in this ordinance.

CONDOMINIUM: Property subject to a condominium declaration established under

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Chapter 703 of the Wisconsin Statutes. Condominiums shall be subject to the requirements of the zoning code as would be imposed upon physically identical developments as permitted by Wis. Stat. sec. 703.27(1).

DECK: An uncovered wooden structure attached to a principal structure which exceeds 48 square feet in size.

DWELLING: A building or one (1) or more portions thereof occupied or intended to be occupied exclusively for residential purposes, including manufactured homes, but not including room in motels, hotels, nursing homes, boardinghouses, nor trailers, tents, cabins or trailer coaches. A dwelling shall not be interpreted to include lodging facilities, lodging rooms or mobile home units.

DWELLING UNIT: Consists of one or more rooms which are arranged, designated or used as living quarters for one family only. Individual bathrooms and kitchen facilities permanently installed shall always be included in each dwelling unit.

DWELLING WIDTH: The length of the shortest exterior wall of a dwelling.

FAMILY: An individual, or two (2) or more persons each related by blood, marriage or adoption living together as a single housekeeping unit, or a group of not more than four (4) persons not so related, maintaining a common household.

FLOOR AREA: The sum of the gross horizontal areas of the several floors of a building including interior balconies, mezzanines, basements and attached accessory buildings, fitting rooms, stairs, escalators, unenclosed porches, detached accessory buildings utilized as dead storage, heating and utility rooms, inside off-street parking or loading space. Measurements shall be made from the **outside** of an exterior wall to the **opposite exterior** wall.

FRONTAGE: All property abutting on one side of a street between two (2) intersecting streets or between an intersecting street and the dead end of a street.

GARAGE - PRIVATE: A detached accessory building or portion of the principal building, including a carport.

GARAGE - PUBLIC: All garages built as principal uses or structures.

GARAGE - OTHER: All garages, as accessory uses or structures, which do not meet the standards for private garages.

HOTEL: A building containing eight (8) or more guest rooms in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

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JUNK YARD: An area where used, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including, but not limited to scrap iron, and other metals, automobiles, trucks, paper, rags, rubber products, bottles and lumber. Storage of such material in connection with a permitted manufacturing process when within an enclosed area or building shall not be included.

KITCHEN FACILITY: Is one which includes the following fixtures: cabinets or cupboards, sink and faucet and shelving for food preparation or storage; and, includes the following appliances: a refrigerator and a stove with at least two burners and an oven.

LODGER: One who pays a stipulated sum in return for a room or rooms in which to sleep.

LODGING FACILITY: A building used exclusively for the rental of rooms on a monthly or longer basis that shall have a common entrance and exit and common kitchen facilities and that may have a common living area and common bath facilities.

LODGING ROOMS: Individual rooms leased in a lodging facility.

LOT: A parcel of land having a width and depth sufficient to provide a space necessary for one main building and accessory building together with open space required by this ordinance and on a public street.

LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line of a lot.

LOT LINE-FRONT: That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street except that a corner lot in a non-residential area shall be deemed to have frontage on both streets.

LOT LINE-REAR: That boundary of a lot which is opposite the front lot line.

LOT WIDTH: The shortest distance between side lot lines measured at the building set back line.

MANUFACTURED HOME: A structure, certified and labeled as a manufactured home under 42 U.S.C. secs. 5401 to 5426, as the same may be amended or changed from time to time, with a valid legal title, which, when placed on the site, is properly connected to the required utilities and is without wheels and set upon some other support. To be deemed a “dwelling” a manufactured home must be located on real estate owned by the homeowner.

MINOR AND ORNAMENTAL STRUCTURES:

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1. Any small, movable accessory or erection or construction such as pet houses, and ornamental structures such as gazebos, fountains and arbors; said minor and ornamental structures shall be limited to sixteen (16) square feet in the floor space. Ornamental structures larger than sixteen (16) square feet in the floor space may be permitted as conditional uses in all zoning districts.

2. Walls and fences under three (3) feet in height, however no fences or walls under three (3) feet in height shall be located within six (6) inches of a street right of way.

3. Private sidewalks and driveways; poured or formed patios, decks and walkways that do not exceed six (6) inches in height above the ground level.

4. Minor and ornamental structures are neither accessory nor principal structures as defined under this ordinance. However, minor and ornamental structures shall meet all setback requirements of the zoning district in which they are located. No more than two (2) minor and ornamental structures over sixteen (16) square feet in size may be placed on any parcel on which there is no principal structure and no more than two (2) minor and ornamental structures over sixteen (16) square feet in size may be placed on any parcel on which there is a principal structure.

MOBILE HOME: That which is, or was as originally constructed, designed and built to be towed on its own chassis, comprised of frame and wheels, by any motor vehicle upon a public highway, connected to utilities, and designed without a permanent foundation for year round living, or is intended to be so used. A single unit includes any additions, attachments, annexes, foundations and appurtenances or any parts that may be folded, collapsed or telescoped when being towed, and expanded later to provide additional cubic capacity. A mobile home is not considered a mobile home if the assessable value of such additions previously enumerated equals or exceed fifty (50) percent of the assessable value of the mobile home. A manufactured home as defined above is not considered a mobile home.

A mobile home should not be confused with a travel trailer which is towed by an automobile, can be operated independently of utility connections, is limited in width to eight feet, in length to forty five feet, and is designed to be used primarily as a temporary vacation dwelling.

MOBILE HOME PARK: A parcel of land which is owned by an individual, a firm, trust, partnership, public or private association or corporation, and has been developed for rental of lots and provision of facilities and services to tenants with mobile homes.

MOBILE HOME SUBDIVISION: An area consisting exclusively of mobile homes in which each lot on which a mobile home is located shall be owned by the occupants of each individual mobile home unit. These subdivisions should not be confused with the mobile home parks which allow for the rental of mobile home lot space.

MOTOR COURT, MOTOR HOTEL, OR MOTEL: A building or group of buildings other than a hotel used primarily as a temporary residence of a motorist.

MOTOR FUEL STATION: A retail place of business engaged primarily in the sale of

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motor fuels, but also may be engaged in supplying goods and services generally required in the operation and maintenance of motor vehicles. These may include sale of petroleum products, sale and servicing of tires, batteries, automotive accessories, and replacement items, washing and lubrication services, and the repair of minor automotive maintenance and repair.

NONCONFORMING STRUCTURE: Any structure which is existing upon the effective date of this ordinance, which would not conform to the applicable regulations if the structure were to be erected under the provisions of this ordinance.

NON-CONFORMING USE: Use of land, buildings or structures existing at the time of adoption of this ordinance which does not comply with all the regulations of this ordinance or any amendments hereto governing the zoning district in which such use is located.

OPEN SALES LOT: Land devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.

PERFORMANCE STANDARD: Criterion established to control noise, order, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.

PORCH: An entrance to a building which is attached to the building and which is covered or enclosed.

PRINCIPAL BUILDING: The building on a lot in which is conducted the principal use as permitted on such lot by regulations of the district in which it is located.

RECREATION SPACE: Total area in square feet which is countable as open space but is not paved in streets, walks or driveways and is suitable for recreational pursuit.

SALVAGE YARD: A salvage yard shall be defined the same as a “JUNK YARD” as described herein.

SERVICE STATION: A commercial business at which gasoline is sold and vehicles repaired and which either does or does not include a convenience store.

SETBACK: The minimum horizontal distance between the street, side or rear line and the nearest point of a building or any projection thereto.

SIGN: Any 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.

STEP/STOOP: A raised platform leading to a building which is attached to the building, which is neither covered nor enclosed, and which does not exceed 48 square feet in size and

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which is no less than 2 feet from the property line.

STORAGE TRAILER UNIT: A portable storage unit that does not have a permanent foundation or footing and which includes cargo containers, portable storage containers, truck trailers and construction trailers. *(Rev. Ord 2016-1, 2/8/16)*

STREET: All property dedicated or intended for public or private street purposes or subject to public easements.

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

STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground.

STRUCTURAL ALTERATION: Any change in the supporting members of a building or any substantial change in the roof or in the exterior walls.

SUBSTANDARD LOT: A lot or parcel which does not meet the minimum width, length or area requirements for the zoning district in which the lot is located.

YARD: Any open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

YARD-FRONT: A yard extending the full length of the lot between the front lot line and the nearest part of the main building, including attachments such as decks and porches.

YARD-REAR: A yard extending the full width of the lot being the minimum horizontal distance between the rear lot line and the nearest part of the building, including attachments such as decks and porches.

YARD SIDE: A yard extending from the front yard to the rear yard being the minimum horizontal distance between a building and the side lot line, including attachments such as decks and porches.

19.03 ZONING DISTRICTS

3.01 **ESTABLISHMENT:** The following Zoning Districts are hereby established:

- R-1 Single-Family Residential District
- R-2 Two-Family Residential District
- R-3 Multi-Family Residential District

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- A-1 Agricultural District
- CD-1 Commercial District-Lincoln Avenue
- CD-2 Commercial District-Adjacent-Off Lincoln Avenue
- CD-3 Commercial District-General Commercial
- CD-4 Highway Commercial District
- H-1 Highway Residential District
- IPD-1 Professional, Scientific & Technical Services District
- IPD-2 Light Industrial District
- IPD-3 Heavy Industrial District
- CD Conservancy District
- DD Institutional District

3.02 ESTABLISHMENT OF BOUNDARIES AND ZONING MAP: Boundaries of said district are hereby established by the “Official Map of the City of Fennimore, Wisconsin” dated March 25, 1974, and said map with all written legends or other written material on said map is hereby incorporated by reference as a part of this ordinance as if fully included herein. Said map shall be identified and certified as the Official Zoning Map of the City of Fennimore as a part of this ordinance by proper legends or references on the face of said map and shall bear on its face the attestation and certification by the Mayor and the City Clerk of these facts. The attestation and certification by the Mayor and the City Clerk shall be made simultaneously with the signing of this ordinance by said officers and such attestation and certificate shall bear the date of the approval of this ordinance. The official map shall be at all times available to the public with this ordinance. Changes thereafter to the district shall not be effective until entered and attested on the certified map.

3.03 BOUNDARIES: The district boundaries are either streets or alleys, unless or otherwise shown. Where the designation on the Zoning Maps indicate that the various districts are approximately bounded by the centerline of a street or alley, such street or alley centerline shall be construed to be the district boundary line. 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 where designations on the Zoning Maps are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of the district. In un-subdivided property, the district boundary lines shown on the Zoning Maps shall be determined by uses on the scale shown on such maps. 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. All property **formerly** owned for railroad purposes shall be zoned in accordance with the abutting districts.

3.04 RESIDENTIAL DISTRICTS:

- (1) R-1 Single-Family Residential District
 - (a) Permitted Uses and Structures:

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1. Single-family dwellings

2. The renting of rooms or the furnishing of table board in a dwelling which is occupied by a private family of which the members are related by blood, marriage or adoption provided there are not more than four boarders or lodgers not members of the family.

(b) Conditional Uses and Structures:

1. Churches, public schools, parochial schools, colleges, private schools, public libraries, public museums, art galleries, golf courses, single family residential developments and “garages-other” as defined in s. 19.02.

2. Utility lines, pumping stations, water towers and reservoirs, wells, municipal buildings except that the following municipal buildings are not permitted: sewage disposal plants, garbage incinerators, public warehouses, public garages, institutions and asylums.

3. Buildings used exclusively for governmental purposes whether city, county, state or federal provided that no vehicle or equipment storage or repair shall be permitted.

4. Farms, market gardens, privately owned noncommercial nurseries or green houses, except that the following are not permitted: chicken, fur, and stock farms and farms operated for the disposal of garbage, rubbish or offal.

5. Passive home occupations as defined in section 19.17 of this ordinance.

(c) Permitted Accessory Uses: No accessory structure or use of land shall be permitted except for one (1) but not more than three (3) of the following:

1. Private garages

2. Signs as regulated in this ordinance.

3. Private swimming pool, tennis court or other recreational activity intended for the primary use of the occupants of the dwelling located on the same site as the recreational use.

4. Any other use customarily considered to be accessory to the foregoing permitted uses.

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(d) Requirements:

Lot Size: Width: 80 feet minimum at the front building setback line.

Length: 120 feet minimum.

Area: 9,600 square feet minimum.

Building: Height: 30 feet maximum. Width: 24 feet minimum.

Yards: Street: 20 feet minimum from the street front.

Dwelling Foundations: Enclosed foundations installed in accordance with subchapters III (Excavations), IV (Footings) and V (Foundations) of Chapter ILHR 21, Wis. Admin. Code, as the same may from time to time be amended or changed, are required. Footings shall be placed below the frost penetration level but not less than 48 inches below ground unless an exception contained in section 21.16(2), subchapter IV, chapter ILHR 21, of the Wis. Admin. Code, as the same from time to time may be amended or changed, applies.

Rear: 20 feet minimum between the rear lot line and the nearest part of the principal building or the nearest part of an accessory structure which is attached to a principal structure. Eight (8) foot minimum between the rear lot line and the nearest part of an accessory structure which is not attached to the principal structure.

Side: 15 feet.

Side: Accessory Structure: Eight (8) feet minimum each side, provided however, that no accessory structure shall be placed between the side setback and the principal structure.

(2) R-2 Two-Family Residential District

(a) Permitted Uses and Structures:

1. Any use permitted in the “R-1” district.

2. The renting of rooms or the furnishing of table board in a dwelling which is also occupied by a private family of which the members are related by blood, marriage or adopted provided there are not more than six boarders or lodgers not members of the family.

3. Two family dwelling.

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4. Duplexes.
5. No more than two apartments within a single building.

6. Passive, passive conditional and active home occupations, as defined in section 19.17 of this ordinance, except that passive home occupations are a conditional use in duplexes or two-family dwellings or apartments and except that passive conditional home occupations and active home occupations shall not be permitted in duplexes or two-family dwellings or apartments.

(b) Conditional Uses and Structures:

1. Any conditional use permitted in the R-1 district, except that home occupations are permitted uses as per 3.04(2)(a)6., above.

2. Funeral parlors, planned residential development, museums, day care centers, and bed and breakfast establishments.

3. Zero lot line development

a. The principal structure may be, at a maximum, a two-family unit.

b. There shall be separate water lateral service and metering for all buildings constructed after August 12, 2013.

c. The developer shall have prepared covenants and restrictions that must be satisfactory to and approved by the Plan Commission and shall submit the proposed covenants and restrictions to the Plan Commission at the time of review for conditional use.

(d) Requirements:

Lot Size: Width: 60 feet minimum. For zero lot line construction in place as of August 12, 2013, less than 60 feet per unit may be allowed provided that there is a firewall that complies with the requirements of the Wisconsin Administrative Code. Construction on or after August 12, 2013 requires 60 feet per unit.

Length: 120 feet minimum.

Area: 7,200 square feet minimum.

Building: Height: 30 feet maximum. Width: 24 feet minimum.

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Yards: Street: 15 feet minimum.

Dwelling Foundations: Enclosed foundations installed in accordance with subchapters III (Excavations), IV (Footings) and V (Foundations) of COMM 21, Wis. Admin. Code, as the same may from time to time be amended or changed, are required. Footings shall be placed below the frost penetration level but not less than 48 inches below ground unless an exception contained in section 21.16(2), subchapter IV, chapter COMM21, of the Wis. Admin. Code, as the same from time to time may be amended or changed, applied.

Rear: 20 feet minimum between the rear lot line and the nearest part of the principal building or the nearest part of an accessory structure which is attached to a principal structure. Eight (8) foot minimum between the rear lot line and the nearest part of an accessory structure which is not attached to the principal structure.

Side: 8 feet minimum each side.

Zero Lot Line: In zero lot line development, the “zero lot line” applies only to the adjoining wall of the principal structure and all other setback requirements of the R-2 zoning district shall be in full force and effect.”

(c) Permitted Accessory Uses: No accessory structure or use of land shall be permitted except for one (1) but not more than three (3) of the following:

1. Private garages and parking spaces.
2. Signs as regulated in this ordinance.
3. Private swimming pool, tennis court or other recreational activity intended for the primary use of the occupants of the dwelling located on the same site as the recreational use.
4. Any other use customarily considered to be accessory to the foregoing permitted uses.

(d) Requirements:

Lot Size: Width: 60 feet minimum.
Length: 120 feet minimum.
Area: 7,200 square feet minimum.

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Building: Height: 30 feet maximum. Width: 24 feet minimum.

Yards: Street: 15 feet minimum.

Dwelling Foundations: Enclosed foundations installed in accordance with subchapters III (Excavations), IV (Footings) and V (Foundations) of Chapter ILHR 21, Wis. Admin. Code, as the same may from time to time be amended or changed, are required. Footings shall be placed below the frost penetration level but not less than 48 inches below ground unless an exception contained in section 21.16(2), subchapter IV, chapter ILHR 21, of the Wis. Admin. Code, as the same from time to time may be amended or changed, applies.

Rear: 20 feet minimum between the rear lot line and the nearest part of the principal building or the nearest part of an accessory structure which is attached to a principal structure. Eight (8) foot minimum between the rear lot line and the nearest part of an accessory structure which is not attached to the principal structure.

Side: 8 feet minimum each side.

(3) R-3 Multi-Family Residential District

(a) Permitted Uses and Structures:

1. Any use permitted in the "R-2" district.
2. Multiple dwellings - any principal building containing more than two dwelling units accommodating more than two families.
3. The renting of rooms or the furnishing of table board in a dwelling which is also occupied by a private family of which members are related by blood, marriage or adoption provided there are not more than six boarders, or lodgers not members of the family.
4. Passive Home Occupations, passive conditional home occupations and active home occupations, as defined in section 19.02 of this ordinance, except that passive home occupations are a conditional use in duplexes, two-family dwellings and apartments and multiple dwellings and except that passive conditional home occupations and Active Home Occupations shall not be permitted in duplexes, two-family dwellings or apartments, and multiple dwellings.

(b) Conditional Uses and Structures:

1. Any conditional use allowed in the "R-2" district.

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2. Mobile home parks, planned residential unit developments and museums and bed and breakfast establishments.
3. Social Halls.
4. Multiple dwellings consisting of any planned residential development in which more than one principal structure is located on the developed parcel.
5. Accessory structures or uses of land permitted or required as a condition for the approval of a planned residential unity development
6. Zero lot line development. In addition to the requirements of (d) below, the following conditions apply to zero lot line development:
 - a. The principal structure may be, at a maximum, a two-family unit.
 - b. There shall be separate water lateral service and metering for all buildings constructed after August 26, 2013.
 - c. The developer shall have prepared covenants and restrictions that must be satisfactory to and approved by the Plan Commission and shall submit the proposed covenants and restrictions to the Plan Commission at the time of review for conditional use.

(d) Requirements:

Lot Size: Width: 60 feet minimum. For zero lot line construction in place as of August 12, 2013, less than 60 feet per unit may be allowed provided that there is a firewall that complies with the requirements of the Wisconsin Administrative Code. Construction on or after August 12, 2013 requires 60 feet per unit.

Length: 120 feet minimum.

Area: 7,200 square feet minimum.

Building: Height: Maximum 45 feet except in planned residential unit developments. Width: 24 feet except for mobile homes located in mobile home parks.

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Yards: Street: 15 feet.

Dwelling Foundations: Except for mobile homes located in mobile home parks, enclosed foundations installed in accordance with subchapters III (Excavations), IV (Footings) and V (Foundations) of Chapter COMM 21, Wis. Admin. Code, as the same may from time to time be amended or changed, are required. Footings shall be placed below the frost penetration level but not less than 48 inches below ground unless an exception contained in section 21.16(2), subchapter IV, chapter COMM21, of the Wis. Admin. Code, as the same from time to time may be amended or changed, applies.

Rear: 20 feet minimum between the rear lot line and the nearest point of the principal building or the nearest part of an accessory structure which is attached to a principal structure. Eight (8) foot minimum between the rear lot line and the nearest part of an accessory structure which is not attached to a principal structure.

Side: 8 feet minimum.

Zero Lot Line: In zero lot line development, the “zero lot line” applies only to the adjoining wall of the principal structure and all other setback requirements of the R-3 zoning district shall be in full force and effect.”

(c) Permitted Accessory Uses: No accessory structure or use of land shall be permitted except for one (1) but not more than three (3) or more of the following:

1. Private garages and parking spaces.
2. Signs as regulated in this ordinance.
3. Private swimming pool, tennis court or other recreational activity intended for the primary use of the occupants of the dwelling located on the same site as the recreational use.
4. Any other use customarily considered to be accessory to the foregoing permitted uses.
5. Accessory structures or uses of land permitted or required as a condition for the approval of a planned residential unit

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development.

(d) Requirements:

Lot Size: Width: 60 feet minimum
 Length: 120 feet minimum.
 Area: 7,200 square feet minimum.

Building: Height: Maximum 45 feet except in planned residential unit developments. Width: 24 feet except for mobile homes located in mobile home parks.

Yards: Street: 15 feet.

Dwelling Foundations: Except for mobile homes located in mobile home parks, enclosed foundations installed in accordance with subchapters III (Excavations), IV (Footings) and V (Foundations) of Chapter ILHR 21, Wis. Admin. Code, as the same may from time to time be amended or changed, are required. Footings shall be placed below the frost penetration level but not less than 48 inches below ground unless an exception contained in section 21.16(2), subchapter IV, chapter ILHR 21, of the Wis. Admin. Code, as the same from time to time may be amended or changed, applies.

Rear: 20 feet minimum between the rear lot line and the nearest point of a principal building or the nearest part of an accessory structure which is attached to a principal structure. Eight (8) foot minimum between the rear lot line and the nearest part of an accessory structure which is not attached to a principal structure.

Side: 8 feet minimum each side.

3.05 Agricultural District:

(1) A-1 Agricultural District:

(a) Permitted Uses and Structures:

1. Single-Family dwelling units as permitted in the R-1 District.
2. Present general farming as it exists, except chicken and fur farms, and farms operated for the disposal of garbage or

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rubbish, offal, or sewage.

3. Stands for the sale of agricultural products provided said products are at least in part raised on the premises.
 4. Public parks and playgrounds.
 5. Commercial greenhouses and nurseries.
- (b) Conditional Uses and Structures: Hospitals, and clinics, animal hospitals and veterinary clinics, public parochial schools, private schools, colleges, apartments and multiple dwelling units, planned unit residential developments, municipal buildings, tourist camps, trailer parks and campgrounds, swimming pools, golf courses, driving ranges, amusement parks, drive-in theaters, social balls, shooting clubs, riding academies, (essential service structures?), cemeteries, churches including related structures, pumping stations, excavating operations, sewage disposal plants, municipal sanitary land fill operations, passive home occupations, mobile home parks, nursing homes, industrial use, radio and TV stations and “garage-other” as defined in s. 19.02. Any new building or alterations and sites of said alterations and buildings of farms presently existing, must obtain conditional use status before being approved. No existing farm shall be subdivided into smaller farms. It is the intent of this ordinance to encourage the subdivision of farms for residential purposes only.
- (c) Permitted Accessory Uses: Any use customarily considered to be accessory to the permitted principal use of a property involved, but the total number of accessory uses shall not exceed three (3).
- (d) Requirements:
- Lot size: Width: 80 feet minimum at the front building set back line.
- Length: 120 feet minimum.
Area: 9,600 square feet minimum.
- Building: Height: 30 feet maximum. Width: 24 feet minimum.
- Yards: Street: 20 feet minimum from the street front.
- Dwelling Foundations: Enclosed foundations installed in accordance with

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subchapters III (Excavations), IV (Footings) and V (Foundations) of Chapter ILHR 21, Wis. Admin. Code, as the same may from time to time be amended or changed, are required. Footings shall be placed below the frost penetration level but not less than 48 inches below ground unless an exception contained in section 21.16(2), subchapter IV, chapter ILHR 21, of the Wis. Admin. Code, as the same from time to time may be amended or changed, applies.

Rear: 20 feet minimum between the rear lot line and the nearest part of the principal building or the nearest part of an accessory structure which is attached to a principal structure. Eight (8) feet minimum between the rear lot line and the nearest part of an accessory structure which is not attached to the principal structure.

Side: 15 feet minimum each side. Eight (8) feet minimum between either side lot line and the nearest part of an accessory structure which is not attached to a principal structure.

Amended
3.06
9/12/11
Ord#276

3.06 Commercial Districts:

(1) CD-1 Commercial District-Lincoln Avenue

(a) Permitted Uses and Structures:

1. Churches, coin operated laundries, convenience stores, financial services establishments, fitness centers, food and beverage establishments, gas stations, government service buildings and facilities, hotels, libraries, medical clinics, museums, newspaper and newspaper publishers, parking areas, parks, personal and business service establishments, professional offices, retail sales and service establishments, telecommunications companies and theaters.

(b) Conditional Uses and Structures:

1. Antique stores, attached wireless communications facilities, auto parts stores, bed and breakfast establishments, bowling alleys, building materials sales, commercial greenhouses, contractors offices, daycare centers, funeral parlors, motels, preschools, professional laundry and dry cleaning establishments, recreation and hauling trailers sales and service, rental of rooms or apartments, other than on the ground floor in any building or structure which also houses any of the permitted uses under this section, roller skating rinks, second hand stores, vehicle sales, rentals and service, veterinary clinics, and wholesale outlets.

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2. Home occupations in structures used for residential purposes prior to October 1, 2011 and which have continued in residential use subsequent to October 1, 2011.
3. It is not the intent of this section to permit residential use of the ground or main floor of building or structures which house any of the permitted uses or commercial conditional uses under this section. At such time as the ground or main floor of a structure or building commences being used for commercial purposes, further use of the ground or main floor for residential purposes shall be disallowed.

(c) Permitted Accessory Uses: Within this district, the following uses shall be permitted accessory uses but the accessory uses shall be limited to not more than three (3) for each principal structure.

1. Private garages, off-street parking and loading spaces as regulated in this ordinance.
2. Signs as regulated in this ordinance.
3. Any incidental repair or processing necessary to conduct a permitted principal use.
4. Any incidental repair or processing necessary to conduct a permitted use shall not exceed forty percent (40%) of the floor space of the principal buildings.
5. Decorative landscape features.
6. Any use customarily considered to be accessory to the permitted principal use of the property involved.

(d) Requirements:

Building: Height: 45 feet maximum.

(2) CD-2 Commercial District-Adjacent off Lincoln Avenue

(a) Permitted Uses and Structures:

1. Any use permitted in CD-1 District.
2. Bowling alleys, library centers, public garages, radio

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stations w/o antenna).

(b) Conditional Uses and Structures:

1. Any conditional use listed in CD-1 District.
2. Body shops, but the premises shall not be used as junk yards or salvage yards, car washes, implement sales and service, public passenger transportation terminals.
3. Continuation of existing one- and two-Family Residential uses as of October 1, 2011. At such time as the ground or main floor of a structure or building commences being used for commercial purposes, the ground or main floor may revert to residential use only if the criteria for conditional uses under §19.05 are met and the Plan Commission is satisfied that reversion to a residential use would be in harmony with the use of neighboring properties at the time the permit is sought.

(c) Permitted Accessory Uses: Within this district, the following uses shall be permitted accessory uses but the accessory uses shall be limited to not more than three (3) for each principal structure.

- 1, All permitted accessory uses allowed in the CD-1 Commercial District-Lincoln Avenue.

(d) Requirements:

Lot Size: Width: 60 feet minimum.

Length: 120 feet minimum.

Area: 7,200 square feet minimum.

Building: Height: 45 feet maximum. Width: 24 feet minimum.

Yards: Street: 15 feet minimum.

Rear: 12 feet minimum between the rear lot line and the nearest part of the principal building or the nearest part of an accessory structure which is attached to a principal structure. Eight (8) foot minimum between the rear lot line and the nearest part of an accessory structure which is not attached to the principal structure.

Side: 8 feet minimum each side

(3) CD-3 Commercial District-General Commercial

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(a) Permitted Uses and Structures:

Building material sales, contractors offices, dairy equipment sales and service, feed stores, warehouses and distribution facilities and off-street parking.

(b) Conditional Uses and Structures:

1. Commercial greenhouses, dairy plants, equipment restoration, recreation and hauling trailer sales and service and vehicle sales rentals and service.
2. Continuation of existing one- and two-Family Residential uses as of October 1, 2011. At such time as the ground or main floor of a structure or building commences being used for commercial purposes, the ground or main floor may revert to residential use only if the criteria for conditional uses under s. 19.05 are met and the Plan Commission is satisfied that reversion to a residential use would be in harmony with the use of neighboring properties at the time the permit is sought.

(c) Permitted Accessory Uses: Within this district, the following uses shall be permitted accessory uses but the accessory uses shall be limited to not more than three (3) for each principal structure.

1. All permitted accessory uses allowed in the CD-1 Commercial District-Lincoln Avenue.

(d) Requirements:

Lot Size: Width: 60 feet minimum.
Length: 120 feet minimum.
Area: 7,200 square feet minimum.

Building: Height: 45 feet maximum. Width: 24 feet minimum.

Amended
4/23/12
Ord#282

Street setback: 15 feet minimum.
Rear setback: 8 feet minimum.
Side setback: 8 feet minimum.

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(4) CD-4 Highway Commercial District

(a) Permitted Uses and Structures: Bed and breakfast establishments, car washes, churches, financial services, food and beverage establishments, motels, personal and business service establishments, professional offices, public service buildings and functions, retail and wholesale stores.

(b) Conditional Uses and Structures:

1. Body shops, but the premises shall not be used as junk yards or salvage yards, commercial greenhouses, commercial storage, dairy equipment sales and service, dairy plants, gas stations, implement sales and service, parking, trucking terminals, vehicle sales, rental and services.

2. It is the stated intent of this ordinance to permit the continuation of present residential uses within this district and to permit such extension, alteration and restoration as reasonably necessary to permit the users to provide for additional amenities. It is also the intent of this ordinance to permit some additional new residential use particularly in the multi-family variety of in so doing unreasonable restrictions are not created for future commercial use.

(c) Permitted Accessory Uses: The following are the permitted accessory uses in the highway commercial district but there shall be no more than three (3) accessory uses for each principal structure.

1. All accessory uses allowed in the CD-1 Commercial District-Lincoln Avenue.

(d) Requirements:

Lot size: Width: 60 feet minimum.

Length: 120 feet minimum.

Area: 7,200 square feet minimum.

Building: Height: Maximum 45 feet.

Yards: Street: 20 feet minimum from the street right-of-way.

Rear: 8 feet minimum.

Side: 8 feet"

(5) Storage Trailers:

Storage trailers are permitted as accessory structures in all commercial districts under the following terms and conditions:

(a) Requirements in all commercial districts:

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1. Prior to placing a storage trailer on any lot or property, the owner or occupant of the property shall file an application on a form provided by the City for a zoning compliance permit allowing placement of the trailer on the lot or property.
2. The trailer shall be sided or painted and maintain a well-preserved appearance. Deteriorated units are not allowed and are a public nuisance.
3. No storage is permitted around the outside of the unit. The area around the unit must be kept clear of vegetation and stored items.
4. Storage trailers may be used for storage only and not as auxiliary work space or any other purpose.
5. The placement of a storage trailer cannot reduce the number of off-street parking spaces to less than the minimum required under the zoning code for the type of business operated at that location.
6. Storage trailer units must be removed from the chassis of the truck or frame of the trailer.
7. Storage trailers cannot be converted into buildings. No decks, garages, sheds or other improvements may be made to storage trailers.
8. The placement of storage trailers may not impair visibility triangles from alleys and streets.
9. Storage trailers cannot be mobile or manufactured homes or recreational trailers.
10. The placement of storage trailers cannot impair off street loading.
11. Storage trailers may only be located in the side or rear yards of any lot or parcel.
12. Signs on storage trailers are permitted provided that any sign placed on a storage trailer must meet the requirements of s. 19.10.

(b) CD-1 Commercial District: In addition to the requirements under (a), storage trailers shall comply with the following requirements:

1. Maximum 24 feet in length
2. Limit of one storage trailer unit per property
3. The trailer opening may not be visible from Lincoln Avenue (i.e. must be screened with a visual barrier or facing in a different direction)
4. Must be set back at least 20 feet from Lincoln Avenue or no nearer than the front of the primary structure
5. There shall be a side setback of a minimum 3 feet and a rear setback of minimum of 4 feet for storage trailers.

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(c) CD-2 Commercial District: In addition to the requirements under (a), storage trailers shall comply with the following requirements:

1. Maximum 24 feet in length
2. Limit of one storage trailer unit per property
3. The trailer opening may not be visible from Lincoln Avenue (i.e. must be screened with a visual barrier or facing in a different direction)

(d) CD-3 Commercial District: In addition to the requirements under (a), storage trailers shall comply with the following requirements:

1. Maximum 53 feet in length
2. Limit of five (5) storage trailer units per property

(e) CD-4 Commercial District: In addition to the requirements under (a), storage trailers shall comply with the following requirements:

1. Maximum 24 feet in length
2. Limit of one storage trailer unit per property
3. The trailer opening may not be visible from Lincoln Avenue (i.e. must be screened with a visual barrier or facing in a different direction)
4. Must be set back at least 20 feet from Lincoln Avenue or no nearer than the front of the primary structure”
(Rev. Ord 2016-1, 2/8/16)

3.065 H-1 Highway Residential District

(1) Permitted Uses and Structures: Any use or structure permitted in the “R-2” District.

(2) Conditional Uses and Structures: All uses and structures which may be established as conditional uses and structures in the “R-2” District, professional offices, post offices, medical, chiropractic and dental offices and clinics including parking areas and open spaces.

(3) Permitted Accessory Uses and Structures: Any accessory use or structure permitted in the “R-2” District.

(4) Conditional Accessory Uses and Structures: Any use or structure determined by the plan commission to be accessory and/or necessary for the foregoing conditional uses and structures or required by the plan commission as a condition upon

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which a conditional use permit is granted.

(5) Requirements: Same as “R-2” District requirements.

3.07 Industrial Districts:

(1) IPD-1 PROFESSIONAL, SCIENTIFIC & TECHNICAL SERVICES DISTRICT

The IPD-1 PROFESSIONAL, SCIENTIFIC & TECHNICAL SERVICES DISTRICT is intended to provide for professional office and service businesses. This District is intended specifically to encourage the planned development of the industrial park setting for small to medium sized businesses. No uses shall be permitted which create nuisances, including without limitation, nuisances in the form of odors, dust, noise, or which result in chemical or other pollution of air, water or soils. Further, no use shall be considered to be permitted if it requires open storage or outside use of manufacturing equipment or materials.

(a) Permitted Uses and Structures:

1. Permitted uses and structures are those identified in the North American Industry Classification System (NAICS) Professional, Scientific and Technical Services “5411 – 5418” codes.
2. Retail sales in conjunction with permitted uses shall not exceed 20% of revenues.

(b) Conditional Uses and Structures: Conditional uses and structures that may be permitted in the IPD-1 District as authorized by the Plan Commission include, but are not limited to, the following: indoor warehousing and light manufacturing and packaging and retail sales and service establishments with no outside storage. *(Rev. 2016-1, 2/8/16)*

(c) Permitted Accessory Uses and Structures: The following are the permitted accessory uses and/or structures in the IPD-1 District but there shall be no more than three (3) accessory uses and/or structures for each principal structure.

1. Signs as regulated in this ordinance.
2. Off-street parking and loading as regulated in this ordinance.

(d) REQUIREMENTS: *(Amended 6/26/2017 -Ord. No. 2017-9)*

Lot size: Width: 125 feet minimum
 Area: 1 acre minimum

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Principal and Accessory Structures:

Building Height: Maximum 40 feet.

Setbacks: Street: 50 feet minimum from any highway right-of-way. 25 feet minimum from city street right of ways.

Side: 10 feet minimum.

Rear: 15 feet minimum.

Principal Structures:

Building Size: Minimum of 2,000 sq. ft.

(2) IPD-2 LIGHT INDUSTRIAL DISTRICT

The IPD-2 LIGHT INDUSTRIAL DISTRICT is intended to provide for professional office, manufacturing and service businesses. This District is intended specifically to encourage the planned development of the industrial park setting for small to medium sized businesses. No uses shall be permitted which create nuisances, including without limitation, nuisances in the form of odors, dust, noise or which result in chemical or other pollution of air, water or soils.

(a) Permitted Uses and Structures:

1. All permitted uses and structures in the IPD-1 District.
2. Professional manufacturing and services uses and/or structures, including, but not limited to, the following: distribution terminals, government facilities, light fabrication, packing and assembly of products, specialized trades, transportation services, warehousing.

(b) Conditional Uses and Structures:

1. Conditional uses and structures that may be permitted in the IPD-2 District as authorized by the Plan Commission include, but are not limited to, the following: ag-related sales and services; freight terminals; medical facilities; wholesale and retail sales by internet and mail order service and retail sales and service establishments; (*Rev. Ord. 2016-1, 2/8/16*)
2. Any other use and/or structure in IPD-2 otherwise permitted which requires outside storage.

(c) Permitted Accessory Uses and Structures: The following are the permitted accessory uses in the IPD-2 District but there shall be no more than three (3) accessory uses for each principal structure.

1. Signs as regulated in this ordinance.

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2. Off-street parking and loading as regulated in this ordinance.
- (d) Conditional Accessory Uses and Structures: The following are the conditional accessory uses and structures in the IPD-2 District. No more than one (1) conditional accessory use or structure will be allowed.
1. Storage facilities.
 2. Detached garages.
- (e) REQUIREMENTS:
- Lot size: Width: 200 feet minimum.
 Area: 1 acre minimum.
- Principal and Accessory Structures:
Building Height: Maximum 45 feet.
Setbacks: Street: 50 feet minimum from any state or county highway right of ways. 20 feet minimum from city street right of ways.
 Side: 10 feet minimum.
 Rear: 10 feet minimum.
- Conditional Accessory Structures are allowed only in side and rear yards.

(3) IPD-3 HEAVY INDUSTRIAL DISTRICT

The IPD-3 HEAVY INDUSTRIAL DISTRICT is intended to provide for industries which require large sites, which may require extensive buffering, and which are of a character involving open storage or manufacture of equipment materials and other products. This District is intended specifically to encourage the planned development of the industrial park setting for manufacturing businesses. No uses shall be permitted which create nuisances, including without limitation, nuisances in the form of odors, dust, noise or which result in chemical or other pollution of air, water or soils that do not meet the industrial park performance standards in this ordinance.

- (a) Permitted Uses and Structures:
1. All permitted uses and structures in the IPD-2 District.
 2. Permitted uses and structures are professional, manufacturing and service uses and structures including, but not limited to, the following: light, medium and heavy manufacturing, research facilities and laboratories, distribution centers and warehousing.
- (b) Conditional Uses and Structures:
- Public uses and any similar uses not specifically listed that are consistent with the purpose of this District.

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- (c) Permitted Accessory Uses and Structures: The following are the permitted accessory uses and structures in the IPD-3 District but there shall be no more than three (3) accessory uses and/or structures for each principal structure:
1. Signs as regulated in this ordinance.
 2. Off-street parking and loading as regulated in this ordinance.

- (d) Conditional Accessory Uses and Structures: The following are the conditional accessory uses and structures in the IPD-3 District.

1. Storage facilities.
2. Detached garages.

- (e) REQUIREMENTS:

Lot size: Width: 200 feet minimum.
 Acres: 1 acre minimum.

Principal and Accessory Structures:

Building Height: Maximum 45 feet.

Yards: Street: 50 feet minimum from and highway right of ways. 20 feet minimum from city street right of ways.

 Side: 10 feet minimum.

 Rear: 10 feet minimum.

Conditional Accessory Structures are allowed only in side and rear yards.

- 3.08 Conservancy District:

- (l) CD Conservancy District

(a) Permitted Uses and Structures: Fishing, preservation of scenic, historic, and scientific areas; public fish hatcheries, sustained yield forestry, wildlife preserves, non-resident buildings used solely in conjunction with the raising of waterfowl or fish, hiking trails and bridle paths, public and private parks and picnic areas, green ways and open spaces.

(b) Conditional Uses and Structures: Drainage, water measurement and water control facilities, soil and water conservation, water retention, grazing, orchards, truck farming, utilities, and wild crop harvesting.

- 3.09 Institutional District:

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(1) Permitted Uses and Structures: Federal, state, county, township, municipal public buildings, school district buildings, colleges and universities, public libraries and library centers, nursing homes including residential housing facilities which are operated in conjunction with nursing homes as auxiliary or additional residential facilities for the aged, hospitals, utility lines, satellite dishes meeting setback requirements, pumping stations, water reservoirs and wells. When any land is sold or leased on a long term basis from an institutional district for uses other than the above enumerated uses, the land must be rezoned or the zoning ordinance reviewed and changed before a change of an owner or operation is allowed. Setbacks for the institutional district shall be the same as the district adjacent to the property, and if more than one district is adjacent to the property, the greater of the setback of the adjacent district shall apply.

(2) Conditional Uses and Structures: Telecommunication towers, antenna, dishes (including satellite dishes not meeting setback requirements), attached wireless communications facilities or other similar facilities used to send or receive telecommunication messages or transmissions and water towers.

19.04 GENERAL ENFORCEMENT PROVISIONS

(Amended 6/26/2017, effective 6/30/2017- Ord. No. 2017-9)

4.01 Compliance: No structure or land shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit except minor structures as hereafter defined without full compliance with the provisions of this ordinance and all other applicable local regulations; provided, however, that no section in this chapter shall be construed as prohibiting the City of Fennimore from constructing, installing, maintaining, repairing or removing municipal utility lines, streets, alleys, culverts, box culverts, fire hydrants, manholes, curb and gutter or other drainage or water control devices or structures anywhere within the corporate limits of the City of Fennimore in any zoning district whatsoever, nor shall the City of Fennimore be required to obtain a permit for such work or construction.

4.02 Administration and Enforcement: The City Council of the City of Fennimore shall appoint a Zoning Administrator. Said Zoning Administrator is hereby designated as the administrator of the provisions and requirements of this ordinance. It is hereby provided that it is the duty of the Zoning Administrator, with the aid of the Police Department, to investigate all complaints, give notice of violations, and enforce the provisions of this ordinance. The Zoning Administrator and his or her duly appointed deputies may enter at any reasonable time onto any public or private lands or waters to make a zoning inspection. Deputies may be appointed only by the Common Council.

4.03 Zoning Permit: Application for a zoning permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the

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following where applicable:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer or contractor.
- (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- (3) Plat of survey prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations, uses, and size of the following: subject site, existing and proposed structures; existing and proposed easements, streets, and other public ways, off street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within forty (40) feet of the subject site. In case of simple extensions, alterations, repairs or restorations the Zoning Administrator may waive any or all of the requirements hereunder and accept in lieu thereof a simple sketch by the applicant with sufficient explanatory data found sufficient by the Zoning Administrator to adequately identify and explain the proposed construction and use.
- (4) Utility Services. Unless said property is already attached to the municipal sewerage system said applicant shall provide a sketch in detail of proposed connection to the municipal sewerage system. It is hereby provided that the Director of Public Works of the City of Fennimore shall provide without charge on the request of any applicant the necessary information as to available sewerage service. Such information shall include details as to the applicable connection charges if the sewer service is available on the street involved or if not, details as to the cost and feasibility of necessary extensions of the municipal service mains, manholes and other appurtenances. Included in this information shall be the availability of basement floor drains and the necessity of a lift pump on the property of the applicant or an additional municipal lift station. Similar information shall be supplied as to availability and proposed connections to the municipal waterworks utility and the municipal electric utility. The handling of storm water from said property or any changes in the discharge of such water shall be shown. All municipal ordinances and rules of the City of Fennimore or any of its municipal utilities as to sewer and water main extensions, connections to municipal utilities including compulsory connections, the handling of storm water and provisions or requirements as to curb, gutters, sidewalks and streets now in existence or hereafter adopted apply to any new building or extensions to present buildings. As a part of the application to be filed with the Zoning Administrator or before the granting of the permit, the Superintendent of Utilities shall certify as to the requirements of the City or of the City Utilities as to the handling of any of the matters above enumerated, estimated costs of the same and the

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applicable rules as to the payment of cost by the applicant, including the time of payment or any available deferment thereof. Said application shall also indicate as to whether or not the use of gas utility service is contemplated and if it is contemplated a similar certificate shall likewise be furnished by the applicant from the public utility furnishing the gas service.

(5) Any person bringing any existing structure, whether new or used, into the City of Fennimore shall, as part of the application for a zoning permit, provide a written certificate to the Zoning Administrator that the structure has been inspected by a licensed exterminator and that the structure is free from termites, ants, lice, cockroaches and other, similar vermin or pests. Said certificate shall be dated no more than 14 days prior to the date on which the structure will be brought into the City of Fennimore. No person may place an existing structure on any land within the City of Fennimore unless such certificate has been provided in accordance with this section. This section shall not apply to mobile or manufactured homes.

(6) Additional information as may be required by the City Council, Zoning Administrator, Director of Public Works or County Health Inspector.

(7) Fee receipt from the City Clerk in the amount provided under s. 25.045 of this Code. *(Rev. Ord. 310, 6/22/15)*

4.04 Zoning Permit Granted or Denied: The zoning permit shall be granted or denied in writing by the Zoning Administrator within thirty (30) days except that if said matter involves a conditional use the same shall be referred to the City Plan Commission or if said matter involves an exception or variance the same shall be referred to the Zoning Board of Appeals. If, however, it appears to the Zoning Administrator that the applicant should have applied for a conditional use or variance he shall return the application to the applicant and advise him to apply for a conditional use or variance. If it is not clear to the Zoning Administrator whether the application should have been for a permissible use, a conditional use or a variance, he may refer the same to the City Plan Commission for decision. The permit shall expire within six (6) months unless substantial work has been commenced. No permit shall be issued by the Zoning Administrator if it is the determination of the Zoning Administrator that the granting of the permit would violate or be in conflict with the restrictions hereinafter set forth in this section and if the Zoning Administrator is uncertain as to making a determination as to a violation or conflict, he may refer the same to the City Plan Commission.

4.05 Violations: *(Amended 6/26/2017 -Ord. No. 2017-9)*

(a) It shall be unlawful for any building or structure to be erected, constructed, placed, moved or structurally altered, or for any use of land, premises, building or structure to be established or changed in violation of the provisions of this ordinance.

(b) It shall be unlawful to fail to comply with any standard of this ordinance or

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with any condition or qualification placed upon the issuance of a permit or approval or variance granted, in due course, under this ordinance.

4.06 Penalties: The following forfeitures and penalties are hereby established for violations of this ordinance: (*Amended 6/26/2017-Ord. No. 2017-9*)

(a) For violations specified in section 4.05, a forfeiture of not less than \$10.00 and not more than \$200.00 shall be imposed upon conviction or adjudication, plus the cost of prosecution for each violation.

(b) Each day a violation exists or continues shall be a separate offense.

(c) As a substitute for or an addition to forfeiture actions, the City may seek enforcement of any and all parts of this ordinance by court action seeking injunction orders or restraining orders, or orders for restoration of the site.

4.07 Other Enforcement Provisions.

(a) Nothing in this chapter shall be deemed to prevent private prosecutions of violation pursuant to the Wisconsin Statutes or common law.

(b) Where a conditional use has been approved subject to specified conditions, and where such conditions are not complied with, the Plan Commission may conduct a hearing upon a petition to revoke the conditional use approval. Such hearing and action upon a petition shall follow procedures similar to those followed in considering the granting of such a use. A finding of non-compliance with the conditions originally imposed shall be grounds for revocation.

Amended
19.05
9/12/11
Ord#276

19.05 CONDITIONAL USES

(*Amended with Ordinance #2018-07, 8-13-2018, eff. 8-17-2018*)

5.1 Statement of purpose. 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 at 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 and are of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities. The following provisions are then established to regulate those conditional uses which require special consideration.

5.2 Definitions:

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- (1) “Conditional Use” is a use allowed under a conditional use permit, special exception, or other special zoning permission issued by the City, but does not include a variance.
- (2) “Substantial Evidence” is facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

5.3 Permit: The Plan Commission, after a public hearing, shall, within a reasonable time, grant or deny any application for conditional use. Prior to granting or denying a conditional use, the Plan Commission shall make findings of fact based on evidence presented and issue a determination whether the prescribed standards are met. No permit shall be granted when the Plan Commission determines that the standards are not met, nor shall a permit be denied when the Plan Commission determines that the standards are met. Written findings of fact shall, at a minimum, address the standards enumerated in s. 5.05. All findings shall be based solely upon the evidence within the public record.

5.4 Application: Applications for Conditional Use Permits shall be made in duplicate to the Zoning Administrator on forms provided by the Zoning Administrator’s Office. Such applications shall be forwarded to the Plan Commission on receipt by the Zoning Administrator. Such applications shall include where applicable:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all owners of property located within 100 feet of the property for which the permit is sought.
- (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- (3) Plat of survey prepared by a registered land surveyor showing all the information required for a Building Permit under Section 4.03(3), existing and proposed landscaping, and Utility Services information as required under Section 4.03(4) .
- (4) Additional information as may be required by the Director of Public Works, Building Inspector, Zoning Administrator or Plan Commission.
- (5) Fee receipt from the City Clerk in an amount as provided under s. 25.045 of this Code. (*Rev. Ord 310, 6/22/15*)

5.5 Review and Approval: The City Plan Commission shall review the site plan, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water service information

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as required by this ordinance and the proposed operation in light of the standards specified under s. 5.6. The City Plan Commission shall hold public hearing on the proposed conditional use. A Class 2 public notice of time and place of such hearing shall be published prior to said hearing. Meetings of the Plan Commission shall be held on an as needed basis as determined by the Commission. Applicants shall be charged the fees as provided under s. 25.045 of this Code. The City Clerk shall notify all abutting or opposite property owners, as listed by the applicant in the original application of the time, date and subject matter of the hearing. Failure to comply with this provision shall not, however invalidate any previous or subsequent action on the application. *(Rev. Ord. 310, 6/22/15)*

5.6 Standards:

(1) Except as provided under s. (2), no conditional use shall be granted by the City Plan Commission unless the City Plan Commission shall find that the applicant has provided substantial evidence that all the conditions specified in s. (a) through (e) are met. The Plan Commission may also impose conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate using substantial evidence that all requirements and conditions established by the Plan Commission related to the conditional use are or shall be satisfied. If the applicant meets or agrees to meet all of the requirements or conditions, then the Plan Commission must grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence. Any condition imposed must be reasonable and, to the extent practicable, measurable. Conditions that must be met are:

(a) That the conditional use will not be detrimental or endanger the public health, safety, comfort or general welfare or the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood.

(b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use;

(c) That adequate utilities, access road, drainage and/or necessary facilities or site improvements have been or are being provided.

(d) 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.

(e) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

(2) In appropriate circumstances, the Plan Commission may determine that a conditional use is reasonable in order to accommodate disabled persons. In such a case, the Plan Commission may grant a conditional use permit based on a finding that

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the grant of the conditional use permit provides a reasonable accommodation to disabled persons irrespective of whether all of the conditions specified in s. (1) are met.

5.7 Additional Requirements: Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements, may be required by the City Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.

5.8 No application for a conditional use that has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Building Inspector.

5.9 In any case where a conditional use has not been established within one (1) year after the date of granting the permit for such use, then, without further action by the City Plan Commission, the conditional use or authorization shall be null and void.

5.10 Any conditional use hereafter granted shall thereby remain a conditional use and is to be handled and governed thereafter as a conditional use. The failure of any person receiving a conditional use permit, or such person's successors in interest or assigns, to comply with the requirements of the permit may result, in addition to any other penalty provided by this ordinance, in revocation or modification of the permit by the City Plan Commission after the permittee, or the permittee's successors or assigns, has been given notice of an opportunity to be heard on the alleged noncompliance. The Zoning Administrator shall maintain a record of all conditional use permits issued and applications for which conditional use permits have been denied.

5.11 Appeal. Any person aggrieved by the grant or denial of a conditional use permit may appeal the decision of the Plan Commission to the Board of Zoning Appeals or may appeal to Circuit Court as provided under Wis. Stat. sec. 62.23(7)(de)(5). Appeals to the Board of Zoning Appeals must specify the grounds thereof in respect to the findings of the Plan Commission the reason why the appellant is aggrieved and must be filed with the office of the City Clerk within 20 days of the final action. The City Clerk shall transmit such appeal to the Secretary of the Board of Zoning Appeals. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal and give public notice thereof as well as due notice to the applicant and the appellant(s) and decide the same within a reasonable time. The action of the Plan Commission shall be deemed just and equitable unless the Board of Zoning Appeals by a majority vote of Board members present and voting reverses or modifies the action appealed from. No other entity has jurisdiction to hear any such appeal and the avenue of appeal provided for herein is exclusive."

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19.06 NONCONFORMING USES, STRUCTURES AND LOTS

6.01 Existing Nonconforming Uses:

(1) The lawful nonconforming use of a structure or land existing at the time of the adoption or amendment of this ordinance may be continued although the use does not conform to the provisions of this ordinance.

(2) Only that portion of the land in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this ordinance.

(3) Total lifetime structural repairs or alterations shall not exceed fifty per cent (50%) of the City's assessed nonconforming use unless it is permanently changed to conform to the use provisions of this ordinance.

(4) Substitution of new equipment or additions to present equipment may be permitted by the Zoning Board of Appeals if such equipment does not increase the incompatibility of the nonconforming use with the neighboring uses.

6.02 Abolishment or Replacements:

(1) If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this ordinance. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity, to the extent of more than fifty percent (50%) of its current assessed value, it shall not be restored except so as to comply with the use provisions of this ordinance.

6.03 Existing Nonconforming Structures: The lawful nonconforming structure existing at the time of the adoption or amendment of this ordinance may be continued although its size or location does not conform with the lot width, lot area, yard, height, setback requirements, parking and loading and access provisions of this ordinance; however, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this ordinance, or after a variance has been obtained pursuant to section 14.04 and 14.05 of this chapter. The structure which is nonconforming because of its location in relation to setback requirements may be extended in any direction which is consistent with the setback provisions of this ordinance provided the entire extension shall not exceed fifty percent (50%) of the City's assessed value of the structure at the time of the application for the permit.

6.04 Changes and Substitutions: Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the

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Board of Zoning Appeals has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and became subject to all the conditions required by the Board of Zoning Appeals.

6.05 (1) In any residential district, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel, providing such lot or parcel was of record in the County Register of Deeds Office before the effective date of this ordinance. Such lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this ordinance.

(2) In any zoning district, the owner of two or more adjacent substandard lots which, if combined, would meet the minimum lot size standards for the zoning district in which the lots are located or the more restrictive lot size standards if the lots are located in different zoning districts, shall not be required to replat the lots and may disregard the interior lot line between the lot and elect to treat the lots as one lot under the following conditions:

- (a) The lots shall be treated as one lot for all purposes.
- (b) The exterior lot lines of the platted lots shall be used to determine the limits of the combined lot.
- (c) If the lots are located in two zoning districts, the more restrictive zoning district standards shall apply to the entire combined lot.
- (d) All lots must have been platted before July 1, 1999.
- (e) The Zoning Administrator must be notified prior to any construction that the owner is electing to treat the lots as one. Such an election, once made, is irrevocable.

(3) Where a legal lot or parcel which was of record in the County Register of Deeds Office before January 1, 1992, is determined by a registered surveyor to be smaller than originally appears on the plat of the lot and such determination is solely due to the existence of more precise measuring equipment, improved technology or the use of a different coordinate system, the owner of the lot may rebuild or replace structures that existed prior to January 1, 1992, in the footprint of their prior location on the lot if:

- (a) The impediment to such rebuilding or replacement is that the new survey establishes that the building or structure fails to meet setback requirements that would have been met had the lot been of the size originally shown on the previous plat; or
- (b) The impediment to such rebuilding or replacement is that the new survey establishes that the lot fails to meet the minimum lot size, yard/open space standards or other dimension standards for the zoning district in which the lot is located provided that such standards would have been met had the lot been of the size originally shown on the previous plat; and

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- (c) No other provision of the zoning ordinance prohibits such reconstruction; and
- (d) The rebuilding or replacement of a previously existing structure occurs within one year of the demolition or destruction of the previously existing structure.

19.07 SITE AND USE RESTRICTIONS

7.01 Site Restrictions: The following restrictions and regulations shall apply to the use of all sites in all districts:

(1) All lots shall abut upon a public street, and each lot shall have a minimum frontage of sixty (60) feet. This regulation shall apply to mobile home parks and planned residential developments but shall not apply to the mobile home lots within each mobile home park or units within a planned residential development. This regulation shall also not apply to lots within the C-1 Commercial District.

(2) No lots shall be so reduced that the dimensions and yard requirements imposed by this ordinance cannot be met except under circumstances in which the Board of Zoning Appeals has granted a special exception pursuant to s. 13.04.

(3) No part of the yard or open space required for a given building shall be included as a part of the yard or open space required for another building and no lot shall have more than one principal building except in planned residential developments.

(4) 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.

(5) In platted areas where there are curbed streets cul-de-sacs and irregular shaped lots, the lot width may vary as long as the lot size meets the square foot requirements and building setbacks as set forth in each district. In these platted areas with curved streets, cul-de-sacs and irregular lot sizes, the lots shall have a minimum frontage of forty (40) feet.

7.02 Use Restrictions: The following use restrictions and regulations shall apply:

(1) Except as otherwise provided the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and use of any land shall be in compliance with the regulations established herein for the district in which such buildings

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or land are located.

(2)(a) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings and the ordinary projection of sills, cornices and ornamental features projecting not more than forty-eight (48) inches: except that in commercial areas, permanent awning and its accessory columns or struts may project over the sidewalk to a point not closer to the street than two (2) feet from the vertical projection of the face of the curb. Awnings shall be a minimum of eight (8) feet above the sidewalk. All fences placed along the street must conform to street requirements. On the side and rear property lines the fences may be placed on the property lines.

(b) Privileges in streets.

1. Privileges for an obstruction on sidewalk adjoining businesses on Lincoln Avenue shall be granted only as provided in this section and shall be subject to the following minimum regulations.

a. No vending machines or mechanical purveyors of merchandise are permitted.

b. No saleable merchandise may be left outside of the business overnight.

c. Any obstruction must allow 7 feet of travel area to remain unobstructed on the sidewalk.

2. Application shall be made to the City Council, and the privilege shall be granted only on the condition that by its acceptance the applicant shall become primarily liable for damages to person or property by reason of granting of the privilege, be obligated to remove the same upon ten (10) days notice by the State or the City and waive right to contest in any manner the validity of this action or the amount of compensation charged and that the applicant file such bond as the City Council requires, not to exceed \$10,000 running to the City and such third parties as may be injured, to secure the performance of these conditions.

3. Compensation for the special privilege shall be paid into the general fund and shall be fixed by a Board consisting of the Director of Public Works, City Attorney and Mayor.

4. The holder of such special privilege shall be entitled to no damages for removal of the obstruction and if he or she shall not remove the same upon due notice, it shall be removed at his or her expense.

5. Third parties whose rights are interfered with by the

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granting of such privilege shall have the right of action against the holder of the special privilege only.

6. Subsections 1 to 5 do not apply to public service corporations, or to cooperatives organized under ch. 185 to render or furnish telecommunications service, gas, light, heat or power, but such corporations shall secure permit from the proper official for temporary construction or excavation in a highway and shall be liable for all injuries to person or property thereby.

7. Anyone causing any obstruction to be made contrary to this section shall be liable to a fine of not less than \$25.00 and not more than \$500.00 or to imprisonment in the county jail for not less than 10 days nor more than 6 months, or to both such fine and imprisonment.

(3) Open and enclosed fire escapes may project into a required yard not more than five (5) feet and into a required court not more than three and one-half (3-1/2) feet, provided it be so located as not to obstruct light or ventilation.

(4) Accessory uses and structures are permitted in any district but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; gardening; servant's, owner's, itinerant agricultural laborer's, and watchman's quarters not for rent; private swimming pools; and private emergency shelters. In addition, the following requirements shall apply to all accessory structures:

(a) Accessory buildings, including garages, placed in the rear yard shall occupy no more than 25% of the rear yard. Accessory buildings, including garages, placed in a side yard must meet the front and side yard setback requirements for the zoning district in which they are located.

(b) Accessory buildings, including garages, shall not exceed 80% of the height of the principal structure or 20 feet in height, whichever is greater. The foregoing restriction shall not apply in the commercial and industrial zoning districts.

(c) Accessory buildings, including garages, shall be no closer than 10 feet to the principal structure.

(d) Accessory buildings, including garages, shall not exceed the size of the principal structure.

5) Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, silos, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or

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broadcasting towers, masts or aerials and necessary mechanical appurtenances that are less than 75 feet in height from ground or grade level are hereby excepted from the height regulations of this ordinance and may be erected in accordance with other regulations or ordinances of the City. Conditional use permits may be granted for structures described in this section that are 75 feet in height or taller.

(6) Unclassified or unspecified uses may be permitted by the Zoning Board of Appeals after making a review and provided that such uses are similar in character to the uses permitted in the district.

(7) Temporary uses such as real estate sale, field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Zoning Administrator.

(8) *Repealed with Ord 2016-1, 2/8/16.*

(9) *Repealed with Ord 2016-1, 2/8/16*

(10) No more than 40% of the square footage of the lot shall be covered by structures except in the commercial district. In the industrial district, any proposed coverage of property with structures over 40% is a conditional use and must be approved by the Plan Commission.

(11) Seasonal structures or other similar structures may be permitted by the Zoning Administrator for a period of no more than 60 days within any calendar year.

19.08 PERFORMANCE STANDARDS

8.01 General: The performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. All uses shall give evidence of ability to comply with the following standards before the issuance of a building permit. Continued compliance shall be required during the operation of such uses and activities. No use already established after the effective date of this ordinance shall be so altered or modified as to conflict with or further conflict with the performance standards established in this section.

8.02 Exterior Storage in Residential Districts: All materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying, construction and landscaping materials and equipment currently being used on the premises and the off-street parking of passenger automobiles and pick-up trucks. Boats, trailers and other recreational vehicles, including but not limited to

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campers, canoes, mobile or motor home-type vehicles, jet skis, snowmobiles, and similar items, may be stored on the property provided such items are moved at least once every 365 days. Mobile homes, vehicles and conveyances of any type which are either whole, dismantled or partially dismantled shall not be used for storage of any type in any district except M-2 Heavy Industrial District. Nothing in this section shall be construed to permit the storage or accumulation of junk, junk vehicles or other debris in violation of other sections of the Municipal Code of the City of Fennimore. Nothing in this section shall be construed to permit the occupancy of any recreational vehicle located on residential property other than by occasional, nonpaying guests of the owner or occupant of the property for periods not to exceed 10 consecutive days.

8.03 Refuse: All waste material, debris, refuse, unused construction materials or garbage shall be kept in a closed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds.

8.04 Off-Street Loading: Off-street loading spaces or berths shall be provided in connection with any structure which is to be erected or substantially altered and whose use requires the receipt and dispersal of materials or merchandise by trucks or similar vehicles.

8.05 Traffic Control: Traffic generated by any use shall be controlled in such a manner so as to avoid congestion or traffic hazards on the streets and so as not to create excessive traffic in residential areas especially truck traffic. On site traffic shall be controlled so as to ensure safe and orderly flow throughout the area. Access drives and curb cuts shall not be located closer than ten (10) feet to any intersecting right-of-way lines and shall not be within the limits of corner curved curb and gutter.

8.06 Traffic Visibility: No obstructions, such as structures, parking or vegetation shall be permitted in any district, except in the commercial district, between the heights of two and one-half (2-1/2) feet and ten (10) feet above the plane through the mean curb-grades within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from their intersection. In the case of arterial streets intersecting with other arterial streets, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

8.07 Drainage: No land shall be developed and no use shall be permitted that results in water runoff causing flooding, or erosion on adjacent properties. Such runoff shall be properly channeled into a storm drain, water course, ponding area, or other public facility.

8.075 Construction in Area of Rogers Branch: The basement floor or lowest floor of a structure shall be constructed no nearer than 5 ½ feet above the stream bed of Rogers Branch at the upstream side of the structure and no nearer than 25 feet to the stream bed.

8.08 Landscaping: In all districts except the General Commercial District, all developed areas shall have a landscaped yard along all streets abutting the property. The yard

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shall extend along the entire frontage with the exception of driveways and shall be kept free of all structures, storage and off-street parking.

8.09 Street Trees: No tree shall be planted in the area located on the street right-of-way without a tree planting permit. Applications for a tree planting permit shall be made to the Zoning Administrator and shall include the following information:

- (1) The name and address of the applicant.
- (2) The name of the type of tree which is being proposed for planting and;
- (3) The exact proposed location of the tree in relation to other trees, sidewalks, fixtures and structures. The space between trees shall not be less than the diameter of their total mature spread. The following trees are not allowed within the street right-of-way: Black Locust, Box Elder, Catalpa, Elms, except for Regal Elms and other disease resistant Elm Trees, Poplar, Silver Maple, Willows, fruit trees, nut bearing trees, bass woods, cotton woods and evergreens.

8.10 Maintenance: All structures and properties in all districts shall be so maintained so as not to be unsightly or harmful to health, safety and the general welfare.

8.11 Industrial Standards: Within any "M-1" or "M-2" Industrial District, or within the ID Industrial District, no structure, or premises shall fail to comply with the following performance standards:

- (1) Explosives: All activities involving the storage, utilization or manufacture of materials or products such as TNT, dynamite or any other explosive material or any other material which could decompose by detonation shall not be permitted within the City except upon express and specific authorization of the City Council.
- (2) Vibration: any vibration discernible (beyond property line) to the human sense of feeling for three (3) minutes or more duration in any one (1) hour and any vibration producing an acceleration of more than 0.1 grains or resulting in any combination of amplitudes and frequencies beyond the "safe" range of Table 7, United States Bureau of Mines Bulletin No. 442," "Seismic Effects of Quarry blasting," shall not be permitted within the City except upon the express or specific authorization of the City Council.
- (3) Screening: Any industrial use abutting to a Residential District shall provide and maintain a wall, fence or planting so as to screen and reduce the noise and dust between the two uses and inhibit eye level vision between the residential and industrial areas.
- (4) Industrial Waste Material: Industrial waste shall not be washed into the public sewer nor the sanitary system without first having received approval from the City Council. If said approval is not granted, a method of disposal shall be devised which will not require additional land for continual operation and will not cause a detrimental effect

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to the adjacent land. Should the industrial waste be of a solid form rather than fluid, the storage area shall be so located and fenced as to be removed from public view, and a maximum amount of accumulation determined along with satisfactory method of disposal.

(5) Radioactivity: No operation shall be permitted which causes radioactivity in violation of Title 10, Chapter 1, Part 20, Code of Federal Regulation, "Standards for Protection Against Radiation," dated June 16, 1957, and any subsequent revisions or amendments.

(6) Odor: No emission of odorous gas or other odorous matter in such quantity as to be readily detectable at any point along lot lines without use of instruments shall be permitted.

(7) Toxic or Noxious Matter: No discharge beyond lot lines of any toxic or noxious matter in such quantity as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury or damage to property and/or business shall be permitted.

(8) Glare: No direct or reflected glare shall be detectable from any residential district. If such glare is detectable, adequate buffering by fence, hedge, or wall shall be constructed to alleviate the condition.

(9) Heat: No direct or reflected heat shall be detectable without instrument from any commercial or residential district boundaries. If such heat is detectable, adequate buffering by fence, hedge, or wall shall be constructed to alleviate the condition.

(10) Dust: No solid or liquid particles shall be emitted in concentrations exceeding three tenths (0.3) grains per cubic foot of the conveying gas or air.

(11) Ash: No emission of fly ash in excess of the quantity specified in the following table shall be permitted.

Heat of fuel burned (British Thermal Unit Per Hour)	Fly Ash Rate of Emission (Lbs. per Hour)
1,000,000	1
100,000,000	100
400,000,000	330
1,000,000,000	750
2,000,000,000	1,365
3,000,000,000	1,850

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6,000,000,000	2,950
7,000,000,000	3,200
8,000,000,000	3,410
10,000,000,000	3,750

For heat content between any two (2) consecutive heat contents given in the table, the fly ash limitations shall be determined by means by interpolation.

(12) Smoke: No emission of smoke from any sources, as measured in the Ringelmann Chart published by the United States Bureau of Mines shall be permitted in excess of:

- (a) In commercial districts a density described as Ringelmann No 3 may be emitted for not more than three (3) minutes in any fifteen (15) consecutive minutes.
- (b) In an industrial district a density described as Ringelmann No 3.

(13) Sound: At no point on or beyond the boundary of any lot in an industrial district shall be the sound pressure level resulting from any use or activity whether open or enclosed, (except noises not directly under control of the property user, noises resulting from the construction or maintenance of buildings and facilities, including site preparation and noises of safety signals, warning devices, railroads and airports), exceed the maximum permitted decibel levels for the designated octave band as set forth in the table below.

Octave Band, Frequency in Cycles, Per Second	Sound Pressure Levels in Decibels
0-74	79
75-149	74
150-299	66
300-599	59
600-1199	53
1200-2399	47
2400-4799	41
4800 and over	39

Where an industrial district abuts a district permitting residences, the maximum permitted decibel levels at any point on or beyond the district boundary shall be reduced by six (6) decibels from the maximum permitted level in the table.

8.12 *Repealed with Ordinance No. 2018-07, 8-13-2018, eff. 8-17-2018*

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8.13 Animal Hospital: Animal hospitals shall be located no closer than one hundred (100) feet to any residential district, and shall show that adequate measures and controls shall be taken to prevent offensive noise and odor. No incineration of refuse shall be permitted on the premises.

8.14 Country Club - Golf Course: No building shall be located within one hundred (100) feet of any property line. Swimming pools, tennis courts, and the like shall be located not less than twenty-five (25) feet from any property line and adjoining property in any Residence or Commercial District shall be effectively protected by a wall, hedge and/or screen planting.

8.15 No Animal Feed Yards: No animal feed yards shall be located within the City. This does not eliminate the right of and present farm operation to be continued with limitations hereinbefore provided.

8.155 No Farm Animals: No person shall keep or harbor farm animals, including but not limited to horses, swine, cattle, chickens, fowl, emus, ostriches, sheep, goats or llamas, within the City except in the A-1 Agricultural District.

8.16 Agricultural Processing Plants: Agricultural processing plants within one hundred (100) feet of any Residence District which processes agricultural products produced on the premises or within a contiguous area shall be so located as to provide convenient trucking access with a minimum of interference to normal traffic; shall provide parking and loading spaces; shall show that adequate measures shall be taken to control odor, dust, noise and waste disposal as not to constitute a nuisance and shall show that the proposed source of water will not deprive others of normal supply.

8.17 Drive-In Theaters shall be located only on major or secondary thoroughfares, shall provide ingress and egress so designed as to minimize traffic congestion, shall be located sufficiently distant from any Residence District except the "A-1" Agricultural District or existing dwelling and so screened from such district or dwelling that any noise shall not disturb residents and shall maintain lighted signs and other lights only in such a way as not to disturb neighboring residents.

8.18 Golf Driving Range and Amusement Parks shall be located on major or secondary thoroughfares or non-residential property. Golf driving platforms shall be not less than two hundred (200) feet from any adjacent Residence District except the "A-1" Agricultural District or existing dwelling. A temporary certificate may be granted to be in force for one (1) year only, which certificate may be renewed for a period of one (1) year at the expiration of such certificate, provided all requirements of this ordinance have been and can continue to be complied with.

8.19 Cemetery, Crematory, Mausoleum, Columbarium shall provide entrance on a major street or road with ingress and egress so designed as to minimize traffic congestion, shall provide required off-street parking space and shall provide a minimum six (6) foot high wall or

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minimum three (3) foot thick, six (6) foot high evergreen hedge or provide a minimum twenty (20) feet of permanently maintained planting strip on all property lines abutting any “A-1” Agricultural District or residential street.

8.20 Community Building, Social Halls, Lodges, Fraternal Organizations and Clubs: There shall be no external evidence of any gainful activity, however incidental, nor any access to any space used for gainful activity other than from within the building. Any such use must be located on a major or secondary thoroughfare or be able to provide access without causing heavy traffic on local residential streets.

8.21 Retail Sales for Guests Only: Community buildings, private clubs, lodges, social or recreational establishments may engage in retail sales for guests only, provided that;

(1) There shall be no external evidence of any gainful activity, however incidental, nor any access to any space used for gainful activity other than from within the building.

(2) That there be no harm to adjacent existing or potential residential development due to excessive traffic generation or noise or other circumstances.

8.22 Hospital, Church or other religious or eleemosynary institution shall be located on a major street and shall maintain a ten (10) foot wide minimum landscaped strip on all property lines abutting all Residential Districts.

8.23 Fertilizer plants and yards shall provide automobile parking and truck loading area together with ingress and egress so that odor, dust, noise, and drainage shall not constitute a nuisance to surrounding properties.

8.24 Inflammable Liquid Storage in the Industrial Districts: Above ground storage of materials or products rated as fast burning, or which produce flammable or explosive vapors or gases in quantities over one thousand (1,000) gallons will only be permitted in the Industrial Districts provided that such storage area is not less than three hundred (300) feet distance from any residential or commercial district. Such storage area must be provided with adequate safety devices against the hazard of fire and explosion and adequate fire suppression and firefighting equipment and devices standard to the industry and shall meet the requirements of other applicable City Ordinances.

8.25 Amusement Center, Bowling Alley, Dance Hall and similar places of amusement shall provide parking with ingress and egress designed so as to minimize traffic congestion, shall not be less than twenty (20) feet from any property line, provide a minimum six (6) foot solid board fence or masonry wall separating parking area from abutting residential property and shall show that adequate controls or measures will be taken to prevent offensive noise and vibration. Any of the above uses presently existing may be continued and exceptions may be granted by the Plan Commission to the above provisions in the event of the conversion of any present commercial building to any of the above purposes.

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8.26 **Preschool** or day care center for more than fifteen (15) children shall maintain a minimum six (6) foot high solid fence or a minimum six (6) foot high masonry wall on any property line abutting a residential district. A preschool for more than fifteen (15) children shall be located only on a minimum ten thousand (10,000) square foot lot and shall not develop excessive traffic on local residential streets.

8.27 Temporary tract office in any district shall be located on the property to which it is appurtenant, shall be limited to a six (6) months period at the expiration of which time the applicant may request a further extension of time. Otherwise, the tract office shall be removed at the expense of the owner.

8.28 Wrecking, Junk Demolition, Junk Yards and Scrap Yards: All wrecking, junk demolition, junk yards and scrap yards shall be surrounded by a solid fence or evergreen planting completely preventing a view from any other property or public right-of-way and shall be at least six hundred (600) feet from residential or commercial structures.

8.29 The extractions from or deposits on the earth of rock, stone, gravel, sand, earth, minerals or building or construction materials shall not be construed to be a permitted use in any district established by the ordinance unless and until a zoning permit shall first have been secured therefore, except for the following defined extractions and deposits:

- (1) Excavations for the foundation or basement of any building or for a swimming pool for which a zoning permit and a building permit have been issued, or deposits on the earth of any building or construction materials to be used in a structure for which such zoning permit and building permit have been issued.
- (2) Grading of any parcel of land for a permitted use where no bank is left standing and exposed of more than ten (10) feet in vertical height, or when less than one thousand (1,000) cubic yards of earth is removed from the premises.
- (3) Grading in a subdivision which has been approved by the City in accordance with the City Subdivision Ordinance and any amendments thereto.
- (4) Excavations by any public agency or public utility for the installation, operation, inspection, repair or replacement of any of its facilities.
- (5) Any quarry existing and operating as such on the effective date of this section shall obtain a new use permit and conform to the provisions of this ordinance within one (1) year of the adoption of this ordinance.
- (6) Stockpile of construction and maintenance material by a public agency.
- (7) The City Council shall have the power to grant conditional zoning permits,

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revocable and valid for specified periods of time, to permit extractions from or deposits on the earth of rock, stone gravel and earth, minerals or building or construction materials.

(8) The Zoning Administrator shall make such inspections as he deems necessary or as are required by the City Council to ensure that all work is in accordance with the use permit. All inspection services shall be paid for by the applicant at the actual cost to the City.

(9) The conditions under which a use permit for excavation from or depositing on the earth of said materials may be issued, may include but are not limited to any requirements deemed necessary to protect the public health, safety, comfort, convenience or general welfare including insurance against liability arising from production or activities or operations incident thereto, completion of the work and cleaning up and planting in accordance with approved plans designation of area in which work may be done, designation of the slope to which excavation may be made or the grade of filling, provisions for controlling dust, hours during which operations may proceed, precautions which must be taken to guide safe traffic movements in and around and by said operation, enclosure by fences of exterior boundaries of property to be used, posting of a good and sufficient bond to assure compliance with the use permit and any other conditions deemed necessary by the City Council.

8.30 Vehicle, Equipment and Similar Sales: The parking or placing of vehicles, farm machinery and equipment, boats, snowmobiles, trailers and other, similar items on private property for the purpose of offering such items for sale when the property upon which such items are parked or placed is not used for the sale of such items in the ordinary course of business is prohibited unless the item offered for sale is owned by the person who owns or occupies the premises.

8.31 Attached wireless Communication Facilities

(1) Definitions.

(a) Antenna Array means one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include an omni-directional antenna (rod), a directional antenna (panel) and a parabolic antenna (disc).

(b) Attached Wireless Communications facility (Attached WCF) means an Antenna Array that is attached to an existing building or structure which shall include, but not be limited to, utility poles, signs, water towers, with any accompanying poles or device which attaches the Antenna Array to the existing building or structure and associated connection cables, and any Equipment Facility which may be located either inside or outside the Attachment Structure.

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(c) Equipment Facility means any structure used to contain ancillary equipment for a WCF, which includes cabinets, shelters, and a build out of an existing structure, pedestals, and other similar structures.

(d) FAA means the Federal Aviation Administration.

(e) FCC means the Federal Communication Commission.

(f) FTA means the Federal Telecommunications Act of 1996.

(g) Wireless Communications means any personal wireless service as defined in the Telecommunications Act of 1996, which includes FCC-licensed commercial wireless communications services including cellular, personal communication services (PSC), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

(2) Conditional use permits may be issued for Attached WCFs to be attached to an existing monopole, tower, or structure in the M-1, M-2, C-1 and Institutional Zoning Districts.

(3) Development Standards

(a) Attached WCF shall be designed so as to be compatible with the existing structures and surroundings to the extent feasible. Such requirements shall not interfere with normal functioning of the Attached WCF and may include the use of compatible or neutral colors, or stealth technology.

(b) Attached WCF shall not be artificially illuminated, directly or indirectly, except as may be required by state or federal law or for security of the equipment building. It shall be the Owner's responsibility to meet FAA lighting requirements, if necessary.

(c) Attached WCF shall not display any signage or message of a commercial nature except for an inconspicuous message containing provider identification and emergency telephone numbers.

(d) The Plan Commission may require the Owner to enclose the Attached Structure with a security fence not less than six (6) feet in height.

(4) Environmental Impact. Assessments of environmental impact are required by federal law to be prepared by personal wireless service carriers when the following environmental impacts occur:

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- (a) Facilities are located in officially designated wilderness or wildlife areas.
- (b) Facilities threaten endangered species or critical habitats.
- (c) Facilities affect historic sites or structures.
- (d) Facilities are to be located in floodplains.
- (e) Facilities will significantly change a surface area involving wetlands, deforestation, or water diversions.

Since these assessments are already required by federal law, these provisions are incorporated into this ordinance and certification of compliance with the National Environmental Policy Act (NEPA) (43 U.S.C. Section 4321) must be provided before any permits are issued.

8.32 Building Materials. New building materials shall be used for the foundation, siding, framing and roof of any new building, including accessory structures exceeding 120 square feet in size. Used building materials may be used only to the extent that they meet applicable health, safety and energy standards as required by the Building Inspector.

19.09 OFF STREET PARKING

9.01 Location: All accessory off-street parking facilities required herein and any church parking lot under Section 9.06l of this chapter shall be located as follows:

- (1) Spaces accessory to one and two family dwellings on the same lot as the principal use served.
- (2) Spaces accessory to multiple family dwellings on the same lot as the principal use served or within four hundred (400) feet of the main entrance to the principal building served.
- (3) Spaces accessory to uses located in a business or industrial district; within eight hundred (800) feet of a main entrance to the principal building served.
- (4) There shall be no off-street parking space within three (3) feet of any street right-of-way.
- (5) No off-street open parking area containing more than four (4) parking spaces shall be located closer than fifteen (15) feet from an adjacent lot zoned for

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residential purposes.

- (6) All parking in industrial districts must be off-street parking.

9.02 Access: All industrial and commercial uses which have off-street parking spaces shall have access off drive-ways and not directly off the public street.

9.03 Construction Requirements: Off-street parking and loading areas shall be improved with a bituminous or equally durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the area. These requirements shall also apply to open sales lots for cars, trucks and other equipment.

9.04 Lighting: The lighting for off-street parking shall not be located in any position in which it will blind any automobile driver while using the public streets.

9.05 Truck Parking - Residential Districts: Motor vehicles with the rated capacity greater than 2-1/2 tons shall not be parked or stored in a platted residential district except when loading, unloading or rendering a service.

9.06 Other Parking - Residential Districts: Off-street parking facilities shall be provided in connection with residential areas. The amount of off-street parking spaces shall be in conformance to other provisions contained in this ordinance.

9.061 Parking - Churches Existing on September 1, 1989 in Residential Districts: Off-street parking for churches located and existing in residential districts on September 1, 1989, shall be regulated as follows:

- (1) Off-street parking lots shall be on property across the street from or adjacent to the church.
- (2) The lot shall provide sufficient space to park, at a minimum, forty (40) standard passenger vehicles, exclusive of space required for aisles, driveways and setbacks.
- (3) The lot shall comply with all other provisions of Chapter 19 governing the construction and existence of parking lots.
- (4) No residential property shall lie between any part of the parking lot and the church served.
- (5) The parking lot shall be rectangular in shape unless otherwise specifically permitted by the Plan Commission in issuing a conditional use permit.

9.07 Parking - C-1 Commercial District: Off-street parking in the C-1 Commercial District shall be regulated as follows:

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(1) Off-street parking should be provided where facilities are available.

(2) No new building or facility should be built in the central business district without off-street parking if it is possible to provide for such parking. The decision as to whether or not parking areas are available must be made by the Zoning Administrator with appeal to the Zoning Board of Appeals.

9.08 Signs: Signs which are necessary for the orderly operation of traffic movement within parking areas and loading areas shall be permitted in addition to others permitted in this ordinance.

9.09 Parking Space Requirements: This section applies to every district except the CD-1 and CD-2 Commercial Districts.

(1) Single-Family Dwelling: Must provide at least one (1) off-street parking space and sufficient parking space to accommodate all vehicles owned by the occupants of the building.

(2) Multiple Dwellings:

(a) All multiple dwellings, except multiple dwellings for the elderly, must provide two (2) parking spaces for each living unit therein. There must be at least one (1) off-street parking for every two (2) roomers, lodgers or borders.

(b) For all multiple dwellings for the elderly there shall be a minimum of one (1) parking stall for each living unit. Occupancy of multiple dwelling for the elderly shall be restricted to residents 55 years of age or older. If a multiple dwelling for the elderly is granted a zoning permit under this ordinance and it later leases or rents 25 percent or more units to residents under the age of 55, the multiple dwelling unit shall no longer be considered a multiple dwelling for the elderly and it must immediately provide for the number of off-street parking spaces required under Section 9.09(2)(a) of this ordinance.

(3) Motel, Motor Hotel, Motor Court or Hotel: At least one (1) parking space for each guest room provided in the design of the building, plus one for each employee.

(4) School - High School through College: At least one (1) parking space for each seven (7) students based on design capacity plus one (1) for each three (3) classrooms.

(5) Elementary Schools: Must provide adequate parking for all staff in the elementary schools.

(6) Churches, Auditoriums, Undertaking Establishments: At least one (1) parking space for each three and one-half (3-1/2) seats based on the design capacity of the

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main assembly hall.

(7) Theater, Athletic Field: At least one (1) parking space for each six (6) seats of design capacity.

(8) Community Center, Post Office, YMCA, YWCA, Physical Cultural Studio, Pool Halls, Libraries, Private Clubs, Lodges, and Museums: Ten (10) spaces plus one (1) for each three hundred (300) square feet of floor area in excess of two thousand (2000) square feet of floor area in the principal structure.

(9) **repealed 9/12/11. Ord. No. 276**

(10) **repealed 9/12/11. Ord. No. 276**

(11) Day Nurseries: At least four (4) off-street parking spaces plus one (1) for each five hundred (500) feet in excess of one thousand (1000) square feet of floor space in the principal structure.

(12) Office Buildings and Professional Offices Having Less Than 6,000 Square Feet of Floor Area: One (1) parking space per one hundred and fifty (150) square feet of floor area.

(13) Office Buildings and Professional Offices Having 6,000 Square Feet or More of Floor Area, Banks, Savings Institutions: At least one (1) parking space for each two hundred (200) square feet of floor area.

(14) Drive-In Eating Establishments: At least one parking space for each fifteen (15) square feet of floor area in the building.

(15) Bowling Alley: At least six (6) parking spaces for each alley.

(16) Motor Fuel Stations and Motor Fuel Station Convenience Stores: A minimum of four (4) outside parking spaces plus three (3) additional outside parking spaces for each enclosed service stall shall be provided. One (1) additional outside parking space shall be provided for each one hundred and fifty (150) square feet of floor area devoted to retail sales in a motor fuel station convenience store.

(17) Retail Sales and Service Establishments: At least one (1) off-street parking space for each one hundred (100) square feet of net floor area.

(18) Restaurants, Cafes, Bars, Taverns, Night Clubs: At least one (1) for each eighty (80) square feet of public floor area.

(19) Furniture Store, Appliance Store, Warehouse Under 15,000 Square Feet of Floor Area, Auto Sales, Grain Houses, Kennels and Studios: At least one (1) parking

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9.09 (14)
09/12/11
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space for each five hundred (500) square feet in excess of the first five hundred (500) square feet of floor area in the principal structure.

(20) Auto Repair-Major, Bus Terminals, Taxi Terminals, Boat and Marine Sales, Bottling Companies, Shop for Trade Employing Six (6) People or Less, Garden Supply Stores, Building Material Sales: At least six (6) off-street parking spaces, plus one (1) additional space for each eight hundred (800) square feet of floor area over one thousand (1000) square feet.

(21) Public Auction House, Golf Driving Range, Miniature Golf, Trampoline Center and Similar Uses: At least fifteen (15) off-street parking spaces, plus one (1) additional space for each three hundred (300) square feet of floor area over two thousand (2000) square feet.

(22) Skating Rinks, Dance Halls: At least forty (40) off-street parking spaces plus one (1) additional space for each fifty (50) square feet over two thousand (2000) square feet.

(23) Manufacturing, Fabrication or Processing of a Product or Material: At least four (4) off-street parking spaces, plus one (1) additional space for each eight hundred (800) square feet of building. One (1) additional off-street parking space shall be provided for each twenty-five hundred (2500) square feet or fraction thereof of land devoted to outside storage.

(24) Warehouse Over 15,000 Square Feet of Floor Area, Storage Handling of Bulk Goods: At least one (1) for each two thousand (2,000) square feet of floor area.

9.091 No parking lot shall be constructed or reconstructed unless and until a Building Permit is issued. Applications for a permit shall be submitted with two (2) copies of plans for the development and construction of the parking lot. Adequate ingress to the parking lot shall be provided and all parking spaces shall be provided adequate access by means of] maneuvering lanes. Provision of adequate ingress and egress shall receive review and approval of the Director of Public Works for the City or such other officials as may be designated by the City Council. The minimum size of a parking lot shall be determined by the measurements as set out in Addendum 1 entitled "Comparative Dimensions for Different Parking Angles," said Addendum 1 is hereby attached and incorporated as a part of this ordinance. *(Created Ord 2016-1, 2/8/16)*

9.092 All open off-street automobile parking areas either created or redesigned and rebuilt subsequent to the adoption of this ordinance, containing two (2) or more rows of parking stalls and an area of 10,000 square feet or more, shall provide and maintain canopy type shade trees along with other forms of vegetation hardy to this region, around the perimeter of

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the parking lot. *(Created 2016-1, 2/8/16)*

9.10 Joint Facilities: Required parking facilities serving two or more uses may be located on the same lot or in the same structure provided that the total number of parking spaces furnished shall not be less than the sum of the separate requirements for each use, during any peak hour parking period when the parking facility is utilized at the same time by two or more uses.

Conditions required for joint use:

(1) The proposed joint parking space is within five hundred (500) feet of the use it will serve.

(2) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

(3) A properly drawn legal instrument approved by the City Council, executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the City Clerk. Said instrument may be a three-party agreement including the City and all private parties involved.

19.10 SIGNS

10.01 Sign Permit: Except for those signs specifically permitted under this section to be erected without a Building Permit, no sign shall hereafter be located erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a Building Permit. The sign shall also meet all the structural requirements of the Building Code. Signs which may be erected in any zoning district without a permit are identified as follows:

(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 two (2) square feet located on the premises.

(3) Memorial Signs, tables, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

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(4) Official Signs, such as traffic-control, parking restrictions, information and notices.

(5) Temporary Signs when authorized by the Zoning Administrator for a period not to exceed thirty (30) days.

10.02 Authorized Signs - Residential Districts: All signs are prohibited in all Residential Districts except the following:

(1) Signs over Show Windows or Doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.

(2) Bulletin Boards for public, charitable or religious institutions not to exceed 42 square feet in area, including all masonry and support.

(3) Signs in connection with home occupations shall be less than six (6) square feet, and in no case shall it be nearer than six (6) feet to any property line. The top of the sign shall not be located outside the requirements for vision clearance specified elsewhere but in no case shall it be construed so as to obstruct the vision of any motorist.

10.03 Authorized Signs Commercial and Industrial Districts: Signs are permitted in all Commercial and Industrial Districts subject to the following restrictions:

(1) Wall Signs placed against the exterior walls or building shall not extend more than six (6) inches outside of a building's wall surface, shall not exceed two hundred (200) square feet in area for any one premise.

(2) Projected Signs fastened to, suspended from or supported by structures shall not exceed fifty (50) square feet in area for any one premise; shall not extend more than six (6) feet into any required yard; shall not extend more than six (6) feet into any public right-of-way; shall not be less than ten (10) feet from side lot lines; shall not exceed a height of twenty-five (25) feet above the mean centerline street grade; shall not be less than ten (10) feet above the sidewalk and shall not be less than fifteen (15) feet above a driveway or an alley.

(3) Ground Signs shall not exceed twenty (20) feet in height above the mean centerline street grade and shall meet all yard requirements for the district in which they are located except the commercial district and highway commercial district. No one ground sign shall be greater than two hundred (200) square feet in area with the total area of all ground signs on one premise not to exceed four hundred (400) square feet. Not more than one main ground sign shall be permitted on each street abutting the premises. In addition to the above restrictions, the following restrictions shall apply to signs located along highways in the highway commercial and industrial districts:

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(a) There shall be only one (1) free-standing ground sign per lot regardless of whether such sign serves the business located on that lot or another business. Traffic flow signs shall not be counted in determining compliance with this restriction.

(b) The maximum height to top of any sign shall not exceed twenty (20) feet above the mean centerline street grade and shall not exceed twenty (20) feet in width.

(c) No sign may be placed closer than two hundred (200) feet to any other sign located along the same side of the highway.

(d) The setback of all signs shall be a minimum of ten (10) feet from the property lines or the State Highway setback requirement, whichever is greater.

(4) Roof signs shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which they are located, and shall not exceed two hundred (200) square feet on all sides for any one premise.

(5) Combination of any of the above signs shall meet all the requirements for the individual sign.

(6) Decorative Murals may be allowed on building exteriors but such mural shall not advertise goods or services. Detailed plans and drawings of any murals proposed must be submitted to and approved by the Plan Commission and the Common Council.

(7) Directional and Informational signs: In highway commercial and industrial districts, directional and informational signs are subject to the following regulations:

(a) The maximum area of the sign shall be ten (10) square feet.

(b) The maximum height to the top of the sign shall not exceed five (5) feet above the mean centerline street grade.

(c) The sign shall be located no nearer than twenty (20) feet to any intersecting street and shall in all cases be set back a minimum of eight (8) feet from the curb.

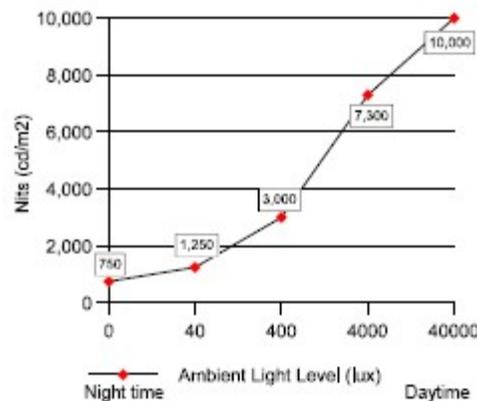
(8) Electronic Message/Digital Signs.

(a) Electronic message/digital signs may be allowed upon the review and approval of a sign permit by the Zoning Administrator upon consideration of the following:

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(1) Signs may be illuminated provided, however, that the surface/face illumination of any sign shall not exceed the levels shown in Figure 1 below for different conditions of ambient light. Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been preset not to exceed the above illumination levels, and the preset intensity level is protected from end user manipulation by password protected software or other method approved by the Zoning Administrator. Such an illuminated sign shall be equipped with a sensor and/or timer or other device approved by the Zoning Administrator to automatically adjust the day/night light intensity levels in accordance with Figure 1 below.

Figure 1 - Maximum Sign Brightness with Varying Ambient Light



- (2) Routine messages and digital images shall not repeat in intervals of less than 4 seconds. Transition between messages are permitted but such transitions may only fade, scroll, travel or reveal and the transition shall not exceed a duration of two seconds.
- (3) No traveling message signs shall be permitted. A traveling message is defined as a message transition where the message that is leaving or appearing appears to move vertically or horizontally across the display surface and does not stop (e.g. a sentence that runs across the screen, one word at a time, without stopping).
- (4) Digital images must be stationary.
- (5) No attachments to the principal sign are allowed, such as temporary signs.
- (6) The Zoning Administrator must find that the character of the sign is compatible with the general area, and that limited visual impacts will occur to

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nearby residential areas prior to approving such signs.

- (b) Time and temperature signs shall be allowed subject to compliance with 10.03(8)(a).
- (c) Illuminated price or rate panels for hotel/motel and motor fuel which change no more than once daily shall be allowed subject to compliance with 10.03(8)(a).
- (d) Rotating signs shall be prohibited.
- (e) Multiple message signs or tri-vision signs whose message is on triangular louvered facings and is changed by electronic rotation of the louvers shall be prohibited.

10.031 Off-premises signs-Lincoln Avenue. Off-premises sign advertising businesses located within the City limits of the City of Fennimore are permitted on corner lots on Lincoln Avenue subject to the following restrictions: No sign shall exceed 25 square feet in area nor be more than 8 feet in height nor less than 3 feet in width; there shall be no more than 4 signs per intersection and no more than 1 sign at each corner. The business advertised must be located on the street where the sign is located.

10.04 Signs Facing Residential Districts: No sign except those permitted in Subsection 10.02 above shall be permitted to face a Residential District within one hundred (100) feet of each district boundary.

10.05 Signs Shall Not Resemble Traffic Signs: Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

10.06 Signs Prohibited on Public Right-of-Way Except with Temporary Permit: Except for traffic control, all signs are prohibited within the public right-of-way or easements except that a conditional permit to locate signs and decorations on or within the right-of-way may be granted for a specified time not to exceed sixty (60) days and they shall be in conformance to the applicable requirements of this ordinance.

(1) Except for traffic control and signs permitted under sub. (2), all signs are prohibited within the public right-of-way or easements except that a conditional permit to locate signs and decorations on or within the right-of-way may be granted for a specified time not to exceed sixty (60) days and they shall be in conformance to the applicable requirements of this ordinance.

(2) A special use permit to locate directional or informational signs on streets

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may be granted to local governmental entities to guide people to facilities owned or operated by such entities which are located in the City provided such signs meet the requirements of s. 10.05 of this code, do not exceed an area of 3 square feet in size, except for city-owned Industrial Park and welcome signs and further provided that the applicant has obtained any permit required by the Wisconsin Department of Transportation.

10.07 Illuminated Flashing Signs Prohibited: Illuminated flashing signs or devices shall not be permitted in any district. Flashing signs are those which change their appearance more than once every four seconds. Chasing lights shall not be permitted.

10.08 Signs Shall Be Securely Fastened: Except for temporary signs erected for a period of less than thirty (30) days, signs shall not be attached by adhesive to a building or fence. Signs shall be on separate frame or shall be painted on or securely fastened directly to the building or fence or structure.

10.09 Direction of Light Regulated: The source of light for any illuminated sign shall not be directed either into any street or onto any property used or zoned for residential purposes.

10.10 Condition of All Signs: All signs in all districts must be kept in a safe, neat and readable condition.

10.11 Nonconforming Signs: Signs lawfully existing at the time of the adoption or amendment of this ordinance may be continued although the use, size or location does not conform to the provisions of this ordinance. However, it shall be deemed a nonconforming use or structure; and may not be extended and may not be restored if damaged more than fifty per cent (50%).

19.11 PLANNED RESIDENTIAL UNIT DEVELOPMENT

11.01

(1) Planned unit residential developments consisting exclusively of dwelling units are permitted in the R-3 Multi-Family Residential District and the A-1 Agricultural District as conditional uses. The planned residential unit development will allow for flexibility of overall development design **and** 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 this Chapter.

(2) The unified and planned development of a site in a single, partnership or corporate ownership or control or in common ownership under Chapter 703 of the Wisconsin Statutes (condominiums) is permitted as a conditional use under this section.

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(3) Planned residential developments shall not exceed 4 dwellings units per structure.”

11.02 “All of the district requirements of a residential district as would be imposed upon physically identical developments shall be applicable to a Planned Residential Unit Developments insofar as possible and consistent with the terms of this section.”

11.03 The original application shall be as follows: a preliminary plan shall be submitted with the original application. In addition to meeting the requirements of Subsection 5.04 above, this preliminary plan shall show the overall plan for development; including grading, landscaping, exterior design and location of access roads, streets, sidewalks, parking and open spaces. There shall also be fee receipt from the City Clerk in the amount of Twenty-five Dollars (\$25.00). In addition the following data shall be summarized and attached:

- (1) Total land area (square feet);
- (2) Total number of living units;
- (3) Total floor area on all floors of proposed buildings measured by outside walls multiplied by number of floors;
- (4) Total building area at ground level including garages, carports and other community facilities;
- (5) Total uncovered open space including paved areas in streets, walks and driveways;
- (6) Total recreation space defined as total open space minus paved areas in streets, walks and driveways but including tennis courts, swimming pools and floor area of recreation facilities. There shall be a minimum of fifteen per cent (15%) or 25,000 square feet , **whichever is less**, set aside from the total development for recreation area.
- (7) Total occupant car spaces defined as off-street parking spaces without time limit.

11.04 Approval or Denial of Application: The City Council shall in writing and giving reasons for its actions, approve or tentatively approve with suggestions for revisions or deny the original application within ninety (90) days. In the event that the original application is denied the applicant must resubmit an original application to receive consideration. In the event the City Council approves or tentatively approves with suggestions for revision, the applicant shall submit a final plan for final approval within six (6) months. After six (6) months the applicant must resubmit an original application in order to be eligible for further consideration.

11.05 Public hearings on final applications shall be held within ninety (90) days of the receipt of the final application.

11.06 Final plans for the development shall be submitted within six (6) months after favorable action by the City Council. In granting the application, the City Council after receiving the recommendation of the Plan Commission, shall make the following determinations based on the final plan:

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- (1) That the tract to be developed is at least five (5) acres if located in an A-1 District or 7,200 square feet if located in an R-3 District;
- (2) That the tract to be developed is in single or corporate ownership;
- (3) That the height of the proposed structures conforms to the maximum height of buildings in the A-1 District.
- (4) That a certificate attested to by the Consulting Engineer showing the availability of adequate public sewer and water is present;
- (5) That landscaping and grading will be done to assure adequate drainage;
- (6) That the streets to be provided will assure a traffic circulation pattern which is consistent with the design standards of sec. 20.20 of this Code for residential streets. All streets must comply with the official city street map and street ordinances.
- (7) That there will be a minimum number of conflicts between pedestrian and vehicular traffic;
- (8) That the design of open spaces and housing will provide both easy access and privacy;
- (9) That no structure which contains residential units will be more than two hundred (200) feet from a street, parking area or other right-of-way on which fire trucks may be operated;
- (10) That adequate lighting will be provided;
- (11) That the final plans include the planting of adequate trees and shrubs where not already present;
- (12) That the design of the development and the structures within the development shall be in harmony with existing surroundings and not detrimental to the character of the neighborhood.
- (13) That the applicant has bonded himself and his contractor(s) to provide the improvements shown on the plans;
- (14) That in a planned unit residential development adequate deed restrictions running in favor of the City or an autonomous homeowner or condominium association and individual home or condominium owners for the proper maintenance, care, and preservation of the exterior design, all common structures, facilities, utilities, access and open spaces by the original and all subsequent owners of property within the development.
- (15) That the development is consistent with the City's master/comprehensive land use plan.

11.07 In reviewing original and final plans and applications the City Council may seek technical assistance from such **resources** as it deems necessary.

11.08 Any modifications in the original plan shall be made only by agreement between the developer and the City Council.

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19.12 MOBILE HOMES

- 12.01 Mobile Homes Prohibited Except in Mobile Home Parks or Mobile Home Subdivisions: No mobile homes shall be parked in any lot except in a mobile home park or mobile home subdivision. Mobile home parks shall be permitted only in zoning districts where the requirements for that district specifically permit mobile home parks.
- 12.02 Mobile Home Parks must conform to State Regulations: The mobile home park shall be in conformance to applicable portions of the Wisconsin Administrative Code.
- 12.03 Mobile Home Park Plans: A plan for the development of the entire area shall be presented to the City for review and approval even though only a portion of the area is to be developed at the time.
- 12.04 Mobile Home Park Area Requirements: The proposed development shall occupy a minimum of two (2) acres and shall be comprised of not less than ten (10) units.
- 12.05 Mobile Home Park Requirements: There shall be a maximum of six (6) units per gross acre of mobile home parking area. A space for each unit shall be at least fifty (50) feet by one hundred (100) feet. Each home shall be a minimum of ten (10) feet from side and back lot lines. Each home or accessory building or addition shall be set back a minimum of twenty-five (25) feet from the right-of-way line of the abutting access streets or roads for the respective lot.
- 12.06 Perimeter of Mobile Home Parks: There shall be a strip of land at least twenty-five (25) feet in width around the entire perimeter of the park where no development or mobile home lot or recreation areas will be permitted. This strip of land shall be provided with evergreen type trees, a tall hedge a minimum of six (6) feet high, or a fence that will screen the view from all areas surrounding the mobile home park. This screening will be required around all mobile home parks.
- 12.07 Mobile Home Park Recreation Space: Recreation areas will be provided for each mobile home park. The recreation areas shall provide a minimum of one hundred (100) square feet per mobile home with each recreation area to be a minimum of two thousand five hundred (2,500) square feet. The recreation area shall be centrally located and shall have safe access from the mobile home lots.
- 12.08 Roads and Driveways in Mobile Home Parks: Access roads and parking spaces must be incorporated into the proposed site plan. Entrance or entrances to the mobile home park shall be a minimum of thirty-six (36) feet wide travel way and

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forty-five (45) feet right-of-way and shall be located and designed so as to provide safe access to the mobile home park and allow free movement of traffic on adjacent streets. Each mobile home lot shall have a driveway or road access to the public street or private drive. This access shall be no longer than six hundred (600) feet between intersections and have a minimum width of thirty-six (36) feet. Dead end streets shall have a turn around with an outside diameter of seventy-six (76) foot width of travel way. All streets, internal roads and parking areas shall be hard surfaced with either concrete, bituminous or treated gravel materials.

- 12.09 Parking in Mobile Home Parks: There shall be a motor driven vehicle parking area at least twenty (20) feet by twenty (20) feet provided for each lot.
- 12.10 Landscaping Mobile Home Parks: All exposed ground surface shall be covered with either hard surface or with vegetative growth.
- 12.11 Sewers and City Water: The mobile home park shall be so laid out that no mobile unit shall be permitted to be parked for purposes of human habitation unless such unit is provided with city sanitation sewers and city water supplies. No mobile home unit shall be parked in a park outside of a designated space.
- 12.12 Electric Outlets: Every mobile home park space shall be furnished with an electric service outlet. Such outlet shall be equipped with an externally operated switch or fuse of not less than thirty (30) ampere capacity and a heavy duty outlet receptacle. Electrical outlets shall be weatherproof and no power line shall be less than fifteen (15) feet from above ground.
- 12.13 Water Supply: An adequate supply of pure water furnished through a pipe distribution system connected directly with the city public water main shall be furnished for drinking and domestic purposes in all parks for each mobile home unit.
- 12.14 Separate Facilities Required: Every mobile home park shall be so designated to require each mobile home unit to be an independent unit providing for its own toilet, lavatory and showers. Each unit shall supply its own hot water and, as is herein provided, for its own water supply and sanitary sewer disposal. There shall be no separate buildings provided for toilets, showers, lavatories or sinks.
- 12.15 City Sewer Connections in Mobile Home Parks: All wastes from showers, toilets, lavatories, etc., shall be discharged into a sewer system extended from and connected with the public sewer system. Every space shall be designed to provide such sewer connections. All such sewer connections shall comply with the state and city plumbing code.
- 12.16 Walkways: All walkways within such parks shall be graveled or paved and well lighted at night.

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- 12.17 Mobile Home parks to be used Only for Residential Purposes: No part of any mobile home parks shall be used for nonresidential purposes except such uses that are required for the direct servicing and wellbeing of park residents, and for the management and maintenance of the park. No part of any mobile home park shall be used for the storage or sale of mobile homes.
- 12.18 Mobile Home Subdivision consisting exclusively of mobile homes shall be permitted only in zoning districts where the requirements for that district specifically permit mobile home parks. Each lot on which a mobile home is located in this subdivision shall be owned by the occupants of each individual mobile home unit. The purpose of this subsection is to provide an area or areas in which lots may be purchased for the purpose of parking and occupying a mobile home.
- (1) The lot for each mobile home unit shall be a minimum of 7,200 square feet with a minimum of forty (40) feet frontage. Each mobile home shall be a minimum of ten (10) feet from side and back lot lines. Each mobile home or accessory building or additions shall be set back a minimum of twenty (20) feet from the right-of-way line of the abutting access streets or roads for the respective lot.
 - (2) The subdivision mobile home tract to be developed must be at least five (5) acres. No more than one (1) mobile home unit may be parked on each lot.
 - (3) Applications: The original application for the mobile home subdivision shall be as follows: a preliminary plan shall be submitted with the original application. In addition to meeting the requirements of Subsection 5.04 above, this preliminary plan for the mobile home subdivision shall show the overall plan for development; homes, lots, all common structures, facilities, utilities, access roads, streets, sidewalks, parking and open spaces. In addition the following data shall be summarized and attached:
 - (a) Total land area (square feet).
 - (b) Total number of mobile home units.
 - (c) Total number of lots for mobile home units.
 - (d) Total uncovered open space.
 - (e) Total recreation space - the total recreation space shall be a minimum of one hundred (100) square feet per mobile home

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with each recreation area to be a minimum of 2,500 square feet.

- (f) Total occupant car spaces defined as off-street parking spaces - there shall be a minimum of one (1) off-street parking space per lot and sufficient parking space to accommodate all vehicles owned by occupants of the mobile home.
- (4) The application for a mobile home subdivision shall include all of the information required in Section 4.03 and the mobile home subdivision shall comply with all of the other requirements applicable to the district in which the mobile home subdivision is located and shall also comply with all of the fire, building or electrical codes and applicable subdivision regulations.
- (5) The original application for the mobile home subdivision shall be submitted to the City Council for approval. The City Council shall in writing and giving reasons for its actions, approve or tentatively approve with suggestions for revisions or deny the original application within ninety (90) days of its submission. In the event that the original application is denied the applicant must resubmit an original application to receive consideration. In the event the City Council approves or tentatively approves with suggestions for revision, the applicant shall submit a final plan for final approval within six (6) months. After six (6) months the applicant must resubmit an original application in order to be eligible for further consideration.
- (6) Public hearings on final application shall be held within ninety (90) days of receipt of the final application.
- (7) Final plans shall be submitted within six (6) months after favorable action by the City Council. The City Council shall make the final determination on the approval of the final plan for the mobile home subdivision.

19.13 EXCEPTIONS AND MODIFICATIONS

13.01 Side and Rear Yard: Buildings in the commercial district may be excluded from side and rear setback requirements if party walls are used and if the adjacent buildings are constructed as an integral unit. Party walls must be of two-hour fire resistant construction or as set forth by the Industrial Safety and Building Code.

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13.02 Rear Yards: In Commercial or Industrial Districts rear yard requirements on properties abutting public alleys or railroad tracks may be waived.

13.03 Front Setbacks: Where adjoining structures existing at the time of this ordinance have a different street setback from that required, the Plan Commission shall determine the necessary street yard setback in such cases. However, in no case shall a building be required to set back more than sixty (60) feet, except where an Industrial District is adjacent to a Residential District.

13.04 Division of Lots:

(1) Where, at the time a reduction in lot size is proposed by a property owner, the sole impediment to such reduction is that a detached accessory structure encroaches on a side or rear yard setback along the proposed new lot line, the Board of Zoning Appeals may grant a special exception to the terms of s. 7.01(2) by waiving or reducing the applicable yard setback to enable the property owner to retain the structure. The grant of the special exception shall cause the structure to become a legal nonconforming structure subject to the requirements of Section 19.06 at such time as the Common Council permits the division of the lot.

(e) Where at the time a reduction in lot size is proposed by the property owner, the sole impediment to such reduction is that a survey is completed by a registered surveyor showing that the lot size is smaller than originally appears on the plat of the lot, and such determination is solely due to the existence of more precise measuring equipment, improved technology or the use of a different coordinate system, the Zoning Administrator may waive or reduce (where the lot size is smaller by 12 linear inches or less) or the Board of Zoning Appeals may grant a special exception (where the lot size is smaller by more than 12 linear inches) to the terms of s. 7.01(2) by waiving or reducing the minimum lot size standards, yard/open space requirements, other dimension standards or setbacks for the zoning district in which the lot is located to enable the property owner to divide the lot provided the conditions described in this section have been met. The grant of the waiver or special exception shall cause the structure to become a legal lot at such time as the Common Council permits the division of the lot. The conditions that must be met in order for this subsection to apply are as follows:

- (a) The Lot to be divided must be a single lot platted prior to January 1, 1992.
- (b) The lot must appear of record on a subdivision plat, assessor's plat or other plat recorded in the County Register of Deeds office prior to January 1, 1992.
- (c) The survey must be completed by a registered surveyor after

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January 1, 2004.

- (d) Only one of the lots created as a result of the reduction in lot size will be eligible for the waiver or exception created herein.
- (e) If one portion of the lot to be divided is occupied by a principal structure, only a vacant lot or lots created through the division will be eligible for the waiver or exception created herein.

13.05 Municipal Utility Structures: Utility structures owned and/or leased by the City of Fennimore (including but not limited to electric transmission facilities, water towers, well houses, and other, similar structures) that are necessary for the operation of City utilities that are or may be located in the M-1 or M-2 Zoning District are exempt from the provisions of this chapter.

19.14 BOARD OF ZONING APPEALS

14.01 Board of Appeals: A Board of Appeals shall be appointed as specified in s. 62.23(7)(e), Wis. Stats. The members shall serve without compensation and shall be removable by the Mayor for just cause upon written charges and after public hearing. The Board of Appeals shall make and file in the office of the City Clerk its own rules and procedures consistent with Wisconsin Statutes. The Board of Appeals shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement decision, or determination made by the Zoning Inspector.
- (2) To hear and decide special exceptions to the terms of this ordinance upon which the Board of Appeals is required to pass.
- (3) To authorize, upon appeal in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done; provided, however, that no such action shall have the effect of establishing in any district a use or uses not permitted in such district.
- (4) To permit the erection and use of a building or premises in any location subject to appropriate conditions and safeguard in harmony with the general purposes of this ordinance, for such purposes which are reasonably necessary for public convenience and welfare.

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(5) The Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirements, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Inspector. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass, or to effect any variance in the requirement of this ordinance. The grounds of every such determination shall be stated and recorded. No order of the Board of Appeals granting a variance shall be valid for a period longer than six (6) months from the date of such order unless the Building Permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.

14.02 Appeals and Variances: Any person aggrieved or any officer, department or board of commission of the City affected by any decision of the Zoning Administrator under this chapter may appeal to the Zoning Appeal Board by filing a notice of appeal with the Zoning Administrator and with the Board specifying the grounds of appeal within thirty (30) days after the decision or action complained of. The Board of Appeals, after a public hearing, may determine and vary the regulations of this ordinance, in harmony with their general purposes and intent only in the specific instances hereinafter set forth; where the Board of Appeals makes findings of fact in accordance with the standards hereinafter prescribed and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this ordinance.

14.03 Application for Variance and Notice of Hearing: An application for a variance shall be filed in writing with the Building Inspector. The application shall contain such information as the Board of Appeals may, by rule, require. Notice of the time and place of such public hearing shall be published at least once in a newspaper of general circulation in the City and also by mailing notice thereof to the private parties in interest, said publication and mailing to be made at least ten (10) days prior to the date of the hearing. The Board shall thereafter reach its decision within ninety (90) days from the filing of the application. Applicants shall be charged the fees as provided under s. 25.045 of this Code. (*Rev. Ord. 310, 6/22/15*)

14.04 Standards for Variance: The Board of Appeals shall not vary the regulations of this ordinance, as authorized in section 14.03 above, unless it shall determine based upon the presentation made to it by the person seeking the variance and the person seeking the variance shall have the burden and duty to establish to the satisfaction of the Board of Appeals that:

(1) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved or because of the present shape or structure of the building or buildings existing on the property at the time of the petition for the variance and unnecessary hardship or practical difficulty would result to the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;

(2) The purpose of the variance is not based exclusively upon a desire to make

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more money out of the property;

(3) The practical difficulty or unnecessary hardship is caused by this ordinance and has not been created by any person presently having an interest in the property;

(4) The granting of a variance will not be detrimental to the public welfare or injurious to other property or improvement in the neighborhood in which the property is located, which determination, may, in part, be based upon objections voiced by surrounding landowners at the public hearing for said variance;

(5) The proposed variance will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets or impair the vision of drivers on the public streets or pedestrians walking along public streets or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood, or encroach upon utility easements; and

(6) The proposed variance is reasonable for the accommodation of persons with disabilities.

(7) In addition to the presentation made by the person requesting the variance, the Board of Appeals shall consider any comments, criticism or objections made by any person appearing at the hearing on the petition for variance.

(8) The Board of Appeals may impose such conditions and restriction upon the premises benefited by a variance as may be necessary to comply with the standards established in this section.

14.05 Authorized Variances: Variances from the regulations of this ordinance shall be granted by the Board of Appeals only in accordance with the standards established in Section 14.04 above and may be granted only in the following instances and in no others:

(1) To permit any yard or setback less than a yard or a setback required by the applicable regulations;

(2) To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than eighty per cent (80%) of the required area and width;

(3) To permit the same off-street parking facility to qualify as required facilities for two or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;

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(4) To reduce the applicable off-street parking or loading facilities required by not more than one (1) parking space or loading space, or twenty percent (20%) of the applicable regulations, whichever number is greater; and

(5) To increase by not more than ten percent (10%) the maximum gross floor area of any use so limited by the applicable regulations.

19.15 CHANGES AND AMENDMENTS; REPLATS

15.01 Authority: Whenever the public necessity, convenience, general welfare or good zoning practice require, the City Council may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this ordinance or amendments thereto.

15.02 Initiation: A change or amendment may be initiated by the City Council or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.

15.03 Petitions: Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the City Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

(1) Plot plan drawn to a scale of one (1) inch equals one hundred (100) feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within two hundred (200) feet of the area proposed to be zoned.

(2) Owner's names and addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.

(3) Additional information required by the City Council.

15.04 Hearings: The City Council shall hold a public hearing upon each petition or upon its own recommendation giving notice by publishing a Class 2 notice under Chapter 985 providing written notice at least ten (10) days prior to the Clerk of any municipality whose boundaries are within one thousand (1,000) feet of the land to be affected by the proposed change, and providing, when deemed necessary or appropriate by the Council, written notice by return receipt mail to all owners of property affected by a change or amendment and/or all owners of property abutting and opposite property affected by a change or amendment. All such notices shall contain the time and place of hearing and the proposed change or amendment.

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15.05 City Council Action: Following such hearing and after careful consideration the City Council shall vote on the passage of the proposed change or amendment.

15.06 Protest: In the event of a protest against such district change or amendments to the regulations of this ordinance, 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 owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by 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 the three-fourths (3/4ths) of the full City Council membership.

15.07 Replats: Whenever a property owner applies for a replat under Section 20.06 of the Municipal Code of the City of Fennimore which replat results in the consolidation of two or more lots, the zoning classification of the replatted parcel or parcels shall be the most restrictive of the zoning classifications of the parcels sought to be consolidated. The applicant, if the applicant seeks a different zoning classification for the replatted parcel or parcels, shall follow the procedures described in this section. Upon making application for either a replat under Section 20.06 or the filing of a petition for a zoning district reclassification or both, the applicant shall pay a fee as provided under s. 25.045 of this Code. (*Rev. Ord. 310, 6/22/15*)

19.16 HISTORIC PRESERVATION

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

(1) Effect and accomplish the protection, enhancement, and preservation of such improvements, sites and districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history.

(2) Safeguard the City's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts.

(3) Stabilize and improve property values, and enhance the visual and aesthetic character of the City.

(4) Protect and enhance the City's attractions to residents, tourists, and visitors, and serve as a support and stimulus to business and industry.

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(5) Strengthen the economy of the City.

(6) Promote the use of historic structures, sites and districts for the education, pleasure and welfare of the people of the City.

16.02 Definitions:

(1) Certificate of Appropriateness means the certificate issued by the commission approving alteration, rehabilitation, construction, reconstruction or demolition of a historic structure, historic site or any improvement in a historic district.

(2) Commission means the Historic Preservation Commission created under this section.

(3) Historic District is an area designated by the Common Council on recommendation of the commission that contains two or more abutting parcels containing historic improvements or sites that together comprise a district of special character or special historic interest or value.

(4) Historic site means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this section, or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

(5) Historic structure means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, state, or nation and which has been designated as a historic structure pursuant to the provisions of this chapter.

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

16.03 Historic Preservation Commission Composition: A Historic Preservation Commission is hereby created, consisting of five (5) members. Of the membership, if available in the community, one shall be a carpenter/builder, one shall be a historian, one shall be the building administrator, and two shall be citizen members. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The Mayor shall appoint the commissioners subject to confirmation by the Common Council.

16.04 Historic Structure, Historic Site and Historic District Designation Criteria

(1) For purposes of this ordinance, a historic structure, historic site or historic district designation may be placed on any site, natural or improved, including any building, improvement

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or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to the City such as historic structures, sites, or districts which:

- (a) Exemplify or reflect the board cultural, political, economic or social history of the nation, state or community; or
- (b) Are identified with historic personages or with important events in national, state or local history; or
- (c) Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or if indigenous materials or craftsmanship; or
- (d) Are representative of the notable work of a master builder, designer or architect who influenced his age; or
- (e) Have yielded, or may be likely to yield, information important to prehistory or history.

(2) The commission shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this ordinance.

16.05 Powers and Duties

(1) Designation: The commission shall have the power, subject to Section 19.06, to designate historic structures and historic sites and to recommend designation of historic districts within the City limits. Such designations shall be made based on Section **16.04**. Historic districts shall be approved by the Common Council. Once designated, such historic structures, sites and districts shall be subject to all the provisions of this ordinance.

(2) Regulation of Construction, Reconstruction, Alteration and Demolition

(a) No owner or person in charge of a historic structure, historic site or structure within a historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. Also, unless such certificate has been granted by the commission, the Zoning Administrator shall not issue a permit for any such work.

(b) Upon filing of any application for a Certificate of Appropriateness with the commission, the commission shall approve the application unless:

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- I. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done;
 - ii. In the case of the construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;
 - iii. In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district;
 - iv. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City and state;
 - v. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.
 - (c) If the commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The commission shall make this decision within forty-five (45) days of the filing of the application.
 - (d) The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.
 - (e) Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.
- (3) Appeals: Should the commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Common Council within thirty (30) days. In addition, if the commission fails to issue a Certificate of Appropriateness, the commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance.

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(4) Recognition of Historic Structures, Sites and Districts: At such time as a historic, site or district has been properly designated, the commission, in cooperation with the property owner, may cause to be prepared and erected on such property at City expense, a suitable plaque declaring that such property is a historic structure, site or district.

16.06 Procedures

(1) Designation of Historic Structures and Historic Sites

(a) The commission may, after notice and public hearing, designate historic structures and historic sites, or rescind such designation or recommendation, after application of the criteria in Section 19.04 above. At least ten (10) days prior to such hearing, the commission shall notify the owners of record, as listed in City Hall, who are owners of property in whole or in part situated within three hundred (300) feet of the boundaries of the property affected.

(b) The commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The commission may conduct an independent investigation into the proposed designation or recession. Within ten (10) days after the close of the public hearing, the commission may designate the property as either a historic structure, or a historic site, or rescind the designation. After the designation or recession has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the City Clerk, Zoning Administrator, and City Assessor. The commission shall cause the designation or recession to be recorded, at City expense, in the County Register of Deeds office.

(2) Creation of Historic District

(a) For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the City to be designated as Historic Districts and shall prepare a historic preservation plan for each area. A Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the City, after application of the criteria in Section 19.04 above. Each historic preservation plan prepared for or by the Historic Preservation Commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

(b) Review and Adoption Procedure

I. Historic Preservation Commission. The Historic Preservation Commission shall hold a public hearing when considering the plan for a Historic District. Notice of the time, place and purpose of the public hearing shall be sent by the City Clerk to the Common Council Members and the owners of record, as listed in City Hall, who are owners of

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the property within the proposed Historic District or are situated in whole or part within three hundred (300) feet of the boundaries of the proposed Historic District. Said notice is to be sent at least ten (10) days prior to the date of the public hearing. Following the public hearing, the Historic Preservation Commission shall vote to recommend, reject or withhold action on the plan.

ii. The Common Council. The Common Council, upon receipt of the recommendations from the Historic Preservation Commission shall hold a public hearing, notice to be given as noted in subparagraph a. above and shall following the public hearing either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.

16.07 Interim Control: No building permit shall be issued by the City for alteration, construction, demolition or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination by the Historic Preservation Commission or the Common Council unless such alteration, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety. In no event shall the delay be for more than one hundred eighty (180) days.

16.08 Penalties for Violations: Any person or persons violating any provision of this chapter shall be fined fifty dollars (\$50) for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the Zoning Administrator or the police department.

16.09 Separability: If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

19.17 HOME OCCUPATIONS

17.01 Definitions.

HOME OCCUPATION: Any gainful occupation operated from or carried on in a residential dwelling. For the purposes of this ordinance, there shall be three classifications of Home Occupations: Passive, Passive Conditional, and Active.

PASSIVE HOME OCCUPATIONS are those which (1) bring little or no vehicular traffic into the area of the home; (2) bring customers to the home in which the business is located on a sporadic basis or in which the work is performed away from the home; and (3) neither require, nor are operated on, a regular schedule of business hours.

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PASSIVE CONDITIONAL HOME OCCUPATIONS are those which (1) bring moderate amounts of vehicular traffic into the areas of the home; (2) bring customers to the home in which the business is located on a regular basis, with a reasonable chance that more than one customer may occasionally be at the home at the same time; and (3) either require, or are likely to be operated on, a regular schedule of business hours.

ACTIVE HOME OCCUPATIONS are those which (1) tend to generate a steady flow of vehicular traffic into the area of the home; (2) bring customers to the home in which the business is located on the basis of regularly scheduled appointments; and (3) are operated during regularly scheduled business hours, frequently requiring the services of employees other than the resident of the home.

The following home occupations are Passive Home Occupations: accounting services; answering services; architect's offices, artists; bookkeeping services; computer time sales; consulting services; electricians; engineering services; feed sales; fire extinguisher sales, service and repair; gunsmith services; home product sales; mobile tool sales services; painters; publishing services; realtors; surveying services; taxidermy services; tool and blade sharpening; typewriter repair; upholstery services.

The following home occupations are Passive Conditional Home Occupations: cabinetmaking or woodworking services; shoe repair services; teaching services such as, but not limited to, music lessons or dance lessons.

The following home occupations are Active Home Occupations: attorney's offices; barber shops, beauty salons; chiropractor's offices; dental offices; insurance sales; optometrist's offices; photographer's studios; physician's offices (not including doctors of veterinary medicine); and small appliances repair services, which shall be limited to the repair of appliances which may be readily carried by one person.

17.02 Unlisted Uses.

In the event that a person seeks to engage in any occupation or business activity which is not specifically listed above from a residential dwelling, the person shall make an application to the City Plan Commission, in the manner provided for Conditional Uses in Section 19.05 of this ordinance, requesting the Plan Commission to determine the proper classification as a home occupation of the activity. The City Plan Commission shall proceed in accord with the procedure of Section 19.05 of this ordinance so far as is practicable. *(Rev. Ord. 310, 6/22/15)*

17.03 Standards and Requirements.

All home occupations must meet all the following requirements:

1. The Home Occupation must be owned and operated by a person residing in the dwelling.

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2. Entrance to the Home Occupation must be gained through the principal structure.
3. No Home Occupation may be conducted from a garage.
4. No stock in trade may be stored on the premises other than materials to be consumed in providing a service to customers. This provision shall not be construed to allow the storage of goods intended to be provided to customers without substantial change in the condition of the goods as they were received from their manufacturer or the wholesaler.
5. No over-the-counter sales of goods are allowed.
6. Under this section, a professional person may use his or her residence for consultation, emergency treatment or the performance of religious rites, but not for the general practice of his profession unless the other terms of this ordinance are complied with.
7. No more than twenty percent (20%) of the total floor area of the principal structure or dwelling unit shall be used for any of the above occupations.
8. No accessory building shall be used for any Home Occupation.
9. The following off-street parking requirements shall apply to Home Occupations:
 - (a) For Passive Home Occupations: no off-street parking spaces shall be required.
 - (b) For Passive Conditional Home Occupations: the number and location of off-street parking spaces to be required will be decided on a case-by-case basis at a hearing before the Plan Commission, said hearings to be held in accord with the procedure of Section 19.05 of this ordinance so far as is practicable. There shall be no additional fee for this hearing.
 - (c) For Active Home Occupations: Three off-street parking spaces shall be provided. These spaces are in addition to personal parking spaces for the residents and may not be so situated as to block access to the personal parking spaces, may not be located on the street address side of the property and must be located at least eight feet from the property line.
 - (d) Whenever off-street parking spaces are required, the owner or operator of the Home Occupation shall encourage customers to use the off-street parking facilities.

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10. The involvement of the labor or services of more than one person in any Home Occupation requires a Conditional Use Permit. This applies to all classifications of Home Occupations, without regard to the residence of the additional person or persons, without regard to whether said services or labor are compensated in any manner and without regard to the Zoning District in which the Home Occupation is located.

11. The fee for a home occupation permit shall be as established under s. 25.045 of this Code. (Rev. Ord. 310, 6/22/15)

19.18 COMMUNITY AND OTHER LIVING ARRANGEMENTS

18.01 DEFINITIONS.

For purposes of administering this section, the definitions of community and other living arrangements incorporated by reference in Wis. Stat. Sec 62.23, as the same may from time to time be amended, are incorporated into this code by reference.

(1) “Adult family home” means a private residence to which all the following apply:

(a) Care and maintenance above the level of room and board but not including nursing care are provided in the private residence by the care provider whose primary domicile is this residence for 3 or 4 adults, or more adults if all of the adults are siblings, each of who has a developmental disability, as defined in Wis. Stat. Sec. 51.01(5), or, if the residence is licensed as a foster home, care and maintenance are provided to children, the combined total of adults and children so served being no more than 4, or more adults and children if all of the adults or all of the children are siblings.

(b) The private residence was licensed under Wis. Stat. Sec. 48.62 as a foster home for the care of the adults specified in paragraph (a) at least 12 months before any of the adults attained 18 years of age.

(2) “Community living arrangement” means any of the following facilities licensed or operated, or permitted under the authority of the Department of Social **Services: child** welfare agencies under Wis. Stat. Sec. 48.60, group homes for children under Wis. Stat. Sec. 48.20(7) and community-based residential facilities under Wis. Stat. Sec. 50.01; but does not include adult family homes, as defined in Wis. Stat. Sec. 50.01, day care centers, nursing homes, general hospitals, special hospitals, prisons and jails.

18.02 PERMIT PROCEDURES.

For purposes of this ordinance, the location of a community living arrangement, a foster family home or an adult family home shall be subject to the following criteria:

(1) No community living arrangement may be established within 2,500 feet of any

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other such facility. Agents of a facility may apply for an exception to this requirement in the same manner as if applying for a conditional use permit, and such an exception may be granted at the discretion of the Plan Commission. Two community living arrangements may be adjacent if the Plan Commission authorizes that arrangement and if both facilities comprise essential components of a single program.

(2) Community living arrangements are permitted in the City of Fennimore without restriction as to the number of facilities, so long as the total capacity of the community living arrangements does not exceed 25 or one percent (1%) of the City's population, whichever is greater. If the capacity of the community living arrangements in the City reaches such total, additional community living arrangements are prohibited from locating in the City except that agents of a facility may apply for an exception to this requirement in the same manner as if applying for a conditional use permit, and such permit may be granted at the discretion of the Plan Commission.

(3) A foster family home which is the primary domicile of a foster parent or treatment foster parent and which is licensed under Wis. Stat. Sec. 48.62 or an adult family home certified under Wis. Stat. Sec. 50.036(lm)(b) shall be a permitted use in all residential areas and is not subject to subsections (1) and (2) except that foster homes and treatment foster homes operated by corporations, child welfare agencies, churches, associations or public agencies shall be subject to subsections (1) and (2).

(4) If the community living arrangement has capacity for 8 or fewer persons being served by the program, meets the criteria listed in subsections (1) and (2), and is licensed, operated or permitted under the authority of the department of health and social services, the community living arrangement is entitled to locate in any residential zone, without being required to obtain special zoning permission except as provided under subsection (8).

(5) If the community living arrangement has capacity for 9 to 15 persons being served by the program, meets the criteria listed in subsections (1) and (2), and is licensed, operated or permitted under the authority of the department of health and social services, the community living arrangement is entitled to locate in any residential zone except areas zoned exclusively for single-family or 2-family residences without being required to obtain special zoning permission except as provided under subsection (8). The community living arrangement may apply for special zoning permission to locate in areas zoned exclusively for single-family or 2-family residences as provided in subsection (7) and the Plan Commission may grant such special zoning permission in its discretion.

(6) In all cases where the community living arrangement has capacity for 16 or more persons, meets the criteria listed in subsections (1) and (2), and is licensed, operated or permitted under the authority of the department of health and social services, that facility is entitled to apply for special zoning permission to locate in areas zoned for residential use as provided in subsection (7). The Plan Commission may grant such special zoning permission at its discretion.

(7) Whenever any person applies for special zoning permission under this section, he

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or she shall apply in the same manner as if applying for a conditional use permit.

(8) No less than 11 months nor more than 13 months after the first licensure of a community living arrangement and every year thereafter, the Plan Commission may make a determination as to the effect of the community living arrangement on the health, safety or welfare of the residents of the City. The determination shall be made according to the procedures under subsection (9). If the Plan Commission determines that a community living arrangement's existence in the village poses a threat to the health, safety or welfare of the residents of the City, the Plan Commission may order the community living arrangement to cease operation unless special zoning permission is obtained. The order is subject to review under Wis. Stat. sec. 68.13, except that a free copy of the transcript may not be provided to the community living arrangement. The community living arrangement must cease operation within 90 days of the date of the order, or the date of final judicial review of the order, or the date of the denial of special zoning permission, whichever is latest.

(9) A determination made under subsection (8) shall be made after a hearing before the Plan Commission. The Plan Commission shall provide at least 30 days' notice to the community living arrangement that such a hearing will be held. At the hearing, the community living arrangement may be represented by counsel and may present evidence and call and examine witnesses and cross-examine other witnesses called. The Plan Commission may call witnesses and may issue subpoenas. All witnesses shall be sworn by the Plan Commission. The Plan Commission shall take notes of the testimony and shall mark and preserve all exhibits. The Plan Commission may, and upon request of the community living arrangement shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the City. Within 20 days after the hearing, the Plan Commission shall deliver to the community living arrangement its written determination stating the reasons therefor. The determination shall be a final determination.

19.20 TELECOMMUNICATIONS TOWERS AND RELATED FACILITIES

- 20.01 Purpose and Intent
- 20.02 Definitions
- 20.03 Items Exempt from Review
- 20.04 Areas in Which Telecommunication Facilities May Be Located as a Conditional Use
- 20.05 Conditional Use Application
- 20.06 Removal/Security for Removal
- 20.07 Compliance
- 20.08 Structural, Design and Environmental Standards
- 20.09 Appeal Procedures

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20.01 Purpose and Intent.

(1) The purpose and intent of this section is to provide a uniform and comprehensive set of standards for the development and installation of telecommunication and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of the City of Fennimore as set forth within the goals, objectives and policies of this Zoning Code, to encourage managed development of telecommunications infrastructure, while at the same time not unduly restricting the development of needed telecommunications facilities. It is intended that the City shall apply these regulations to accomplish the following:

- (a) Minimize adverse visual effects of telecommunication tower, antenna and related facilities through design and siting standards.
- (b) Ensure that a competitive and broad range of telecommunications services and high quality telecommunications infrastructure are provided to serve the community, as well as serve as an important and effective part of the City's police, fire and emergency response network.
- (c) Provide a process for obtaining necessary permits for telecommunication facilities while at the same time protecting the legitimate interests of citizens.
- (d) Encourage the use of alternative support structures, collocation of new antennas on existing telecommunication towers, camouflaged towers, **monopoles, and** construction of towers with the ability to locate three or more providers.

(2) Furthermore, this section is not intended to regulate residential satellite dishes or residential television antennas that are used privately. Additionally it is not intended to regulate attached wireless communications facilities.

(3) If any section, subsection, clause or phrase of this section is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this section.

20.02 Definitions. For the purpose of this ordinance, the following terms and phrases shall have the meaning ascribed to them in this section:

(1) **Alternative Support Structure:** Clock towers, steeples, silos, light poles, buildings or similar structures that may support telecommunication facilities.

(2) **Antenna:** Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

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(3) Antenna Building Mounted: Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank, water tower or structure other than a telecommunication tower.

(4) Antenna Ground Mounted: Any antenna with its base placed directly on the ground.

(5) Antenna - Vertical: A vertical type antenna without horizontal cross sections greater than one half inch in diameter.

(6) Camouflaged Tower: Any telecommunication tower that due to design or appearance hides, obscures, or conceals the presence of the tower and antennas. The determination of a camouflaged tower shall be made by the Plan Commission.

(7) Carrier: Entity that provides telecommunications services.

(8) FCC: The Federal Communications Commission

(9) Fall-down Radius: The designated area of a telecommunication facility surrounding a telecommunication tower, which, in the event of a structural failure of all or part of the telecommunications tower, would likely contain the failed or collapsed telecommunication tower. This area may also be called the collapse zone.

(10) Guyed Tower: A telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

(11) Height, Telecommunications Tower: The distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, and lighting.

(12) Lattice Tower: A telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

(13) Monopole: A telecommunication tower of a single pole design.

(14) NIER: Non ionizing electromagnetic radiation (i.e., electromagnetic radiation primarily in the visible, infrared, and radio frequency portions of the electromagnetic spectrum).

(15) Operation: Means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications it shall be deemed in operation.

(16) Platform: A support system that may be used to connect antennas and antenna arrays to telecommunication towers or alternative support structures.

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(17) Provider: Entity that provides a telecommunication facility.

(18) Public Service Use or Facility: A use operated or used by a public body or public utility in connection with any of the following services: water, waste water management, public education, parks and recreation, police, fire and emergency response network, solid waste management, utilities, or highway departments.

(19) Satellite Dish: A device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

(20) Telecommunications Equipment Building: The telecommunication support facility structure located on a tower site, which houses the electronic receiving and relay equipment.

(21) Telecommunication Facility: A facility, site, or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunications signals, excluding those facilities described in s. 8.31 of this Chapter.

(22) Telecommunication Facility Collocated: A telecommunication facility comprised of a single telecommunication tower or building supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.

(23) Telecommunication Support Facility: The telecommunication support buildings and equipment cabinets located on a tower site.

(24) Telecommunications Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guy towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures and those facilities exempted under Section 20.03.

20.03 Exempt. The following shall be permitted without regulation of this section, but may be under the regulatory jurisdiction of other sections of the Zoning Code or other City ordinance, provided that the primary use of the property is not a telecommunications facility and that the antenna use is accessory to the primary use of the property:

(1) The personal and non-commercial use of all television antennae and satellite dishes.

(2) Mobile services providing public information coverage of news events of a temporary nature.

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- (3) Attached wireless communications facilities under s. 8.31 of this Chapter.

20.04 Areas Permitting Telecommunication Facility Location with Conditional Use Approval. Telecommunications facilities may be permitted as conditional uses in the M-1 Light Industrial District and M-2 Industrial Park District

20.05 Conditional Use Application. Locating and constructing a telecommunication tower or a new alternative support structure, including the buildings or other supporting equipment used in connection with said tower shall require a Conditional Use Permit.

(1) Submittal Information. For all telecommunication facilities, except exempt facilities as defined in Section 20.03, the Zoning Administrator shall require the following information to accompany every application. Said information shall include, but may not be limited to:

- (a) Completed conditional use application and fee.
- (b) Original signature of applicant and owner (if the telecommunication facility is collocated in an easement, the beneficiaries of the easement and underlying property owner must authorize the application.).
- (c) The identity of the carrier and/or provider and their legal status.
- (d) The name, address and telephone number of the officer, agent and/or employee responsible for the accuracy of the application.
- (e) A plat of survey, showing the telecommunication facility boundaries, tower, facilities, location, access, landscaping and fencing.
- (f) A written legal description of the telecommunication facility site.
- (g) In the case of a leased site, a lease agreement or binding lease memorandum which shows on its face that it does not preclude the site owner from entering into leases on the site with other provider(s) and the legal description and amount of property leased.
- (h) A description of the telecommunications services that the registrant intends to offer and/or provide, or is currently offering or providing, to persons, firms, businesses or institutions.
- (i) Copies of approvals from the Federal Communication Commission (FCC) and a statement that the facility complies with the limits of radio frequency emissions standard set by the Federal Communication Commission (FCC). The statement shall list the particular Federal Communication Commission (FCC) Measured Permitted Emissions (MPE) limit and the tested or design limit for the proposed telecommunication facility.
- (j) Copies of approvals from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings and the Wisconsin State Bureau of Aeronautics, if applicable.
- (k) Copies of any Environmental Assessment (EA) reports on Form 600 or Form 854 submitted to the Federal Communication Commission (FCC), if applicable.
- (l) Copies of Finding of No Significant Impacts (FONSI) statement from the

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- Federal Communication Commission (FCC) or Environmental Impact Study (EIS), if applicable.
- (m) An analysis shall be prepared by the actual applicant or on behalf of the applicant by its designated technical representative, except for exempt facilities as defined in Section 20.03, subject to the review and approval of the Commission, which identifies all reasonable, technically feasible, alternative locations and/or facilities which would provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies which would minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the City. The analysis shall address the potential for collocation and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Approval of the project is subject to the Plan Commission making a finding that the proposed site results in fewer or less severe environmental impacts than any feasible alternative site. The City may require independent verification of this analysis at the applicant's expense.
 - (n) NIER (non-ionizing electromagnetic radiation) exposure studies.
 - (o) Plans indicating security measures (i.e. access, fencing, lighting, fire prevention, etc.).
 - (p) A tabular and map inventory of all existing telecommunications facilities owned and/or operated by the applicant that are located within Grant County. The inventory shall specify the location, height, type, and design of each existing telecommunication facility, the ability of the tower or antenna structure to accommodate additional collocation antennas, and where applicable, the height of the alternative support structures.
 - (q) If application is made for more than one (1) facility, A Master Plan for all related facilities within the city limits.
 - (r) A report prepared by an Engineer licensed by the State of Wisconsin certifying the structural design of the tower and its ability to accommodate additional antennas.
 - (s) An affidavit stating space will be made on the proposed tower for future users, when technically possible, at a reasonable cost. Reasonable costs shall be considered any fees, cost or contractual provisions required by the owner that conform to terms standard in the industry and that do not exceed the cost of new tower development.
 - (t) Such other information as the Plan Commission may reasonably require.
- (2) Collocation. All facilities shall make available a minimum of six unused spaces for collocation of other telecommunication facilities, including space for these entities providing similar, competing services. A lesser number of spaces may be allowed by the Plan Commission based upon data supplied by applicant stating six spaces would be structurally and/or technically unfeasible. Collocation is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline for a

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significant period of time. All collocated and multiple-user telecommunication facilities shall be designed to promote facility and site sharing.

Telecommunication towers and necessary appurtenances, including but not limited to parking areas, access roads, utilities and equipment buildings, shall be shared by site users whenever possible.

- (3) **Technical Review.** The City may employ on its behalf an independent technical expert to review all materials submitted including, but not limited to, those required under this Section and in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is required. The applicant shall pay all the costs of said review. The payment to the City shall be due upon receipt of the invoice. All invoices, fees and charges accumulated for the technical review and administrative costs must be paid in full prior to the issuance of the Conditional Use Permit.
- (4) **Amendment.** Each telecommunication carrier or provider shall inform the City within sixty (60) days of a change of the information regarding the ownership or with regard to changes in the availability of collocation space or face civil forfeitures in the amount of \$250.00 a day. This forfeiture shall be assessed until such correct information of the registrant is received and verified by the Plan Commission.

20.06 Removal/Security for Removal.

(1) It is that express policy of the City and this section that telecommunications facilities be removed once they are no longer in use and not a functional part of providing telecommunications service and that it is the telecommunications provider's responsibility to remove such facilities and restore the site to its original condition or condition approved by the Plan Commission. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility. After a telecommunications facility is no longer in operations, the provider shall have 90 days to effect removal of the tower and accessory structures and restoration unless weather prohibits such efforts. The owner of the tower shall submit a copy of the notice to the FCC of intent to cease operations at which point said 90-day removal period shall begin.

(2) The telecommunications provider shall provide to the City, prior to the issuance of the Conditional Use Permit, a performance bond in the amount of Twenty Thousand Dollars (\$20,000) to guarantee that the telecommunications facility will be removed when no longer in operation. The City will be named as obligee in the bond and must approve the bonding company. The adequacy of said bond shall be reviewed on an annual basis by the city and, if it is determined to be insufficient in amount to cover the entire costs of removing the affected telecommunication facility, the city shall assign a new amount which the facility owner shall be required to provide.

20.07 Compliance.

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- (1) Revocation. Grounds for revocation of the conditional use permit shall be limited to one of the following findings:
 - (a) The facility fails to comply with the relevant requirements of this section and the permittee has failed to supply assurances acceptable to the Plan Commission that the facility will be brought into compliance within one hundred twenty (120) days;
 - (b) The permittee has failed to comply with the conditions of approval imposed;
 - (c) The facility has not been properly maintained; or
- (2) Abandonment. Any antenna or tower that is not operated for a continuous period of six (6) months shall be considered abandoned. In such circumstances, the following shall apply:
 - (a) The owner of such antenna or tower shall remove said antenna and or tower including all supporting equipment and building(s) within ninety (90) days of receipt of notice from the Zoning Administrator notifying the owner of such abandonment. If removal to the satisfaction of the Zoning Administrator does not occur within said ninety (90) days, the Common Council may order removal utilizing the established Bond as provided under Section 20.06 and salvage said antenna or tower and all supporting equipment and building(s). If there are two or more users of a single tower, then this provision shall not become effective until all operations of the tower cease.

20.08 Structural, Design and Environmental Standards.

(1) Tower, Antenna and Facilities Requirements. All telecommunication facilities, except exempt facilities as defined in Section 20.03, shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end, all of the following measures shall be implemented:

- (a) All telecommunication facilities shall comply at all times with all Federal Communication Commission (FCC) rules, regulations, and standards. To that end no telecommunication facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the Federal Communication Commission (FCC) adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the Federal Government. All telecommunication tower and antenna shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Wisconsin State Bureau of Aeronautics, Occupational Safety and Hazard Association (OSHA), the Federal Communication Commission (FCC) and any other agency of the State and/or Federal Government with

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- the authority to regulate towers and antennas,
- (b) Telecommunication towers shall be constructed out of metal or other nonflammable material, unless specifically conditioned by the Plan Commission to be otherwise,
 - (c) Parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function,
 - (d) Telecommunication support facilities (i.e., vaults, equipment rooms, utilities, and equipment enclosures) shall be constructed out of nonreflective materials (visible exterior surfaces only) Telecommunication support facilities shall be no taller than one story (15 feet in height), measured from the original grade at the base of the facility to top of structure, and shall be designed to blend with existing architecture in the area and shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility; and,
 - (e) All buildings, poles, towers, antenna supports, antennas, and other components of each telecommunications facility shall be initially painted and thereafter repainted as necessary with a "flat" paint so as to reduce visual obtrusiveness and blend in to the natural setting and environment. Where evidence is accepted by Plan Commission that construction materials will be of sufficient non-glare characteristic and will blend into the natural setting and environment, painting requirements may be waived,
 - (f) All telecommunications towers shall be designed to collapse within a designated fall-down radius. The fall-down radius for a telecommunications tower shall be contained within the property owned or leased by the tower owner.
 - (g) The fall-down radius shall equal at least 125% of the tower height, unless an engineering certification shows that in the event of collapse, the telecommunication tower is designed to collapse within a smaller area,
 - (h) Telecommunications support facilities shall be the only structure, building, or use allowed within the fall-down radius.
 - (i) Telecommunications towers and antennas shall be designed and constructed in accordance with the State of Wisconsin Uniform Building Code, National Electrical Code, Uniform Plumbing Code, Uniform Mechanical Code, and Uniform Fire Code, Electronic Industries Association (EIA), American National Steel Institute Standards (ANSI), American National Standards Institute (ANSI), and Electronic Industry Assoc/Telecommunication Industry Association (EITT/TIA) 222-E. 3., as amended, where applicable,
 - (j) The City shall have the authority to require special design of the telecommunication facilities where findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views and/or community features),
 - (k) A radio frequency radiation emission test report, to demonstrate compliance with Federal Communication Commission (FCC) adopted standards, shall be required for all rooftop antennas and other antennas which are less than thirty (30) feet above the original grade,

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- (l) A report prepared by an Engineer licensed by the State of Wisconsin certifying the structural design of the tower and its ability to accommodate additional antenna shall be included with any application,
- (m) Telecommunication facilities shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any alleged interference and or obstruction shall be corrected by the applicant at no cost to the City.
- (n) No advertising message or sign shall be affixed to any tower or antenna.

(2) Height. The height of a telecommunication tower shall be measured from the original grade at the base of said tower to the highest part of the tower itself. In the case of "crankup" or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised. In no instance shall a telecommunication tower, or any attachment to, exceed 300 feet in height.

(3) Lighting. Telecommunications facilities shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other applicable regulatory authority. If lighting is required, the lighting design which would cause the least disturbance to the surrounding views shall be chosen.

(4) Site Development. All new telecommunication facilities located on a leased parcel shall maintain a minimum leased parcel size of five thousand (5000) square feet in size. The entire fall-down radius shall be contained within the leased parcel, said fall-down radius being determined under Section 20.08(1)(g) of this ordinance. All new telecommunication facilities located on a parcel owned by the telecommunication carrier and/or provider shall meet the minimum lot size requirement of the zoning district. Telecommunication facilities sites shall not be used for the outside storage of materials or equipment, or for the repair or servicing of vehicles or equipment.

(5) Fire Prevention. All telecommunication facilities shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs. To this end all of the following measures shall be implemented for all telecommunication facilities, except exempt facilities as defined in Section 20.03:

- (a) At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings;
- (b) Monitored automatic fire extinguishing systems shall be installed in all equipment buildings and enclosures;
- (c) Rapid entry KNOX systems shall be installed as required;
- (d) All tree trimmings and trash generated by construction and operation of the facility shall be removed from the property and properly disposed of

(6) Noise and Traffic. All telecommunication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end all the following measures shall be implemented

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for all telecommunication facilities, except exempt facilities as defined in Section 20.03:

- (a) Noise producing construction activities shall only take place on weekdays (Monday through Saturday, non-holiday) between the hours of 6:00 a.m. and 6:00 p.m.; and
- (b) Backup generators shall only be operated during power outages and for testing and maintenance purposes.

20.09 Appeal Procedures. A person aggrieved by any decision of the Zoning Administrator or Plan Commission, regarding the siting of a telecommunications facility may file an appeal with the Zoning Board of Appeals.”

19.21 SOLAR ENERGY SYSTEMS AND ACCESS

(19.21 Created 2018-08, adopted 9-10-2018, effective 9-14/2018)

- (1) **STATEMENT OF FINDINGS.** Diminishing supplies of nonrenewable energy resources threaten the physical and economic well-being of the residents of this community who presently rely on such resources to maintain their homes, industries, businesses and institutions;
 - (a) Solar energy systems hold great promise for the future energy needs of this community because they use a renewable energy resource; because they require less capital, land, water and other resources needed for central-station generation of electricity; and because they do not pollute the community’s water and air; and
 - (b) The successful use of solar energy systems for such purposes as supplying space heating, water heating or the productions of electricity is dependent upon sufficient access to direct sunlight.
- (2) **PURPOSE.** This section is adopted under authority contained in Sec. 66.0403, Wis. Stats., for the purpose of protecting the health, safety, and general welfare of the community by:
 - (a) Promoting the use of solar energy systems;
 - (b) Protecting access to sunlight for solar energy systems; and
 - (c) Assuring that potentially conflicting interests of individual property owners are accommodated to the greatest extent possible compatible with the overall goal of this ordinance.
- (3) **ZONING DISTRICTS**

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Solar collectors which are solar farms are allowed as a permitted use in the A-1 (Agricultural) Zoning District provided that the permit required under this section has been procured.

(4) DEFINITIONS. In this section:

“APPLICANT” means an owner applying for a permit under this section.

“APPLICATION” means an application for a permit under this section.

“COLLECTOR SURFACE” means any part of a solar collector that absorbs solar energy for the use in the collector’s energy transformation process. “Collector surface” does not include frames, support and mounting hardware.

“COLLECTOR USE PERIOD” means 9:00 a.m. to 3:00 p.m. standard time daily.

“IMPERMISSIBLE INTERFERENCE” means a blockage of solar energy from a collector surface or a proposed collector surface for which a permit has been granted under this section during a collector use period, if such blockage is by any structure or vegetation on property an owner of which was notified under sec. (5)(f) “impermissible interference” does not include:

Blockage by a narrow protrusion, vegetation, or other object which never obstructs more than 5% of the solar energy which would strike a solar collector during the collector use period on any given day;

Blockage by any structure constructed, under construction or for which a building permit has been applied for before the date the last notice is mailed or delivered under sec. (5)(f).

Blockage by any vegetation planted before the date the last notice is mailed or delivered under sec. (5)(f).

Blockage by any structure or vegetation which obstructs less solar energy from a solar collector during the collector use period than would be obstructed by a 6 foot high wall located along the northern boundaries of the property to the south of the solar collector.

“OWNER” means at least one owner, as defined under Sec. 66.0217(1)(d), Wis. Stats., of a property or the personal representative of at least one owner.

“PERMIT” means a solar access permit issued under this section.

“SOLAR COLLECTOR” means a device, structure or part of a device or structure a substantial purpose of which is to transform solar energy into thermal, mechanical, chemical or electrical energy.

“SOLAR ENERGY” means direct radiant energy received from the sun.

“SOLAR FARM” means an array of multiple solar collectors on ground-mounted racks or poles

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that transmit solar energy and is the primary land use for the parcel on which it is located

(5) PERMIT APPLICATION AND NOTICE.

- (a) PERMIT JURISDICTION. Any owner who has installed or intends to install a solar collector shall apply to the City for a permit. A permit may affect any land located within the territorial limits of the City.
- (b) APPLICATION. An application for a permit under this Section may be obtained from the Zoning Administrator and shall be completed by the applicant.
- (c) INFORMAL PRE-APPLICATION MEETING. Prior to the filing of an application, the applicant shall meet with the Zoning Administrator to discuss the application and the permit process.
- (d) APPLICATION FEE. The completed permit application shall be submitted to the Zoning Administrator with an application fee as stated in the Schedule of Fees.
- (e) REVIEW OF APPLICATION. The Zoning Administrator shall review the application to determine if it is satisfactorily completed. The Zoning Administrator shall notify the applicant of this determination within thirty (30) days after the application has been filed and the application fee received. If the Zoning Administrator determines that the application is satisfactorily completed, the City shall provide notice forms and receipt forms to the applicant for service and signing under Subsection (f).
- (f) SERVICE OF NOTICE. If an applicant is notified that an application has been satisfactorily completed, the applicant shall deliver by certified mail or by hand the notice, supplied by the City, to the owner of any property which the applicant proposed to be restricted by the permit. The applicant shall submit to the Zoning Administrator a copy of a signed receipt for every notice-delivered under this subsection.
- (g) CONTENT OF NOTICE. The information on the notice form shall include:
 - 1. The name and address of the applicant, and the address of the land upon which the solar collector is or will be located.
 - 2. That an application has been filed by the applicant.
 - 3. That the permit, if granted, may affect the rights of the notified owner to develop his or her property and to plant vegetation.
 - 4. That any person who received a notice may request a hearing under sec. (6) within thirty (30) days after receipt of the notice.

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5. The procedure for filing a hearing request and telephone number, address and office hours of the City Clerk.

(6) HEARING.

Within thirty (30) days after receipt of the notice under sec. 5(f), any person who has received a notice, or anyone acting on the person's behalf, may file a request for a hearing on the granting of a permit or the Common Council may determine that a hearing is necessary even if no such request is filed. If a request is filed or if the Common Council determines that a hearing is necessary, the Common Council shall conduct a hearing on the application within 90 days after the last notice is delivered. At least thirty (30) days prior to the hearing date, the Common Council shall notify the applicant, any person who has requested a hearing under this section, all owners notified under sec. (5)(f), and any other person filing a request of the time and place of the hearing. Prior to the hearing, the Plan Commission shall submit an advisory recommendation to the Common Council.

(7) GRANT OF PERMIT.

- (a) DETERMINATION. The Common Council shall grant a permit if the Board determines that:

1. The granting of a permit will not unreasonably interfere with the orderly land use and development plans of the City; and
2. No person has demonstrated that she or he has present plans to build a structure that would create an impermissible interference by showing that she or he has applied for a building permit prior to receipt of a notice under sec. (5)(f) has expended at least Five Hundred (\$500.00) Dollars on planning or designing such a structure, or by submitting any other credible evidence that she or he has made substantial progress toward planning or constructing a structure that would create an impermissible interference; and
3. The benefits to the applicant and the public will exceed any burdens; and
4. No person has demonstrated that the granting of a permit would cause an undue hardship in using his or her property in a manner consistent with existing zoning regulations and neighboring property uses.

- (b) CONDITIONS.

1. The Common Council may grant a permit subject to any condition or exemption the Common Council deems necessary to minimize the possibility that the future development of nearby property will create an impermissible interference or to minimize any other burden on any person affected by granting the permit. Such conditions or exemptions may

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include but are not limited to restrictions on the location of the collector and requirements for the compensation of persons affected by the granting of the permit.

2. As a condition of receiving a permit, the permit holder shall be responsible for the cost of trimming (pre-existing) vegetation on property affected by the permit to prevent an impermissible interference. The permit holder shall give consideration to the desires of the property owner in trimming such vegetation and shall not unnecessarily remove vegetation which does not or will not in a reasonable period of time create an impermissible interference.

(8) APPEALS.

Any person aggrieved by a decision under this section may appeal the decision by making a written request to the Common Council within ten (10) days of the decision. The decision shall be reviewed by the Zoning Board of Appeals.

(9) RECORD OF PERMIT. If the Common Council grants a permit:

- (a) The Common Council shall specify the property restricted by the permit and shall prepare notice of the granting of the permit. The notice shall include the legal description pursuant to sec 706.05(2)(c), Wis. Stats., for the property upon which the solar collector is or will be located and for any property restricted by the permit, and shall indicate that the property may not be developed and vegetation may not be planted on the property so as to create an impermissible interference with the solar collector which is the subject of the permit unless the permit affecting the property is terminated or unless a waiver agreement affecting the property is recorded under sec. (11).
- (b) The applicant shall record with the register of deeds of the county in which the property is located the notice under subsection (a) for each property specified under subsection (a) and for the property upon which the solar collector is or will be located.
- (c) The Common Council shall note the location of any solar collector which is the subject of a permit on a map showing the location of all solar collectors for which permits have been granted and shall identify on the map all properties which are subject to restrictions resulting from the granting of a permit.

(10) RIGHTS OF PERMIT HOLDER.

The holder of a permit granted under this Section is entitled to access to sunlight for the solar collector subject to any conditions or exemptions in the permit and may seek damages for any loss caused by an impermissible interference or an injunction to prevent an impermissible interference as provided under sec. 66.0403(7), Wis. Stats.

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(11) WAIVER OF RIGHTS.

A permit holder by written agreement may waive all or part of any right protected by a permit. The permit holder shall record a copy of the agreement with the register of deeds. A copy of the agreement shall also be filed with the Common Council.

(12) TERMINATION OF PERMITS.

- (a) Any rights protected by a permit under this section shall terminate if the Common Council determines that the solar collector which is the subject of the permit is:
 - 1. Permanently removed or is not used for two (2) consecutive years, excluding time spent on repairs or improvements, or
 - 2. Not installed and functioning within two (2) years after the date of issuance of the permit.
- (b) The Common Council shall give the permit holder written notice and an opportunity for a hearing on a proposed termination under subsection (a).
- (c) If the Common Council terminates a permit, the Common Council shall record a notice of termination with the register of deeds. The Common Council shall charge the permit holders for the cost of recording.
- (d) The Common Council shall modify the map of solar collectors prepared under sec. (9)(c) to reflect the termination of a permit.

(13) PRESERVATION OF RIGHTS.

The transfer of title to any property shall not change the rights and duties provided by a permit granted under this section.

(14) SAVINGS CLAUSE.

If any provision of this section is found invalid or unconstitutional or if the application of this section to any person or circumstance is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of this section which can be given effect without the invalid or unconstitutional provision or application.