

# CHAPTER 10

## ZONING

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# ZONING

## 10.00 INTRODUCTORY MATERIAL.

As a result of the adoption of a revised zoning ordinance which became effective after December 26, 1974, the former identification of certain zoning districts were rendered obsolete in various other municipal ordinances, and it is the intent of the Common Council to change the appropriate zoning district identifications from those existing prior to the adoption of this ordinance to those presently set forth in the existing zoning ordinance. The table below displays the old zoning classifications and the new counterpart to each:

Old District	New District
A	R - 1
B - 1 AND B - 2	R - 2
B - 3	R - 3
B - 4	R - 4
C - 1	B - 1
C - 2	B - 2 AMD B - 3
C - 3	B - 4
D AND E	I
F	C
G	A

## 10.01 TITLE.

This Chapter shall be known as the Middleton Zoning Ordinance and shall be referred to herein by that title or by "this Chapter" or "this Ordinance".

## 10.02 DATE OF ADOPTION.

This Ordinance was originally and duly adopted by vote of the City of Middleton Common Council on August 7, 1984. Adoption was preceded by due notice and hearing as required by law.

### **10.03 EFFECTIVE DATE.**

**This Ordinance shall take effect on August 17, 1984.**

### **10.04 AREAS TO WHICH THIS ORDINANCE APPLIES.**

**(1) This Ordinance applies to all lands located within the City of Middleton and to such lands that may be added to the City of Middleton subsequent to the effective date of this Ordinance.**

**(2) Application of this Ordinance to lands newly added to the City by annexation shall be governed by applicable Wisconsin Statutes.**

**(3) Extraterritorial application.**

**(a) Section 10.95 applies in the lands outside the City as shown in the map adopted in Section 10.95(3) of this ordinance.**

**(b) Section 10.96 applies in the lands outside the City located in the Middleton/Westport Joint Planning Area as shown in the map adopted in Section 10.96(1) of this Ordinance.**

**(c) The remaining provisions of this Ordinance may apply to lands outside the City located in the Middleton/Westport Joint Planning Area under Section 10.96(7) of this Ordinance.**

### **10.11 COMPLIANCE.**

**The use of any land, the size, shape and placement of lots, the use, occupancy, size and location of structures and equipment and all other matters dealt with in this Ordinance shall be in full compliance with the terms of this Ordinance and other applicable regulations. It shall be unlawful for a use, structure or occupancy to occur in non-compliance with the terms of this Ordinance and other applicable regulations.**

### **10.12 VESTING OF RIGHTS IN PROJECTS PLANNED UNDER PRECEDING ORDINANCES.**

**This paragraph governs situations in which a development or occupancy was planned and/or partially carried out under a preceding state of ordinance. It is now prohibited or substantially altered by a new ordinance or ordinance amendment. If the project is legally established and operational prior to ordinance change, it has non-conforming status in accord with s. 10.14 hereof. Projects not fully established and operational at the time of ordinance change may be allowed, nonetheless, to be established and operated under previous ordinance standards by vote of the Zoning Board of Appeals on an ordinance variance basis. The burden shall be on the applicant to prove to the Board that:**

**(1) Under the then current state of court cases on zoning law, as interpreted to the Board by the City Attorney, the applicant has made enough good faith investment toward the proposed project to have vested rights to continue; and**

**(2) To enforce the new or amended ordinance strictly would create unnecessary hardship and would not achieve public benefits sufficient to outweigh the hardship. The Board may, in its sound discretion, impose conditions to establish reasonable compromise between old and new standards.**

#### **10.13 PRE-EXISTING SUBSTANDARD PARCELS.**

**Lots or parcels used or proposed to be placed in a use allowable under this Ordinance that are deficient in minimum lot area or minimum lot width may be allowable for such use, if the parcel was of record on the effective date of this Ordinance in its current size or shape and if the following conditions are met:**

**(1) If one or more adjoining parcels are owned by the same party and if joinder of parcels or movement of parcel boundaries is determined to be feasible, the substandard parcel may be required to be made standard by combination with the adjoining parcel by movement of parcel boundaries.**

**(2) If the deficiency is lack of required frontage on a public street, an existing substandard parcel may nevertheless be approved if it has either 15 feet of frontage on a public street or (for residential parcels) effective and workable easement access to a public street.**

**(3) An existing substandard parcel that is zoned residential may be allowable as a site for a residential dwelling structure not to exceed two units if it has 5,000 square feet of lot area and at least 40 feet of lot width at the building line and effective and workable easement access to a public street. If such a parcel is 5,000 square feet or more in area but less than standard dimensions, the area of such lot may not be reduced.**

**These allowances apply only to pre-existing substandard parcels and do not establish policy or precedent favoring the creation of new substandard lot configurations.**

#### **10.14 PRE-EXISTING NON-CONFORMING USES AND DEVELOPMENTS.**

**(1) The lawful established and operational use of a structure or premises existing on the effective date of this Ordinance or the effective date of an amendment to this Ordinance may be continued although such use does not conform with the provisions of this Ordinance or the amendment, except as hereinafter specified.**

**(2) This section applies only to principal uses of lots or premises and to developments (structures and/or equipment) established for principal uses of lands or premises.**

**Incidental uses of property do not have non-conforming status by grant of this section. Incidental uses may be allowed to continue beyond the effective date of an Ordinance change that renders them not in compliance with the amended Ordinance as a matter of privilege by variance granted by the Zoning Board of Appeals. In no case may a sign be considered a principal use.**

**(3) Non-conforming uses of structures or premises may not be extended, expanded, enlarged or increased in intensity. Structures that are non-conforming as to dimensional requirements may not be expanded or enlarged in a manner that increases the encroachment. Structures that are non-conforming as to dimensional requirements may be repaired or rebuilt after either (a) damage by fire, flood, explosion, earthquake, war, riot or act of God; or (b) issuance by the Building Inspector of orders requiring that the building be brought into compliance with the Building or Housing Codes, provided that the estimated cost of the repair or reconstruction does not exceed 50% of the estimated market value of the property.**

**(4) If a non-conforming use or the use (conforming or non-conforming) of a structure that is non-conforming as to dimensional requirements is discontinued for a period of 12 months any future use of the building or premises shall conform to this Ordinance.**

**(5) Non-conforming uses may be changed to distinctly different non-conforming uses only with conditional use approval. Conditional use review shall be based on compatibility with prevailing permitted and conditional uses in the area. Changes that will not aggravate disharmony with such permitted or conditional uses may be approved.**

## **10.20 STANDARD ZONING DISTRICTS.**

**This part of the Ordinance identifies Zoning Districts containing use identifications and dimensional-intensity standards. Lands placed in one of these districts will be eligible for development according to the rules for that district. Property owners can determine from the Ordinance the allowable uses and site development options.**

## **10.21 RESIDENTIAL OBJECTIVES.**

**Development objectives for the Residential portion of the Middleton Community:**

**(1) For presently developed areas, to preserve existing community values of quiet, privacy, safety, natural beauty, attractive landscape features and open space. To promote property improvement and upkeep. To allow structures, parcels and yard areas to be adapted to new variations in residential and related usages reflecting changing conditions, without detracting from the residential character of neighborhoods.**

**(2) For developing areas, to encourage production of new housing patterns that will be as functional, attractive, adaptable and capable of holding their value as today's stock has been. It is also an objective to allow for new types, formats,**

and mixtures of housing to reflect changing consumer preferences, economics, and technologies.

(3) Principles on where various Residential Zoning Districts should be located, and on timing of development are contained in the City of Middleton Master Plan. These are adopted herein by reference as guiding principles.

#### **10.22 R-1 DISTRICT; PERMITTED USES.**

(1) Residential occupancy of single-family detached dwelling unit structures.

(2) Limited vocational activities. Residential occupancy also includes limited vocational (household occupations) activities. Permits are not required prior to engaging in such activities, but the following standards apply:

(a) The activity must be clearly secondary and incidental.

(b) The activity must not significantly alter the residential character of the dwelling unit, dwelling structure or the parcel.

(c) The activity must not unreasonably interfere with residential occupancy of other parcels in the neighborhood.

(d) The activity must not create environmental, safety or health hazards such as noise, light, odors, vibrations, electrical emissions, or other fire or safety hazards that are noticeably out of character with those produced by normal residential occupancy.

(e) Traffic generated by the vocational activity may not exceed that which is customary to residential occupancies in the neighborhood.

(f) Signage for the vocational activity will be governed by the sign ordinance.

(g) The parcel and structure must contain adequate area to accommodate the vocational activity without interfering with residential occupancy of other parcels in the neighborhood.

(h) Garage sales as a type of vocational activity are allowable in all residential districts provided that not more than two are held on a single premises per year and that each such sale shall not exceed four days in duration.

(i) Day care is allowable as a vocational activity on a residential premises. Conditional use approval will be required, however, if more than eight persons are cared for at any one time.

(j) The renting of sleeping rooms within a dwelling unit or structure is allowable as

an accessory use. If three or more such sleeping rooms are rented on a sleeping room basis, conditional use approval is required.

(3) Group homes with capacity to accommodate eight or fewer individuals are a permitted occupancy in the R-1 District.

(4) Residential Accessory Developments and Occupancies, as follows:

#### **ACCESSORY OCCUPANCIES; SPECIAL STANDARDS**

(a) Lawns

(b) Gardens

(c) Landscape features (walks, steps, railing, terraces, trellises, birdfeeders/baths, swing sets, sandboxes, compost storage, sprinkler systems, landscape lighting, clothes lines, etc.). Solid walls that extend three feet or more above the ground for three or more feet of their length can be no closer than 2 feet to any lot line.

(d) Driveways. Driveways cannot be closer than 2 feet to a side or rear lot line. Driveways must be hardsurfaced.

(e) Parking Spaces. Parking spaces that are in locations other than in a driveway cannot be directly in front of a dwelling structure on the front side of the lot, or between the side of the house and the street on a corner lot, or in the front setback except in the driveway. A driveway is an actively used private way and shall not be more than two lanes in width in any part of the lot except for the direct path from the garage or primary parking space to the street. Parking spaces shall not be closer than 2 feet from the side or rear lot lines.

(f) Patios/decks at ground level or at a floor level no more than four feet above ground level at any point under the deck (decks at greater height are considered part of the structure and may not intrude into setback areas). For detached gazebos or screen enclosures, maximum lot coverage rules apply. An eight foot minimum separation measured in from any side or rear lot line to the edge or side of the facility is required unless the applicant has obtained a signed and notarized affidavit of consent to run with the land from the owner or owners of record of the neighboring properties identifying a closer distance, and has recorded this against all affected parcels in the Register of Deeds Office for the County of Dane and with the City of Middleton Zoning Administrator.

(g) Detached Garages/Carports. Detached garages or carports must comply with setback standards. They must not be taller than the principal structure, and in no case more than 15 feet in height. Maximum lot coverage rules apply.

For existing lakeshore lots having overall dimensions capable of supporting a dwelling structure and a garage and existing on August 17, 1984, carports and garages may be located on the side of the lot having street frontage, at a specific location to be determined by the Zoning Administrator, guided by the principle that vehicles parked in the driveway should not overhang the functioning street right of way.

(h) **Storage Buildings/Sheds/Enclosures.** Storage buildings, sheds, or enclosures must obey front setbacks and may not be less than 2 feet from a side or rear lot line. Lakeshore lots follow rules set forth under "garage" above. Storage buildings, sheds, or enclosures may not be taller than the principal structure and in no case more than 15 feet in height, nor may they exceed 700 square feet in floor area for each such structure. Maximum lot coverage rules apply.

(i) **Pet Houses/Runs.** Same as storage buildings.

(j) **Non-enclosed Storage:**

(i) **Building materials/firewood**

(ii) **Inoperative and unlicensed vehicles.** Subject to Wis. Stats. §341.266, no inoperable or unlicensed vehicles or any vehicle that may not otherwise be lawfully operated on a public highway may be stored on any residential lot unless fully enclosed in a garage or similar permitted accessory structure. Where no garage or similar permitted accessory structure exists, this section shall not be construed to prohibit outdoor storage for up to seven (7) consecutive days of any vehicle that has been licensed, operable and in regular use by an occupant of the residential parcel that is temporarily inoperable or will otherwise be transported off premises for repair, sale or salvage.

(iii) **Recreational Vehicles and equipment used off the parcel that are stored on the premises on a regular basis.** If the size of the item is in excess of 16 feet in length, 5 feet in height and 6 feet in width, the object must be in the rear yard and must be two feet or more from side and rear lot lines. If the object is smaller in size, it can be located anywhere on the property except the front yard. On lots occupied by single or two family structures, there can be not more than one such object stored without having to be covered or screened. Additional items that are to be stored must be screened so that the appearance of the item from other properties will be softened. The adequacy of screening shall be a determination of the Zoning Administrator and the extent and character of general landscaping and the size of the lot shall be taken into consideration.

(iv) **Heavy Trucks and Heavy Equipment of Vocational Nature.** Trucks and similar equipment having a weight or a gross capacity in excess of 3.5 tons may not be regularly parked on a residential parcel, other than in a garage.

(k) **Hard Surface Sport and Play Areas and Swimming Pools.** Hard surface sport and play areas and swimming pools must have ten foot minimum distance from side or rear

lot lines (measured from the water edge or edge of sport or play area) unless the applicant has obtained a signed affidavit in recordable form of consent to run with the land from the owner or owners of record of the neighboring properties identifying a closer distance and consenting thereto. Such affidavit must be recorded against all affected properties in the office of the Register of Deeds for Dane County and with the City of Middleton Zoning Administrator. Pools must be security fenced.

(l) Solar Equipment, Air Conditioning Equipment, Heat Pumps, Antenna. Height limits for the district apply except height limits shall not apply to mobile service support structures or attached facilities. Any object that has potential for safety hazards or attractive nuisance problems must, at the discretion of the Zoning Administrator, be security fenced. Noise levels may not exceed 65 db at the lot line.

(m) Pets/Animals/Birds. The keeping of small animals or birds is permitted, subject to the following performance standards: Impacts must not be unreasonably objectionable or disruptive to normal residential occupancy of the neighborhood or a hazard to public health or safety. Commercial animal operations are not allowed in residential districts.

(n) Fences. Perimeter fences are those located within five feet of the lot line. Perimeter fences may not exceed six feet in height and may not be forward of the front face of the house, except as provided below.

Fences, perimeter or otherwise, in front yards shall be decorative only; 50% of their bulk must be air space and they must be not more than 36 inches in height.

Lakeshore lots may have perimeter fences on or within five feet and parallel to the side lot line to a height of six feet from the lakeshore facing house building line extended toward the street up to the front setback line. From the front setback line to the street and from the lakeshore facing house building line to the lake, fences may not exceed 36 inches in height.

Fences must be kept in good repair. Decorative sides must face outward. Except in Industrial Districts, fences may not have barbed wire, razor wire, electric wire, hazardous wire edges or similar materials.

#### **10.23 R-1 DISTRICT - CONDITIONAL USES. (See s. 10.37 and s. 10.115)**

(1) Residential occupancy of single family detached dwelling unit structures with accessory apartments. A dwelling structure that has two complete dwelling units (that is, two units individually contained, each having its own bathroom, kitchen, sleeping and other areas), where one of the two units is not larger than 500 square feet in floor area, is a single family detached home with accessory apartment. One of the two dwelling units within this structure must be owner occupied, except for periods of bona fide temporary absences. There may not be separate direct entrances for each dwelling unit on the front of the building.

- (2) Family day care where more than eight persons are served at any one time.**
- (3) Renting of sleeping rooms; three or more rooms.**
- (4) Schools.**
- (5) Churches.**
- (6) Recreational facilities.**
- (7) Rest homes and nursing homes.**
- (8) Private clubs.**
- (9) Utility and governmental facilities.**
- (10) Boathouses.**
- (11) Group homes with capacity to accommodate nine or more individuals.**
- (12) Residential- All district conditional uses under s. 10.37.**
- (13) Bed and Breakfast Establishment provided:**
  - (a) The establishment has a valid permit from the appropriate Health Department.**
  - (b) The only meal served to registered guests is breakfast.**
  - (c) Off-street parking is available as required by s. 10.105(7)3.(d) of this Code.**
  - (d) Length of stay may not exceed twenty one (21) consecutive days for each registered guest.**
  - (e) Shall be owner's personal and principal residence.**
  - (f) Signage shall be limited to six (6) square feet and approved by the appropriate committee.**
  - (g) Notification of the City Clerk of the transfer of ownership of the property that is the subject of the conditional use permit granted under this subsection.**

#### **10.24 R - 1 DISTRICT - DIMENSIONAL STANDARDS.**

- (1) Minimum Lot Area. 7,200 square feet.**
- (2) Minimum Lot Width. 60 feet.**

**(3) Minimum Front Setback. 24 feet (or 20 feet if such minimum would produce a difference in alignment of houses on neighboring parcels of not more than 6 feet. If one or more neighboring parcels is vacant, the owner thereof must commit by deed restriction to a house alignment to determine whether the 6 foot rule is workable).**

**(4) Minimum Side Setback. 8 feet (can be reduced below 8 feet to as little as 0 feet if adjacent parcel has a setback that provides a minimum of 15 feet of building separation. The adjoining setback must be committed by deed restriction).**

**(5) Minimum Street Side Setback. 20 feet.**

**(6) Minimum Rear Setback. 30 feet.**

**(7) Maximum Height of Structures. 35 feet or 3 stories whichever is less.**

**(8) Maximum Lot Area Coverage and Buildings. 35%**

**(9) A single family dwelling structure with accessory apartment is required to meet the same dimensional standards as a single family dwelling structure without accessory apartment, but the parkland dedication fee will be assessed for each accessory unit, established as part of a newly constructed residence.**

#### **10.28 R - 2 DISTRICT - PERMITTED USES.**

**(1) Residential Occupancy of single family detached dwelling unit structures.**

**(2) Residential occupancy of two family detached dwelling unit structures.**

**(3) Limited vocational activities. The standards and procedures of s. 10.22 (2) apply in the R-2 District.**

**(4) Group homes with capacity to accommodate eight or fewer individuals.**

**(5) The standards and procedures of s. 10.22 (4) apply in the R-2 District.**

#### **10.29 R - 2 DISTRICT - CONDITIONAL USES. (See s. 10.37 and 10.115)**

**(1) R - 1 conditional uses.**

**(2) Daycare with a Licensed Provider.**

**(3) Zero Lot Line Duplexes.**

**(a) Dimensional Standards:**

1. **Minimum front yard setback: 24 feet, or 20 feet if such a minimum would produce a difference in alignment of houses on neighboring parcels of not more than six feet.**
  2. **Each lot shall have an area of at least 5,000 square feet, with an aggregate width of both lots of the zero lot line property of not less than 80 feet with neither lot being less than 35 feet in width.**
  3. **The zero lot line side yard setback: zero feet. A two foot eave protrusion shall be permitted across the zero lot line into the adjoining unit.**
  4. **Patios and decks shall have a zero setback from the zero lot line side yard set back.**
  5. **All remaining dimensional standards shall be the same as those for single family detached dwelling unit structures.**
- (b) **Each lot shall have separate water and sewer laterals separately metered.**
  - (c) **The common wall between the two zero lot line lots shall be a one hour fire wall extending from the basement floor to flush against the underside of the roof.**
  - (d) **Each lot shall be subject to a recorded zero lot line maintenance agreement approved by the Zoning Administrator as to form specifying maintenance standards for the fire wall, maintenance and replacement standards for eight feet of the exterior surfaces of the building extending from the common wall between the lots outward to maintain a neat and harmonious appearance of the building, and providing that such maintenance agreement may not be terminated or amended without the prior approval of the Zoning Administrator.**
  - (e) **Driveways may be separate or joint. If joint, the standards for the joint driveway shall be part of the zero lot line maintenance agreement.**

### **10.30 R - 2 DISTRICT - DIMENSIONAL STANDARDS.**

**Parcels having single family detached dwelling unit structures shall follow R - 1 dimensional standards.**

**(1) Parcels having single family detached dwelling unit structures with accessory apartments shall follow R -1 dimensional standards.**

**(2) Parcels having two family detached dwelling unit structures:**

(a) **Minimum lot area: 10,000 square feet.**

(b) **Minimum lot width: 80 feet.**

(c) **Minimum front yard setback: 24 feet (or 20 feet if such a minimum would produce a difference in alignment of houses on neighboring parcels of not more than 6 feet. If one or more neighboring parcels is vacant, the owner thereof must commit by deed restriction to a house alignment to determine whether the 6 foot rule is workable).**

(d) **Remaining standards shall be the same as those for single family detached dwelling unit structures.**

#### **10.31 R - 3 DISTRICT - PERMITTED USES.**

(1) **R - 1 Permitted uses.**

(2) **R - 2 Permitted uses.**

(3) **Residential occupancy of dwelling unit structures having 3 - 8 dwelling units.**

(4) **Group homes with capacity to accommodate fifteen or fewer individuals.**

#### **10.32 R - 3 DISTRICT - CONDITIONAL USES. (see s. 10.37 and 10.115)**

(1) **R - 1 Conditional uses.**

(2) **Group homes having capacity to accommodate 16 or more individuals.**

(3) **Offices located within the buildings that have three or more dwelling units, provided that the total area devoted to exclusive office usage including offices used for building or project management purposes, does not exceed 6,000 square feet in any building, and provided that only incidental retail sales are conducted within such offices.**

#### **10.33 R - 3 DISTRICT - DIMENSIONAL STANDARDS.**

(1) **No building may have more than 8 dwelling units.**

(2) **Minimum lot area per dwelling unit.**

(a) **Single family detached dwelling unit structure and single family detached dwelling unit structures with accessory apartments: 7,200 square feet.**

(b) **Two family dwelling unit structures: 10,000 square feet.**

(c) **Three to eight dwelling units per building; minimum lot area for each dwelling unit:**

<b>efficiency</b>	<b>3,000 square feet</b>
<b>1 bedroom</b>	<b>3,850 square feet</b>
<b>2 bedrooms</b>	<b>4,250 square feet</b>
<b>3 Bedrooms</b>	<b>4,750 square feet</b>
<b>4 bedrooms</b>	<b>5,250 square feet</b>
<b>more than 4 bedrooms</b>	<b>add 500 square feet for each additional bedroom</b>

**Exceptions: if more than half of the dwelling units in a building are efficiency units, those in excess of half shall be counted as one bedroom units.**

**500 square feet of lot area per structured parking space shall be deducted from the minimum lot area for any building that provides structured parking on-site, either within the building or in a detached underground parking structure.**

- (3) Minimum lot width: 120 feet.**
- (4) Minimum front setback: 30 feet.**
- (5) Minimum side setback: 10 feet (20 feet if the parcel abuts an R - 1 zoned parcel.**
- (6) Minimum street side setback: 24 feet.**
- (7) Minimum rear setback: 30 feet.**
- (8) Maximum building height: 35 feet or three stories, whichever is less.**
- (9) Maximum lot area coverage: 35%.**
- (10) No single wall that is part of a dwelling structure in this district may be greater than 80 feet in length without an offset of ten or more feet or an angle of 22.5 degrees or more extending at least 14 feet.**
- (11) Parkland Dedication or Fees in Lieu of Parkland. Multi-family residential development impacts on community resources in the same manner as other new**

developments which are characterized by division of land into lots. In particular, the additional population density places demands upon City parks, recreation areas, conservancies and other open spaces. Accordingly, each dwelling unit newly established shall be required to dedicate parkland or provide fees in lieu of parkland dedication, with the choice of parkland or fees being made by the Plan Commission upon the recommendation of the Park, Recreation and Forestry Commission. If the Plan Commission determines to require dedication of land, such dedication shall be at least 1,450 square feet of land for each proposed residential dwelling unit. If the Plan Commission determines to require payment of fees in lieu of dedication of parkland, such fee shall be paid in a lump sum by the owner of the land prior to the issuance of any building permit for the land in the amount set forth in the Fee Schedule under Section 3.12. Except to the extent inconsistent with the provisions set forth herein, parkland dedications or fees in lieu of parkland dedication, shall follow the procedures set forth in Section 19.06(3)(k) of the Middleton General Ordinances.

### **10.35 R - 3A DISTRICT.**

The R - 3A District is applied to limited areas within the City of Middleton that developed or were committed as to usage under pre-1984 R-3 or R-4 zoning standards to levels of intensity or within dimensional standards that would not be allowed for new construction under the R-3 District herein.

Within this R-3A District, the rules of the former R-3 or the R-4 Districts, found in Appendix A, apply to govern development in the case of vacant but committed parcels or to govern continued occupancy and/or rebuilding in the case of damage or destruction of the existing structures. Map designations shall indicate whether former R-3 or R-4 zoning applies.

[Note: The R-3A District was applied to older apartments and condominium projects now zoned R-3 or R-4 that have more than 8 dwelling units or that have building heights in excess of 35 feet or densities in excess of the R-3 levels, and to vacant parcels interspersed with such developments].

### **10.37 RESIDENTIAL ALL DISTRICTS - CONDITIONAL USES. (see s. 10.115 and 10.82)**

#### **(1) Planned Residential Cluster by Conditional Use.**

The Plan Commission is authorized to vary minimum lot area and setback standards to allow clustering within a project without increasing density (that is, without increasing the number or dwelling units over the entire project site).

The Plan Commission may reject a project under this section without prejudice and with a recommendation that the project be pursued under the PDD District provisions of this Ordinance if the Commission concludes that planning benefits will result from linkages between nearby sites if they are planned conjunctively.

Perimeter setbacks may not be varied to be less than eight feet on a non street side of a parcel unless binding consent is obtained from the abutting property owners in accord with section 10.22(4)(f), or less than 24 feet on any street side of a parcel.

The Plan Commission may, under this section, approve maximum lot coverages above the standard 35% to a maximum of 40%. Lot coverage and internal density increases may be approved for the same project. Applications for these approvals shall be deemed to entitle the Plan Commission detailed design review. This review is to result in conditions being placed upon the project. Since an approved project will have less space between buildings than is the standard, the design requirements that the Plan Commission imposes will seek to substitute design features for "space" in providing privacy, appropriateness of scale, and safety.

The Plan Commission cannot, under this procedure, approve negotiated variations in standard municipal services or waivers in the park land dedication rules.

## **(2) Wind Towers.**

Wind towers may be erected and maintained on a conditional use basis in any non-conservancy zoning district subject to parcel size and consent standards as set forth below:

(a) A wind tower over 35 feet in height may be considered for conditional use application only if it is proposed to be on a lot that is one acre or larger in size and the proposed siting on the lot is reasonably central within the lot. Wind towers not satisfying these standards may be considered for conditional use application if the applicant submits signed and recorded affidavits of consent from owners of all land parcels that would be affected by a falling or collapse of the tower. The consents shall be stated as running with the land.

(b) Height Considerations. Wind towers that are over 60 feet in height and that meet all technical standards of this Ordinance may, nevertheless, be rejected for conditional use approval by the Plan Commission upon a finding that the height is wholly out of proportion with prevailing heights of structures and objects within the neighborhood and would consequently be seriously disruptive of neighborhood aesthetic character. Towers that are 60 feet or less in height may not be denied on these grounds.

(c) Setbacks. No tower may be erected or maintained within the following distances to the property line or rights of way for above ground utility lines:

(i) One rotor length plus ten feet for wind towers that are manufactured production models.

(ii) A distance equal to the full height of the wind tower for other installations (for example, experimental models).

**(d) Standards for conditional use review.**

**(i) Plan Commission staff shall identify all applicable federal or state construction codes, and shall report to the Commission on compliance of the proposed installation with such codes. The Plan Commission approval shall be subject to full compliance of the installation and operation with applicable state and federal codes.**

**(ii) All applicable utility regulations shall be satisfied as to interconnection and operation of interconnected systems.**

**(iii) The proposed installation shall be controlled by fences or other anti-climbing devices. A sign indicating electrical hazards shall be placed on the tower warning of electrical hazard and demand "no trespassing".**

**(iv) The Plan Commission may deny installations in circumstances where wind towers are becoming so numerous in a neighborhood that their aggregate noise, visual or other impacts are offensive to prevailing values.**

**(v) Conditions shall be placed requiring removal when use of wind towers has ceased.**

**(e) Application requirements. Applications for conditional use approval shall include or be accompanied by the following materials shown on plot plan or otherwise:**

**(i) property lines;**

**(ii) proposed location of wind tower;**

**(iii) location of all existing structures on site;**

**(iv) All above ground utility lines within a radius equal to the height of the wind tower;**

**(v) Schematic of electrical system associated with the wind tower including all existing and proposed electrical interconnections;**

**(vi) All underground utility lines on the site;**

**(vii) Dimensional representation of the structural components of the tower including the base and footings;**

**(viii) Manufacturer's specifications and installation and operation instructions or specific wind tower design data;**

**(ix) Certification by a registered professional engineer (or manufacturer's or state certification) that the tower design and wind machine is sufficient to withstand wind load**

requirements for structures as defined by the applicable codes.

(x) Evidence of insurance coverage (binder or equivalent) insuring the installation and the owner against risk of property damage or personal injury.

(f) Soil test data may be required by the Plan Commission staff if such data is necessary to judge the adequacy of design.

### **(3) Group Homes.**

Group homes that fall within the meaning of community living arrangements as defined in Wis. Stat. s. 62.23(7)(i) and that are identified as conditional uses in particular districts of this Ordinance shall be governed by conditional use review standards of Wis. Stat. s. 62.23(7)(i)9, and the procedures of Wis. Stat. s. 62.23(7)(i) shall apply.

### **(4) Family Day Care.**

The provision of day care within a dwelling where the primary use of the dwelling unit is residential and where more than eight clients who are not regularly residents of the dwelling unit are served at any one time shall require conditional use approval. Where the facility is required to be licensed or is eligible to be licensed or sanctioned by State or County child welfare agencies, the Plan Commission shall examine applicable licensing standards and shall apply these to proposed operations. In the absence of such standards, the Commission may impose conditions intended to accomplish safety of the facility and reasonable compatibility with the neighborhood.

### **(5) Schools.**

(Public or private elementary or secondary schools as defined by State Statutes). The Plan Commission shall have review powers over appropriateness of location, site planning, architectural design, grading, lighting and other impact factors.

### **(6) Churches.**

A church is a place of worship, associated meetings and educational facilities, associated office and storage and garage facilities and homes on the same site for persons engaged in religious functions, all integrally involved in the affairs of a church, congregation or religious society recognized under Wis. Stat. Chapter 187. The Plan Commission shall have review powers over appropriateness of location, site planning, architectural design, grading, lighting and other impact factors.

### **(7) Recreational Facilities.**

The following uses may be considered for conditional use approval in any residential district: nature preserves and passive recreation areas, outdoor parks and open space,

pedestrian and bike trails (non-motor equipment only except for maintenance and service vehicles), active outdoor recreation play fields including spectator seating, swimming pools, tennis and racketball and related court facilities, indoor or outdoor, exercise and fitness facilities, archery ranges, golf courses and associated facilities (driving range, pitch and putt, mini-golf) and similar usages and facilities. Facilities to serve a single dwelling unit do not require conditional use approval as recreational facilities.

Conditional use approval requirements extend to the use as appropriate for the site and area, appropriateness of site design, approval of all structures, equipment, facilities and approval of a use program statement describing what activities will take place, duration, extent, hours, controls, noise generation, lighting, supervision, parking, collateral operations (food and beverage, concessions, etc.). Approvals will be specific as to the range of allowable activities.

#### **(8) Boat Houses.**

Boat houses may not have living quarters established within or above the boathouse. For purposes of this usage, living quarters means finished quarters having plumbing. Boat houses may be approved only upon a finding that the least practicable intrusion is made on shoreline appearance.

#### **(9) Utility and Government Facilities.**

(a) This use category includes:

(i) Lines (wire, pipe, cable, etc.), transmission, switching and related facilities, antenna, and similar equipment or installations necessary to conduct public utility, gas, electric, telephone, cable communications and other telecommunications services within the community or through the community, but not including mobile service facilities as defined by Wis. Stats. §66.0404(1)(L); and

(ii) Municipal lands, facilities, installations or equipment necessary to perform governmental functions. For purposes of this section, municipal includes city, town, county, state, educational agencies, metropolitan sewerage commission, federal entities, and private entities performing public services under service contracts with a municipality. Municipal lands and facilities include those leased by or to a municipality.

(b) Conditional use approval shall be required for utility and governmental facilities that involve any of the following, individually or in combination:

(i) Installation or removal or significant modification of major utility lines or facilities. Major means primary system facilities (lines, interceptors, mains, pumping stations, principal pipelines, substations, new structures (including towers and antennas unrelated to mobile service support structures or mobile service facilities), housing equipment and the like).

(ii) Acquisition, development or significant modification or removal of municipal facilities, municipal buildings or structures, yards or sites for storage, transfer, waste management, installation or modification of roads.

(iii) Utility and governmental agencies are encouraged to submit system plans to the City for review and comment, including periodic update submissions, so that individual facility reviews can occur in a planning framework.

(iv) In submitting either system plans or facility plans applicants may identify the necessity of the facility. The City shall, at a minimum, comment on consistency between the facility or the system plan and the City Master Plan, even when City approval cannot legally be required. Where the City is legally entitled to require full conditional use review and approval, the full conditional use review procedure shall occur.

(c) It shall be City policy that visible utility and governmental facilities be sited, designed and screened at the ground level so as to be reasonably compatible with the appearance of the surrounding areas. Also, support building for the above facilities must use appropriate materials/colors and be compatible with adjacent areas. To accomplish this review for new proposed facilities a photo simulation must be provided by the applicant seeking the approval. Such photo simulations must realistically depict proposed features in appearance and scale, and construction must conform to such characteristics, if conditional use is granted.

(d) The Zoning Administrator shall be responsible to define the inclusion of facilities by the terms of this section. Appeal (or variance requests) from the Administrator's determination shall be made to the Zoning Board of Appeals.

#### **10.38 TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND) DISTRICT**

- (1) **Purpose.** The Traditional Neighborhood Development (TND) zoning district is intended to allow the development and redevelopment of land consistent with the design principles of traditional neighborhoods. A traditional neighborhood:
- (a) Creates an environment that promotes human interaction, a healthy civic life, a sense of place, and a high-quality living environment;
  - (b) Is compact and reflects the character of historic development patterns in the community;
  - (c) Is designed for the human scale and for walkability;
  - (d) Provides a mix of land uses, including residential, commercial, civic, and open space uses in close proximity to one another, potentially including the vertical mixing of uses in multi-story buildings;
  - (e) Provides a mix of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes;

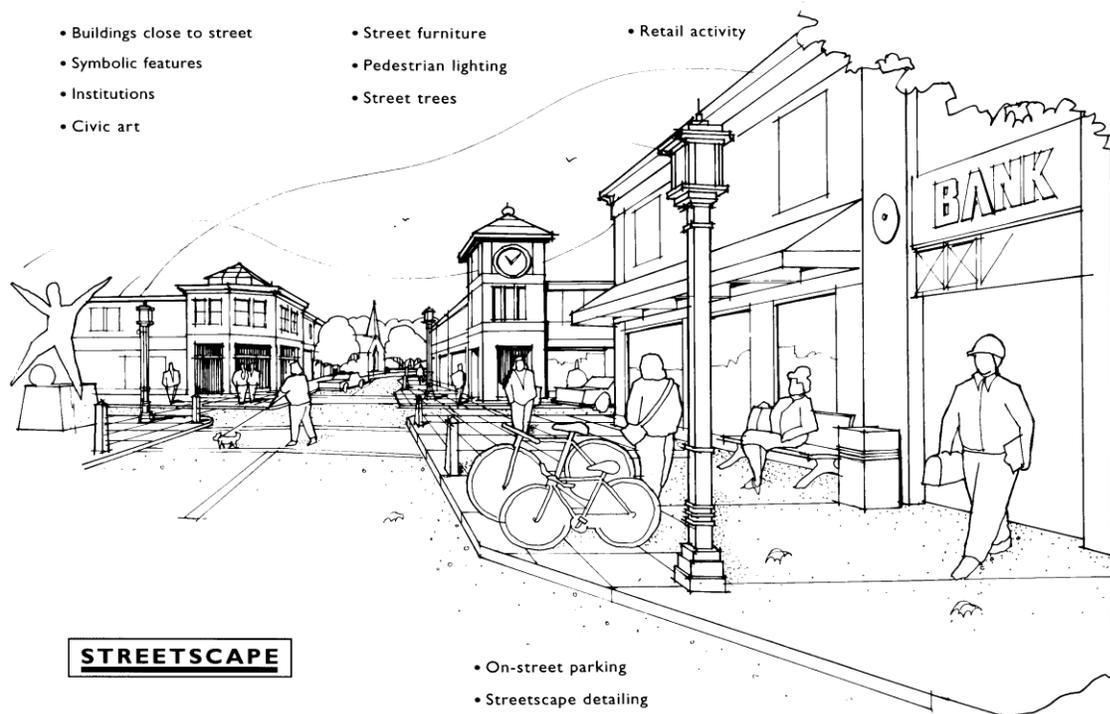
- (f) **Incorporates a system of relatively narrow interconnected streets with sidewalks and paths that offer multiple routes for motorists, pedestrians, and bicyclists within and through the neighborhood;**
  - (g) **Accommodates and facilitates current and/or future transit service;**
  - (h) **Retains, to the extent reasonably practical, existing buildings with historical or architectural features that enhance the visual character of the community;**
  - (i) **Incorporates significant environmental features into the design; and**
  - (j) **Is consistent with the Comprehensive Plan.**
- (2) **Procedural Requirements for the Traditional Neighborhood Development District. The procedural requirements for the TND District shall be identical to those of the Planned Development District (see Sections 10.83 through 10.92, Middleton General Ordinances). Each TND District shall be established with an approved General Implementation Plan, and each TND project shall require Specific Implementation Plan approval.**
- (3) **Minimum TND District Size. Each mapped TND zoning district shall be a minimum of 10 acres for areas predominantly consisting of infill and redevelopment sites, and a minimum of 15 acres for areas predominantly consisting of greenfield development sites, as determined by an approved General Implementation Plan. Any individual development projects within a TND district may be of any size as approved in a Specific Implementation Plan.**
- (4) **Land Use Regulations. Any land use that is permitted by right or as a conditional use, accessory use, or temporary use in any other zoning district, or any mix of such uses, may be permitted within a TND development subject to the criteria listed below. All General Implementation Plans and Specific Implementation Plans shall specify the range of land uses permitted in each part of the TND development, using the land use types and definitions provided by the Zoning Ordinance, or as explicitly customized and approved for the TND development. Each TND development shall include a carefully planned and integrated mix of land uses with varied development densities throughout the project, as required below:**
- (a) **Residential Use Areas.**
    - 1. **Each TND development shall include at least one area intended for predominately residential use.**
    - 2. **The overall mix of residential uses within each TND development shall resemble the mix of existing housing types and tenure within the entire community.**

3. Each TND shall include at least two of the following types of residential uses as specified in the General Implementation Plan and Specific Implementation Plan:
  - A. Single-family detached dwellings, on a mix of lot sizes throughout the neighborhood.
  - B. Single-family attached dwellings, including duplexes, townhouses, and row houses.
  - C. Multi-family dwellings, including senior housing.
  - D. Special needs housing, including community living arrangements and assisted living facilities.

(b) Mixed Use Areas.

1. Mixed use areas are intended to serve as pedestrian-friendly gathering places and focal points for the project, and as such, the highest development intensity and density within the TND development shall occur in and adjacent to the mixed use area(s).
2. Each TND development shall include at least one mixed use area, unless the Comprehensive Plan identifies the location of an existing or planned mixed-use area on a nearby site.
3. At least 90% of all dwelling units within the TND development shall be within a quarter mile of the perimeter of a mixed use area.
4. To ensure a neighborhood, and not a community or regional orientation, the total area in the TND development devoted to commercial and institutional uses shall not exceed 25% of the area of the entire TND development. Figure TND(1) shows one example of a mixed use area.
5. Each mixed use area shall include an appropriate mix of the following uses as specified in the General Implementation Plan and Specific Implementation Plan:
  - A. Neighborhood commercial uses permitted in neighborhood office and neighborhood business zoning districts.
  - B. Residential dwellings, including single-family attached, multi-family, upper-story residential units, live/work units, accessory dwelling units, and special needs housing.
  - C. Institutional uses, transit facilities, public parking areas and common open spaces like a central neighborhood plaza or square, park or playground.

Figure TND(1): Example of Mixed Use Area Design:



(c) **Common Green Space Areas.**

1. Each TND development shall include at least one common green space area open to the general public.
2. At least 15% of the Gross Site Area of the TND development must remain as permanently protected common green space.
3. At least 90% of the dwelling units within the TND development shall be within one-quarter mile of the perimeter of a protected common green space area.
4. Permanently protected common green space areas include public parks, trails, environmental corridors, and natural areas, that are permanently restricted from non-recreational development, but do not include private yards, stormwater management basins, or stormwater conveyance channels.
5. Small neighborhood parks, playgrounds, and squares should be integrated into the project, while large outdoor recreation areas should generally be located at the periphery.

(d) **TND Density, Intensity, and Bulk Requirements.**

1. **Minimum Lot Area and Width.** A variety of lot sizes and dwelling unit types shall be provided to facilitate housing choice and meet the requirements of people with different housing needs. Condominium projects and other forms of group development with more than one principle structure on a lot shall result in site designs consistent with the following requirements, as if every principle structure were on its own lot.

Minimum lot areas and widths, and maximum building coverage shall be as follows, unless explicitly located and approved in the General Development Plan and Implementation Plan:

A. **Single Family Detached dwellings.**

(i) With street (front or side) loaded garages:

- Minimum lot area shall be 5,000 square feet.
- Minimum lot width shall be 50 feet with an attached garage and 40 feet with a detached garage.

(ii) With alley loaded garages:

- Minimum lot area shall be 4,000 square feet.

- **Minimum lot width shall be 45 feet with an attached garage and 40 feet with a detached garage.**

**(iii) Total building footprint coverage shall not exceed 50% for any lot.**

**(iv) Total impervious coverage shall not exceed 65% for any lot.**

**B. Duplex and Twin-House dwellings.**

**(i) Minimum lot area shall be 3,500 square feet per dwelling unit.**

**(ii) Minimum lot width shall be 30 feet per dwelling unit.**

**(iii) Total building footprint coverage shall not exceed 50% for any lot.**

**(iv) Total impervious coverage shall not exceed 65% for any lot.**

**C. Townhouse dwellings (3+ attached units).**

**(i) Minimum lot area shall be 2,200 square feet per dwelling unit. Minimum lot width shall be 22 feet per dwelling unit.**

**(ii) Total building footprint coverage shall not exceed 50% for any lot.**

**(iii) Impervious coverage shall not exceed 65% for lot.**

**D. Multi-Family dwellings.**

**(i) Minimum lot area shall be 700 square feet for each efficiency dwelling unit, with an additional 300 square feet of lot area required for each additional bedroom in the dwelling unit.**

**(ii) Total building footprint coverage shall not exceed 50% for any lot.**

**(iii) Total impervious coverage shall not exceed 65% for any lot.**

**E. All other Land Uses. Minimum lot areas and widths for all other uses shall be as specified in the approved General Implementation Plan and Specific Implementation Plan.**

**2. Building Setbacks and Height Limits. The TND development shall include buildings placed relatively close to the street to promote interaction, enclose space along the street, and direct less attractive site features to less visible yards. Building and paving setbacks shall be as provided in Figure**

TND(2), below, unless explicitly located and approved in the General Implementation Plan and Specific Implementation Plan.

<b>Figure TND(2): Required Setback and Height Limits</b>	
<b>Use Areas:</b>	<b>Required Setbacks</b>
<b>Residential Areas</b>	<p><b>Lot line to nearest Wall of Habitable Area:</b></p> <ul style="list-style-type: none"> <li>• 16 feet minimum</li> <li>• 25 feet maximum</li> </ul> <p><b>Lot line to nearest Wall of Porch or Edge of Stoop:</b></p> <ul style="list-style-type: none"> <li>• 10 feet minimum</li> <li>• 25 feet maximum</li> </ul> <p><b>Lot line to nearest Wall of Attached Garage:</b></p> <ul style="list-style-type: none"> <li>• Minimum of 2 feet more setback than adjacent portion of Habitable Area</li> </ul> <p><b>Side to Principal Structure:</b></p> <ul style="list-style-type: none"> <li>• 0* or 10 feet minimum</li> </ul> <p><b>Side to Accessory Structure / Detached Garage:</b></p> <ul style="list-style-type: none"> <li>• 0* or 5 feet minimum</li> </ul> <p><b>Rear and Alley to Habitable Area:</b></p> <ul style="list-style-type: none"> <li>• 25 feet minimum</li> </ul> <p><b>Rear to Accessory Structure / Any Garage:</b></p> <ul style="list-style-type: none"> <li>• 2 feet minimum</li> </ul> <p><b>Alley to Accessory Structure / Any Garage:</b></p> <ul style="list-style-type: none"> <li>• 2 to 8 feet range or 16 feet minimum – <i>see TND Garage rules (subsection (f)(2)D)</i></li> </ul> <p><b>Side to Paved Area:</b></p> <ul style="list-style-type: none"> <li>• 0* or 5 feet minimum</li> </ul> <p><b>Maximum Building Height:</b></p> <ul style="list-style-type: none"> <li>• 35 feet for principal structure</li> <li>• 15 feet for accessory structure, 25 feet for an accessory dwelling unit above garage</li> </ul>
<b>Mixed-Use Areas</b>	<p>Same as above, except:</p> <p><b>Street to Principal Structure:</b></p> <ul style="list-style-type: none"> <li>• 0 feet minimum</li> <li>• 15 feet maximum</li> </ul>
<b>Green Space Areas and All Other Areas</b>	<p>Per approved General Development Plan and Specific Implementation Plan</p>
<p><i>* 0 feet in cases of buildings and paved areas abutting along a common lot line.</i></p>	

(e) **TND Circulation and Parking Requirements.** The circulation system shall allow for different modes of transportation, provide functional and visual links among the residential area(s), mixed-use area, and open space areas within the TND development; connect to existing and proposed developments outside the TND development; provide adequate traffic capacity; provide connected pedestrian and bicycle routes including off-street paths or bicycle lanes on streets; control through traffic; limit direct lot access on streets with higher expected traffic volumes; and promote safe and efficient mobility. More specific design standards that shall be met are as follows:

1. **Street and Block Layout.** The orientation of streets shall be consistent with the Comprehensive Plan and Official Map, enhance the visual impact of common open spaces and prominent buildings, minimize the use of double frontage lots, and create lots that facilitate passive solar design and minimize street gradients.
  - A. The TND development shall maintain and extend the existing street grid, where present, and restore any disrupted street grid where feasible. All streets shall extend through the project or terminate at other streets, except streets may temporarily “dead end” when such streets will connect to future phases of the TND development or other sites outside the TND development, except that minor streets may permanently terminate in a cul-de-sac only where site conditions require a cul-de-sac and there will be a through connection via a pedestrian way or bicycle path at the dead end.
  - B. Street layouts shall provide for blocks that are a maximum of 400 feet deep and 800 feet long, unless expressly permitted through General Implementation Plan and Specific Implementation Plan approval.
  - C. Blocks shall be designed to accommodate a variety of lot sizes to accommodate residents with different housing needs.
2. **Pedestrian Circulation.** Convenient and continuous pedestrian circulation systems, including walkways and paths intended to minimize conflicts between pedestrians and motor vehicles shall be provided throughout the TND development.
  - A. Where feasible, any existing formal or informal pedestrian routes through the site shall be preserved, enhanced, or relocated if necessary.
  - B. All streets, except for alleys, shall be bordered by sidewalks on both sides in accordance with the specifications listed in Figure TND(3).
  - C. Clear and well-lighted walkways shall connect all building entrances to the adjacent public sidewalks and to any associated parking areas or transit facilities.

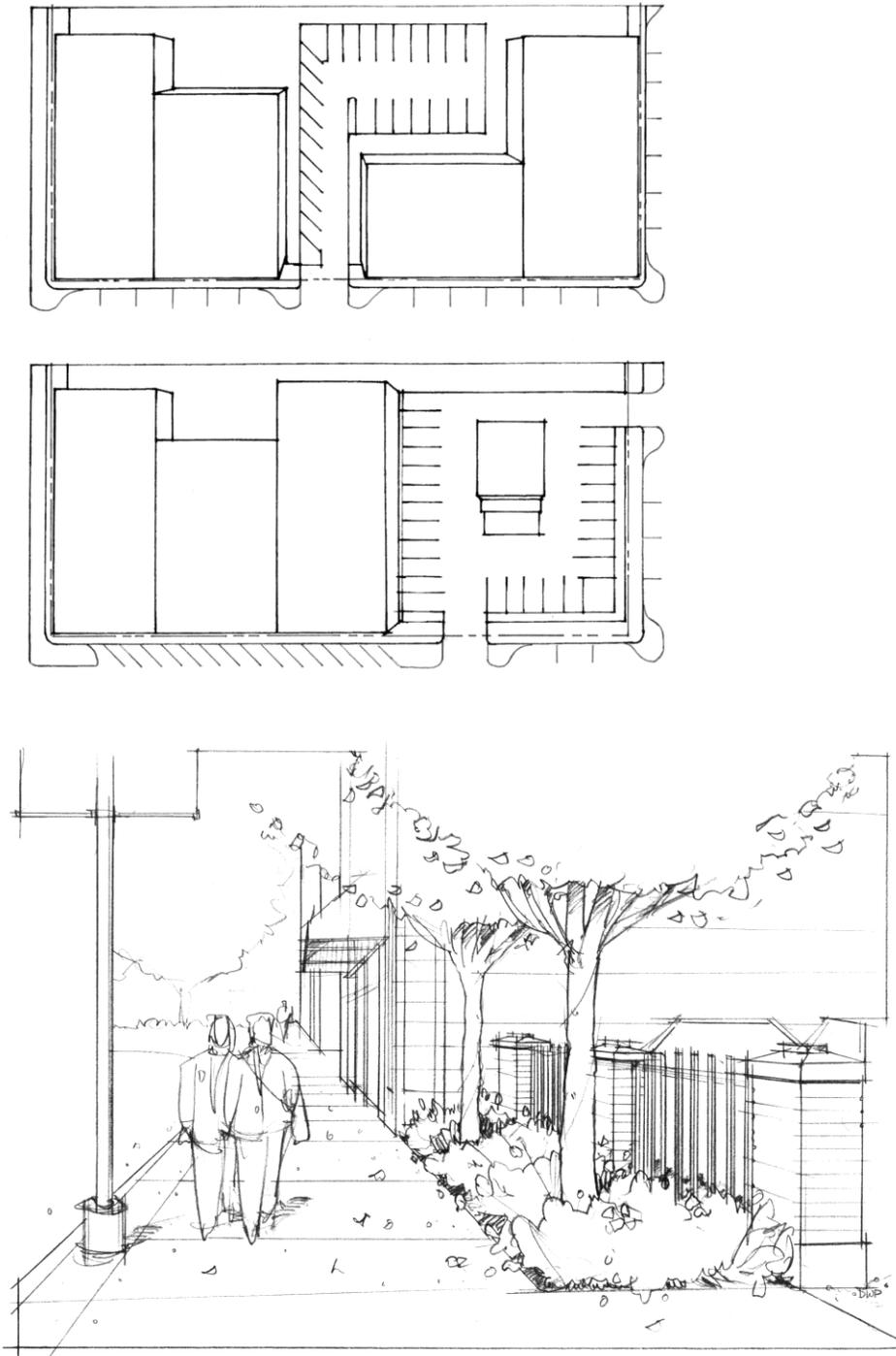
- D. **Curb bump-outs, median refuges, and other related techniques should be investigated along collector streets and at key intersections to shorten the pedestrian crossing distance.**
  - E. **Between-lot walkways or paths may be required where necessary to maintain the continuity of the pedestrian circulation system.**
3. **Bicycle Circulation. Appropriate facilities for bicycle travel, as determined through the General Implementation Plan and Specific Implementation Plan shall be included in the project.**
- A. **Such facilities may include off-street bicycle and multi-use paths, striped bicycle lanes on streets per Figure TND(3), and signed bicycle routes.**
  - B. **Any existing bicycle routes through the site shall be preserved, enhanced, or relocated if necessary.**
  - C. **Bicycle routes and facilities shall implement the recommendations in the Comprehensive Plan, Comprehensive Outdoor Recreation Plan, and Official Map.**
  - D. **All businesses, civic uses, and multi-family dwelling units shall provide adequate bicycle parking areas and facilities.**
4. **Transit Accommodations. In locations where public or private transit is available, programmed, or recommended in officially adopted plans, convenient transit stops and related facilities shall be provided. Transit stops shall be well-lighted and placed in highly visible locations that promote security through visibility from nearby development and public streets.**
5. **Motor Vehicle Circulation. Motor vehicle circulation shall be designed to efficiently move motor vehicle traffic via multiple routes and to minimize conflicts with pedestrians and bicycles.**
- A. **Traffic calming features such as curb extensions, traffic circles, medians, and on-street parking are encouraged to slow traffic speeds.**
  - B. **Arterial streets should generally not bisect the TND development.**
  - C. **Local streets within the TND development are intended to be used primarily for access to abutting properties.**
  - D. **Collector streets within the TND development are intended to carry traffic from minor streets to arterial streets, include the principal entrance street to a residential use area, and may be subject to substantial access controls, as determined in the General Implementation Plan and Specific Implementation Plan.**

- E. Alleys provide access to the rear of abutting properties.
- F. Minimum street design standards for the TND development shall be in accordance with Figure TND(3), or as explicitly modified by the General Implementation Plan and Specific Implementation Plan.

	Collector	Local	Alley (private)
Avg. Daily Trips	1000 to 10,000	Up to 1,000	Not applicable
Typ. Right-of-Way	66 to 76 feet	50 to 70 feet	16 to 20 feet
Travel Lanes	10 feet	Blended:  28 feet for 2-side parking  20 feet for 1-side parking	Two at 8 feet One-way at 12
Bicycle Lanes	Two at 5 feet		Not applicable
On-Street Parking	Two at 8 feet		Not applicable
Max. Face-to-Face	36 to 46 feet	20 to 38 feet	Not applicable
Pavement Edge	Curb	Curb *	Flat Ribbon
Edge Width	2 at 1 foot	2 at ½ foot	2 at 2 feet
Planting Terrace	2 at 9 feet	2 at 9 feet	Not applicable
Sidewalks	2 at 5 feet	2 at 5 feet	Not applicable
Sidewalk Offsets	2 at 1 foot	2 at 1 foot	Not applicable
*Stormwater treatment design may be considered instead of curb and gutter.			

6. **Parking and Loading Requirements.** The TND development shall meet the parking and loading requirements found elsewhere in the Zoning Ordinance, except that the General Implementation Plan and Specific Implementation Plan may allow for parking and loading reductions in recognition of complementary land uses, and may allow adjacent on-street parking within a TND development to apply toward the minimum parking requirements.
- A. For multi-family residential buildings and in mixed-use areas, shared use parking lots and structured parking are encouraged, off-street parking lots may not be adjacent to or opposite from a street intersection, and parking lots and structures shall be located to the rear or sides of buildings.
  - B. The edges of parking lots, landscaped islands, and all other areas not used for parking or vehicular circulation shall be landscaped and curbed per the requirements of the Zoning Ordinance as conceptually depicted in Figure TND(4).
  - C. Reduction of impervious surfaces through the use of pervious pavement, interlocking pavers, and similar techniques, is encouraged, particularly for remote parking lots and parking areas for periodic uses.

**Figure TND(4): Examples of Required Parking Lot Placement and Landscaping**



- (f) **TND Architectural Requirements.** A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character, while maintaining a compatible design theme throughout each TND development. More specific design standards that shall be met are as follows:

1. **Existing Structures.** Existing structures, if determined to be historic, architecturally, or culturally significant, shall be protected from demolition or encroachment by incompatible structures or land development, to the extent reasonably practical. The U.S. Secretary of the Interior’s Standards for Rehabilitation of Historic Properties shall be used as criteria for renovating significant structures.
  
2. **New Structures.**
  - A. **General Design:** New structures shall be of consistently high and lasting quality throughout the project. The bulk and height of each building shall properly relate to and flow from surrounding buildings, and shall be in proper proportion to the size of the lot on which it is to be placed. The style, materials, and design of new buildings may be organized around a consistent design theme that may draw from a local vernacular architectural style and/or natural building materials common to the region. However, design monotony shall be avoided. (See Figure TND(5).) Unless otherwise approved in the General Implementation Plan and Specific Implementation Plan to carry out a particular design theme of exceptional quality, no two principal buildings within four lots on either side of the street on which the buildings front shall have a similar front façade. Front façades shall be deemed to be similar where there is:
    - (i) No substantial difference in roof lines or form; and
    - (ii) No substantial change in window size, location, or type; and
    - (iii) No, or minimal, change in material colors.



Figure TND(5):  
Example of Design  
Variation within a  
Consistent Design  
Theme

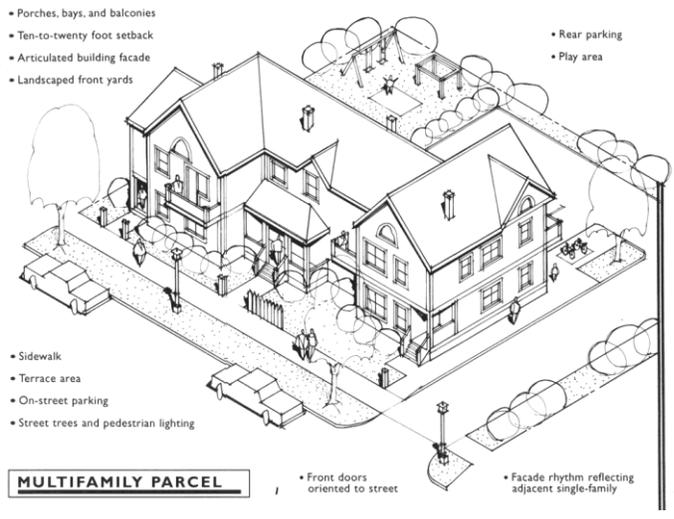
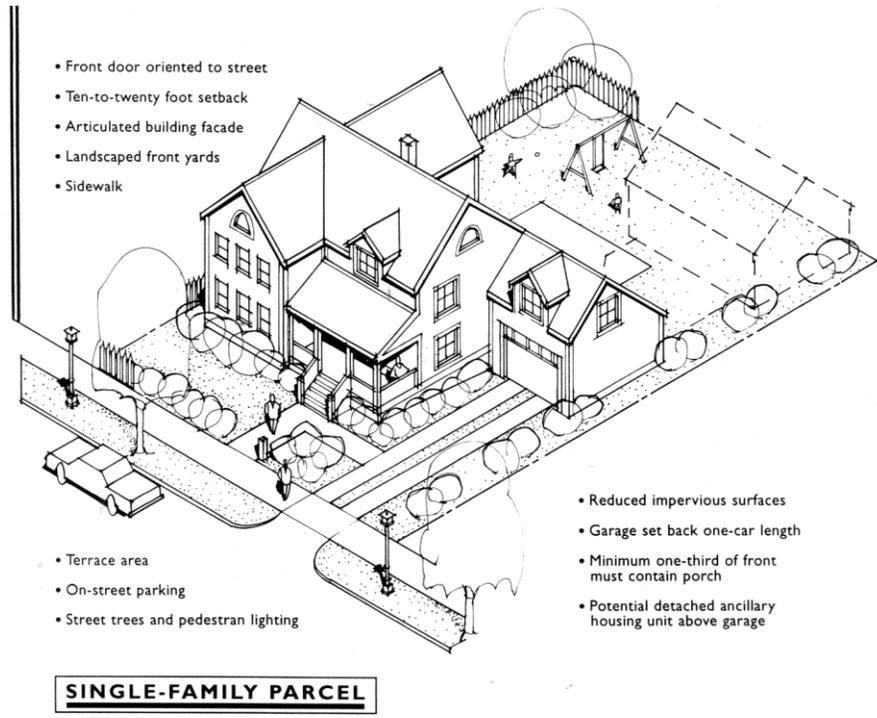
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- 
- B. **Height.** New structures within a TND development shall be no more than three stories for single-family detached dwellings and attached

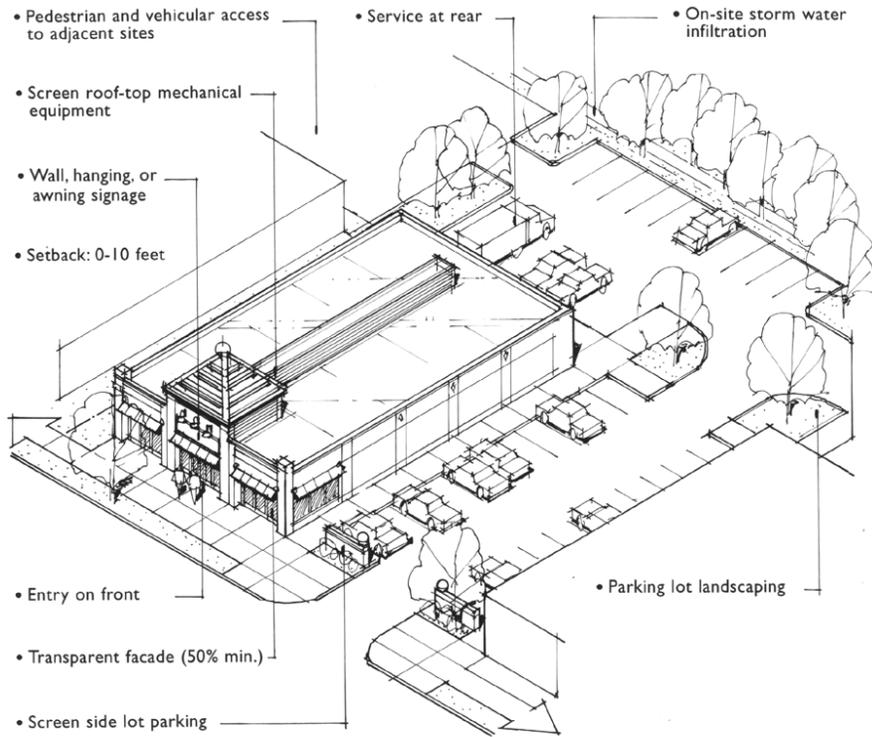
**dwelling, and six stories for commercial, multi-family, or mixed use buildings.**

**C. Entries and Façades.**

- (i) Similar architectural features, materials, and the articulation of a building façade shall be continued on all sides visible from a public street.**
- (ii) The front façade of the principal building shall face onto the street yard of a public street (not directly toward a parking lot) and shall parallel the line of the street to create a continuous edge.**
- (iii) As buildings are moved closer to the street and to each other, special attention should be paid to design details and landscaping. Porches, entry bays, covered walkways or stoops, hooded front doors, or other similar architectural elements shall define the front entrances to all dwelling units; such features shall generally be closer to the street than the remainder of the dwelling.**
- (iv) Porches shall be a minimum of six feet deep to enhance aesthetics and function.**
- (v) For any nonresidential building, a minimum of 50% of all street façade(s) on the ground floor shall be transparent, consisting of window or door openings, and all public entries shall face a street. Figure TND(6) provides examples of required treatments of entries and front façades.**

**Figure TND(6):  
Three Examples  
of Entry and  
Front Façade  
Treatments**  
*Continued on  
next page.*





**D. Garages: (See Figure TND(7), below).**

**(i) Garage accessed from a street (head-in or side-loaded):**

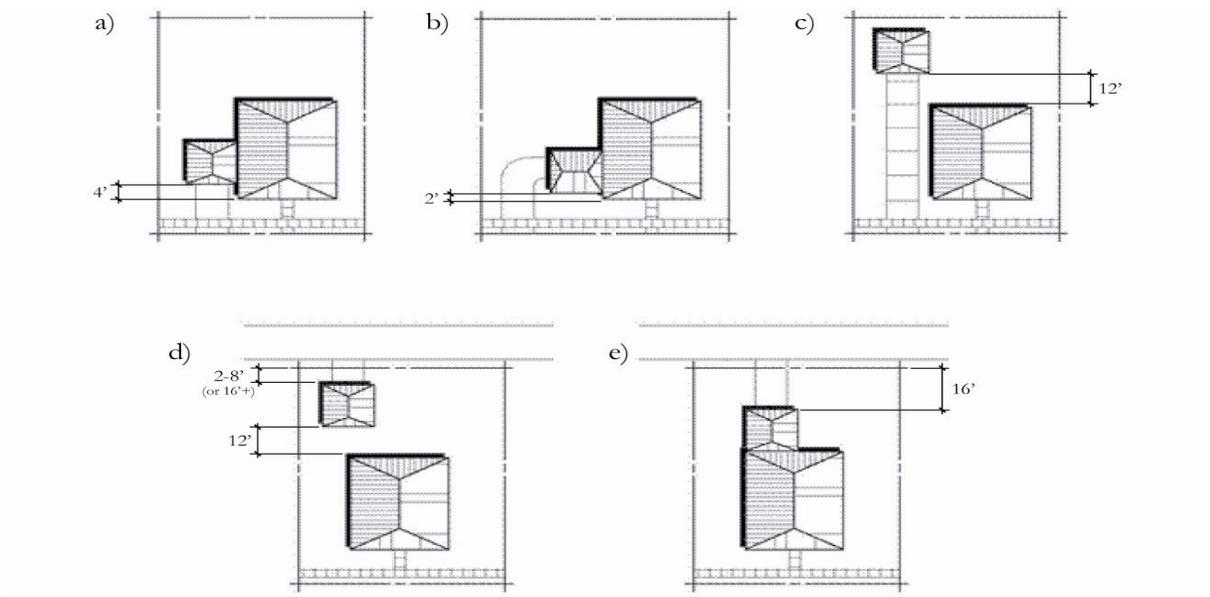
- For any principal use building, the combined width of all garage doors facing the accessed street shall occupy no more than 40% of the total width of the façade of the said principal structure also facing said street.
- Residential garages shall be set back a minimum of two feet to the rear of the main front façade of the dwelling (not including porches or other non-habitable areas) to ensure the garage does not dominate the view from the street.
- Where the dwelling does not include a front porch (or similar projection having both a roof and full or partial walls), all garages shall be set back a minimum of four feet to the rear of the main front façade.

**(ii) Garage accessed from an alley (head-in or side-loaded):**

- Garage setback from an alley shall either be between two and eight feet from the alley right-of-way to allow proper turning radii and/or parallel parking, or at least 16 feet to allow head-in parking without encroaching into the alley.

***Figure TND(7): Typical alternative garage locations on a TND residential lot:***

- a) Attached garage is accessed from a street (street-loaded garage). 4' min setback required if no front porch or similar front yard building projection; 2' with front porch.*
- b) Attached garage is accessed from a street (side-loaded garage). 2' min setback required.*
- c) Detached garage, behind the house, is accessed from a street. 12' separation between house and garage.*
- d) Detached garage (head-in or side-loaded) is accessed from an alley. Either 2' to 8' setback from alley right-of-way or 16+' minimum setback from alley right-of-way. A 12' separation between house and garage.*
- e) Attached garage is accessed from an alley. 16' minimum setback from alley right-of-way*



(g) **Additional TND District Requirements.**

1. **Landscaping Standards.** The General Implementation Plan and Specific Implementation Plan may have the flexibility to establish specific landscape and open space requirements for the TND development that deviate from the typically applied landscaping standards; provided the best interests of the community are promoted. Where no explicit permission from such deviations is approved in the General Implementation Plan and Specific Implementation Plan, the typical landscaping standards shall apply.
2. **Performance Standards and Signage.** The General Implementation Plan and Specific Implementation Plan may have the flexibility to establish specific signage requirements for the TND development that deviate from the typically applied signage standards; provided the best interests of the community are promoted. Where no explicit permission from such deviations is approved in the General Implementation Plan and Specific Implementation Plan, the typical signage standards shall apply.
3. **Natural Resources Protection.** In no case shall a TND development be exempt from the Overlay District requirements of this Chapter pertaining to natural resource and well head protection.
4. **Land Division Requirements.** Any land division in a TND District shall comply with the Subdivision Ordinance (Chapter 19) of the City of Middleton.

#### **10.40 B - 1 OFFICE DISTRICT.**

The purpose and objectives of the business districts are to provide commercial areas that will provide goods and services to the public in an attractive, safe and convenient manner. The B - 1 District is established for areas having predominantly office uses, typically generating low traffic volumes and traffic turnover.

#### **10.42 B - 1 DISTRICT - PERMITTED USES.**

##### **(1) Office activities.**

- (a) Professions including health services, office or clinic basis.
- (b) Finance, real estate, insurance.
- (c) Government offices.
- (d) Business offices.
- (e) Business services, including convenience printing. Excluding "services to buildings."
- (f) Educational services, provided all activities are enclosed within buildings.

##### **(2) Commercial Activities.**

- (a) Day care.

##### **(3) Accessory Uses.**

Lawns, gardens, landscape features, walls, driveways, porches, decks, storage buildings, pet houses, pools, solar equipment, air conditioning equipment, windmills, fences, detached garages or carports and vending machines. Residential standards apply, except the two foot setbacks to side and rear lot lines are eliminated for lots adjoining other "B" or "I" zoned lands.

#### **10.43 B - 1 DISTRICT - CONDITIONAL USES. (see 10.115)**

- (1) Studios, art studios, interior decorating studio, photographic studio, music studio, dance studio, art institutes, theatres for performing arts.
- (2) Clubs.
- (3) Nursing homes, rest homes.
- (4) Retail sales and services provided by vending machines or by personnel when such

retail area is within a building, so constructed and maintained that all access is from a lobby, hall or court and not directly from the out of doors, it being the intent that such sales and services are provided for the convenience of the patrons and occupants of the building.

**(5) Residential.**

(a) Residential units may be on the second floor. The lot area must provide 5,000 square feet of area for each residential unit.

(b) Residential housing in the B-1 District impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. In particular, the additional population density places demands upon City parks, recreation areas, conservancies and other open spaces. Accordingly, each dwelling unit newly established shall be required to dedicate parkland or provide fees in lieu of parkland dedication, with the choice of parkland or fees being made by the Plan Commission upon the recommendation of the Park, Recreation and Forestry Commission. If the Plan Commission determines to require dedication of land, such dedication shall be at least 1,450 square feet of land for each proposed residential dwelling unit. If the Plan Commission determines to require payment of fees in lieu of dedication of parkland, such fee shall be paid in a lump sum by the owner of the land prior to the issuance of any building permit for the land in the amount set forth in the Fee Schedule under Section 3.12. Except to the extent inconsistent with the provisions set forth herein, parkland dedications or fees in lieu of parkland dedication, shall follow the procedures set forth in Section 19.06(3)(k) of the Middleton General Ordinances.

**(6) Utility and governmental facilities involving circumstances set forth under Section 10.37(9)(b).**

**(7) Veterinary clinics subject to the following conditions:**

- (a) Overnight stays by the animals only on a medically necessary basis;
- (b) No outdoor runs for the animals;
- (c) The treatment provided on-premises will be limited to small domestic animals.

**(8) Class I restaurants.**

**(9) Churches.**

**10.44 B - 1 DISTRICT - DIMENSIONAL STANDARDS.**

Dimensional standards set forth below shall be applied on a Permitted Use Basis. These intensity and dimensional standards may be reduced by the Plan Commission in the course of design review upon findings that reductions will provide adequate site area and layout to

accommodate the uses contemplated on the site and that negative impacts upon neighboring properties will be avoided. Where deemed appropriate by the Plan Commission, property owners may be required to obtain permanent, binding consents from abutting property owners with such consents being recorded in the office of the Dane County Register of Deeds and running with the land (see s. 10.22(4)(f)).

(1) Minimum lot area: 7,200 square feet.

(2) Minimum lot width: 60 feet.

(3) Minimum front setback: 20 feet.

(4) Minimum side setback: 8 feet.

(5) Side street setback: 20 feet.

(6) Rear setback: 30 feet.

(7) Maximum building height: The lesser of 35 feet or three stories.

(8) The site plan must provide vehicular access along one side of the building to the rear yard, unless the rear yard abuts a public street or alley.

(9) Design review is required for all parking lots. Use of a parcel or portion of a parcel for parking lot purposes associated with a business establishment on a different parcel is allowable with design review approval.

(10) An establishment may devote up to 30% of its floor space to processing, fabrication, or assembling of a manufacturing nature.

(11) The ground floor of each principal structure must be devoted principally to an allowable use, permitted or conditional, other than residential. the principal use of ground floor areas may not be parking or storage.

(12) All B-1 lands shown on map Appendix B indicating lands fronting on University Avenue or having their main exposure to University Avenue shall be subject to a design review pertaining to driveway access and ingress-egress arrangements. The standard is consistency of such arrangements with the University Avenue improvement plan that is then current.

#### **10.47 B - 2 GENERAL BUSINESS DISTRICT.**

The B-2 District is established for areas having general business and office uses, mostly at small or medium scale compatible with the suburban setting. Most areas have "strip" characteristics and, therefore, warrant special attention to traffic patterns and coherence of

**appearance.**

**10.48 B - 2 PERMITTED USES.**

**(1) Office activities.**

- (a) Professions including health services, office or clinical basis.**
- (b) Finance, real estate, insurance.**
- (c) Government offices.**
- (d) Business offices.**
- (e) Business services, including convenience printing. Excluding "services to buildings."**
- (f) Educational services, provided all activities are enclosed within buildings.**

**(2) Commercial Activities.**

- (a) Variety stores; hardware stores.**
- (b) Food stores.**
- (c) Auto accessory stores (completely enclosed).**
- (d) Furniture; home furnishings and equipment.**
- (e) Drug stores.**
- (f) Day care.**
- (g) Liquor stores.**
- (h) Miscellaneous shopping goods.**
- (i) Miscellaneous retail stores.**
- (j) Coin operated laundry and dry cleaning.**
- (k) Dry cleaning, retail, not including diaper service, linen service, towel service, industrial laundry, carpet and upholstery cleaning.**
- (l) Printing and publishing; photographic studio.**

**(m) Other personal services.**

**(n) Business services.**

**(o) Watch, clock and jewelry manufacture and repair.**

**(p) Electrical, electronic, radio, television and related repairs.**

**(q) Social Services.**

**(r) Recreational facilities (except those specifically enumerated as Conditional Uses), provided all activities are enclosed within buildings; Health and Fitness Centers.**

**(s) Museums.**

**(t) Miscellaneous services.**

**(u) Mass transit depots and facilities.**

**(v) Restaurants - Class I and II.**

**(w) Drinking places.**

**(x) Outdoor/display. The following types of outdoor sales/display are allowable in the B-2 District either as a Principal Use or as an Accessory Use:**

**(i) Permanent or long term seasonal outdoor storage or display of sales merchandise, such as landscape equipment.**

**(ii) Outdoor sales with sales occurring from open displays, vehicles or tents; farmers markets, flea markets, outdoor sales or artwork, crafts, or food.**

**(iii) Permits are required from the City Zoning Administrator. The decisions of the Administrator on applications for permits shall be based upon the following criteria:**

**1. The outdoor lighting system, if any, for the sales operation shall be designed so that no direct source of light is visible from the public right of way and so that no direct beam of light shall be cast upon adjacent lands.**

**2. If a public address system is used, the volume of sound transmitted shall not be over 65 db at the property line.**

**3. Fencing may be required by the Zoning Administrator as needed, upon determination of the Administrator or the Police Department, for safety or security reasons.**

**4. Conditions may be placed upon the approved permit pertaining to traffic flow and parking, after consultation with the Police Department.**

**5. Hours of operation and duration of sales/displays shall be specified in the approved permit.**

**(3) The ground floor of each principal structure must be devoted principally to an allowable use, permitted or conditional, other than residential. The principal use of ground floor areas may not be parking or storage.**

**(4) Accessory uses. Lawns, gardens, landscape features, walls, driveways, porches, decks, storage buildings, pet houses, pools, solar equipment, air conditioning equipment, windmills, fences, detached garages or carports and vending machines. Residential standards apply, except the two foot setbacks to side and rear lot lines are eliminated for lots adjoining other "B" or "I" zoned lands.**

#### **10.49 B-2 CONDITIONAL USES (See s. 10.115).**

**(1) Bowling, billiard establishments.**

**(2) Amusement parlors and arcades**

**(3) Dwellings Units in Excess of One Per Structure.**

**(a) The Plan Commission shall also apply a standard of compatibility of mixed commercial and residential uses. *See also s.10.44(9)* on shared parking.**

**(b) Residential housing in the B-2 Business Zone impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. In particular, the additional population density places demands upon City parks, recreation areas, conservancies and other open spaces. Accordingly, each dwelling unit newly established shall be required to dedicate parkland or provide fees in lieu of parkland dedication, with the choice of parkland or fees being made by the Plan Commission upon the recommendation of the Park, Recreation and Forestry Commission. If the Plan Commission determines to require dedication of land, such dedication shall be at least 1,450 square feet of land for each proposed residential dwelling unit. If the Plan Commission determines to require payment of fees in lieu of dedication of parkland, such fee shall be paid in a lump sum by the owner of the land prior to the issuance of any building permit for the land in the amount set forth in the Fee Schedule under Section 3.12. Except to the extent inconsistent with the provisions set forth herein, parkland dedications or fees in lieu of parkland dedication, shall follow the procedures set forth in Section 19.06(3)(k) of the Middleton General Ordinances.**

**(4) Restaurants - Class III, IV and V.**

**(5) Gas Stations - Class I and II.**

**(6) Marinas.**

- (7) Lubrication Service Stations.**
- (8) Utility and governmental facilities.**
- (9) Private Clubs.**
- (10) Veterinary Clinics, day care of small domestic animals, pet grooming or dog training subject to the following conditions:**
  - (a) No overnight stays by the animals;**
  - (b) All activities must be fully enclosed, including outdoor runs for the animals, except that the walking of animals on leashes to and from the premises may be allowed;**
  - (c) The treatment provided on premises will be limited to small domestic animals.**
- (11) Outdoor Recreational Facilities**
- (12) Nursing Homes and Rest Homes**
- (13) Churches**
- (14) Limited Auto Sales. Subject to the following conditions, limited auto sales may be permitted:**
  - (a) Auto sales may only be permitted as a use that is both related and subordinate to another permitted or conditional use.**
  - (b) Vehicles shall not be stocked or displayed for sale on the premises although no more than two (2) vehicles for sale may be present on the premises for no more than forty-eight (48) hours for viewing or inspection by persons who have expressed interest in purchasing the vehicles or for delivery to a purchaser. Such vehicles may display the Wisconsin Buyer's Guide or similar disclosure as may be required by state law; however, no other outdoor signage or advertising shall be permitted on the premises to advertise the sale of any vehicle.**
  - (c) No more than three (3) vehicles may be sold from the premises in any month**

#### **10.50 B - 2 DIMENSIONAL STANDARDS.**

**Dimensional standards for the B-2 District shall be the same as the B-1 District.**

#### **10.54 B - 3 HIGHWAY BUSINESS DISTRICT.**

**Lands placed within these districts take the form of clustered or strip commercial areas, land extensive development patterns of retail, service, warehouse, light industrial uses, most of which are highway oriented. While serving these functional purposes, these areas also serve as gateways to the Middleton community. Design review will seek to create as much attractiveness as is economically feasible and consistent with the functioning of the businesses.**

#### **10.56 B - 3 DISTRICT - PERMITTED USES.**

- (1) Ambulance Service.**
- (2) Animal hospital and kennel.**

- (3) Car and truck wash.**
- (4) Gas station, automobile repair.**
- (5) Auto, truck and heavy equipment repair.**
- (6) Auto supply.**
- (7) Boat and recreational equipment.**
- (8) Pest Control Service.**
- (9) Services to buildings (janitorial, etc.).**
- (10) Greenhouses, nurseries and landscaping sales and services.**
- (11) Diaper service, linen service, towel service, industrial laundry, carpet and upholstery cleaning.**
- (12) Car and truck sales.**
- (13) Cabinet shop, plumbing shop, upholstery shop, electrical shop, etc.**
- (14) Farm machinery sales and service.**
- (15) Food locker.**
- (16) Building and lumber supplies and services.**
- (17) Motel.**
- (18) Printing and publishing.**
- (19) Restaurants, all classes, drinking establishments.**
- (20) Funeral homes.**
- (21) Wholesale facilities and services.**
- (22) Municipal Buildings and Services.**
- (23) Amusement and recreation services.**
- (24) Convenience shops.**

**(25) Residential accessory occupancies, provided, however, that the two foot setbacks are eliminated except to abutting residential zoned properties.**

**(26) Lubrication service stations.**

**(27) Business services**

**(28) Personal Services**

**(29) Miscellaneous services**

**(30) Adult entertainment establishments licensed pursuant to Section 7.13 of the Middleton Code of Ordinances.**

**10.57 B - 3 DISTRICT - CONDITIONAL USES. (see s. 10.115)**

**(1) Contractor's offices, shops and yards.**

**(2) Truck terminal.**

**(3) Bus or train depot.**

**(4) Transportation services.**

**(5) Postal services.**

**(6) Department and discount stores.**

**(7) Light industrial uses (see IND. District, s. 10.67)**

**(8) Business offices.**

**(9) Utility and governmental facilities involving circumstances set forth under Section 10.37(9)(b).**

**(10) Private Clubs.**

**(11) Churches**

**10.58 B - 3 DISTRICT - DIMENSIONAL STANDARDS.**

**Dimensional standards set forth below shall be applied on a Permitted Use basis. These intensity and dimensional standards may be reduced by the Plan Commission in the course of design review upon findings that reductions will provide adequate site area and layout to accommodate the uses contemplated on the site and that negative impacts upon neighboring properties will be avoided. Where deemed appropriate by the Plan**

**Commission, property owners may be required to obtain permanent, binding consents from abutting property owners with such consents running with the land and being recorded with the Dane County Register of Deeds. (see s. 10.22(4)(f)).**

- (1) Minimum lot area: 7,200 square feet.**
- (2) Minimum lot width: 60 feet.**
- (3) Minimum front setback: 24 feet.**
- (4) Minimum side setback: 8 feet.**
- (5) Side street setback: 20 feet.**
- (6) Rear setback: 30 feet**
- (7) Maximum building height: the lesser of 35 feet or three stories.**
- (8) The site plan must provide vehicular access along one side of the building to the rear yard, unless the rear yard abuts a public street or alley.**

#### **10.59 B - 4 DOWNTOWN BUSINESS DISTRICT.**

**The Middleton Downtown area has traditionally served as a community center, a site for specialized service and retail establishments serving a wide area and as a neighborhood commercial center for nearby residential areas. This downtown area has major historical values warranting attention in design review.**

**In the B-4 District, all uses allowable in the B-2 District are allowable on the same basis, with the exception that:**

- (1) Structures may extend to five stories or 60 feet, whichever is less, with Plan Commission approval after review and comment by the Fire District.**
- (2) Where B-4 properties abut residentially zoned properties, the minimum setback shall be: front - 24 feet; side - 8 feet; rear - 30 feet.**

#### **10.61 BUSINESS DISTRICTS: CONDITIONAL USE STANDARDS.**

**Uses identified as Conditional Uses in the B-1 through B-4 Districts receive normal design review as do permitted uses in these districts. Conditional Uses receive additional review on the question of whether the plan as proposed is appropriate to the site, at the time that it is proposed for development and in the manner proposed. In conducting this review, the Plan Commission shall give specific attention to the scale of proposed operations in relation to the scale of prevailing or expected or nearby uses, the likelihood of problems arising though hours of operation, service demands upon the City, impacts on the neighborhood,**

and roads or service systems. Approvals may be conditioned, as necessary, to assure that the public interest will be served.

#### **10.65 INDUSTRIAL DISTRICT (I) OBJECTIVES.**

This District accommodates areas that are predominantly industrial in character. In the Middleton context, industrial includes light manufacturing, transportation and wholesaling operations, and a limited number of retail and service establishments. Within the community of Middleton, there are several high quality industrial areas having transportation and other services that are geared to industrial usage. As a general rule, these areas should be reserved for industrial and related uses, with retail establishments locating in the several business districts of the community.

#### **10.66 I DISTRICT - ALLOWABLE USES.**

In this District, Allowable Uses are expressed in categories. The initial determination of whether a particular use or a portion of a particular use fits within a particular category as described below is to be made by the Zoning Administrator. Persons objecting to this initial determination may appeal the determination to the Plan Commission.

A use or operation within this District may have several segments or components. Some of these segments may be classified as permitted use segments and others as Conditional Use segments. Where this is the case, Conditional Use approval shall be required and shall extend only to the portion of the operation that requires Conditional Use approval. The affidavit should state that Conditional Use approval is required at any point after initial construction and occupancy on a site when the use or operation changes so as to bring it within the scope of s. 10.68.

#### **10.67 I DISTRICT - PERMITTED USES.**

- (1) State-classified manufacturing operations.**
- (2) Other uses of an industrial or product processing nature including manufacturing, production, assembling, disassembling, cleaning, servicing, freezing or the like, provided that conditional use approval is required for heavy manufacturing operations as set forth in s. 10.68.**
- (3) Manufacture of food products, food processing for shipment off site.**
- (4) Warehousing or distribution operations, not including predominantly retail sales to customers on site.**
- (5) Wholesaling sales to retail buyers only.**
- (6) Trucking operations, including truck terminals, transfer facilities, vehicle maintenance, cleaning and repair as a component of trucking operations.**

- (7) Postal services.**
- (8) Printing, publishing, bookbinding, blueprinting, duplicating.**
- (9) Offices of construction firms, shops, storage areas, display rooms.**
- (10) Public works operation offices, shops, storage areas, display rooms.**
- (11) Lumber and building material yards selling on a wholesale basis or selling predominantly to building contractors with most deliveries made by the yard to off-site destinations.**
- (12) Laboratories, research, development and testing and manufacturing and fabrication in conjunction with such research and development operations.**
- (13) Telecommunications facilities.**
- (14) Residential accessory occupancies.**
- (15) Adult entertainment establishments licensed pursuant to Section 7.13 of the Middleton Code of Ordinances.**
- (16) Business Offices**

**10.68 I DISTRICT - CONDITIONAL USES. (see s. 10.115)**

- (1) Heavy manufacturing operations that are likely to generate substantial noise, smoke, dust, heat, cold, humidity, fumes, particulate matter, electrical disturbance, radiation emissions, glare, night illumination, vibrations, smells, risk of spills, fires or explosions. Conditional use approval is required for operations that generate or are likely to generate one or more of these effects regularly to an extent that is or will be distinctly present and noticeable beyond the property boundary.**
- (2) Waste material storage, processing, treatment or disposal, as a principal use.**
- (3) Sales, retail or wholesale, and servicing of farm equipment and construction equipment, not including sales of automobiles or trucks.**
- (4) The following ancillary retail sales and service operations:**
  - (a) Retail sales or services that exclusively or predominantly serve businesses and employees of the industrial area and/or are a minor part of the total parcel usage by area, volume or similar measures.**
  - (b) Retail sales and services serving predominantly occupants in the immediate**

**industrial area, including health and recreation facilities and eating and drinking places.**

**(5) Animal kennels and animal hospitals and animal crematories.**

**(6) Utility and governmental facilities involving circumstances set forth under Section 10.37(9)(b).**

**(7) Recreational Facilities, as defined in 10.37(7)**

**(8) Auto Body Uses**

**(9) Indoor Shooting Ranges. In addition to Section 10.115, the following conditions apply to conditional use permits for indoor shooting ranges.**

- (a) The building and method of operation shall conform to all applicable State and Federal standards for environmental protection and occupational health and safety. The applicant shall identify all such standards and demonstrate how the building and operation will comply including identification of any related state or federal reporting, inspection and permitting requirements.**
- (b) The design and construction of the shooting range shall completely confine all ammunition rounds within the building in a safe, controlled manner.
  - 1. Compliance shall be demonstrated by plans, certified by an architect or engineer licensed or certified by the State of Wisconsin with demonstrated experience in indoor shooting range design.**
  - 2. Compliance with the standards and recommendations of the most current versions of the Range Design Criteria of the U.S. Department of Energy, Office of Health, Safety and Security or the National Rifle Association Range Source Book shall be prima facie evidence of satisfaction of this condition. Under no circumstance shall the applicant be relieved of the obligation to comply with any requirement otherwise imposed by state, federal or local law.**
  - 3. The plans shall specify the type and caliber of ammunition the shooting range is designed to confine. No ammunition shall be used, stored, sold or possessed within the indoor shooting range that exceeds the certified design and construction specification for the shooting range.****
- (c) The applicant shall demonstrate that the operation shall not be a nuisance to neighboring property or other likely neighboring property uses including nuisances related to air quality and noise.**
- (d) A security plan shall be established for the building securing the building from unauthorized entrants as well as security for any firearms stored on the premises. No firearms shall be stored on the premises unless they are stored in a gun safe or other locked storage facility or container.**
- (e) The shooting range shall establish clear rules and procedures for the health, safety and order of the operation, its employees and patrons consistent with accepted industry practices which shall be conspicuously posted at the shooting range.**
- (f) On-site supervision of the range shall be provided at all times by an adult who**

is an experienced shooting range operator. The shooting range operator shall be responsible for taking all reasonable actions to assure the conduct of employees and patrons and the conditions of health, safety and order of the shooting range comply with all related rules and procedures.

(g) No person under the age of 18 shall be permitted within the shooting range unless accompanied by an adult at all times. This condition shall not apply to prohibit minors from participating in firearms safety classes supervised by a qualified adult instructor.

(h) Unless preempted by state or federal law, the Plan Commission may establish additional conditions or requirements including reporting or inspection requirements if it determines such conditions or requirements are reasonably necessary to protect the public health safety and welfare. Consideration shall be given to the cost and burden of such additional requirements upon the operation and upon City resources compared to the additional public benefit to be achieved, industry practices and evidence of experiences with similar operations in other communities.

#### **10.69 I DISTRICT - DIMENSIONAL STANDARDS.**

(1) Minimum lot area: 20,000 square feet.

(2) Minimum lot width: 100 feet.

(3) Minimum front yard setback: 30 feet.

(4) Minimum side yard setback: 10 feet.

(5) Minimum side street setback: 20 feet.

(6) Minimum rear setback: 30 feet.

(7) Maximum building height: 35 feet on a permitted use basis; above 35 feet on a conditional use basis.

(8) The site plan must provide vehicular access along one side of the building to the rear yard, unless the rear yard abuts a public street or alley.

(9) Maximum lot coverage area: 70%.

#### **10.70 AGRICULTURAL (Ag) DISTRICT.**

(1) Within the Agricultural District are located lands that are in agricultural or horticultural usage, and open space areas.

(2) Unless otherwise specified, lands zoned agricultural shall be governed by the Allowable Uses and the Dimensional Standards set forth in this section. Property owners may request in writing to the City of Middleton that their lands be placed under the use provisions of

**the Dane County Zoning Ordinance, exclusive agricultural zoning district, rather than being governed by the use provisions set forth in s. 10.71 hereof. Requests of this nature shall be reviewed by and recommendations shall be made by the City of Middleton Plan Commission, the Dane County Regional Plan Commission and the Dane County Zoning Committee. If favorable recommendations are received from all three such bodies, the request along with a reasonably precise description of the lands to be affected shall be placed on the agenda of the Middleton Common Council. If the Common Council approves the request, the lands in question shall henceforth be governed by the use provisions of the section of the Dane County Zoning Ordinance identified in the approved request. For purposes of administration, the applicable use provisions of the Dane County Zoning Ordinance are adopted by reference and are made a part of this Ordinance.**

#### **10.71 Ag DISTRICT - PERMITTED USES.**

- (1) Agricultural uses.**
- (2) Horticultural uses.**
- (3) Public parks, preserves and open spaces.**
- (4) Single family detached dwellings.**
- (5) Residential accessory structures.**

#### **10.72 Ag DISTRICT - CONDITIONAL USES. (see s. 10.115)**

- (1) Cemeteries.**
- (2) Churches.**
- (3) Recreational facilities (same as those allowed in Residential Districts).**
- (4) Other recreational facilities: including, but not limited to, country clubs, riding stables and trails, ski hills, ski trails, and ski jumps.**
- (5) Mineral extraction, gravel processing, processing of derivative products of gravel operations, land reclamation.**
- (6) Feed lots for 100 animals or more.**
- (7) Limited dwelling unit vocational activity.**
- (8) Roadside stands for sale of home occupation products or agricultural products produced on the site.**

**(9) Utility and governmental facilities involving circumstances set forth under Section 10.37(9)(b).**

### **10.73 Ag DISTRICT - DIMENSIONAL STANDARDS.**

- (1) Minimum parcel size: 40 acres.**
- (2) Minimum lot width: 325 feet.**
- (3) Front setback: 50 feet.**
- (4) Side setback: 50 feet.**
- (5) Rear setback: 50 feet.**
- (6) Side yard abutting public street: 30 feet.**
- (7) Maximum height of dwelling structures or non-farm structures: 35 feet or three stories, whichever is least in height.**

### **10.74 CONSERVANCY (CO) DISTRICT.**

**The City of Middleton Conservancy District encompasses lowland wetlands, combined with lands on the edge or fringe of wetlands, and upland areas. The upland areas are, in turn, differentiated between passive preserve areas with minimum human invasion and areas for more active occupation and use.**

**Plan Commission decisions within this District shall be guided by advisory recommendations of the Park, Recreation and Forestry Commission and the Water Resources Management Commission upon referral of questions to these units by the Plan Commission or Common Council.**

### **10.75 LOWLAND CONSERVANCY (CO-L) - PERMITTED USES.**

**(1) Public and private parks and recreation areas, open space areas, outdoor education areas, historic, natural and scientific areas, game refuges, fish and wildlife habitat improvement projects, game farms and wildlife preserves and temporary water storage, provided that:**

**(a) No land alterations (filling, excavating, ditching, dredging, dikes, dams, flooding, tiling and the like) is done except for limited work necessary for the development of the walkways, observation points, park shelters or similar structures and then subject to Plan Commission approval.**

**(b) Any private occupancy or development allowed under this paragraph shall be used exclusively for the permitted Conservancy purpose.**

(c) Ditching, excavating, dredging, reorientation of stream flows, dike and dam construction may be established in the wetlands only for purposes of improving wildlife habitat or otherwise to enhance wetland values of wetland areas.

(d) Any removal of vegetative material on public lands must be done with specific approval of the Parks, Recreation and Forestry Commission and must be done for the reasons of public safety, habitat improvement or as a necessary means to building trails or other allowed usages.

(2) Construction, installation or maintenance of fences, provided that no filling, flooding, draining, dredging, ditching, tiling or excavating is done in wetland areas, except limited filling and excavating necessary for construction and maintenance of the fences.

(3) The cultivation or harvesting of agricultural crops, if this can be accomplished without filling, flooding, or artificial draining of wetland areas through ditching, tiling, dredging or excavating. Existing farm drains may be maintained and/or repaired consistent with state law, to restore their functional drainage, provided that Plan commission approval is given to the placement of any dredge spoil.

(4) The construction and maintenance of nonresidential buildings or structures, provided that the structure is used solely for a purpose necessary to management of conservancy lands, that the building cannot as a practical matter be located outside the Conservancy District, that the building does not exceed 200 square feet in size and that no filling, flooding, draining, dredging, ditching tiling or excavating is done, except limited filling and excavating necessary to provide immediate structural support for the building.

(5) The construction and maintenance of walkways, observation decks, piers and trail bridges, provided that no filling, flooding, dredging, draining, ditching, tiling or excavating is done, except limited filling and excavating necessary for the immediate installation of pilings.

(6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the conservancy district provided that such installation or maintenance is done in a manner to minimize the adverse impact upon the natural functions of the lands in the Conservancy Districts.

(7) The maintenance and repair of existing nonagricultural drainage projects to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredge spoil, provided that the Plan Commission approval is given to the disposal of any dredge spoil.

(8) Any disturbance accomplished under the preceding paragraphs must be restored.

**10.76 LOWLAND CONSERVANCY (CO-L) - CONDITIONAL USES. (see s. 10.115)**

**(1) Construction and maintenance of water or sewer lines or electric or other utility transmission lines and related facilities, where such lines cannot be located outside the conservancy district, provided further that any filling, excavating, ditching or draining necessary for such construction and maintenance is done in a manner designed to minimize the adverse impact upon the conservancy district lands and provided that disturbed sites are restored.**

**(2) Construction, maintenance, repair, replacement or reconstruction of roads and bridges necessary for provisions of essential utility and emergency services, or necessary to provide access to uses permitted in this district, provided that the roads cannot be located outside the conservancy district and the roads are designed and constructed to minimize the adverse impacts upon the functions of the lands in the conservancy district and the roads are designed with minimum cross sectional area practical to serve the intended uses and road construction is carried on in the immediate area of the roadbed only, and no filling, flooding, draining, dredging, ditching, tilling or excavating is done beyond that minimally necessary for construction or maintenance of the road. This section also applies to highway and road bridges.**

**(3) In judging the necessity of locating facilities that are permitted or conditional uses within this district, the Plan Commission shall weigh costs to the public of rerouting a facility against costs and damages to public resources within the district and shall approve locations within the district only if the public costs of an alternative location are significantly more than the disturbance costs.**

**(4) Utility and governmental facilities involving circumstances set forth under Section 10.37(9)(b).**

#### **10.77 LOWLAND (CO-L) ADDITIONAL PROVISIONS**

**(1) Any uses or activities not encompassed as permitted or conditional uses within this district may only be established by rezoning of lands into a zoning district other than the conservancy district. Lands may not be rezoned from the conservancy designation if such lands are DNR classified wetlands unless the rezoning is accompanied by a finding adopted by the Common Council that the rezoning will not result in a significant adverse impact upon any of the following:**

**(a) Storm and floodwater storage capacity;**

**(b) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;**

**(c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;**

**(d) Shoreline protection against soil erosion;**

(e) Fish spawning, breeding, nursery or feeding grounds;

(f) Wildlife habitat;

(g) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitats of endangered species.

(h) A rezoning shall also be rejected if it would be contrary to an adopted City land use plan or element of such plan.

(2) Special procedures requiring Wisconsin Department of Natural Resources notice, DNR comment, DNR veto or rezonings or adoption of superseding conservancy zoning and the DNR notice of conditional use decisions and all proceedings before the Zoning Board of Appeals that involve DNR designated wetlands are found in Wisconsin Administrative Rule NR 117 and are acknowledged herein as governing City regulatory activities in the conservancy district, where and to the extent that NR 117 regulations are more strict than those of this Ordinance.

#### **10.78 UPLAND CONSERVANCY (CO-U) PERMITTED USES.**

(1) Public and private parks and recreation areas, open space areas, outdoor recreation areas, historic, natural and scientific areas, game refuges, fish and wildlife habitat, improvement projects, game farms, wildlife preserves, beaches, boat launching ramps and the like, provided that:

(a) Any private occupancy or development allowed under this paragraph shall be exclusively for the permitted conservancy purposes.

(b) Land alterations require approval under the City of Middleton Erosion Control and Stormwater Drainage Ordinance.

(c) Any removal of vegetative material on public lands is done with specific Park, Recreation and Forestry Commission approval and is done for the reasons of public safety, habitat improvement, as a necessary means to build trails or other allowable usages.

(2) Construction and maintenance of fences, walkways, dams, spillways, and drainage structures.

#### **10.79 UPLAND CONSERVANCY (CO-U) - CONDITIONAL USES. (see s. 10.115)**

(1) Public recreation facilities.

(2) Construction and maintenance of electric and other utility transmission lines and related facilities where such lines cannot be located outside the conservancy district, provided that land alterations are minimized and provided that conditional use review

shall address aboveground or underground construction.

(3) Construction, maintenance, repair, replacement or reconstruction of roads and bridges necessary for provision of essential utility and emergency services, or necessary to provide access to uses permitted in this district provided that the road cannot be located outside the district, provided that land alterations are minimized, and provided that disturbed sites are restored.

(4) In judging the necessity of locating facilities within the conservancy district, the Plan Commission shall weigh costs to the public of rerouting a facility against costs to the public and public resources of disturbing conservancy lands and shall approve locations within the district only if public costs of an alternative route are significantly greater than the disturbance costs.

(5) Utility and governmental facilities involving circumstances set forth under Section 10.37(9)(b).

(6) Community Garden.

#### **10.80 AGRICULTURE TRANSITION DISTRICT**

(1) The Agriculture Transition District is established to preserve, for an unspecified time period in agricultural and related open-space land uses, those lands generally located in proximity to developed areas within the City where urban expansion is inevitable, and broadly in keeping with long time plans for development. It is intended that urban development be deferred in such areas until the City and other appropriate authorities concerned determine that it is economically feasible to provide public services and facilities for use other than those permitted in the district. It is also intended that the status of all areas in this district be reviewed by the City and other appropriate authorities periodically to determine whether, in light of then-current land development trends, there should be a transfer of all or any part of those areas to some other appropriate use district. Any such review will consider developments in keeping with the City's Comprehensive Plan.

(2) The permitted and conditional uses allowed shall be the same as for the Agriculture (Ag) District.

(3) The dimensional standards shall be the same as for the Agriculture (Ag) District except the minimum lot size shall be 10 acres.

#### **10.81 SHORELAND OVERLAY DISTRICT**

(1) **Purpose.** Uncontrolled use of shorelands and pollution of the navigable waters of the municipality adversely affects the public health, safety, convenience, and general welfare in various ways, including destruction of habitat for fish and aquatic life, the promotion of shoreline erosion, the destruction of shorecover and destruction of natural beauty. Pursuant to Wis. Stats. § 62.233, this ordinance is enacted to preserve

regulations relating to certain shorelands previously subject to county shoreland regulations under Wis. Stats. § 59.692.

- (2) **District Boundaries.** The Shoreland Overlay District shall encompass all shorelands annexed by the City of Middleton after May 7, 1982, and that prior to annexation was subject to a county shoreland zoning ordinance under Wis. Stats. § 59.692. Shorelands, for purposes of this section, shall include:
  - (a) All lands within 1,000 feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Except as limited by paragraph (c), lakes, ponds or flowages shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources Surface Water Data viewer available on the DNR website, or are shown on United States Geological Survey quadrangle maps or other zoning base maps; and
  - (b) All lands within 300 feet of the ordinary highwater mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Except as limited by paragraph (c), rivers and streams shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.
  - (c) Shorelands shall not include lands adjacent to an artificially constructed drainage ditch, pond, or retention basin if the drainage ditch, pond or retention basin is not hydrologically connected to a natural navigable water body.
- (3) **Determinations of Navigability.** Determinations of navigability and ordinary highwater mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Wisconsin Department of Natural Resources for a final determination of navigability or ordinary highwater mark.
- (4) **Applicability of Shoreland Overlay Regulations.** Application of the Shoreland Overlay District designation does not repeal any existing zoning district designation or any other applicable ordinance, statute or other regulation. The Shoreland Overlay District regulations set forth under this Section supplement existing regulations shall apply whenever they establish a standard that is either not imposed by any other ordinance, statute or regulation or when they establish a standard that is more restrictive than that imposed by any other ordinance statute or regulation.
- (5) **Shoreland Overlay District Regulations.**
  - (a) Setback from water.

1. All principal and accessory buildings shall be set back at least 75 feet from the ordinary high-water mark.
  2. A setback less than 75 feet for a principle building may be allowed if all of the following apply:
    - a. The principle building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building; and
    - b. The principle building is constructed or placed within a distance equal to the average setback of the principal buildings on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.
- (b) **Vegetative buffer zone.** A vegetative buffer zone shall extend the entire length of the shoreline and 35 feet inland. Existing vegetation within the vegetation buffer zone shall be maintained except as follows:
1. If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation, the owner of the shoreland property may remove the vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

Vegetation may be removed in order to establish a viewing or access corridor that is no greater than 30 feet wide for every 100 feet of shoreline frontage and that extends no more than 35 feet inland from the ordinary high-water mark.

#### **10.82 PLANNED DEVELOPMENT DISTRICTS. (see s. 10.37(1))**

The Planned Development District provides a regulatory framework to encourage improved environmental design by allowing flexibility in the development of land while insuring compliance with the basic intent of the Zoning Ordinance and with the City Master Plan. The Planned Development District has no "set" standards and specifications. Developers can propose uses or combination of uses and configurations of intensity and density of development. Through a process of Plan Commission review, public hearing and Common Council review and approval, accompanied by discussions with developers and, as appropriate, with other interested parties, an agreement is reached between the property owner and the City of Middleton. The details of this agreement constitute the zoning controls of the property. These controls have the same legal force and effect as to standard zoning requirements.

To achieve the community benefits of PDD zoning, it is generally true that the project size should be large enough to allow clustering and to establish a coherence of design. Parcels less than 100,000 square feet are presumptively too small to be approved, but small projects may still be submitted and considered.

### **10.83 PROCEDURE: GENERAL IMPLEMENTATION PLAN.**

**The procedure for rezoning to a Planned Development District shall be as required for any other zoning district change under this Ordinance, except that in addition thereto the following information describing a general implementation plan shall be filed by the applicant with the Plan Commission staff:**

- (1) A map of the project area including its relationship to surrounding properties and topography and other key features.**
- (2) A statement of rationale as to why Planned Development District zoning is proposed. This shall identify barriers that the developer perceives in the form of requirements of standard zoning districts and opportunities for community betterment the developer suggests are available through the proposed Planned Development District zoning.**
- (3) Brief analysis of social and economic impacts on the community of the project, and positive relationships to the Master Plan.**
- (4) A general development plan of the proposed project showing at least the following information in sufficient detail to make possible evaluation against criteria for approval.**
  - (a) Public and private roads, driveways and parking facilities.**
  - (b) Land uses and size, arrangement and location of lots and proposed buildings or groups of buildings.**
  - (c) The types, size and location of structures.**
  - (d) A general utility plan.**
  - (e) The location of recreational and open space areas and facilities and specifically describing those that are to be reserved or dedicated for public acquisition and use.**
  - (f) General landscape treatment plan.**
  - (g) Statistical data on size of the development, density/intensity of various parts of the development, ratio of various land uses, economic analysis of the development, expected staging, and any other plans or data required by the Plan Commission or Common Council.**
  - (h) The applicant shall comply with the provisions of s. 19.04(2)(f) of this Code, if private roads are part of the development.**
- (5) General outline of the intended organizational structure for a property owners association, if any; deed restrictions and provisions for private provision of common services, if any.**

#### **10.84 PLAN COMMISSION REVIEW.**

Following determination by the Plan Commission staff that an application is complete, and fees have been paid the matter shall be reviewed by City staff and shall then be placed on a Plan Commission agenda for concept review. Initial review is review of the project at the concept level and is not binding. The preferred procedure is for one or more iterations of Plan Commission initial review to occur prior to introduction of a formal petition for rezoning. The applicant may seek to accelerate review by introducing the rezoning petition prior to Plan Commission initial review. Whenever the required petition is introduced, the normal rezoning procedure occurs, including notice and hearing before the Plan Commission. The issues that are the subject of this public hearing are the rezoning request and the general implementation plan.

Following the required public hearing before the Plan Commission, the Plan Commission shall meet to make a determination and recommendation whether to advise the Common Council to approve the rezoning and the general implementation plan, to approve it with modifications, or deny it.

For all developments including any large retail development, a concept review meeting shall be held before both the Plan Commission and Common Council either jointly or separately. Notice of such meeting, at the applicant's expense, shall be provided by regular mail, fourteen (14) days prior to said meeting, to all owners of property within Three Thousand (3,000) feet of the subject property. Said notice shall, in addition to the nature of the project, and time and location of the meeting, provide instructions as to how to receive or view a copy of the materials provided according to Section 10.83 in advance of the meeting.

#### **10.85 CRITERIA FOR APPROVAL.**

As a basis for determining the acceptability of a Planned Development District, the following criteria shall be applied to the general implementation plan with specific consideration as to whether or not it is consistent with the general purpose and intent of the Middleton Zoning Ordinance, the Middleton Master Plan, the Middleton Parks and Open Space Plan, whether it has been prepared with competent professional expertise and guidance, whether it produces significant community benefits of an environmental design nature or otherwise that compensate for modifications in normal municipal standards.

(1) Character and intensity of land use. The uses proposed and their intensity and arrangement on the site shall:

(a) Respect the physical attributes of the site with particular concern for preservation of natural features, tree growth and open space.

(b) Produce an attractive environment of sustained aesthetic and ecological desirability, economic stability and functional practicality compatible with development

prospects for the area.

(c) Not adversely affect the anticipated provision of school or municipal services.

(d) Not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.

(2) **Economic feasibility and impact.** The proponents of a Planned Development District shall provide evidence satisfactory to the Plan Commission and the Common Council that the project will not adversely affect the economic prosperity of the City or the values of surrounding properties.

(3) **Engineering Design Standards.** Streets and other ways, outdoor lighting, provision for storm water drainage, sanitary sewer service, water supply, or other similar environmental and municipal engineering considerations shall be based on appropriate standards necessary to implement the specific function and the specific situation, provided, however, that in no case shall standards be less than those necessary to achieve the public health, safety and welfare as determined by the City.

(4) **Preservation and Maintenance of Open Space in a Planned Development District.**

(a) Provision shall be made for the preservation and maintenance of open spaces either by public reservation or dedication to public entities or commitment to preservation by a private entity. PDD contracts shall contain specific reference to the ownership of such open space areas and to provision for maintenance.

(b) **Planned Development District Housing impacts on community resources in the same manner as other new developments which are characterized by division of land into lots.** In particular, the additional population density places demands upon City parks, recreation areas, conservancies and other open spaces. Accordingly, each dwelling unit newly established shall be required to dedicate parkland or provide fees in lieu of parkland dedication, with the choice of parkland or fees being made by the Plan Commission upon the recommendation of the Park, Recreation and Forestry Commission. If the Plan Commission determines to require dedication of land, such dedication shall be at least 1,450 square feet of land for each proposed residential dwelling unit. If the Plan Commission determines to require payment of fees in lieu of dedication of parkland, such fee shall be paid in a lump sum by the owner of the land prior to the issuance of any building permit for the land in the amount set forth in the Fee Schedule under Section 3.12. Except to the extent inconsistent with the provisions set forth herein, parkland dedications or fees in lieu of parkland dedication, shall follow the procedures set forth in Section 19.06(3)(k) of the Middleton General Ordinances.

(5) **Transmittal of Plan Commission recommendations, report and related matters.** The Plan Commission's reports and recommendations shall be made in a written report to the Common Council. A complete set of maps, plans and written documentation fully describing the proposed development as recommended by the Plan Commission at a

general implementation plan level shall accompany the report of the Plan Commission. The matter shall not be considered by the Council unless this documentation has a signature by the Plan Commission Secretary over a statement that the documentation is complete and that it accurately reflects Plan Commission recommendations. In a situation in which the applicant disagrees with certain recommendations of the Plan Commission and is urging the Common Council to approve with modifications, the applicant must supply documentation of those modifications to the Council prior to the matter being placed on the agenda of the Common Council.

#### **10.86 OWNER'S CONSENT FOLLOWING COMMON COUNCIL APPROVAL.**

If the Planned Development District Ordinance as adopted by the Common Council provides explicitly, the area of the PDD can be segmented. Unless segmented, the owners of record of all included parcels must consent in writing within a single 30 day period following Common Council adoption in order for the PDD rezoning to take effect. If segmented, the written consent rule applies separately to each segment. Consent shall be binding upon future owners of the parcels in questions and they may not be conditioned or revocable by owners.

#### **10.87 EFFECT OF PDD-GIP ZONING.**

(1) The approval of a General Implementation Plan shall not authorize issuance of building permits. The permits may not be issued until approval by the City of the Specific Implementation Plan.

(2) Rezoning to PDD on the basis of an approved General Implementation Plan shall revert to prior zoning if the Specific Implementation Plan is not approved within one year from date of filing under s. 10.87. Extensions may be granted for cause by the Plan Commission. Records of extensions shall be recorded in the City file on the PDD District.

#### **10.88 FILING; EFFECTIVE DATE.**

When the consent signatures for lands in the parcel being rezoned are all acquired and turned in to the Plan Commission staff, the documentation on Plan Commission and Common Council action and on the General Implementation Plan and the consent signatures shall be logged in and filed by the City and the property shall be indicated as rezoned on City Zoning maps. The indication shall be PDD-GIP. The City shall record at the Dane County Register of Deeds Office an affidavit of notice of PDD zoning against all real property included in the district. This shall be done on the effective date of the PDD-GIP zoning. The City shall require the applicant to supply necessary property descriptions and to pay recording fees.

#### **10.89 SPECIFIC IMPLEMENTATION PLAN.**

After the effective date of the rezoning to PDD-GIP, the applicant may file a Specific Implementation Plan with the Plan Commission.

**(1) Their precise plan for development shall contain graphic and tabular presentations at a level of detail equivalent to the level of detail of a final plat. Accompanying text information shall describe in detail the development plans, methodologies and timetables for the area covered by the Specific Implementation Plan.**

**(2) The area included in a Specific Implementation Plan may be only a portion of the area included in a previously approved General Implementation Plan.**

**(3) The Specific Implementation Plan submission may include site plan and design information, allowing the Plan Commission to combine design review and review of the Specific Implementation Plan. Design review may, at the choice of the applicant, be deferred until a later time when specific site and building developments will be brought forth.**

**(4) As part of submission for Specific Implementation Plan approval, the applicant shall submit proof of financing capability pertaining to construction and maintenance and operation of public works elements of the proposed development.**

**(5) The Plan Commission or Common Council may specify other plans, documents or schedules that must be submitted prior to consideration or approval of the Specific Implementation Plan, as such may be relevant to review procedures and standards.**

#### **10.90 PLAN COMMISSION REVIEW.**

**(1) When the Specific Implementation Plan submission is deemed by Plan Commission staff to be complete, the matter shall be reviewed by staff and then placed upon the agenda of the Plan Commission for review, consideration and approval or rejection. No public hearing is required at this stage, but one or more public hearings or informational meetings may be provided optionally.**

**(2) The Specific Implementation Plan submission shall be reviewed by the Plan Commission against the standards of this Ordinance, the Master Plan and the previously approved General Implementation Plan. In order to approve a Specific Implementation Plan, the Plan Commission must determine that the Specific Implementation Plan is reasonably consistent with the previously approved General Implementation Plan.**

**(3) If the Plan Commission recommends approval of a Specific Implementation Plan, complete documentation describing this Specific Implementation Plan, and any contracts that the Plan Commission deems necessary for the implementation of the plan, shall be prepared, reviewed by the Plan Commission staff as complete and, when found to be complete by said Plan Commission staff, shall be placed on the agenda of the Common Council.**

#### **10.91 COMMON COUNCIL REVIEW.**

**The Common Council shall consider and act on the Specific Implementation Plan after reviewing the recommendations of the Plan Commission on same. The Common Council shall approve a Specific Implementation Plan that is reasonably consistent with the previously approved General Implementation Plan.**

#### **10.92 FILING AND EFFECTIVE DATE.**

**Sections 10.86 through 10.88 apply to the processing and consent signatures of a Specific Implementation Plan following approval by the Common Council. Signatures are required by property owners only in the area affected by the Specific Implementation Plan. The affidavit of zoning status need not be recorded at the SIP stage if one is duly on record from the PDD-GIP stage.**

#### **10.93 EFFECT OF SIP APPROVAL; ALTERATIONS.**

**The filing of an approved Specific Implementation Plan shall authorize release of building and other land use permits to carry out development activities consistent with that approved plan.**

**Any subsequent change of use of any parcel or any modification of the Specific Implementation Plan shall first be submitted for approval to the Plan Commission and if, in the opinion of the Plan Commission, such change or modification constitutes a substantial alteration of the Specific Implementation Plan, the Specific Implementation Plan shall be required to be amended through the same procedures used to approve, file and record the Specific Implementation Plan. If, in the opinion of the Plan Commission, such changes or modification do not constitute a substantial alteration of the Specific Implementation Plan, the change may be accomplished by approval of the Plan Commission. Such approved modifications shall be documented and recorded in the official file of the City on the PDD District.**

**Specific Implementation Plan approval lapses one year after its effective date if substantial development progress has not occurred. The Plan Commission may grant extensions for good cause.**

#### **10.94 PLANNED DEVELOPMENT DISTRICT-INFILL (PDD-I).**

**Planned Development District-Infill (PDD-I) standards and regulations have been created for the purpose of allowing flexibility to accommodate infill and redevelopment on parcels less than 100,000 square feet. Parcels of more than 100,000 square feet should comply with the normal PDD regulations. The application procedures and review criteria for the PDD-I are the same as those outlined for the basic PDD District in addition to the following provisions.**

**The PDD-I District is referred to as an "infill" zoning regulation because it is intended to be used in situations where new development or redevelopment is proposed within an already developed area or neighborhood. Mixed use may be allowed to the extent that no**



use of vehicular ways and parking spaces. In all cases, pedestrian access shall be provided to public walkways.

(c) (i) The usable open space required for residential development projects and mixed use residential projects shall be designed for use of each individual dwelling unit or shall be located and designed to be of utility to every dwelling unit proposed. This required usable open space requirement shall be designed to maximize privacy and usability to the residents.

(ii) Planned Development District-Infill housing impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. In particular, the additional population density places demands upon City parks, recreation areas, conservancies and other open spaces. Accordingly, each dwelling unit newly established shall be required to dedicate parkland or provide fees in lieu of parkland dedication, with the choice of parkland or fees being made by the Plan Commission upon the recommendation of the Park, Recreation and Forestry Commission. If the Plan Commission determines to require dedication of land, such dedication shall be at least 1,450 square feet of land for each proposed residential dwelling unit. If the Plan Commission determines to require payment of fees in lieu of dedication of parkland, such fee shall be paid in a lump sum by the owner of the land prior to the issuance of any building permit for the land in the amount set forth in the Fee Schedule under Section 3.12. Except to the extent inconsistent with the provisions set forth herein, parkland dedications or fees in lieu of parkland dedication, shall follow the procedures set forth in Section 19.06(3)(k) of the Middleton General Ordinances.”

(d) Special emphasis shall be placed on trash collection points. Trash containers shall be screened and so designed so as to be conveniently accessible to their users and collectors.

(e) Within the PDD-1, mixed land uses may be proposed. However, they must be found to be compatible based on the site and building design proposed. Compatibility will also be judged on the basis of how well the proposed project fits within the context of the neighborhood and abutting properties. The basic intent of this Zoning Ordinance and Master Plan must be adhered to.

(f) Snow removal areas and procedures must be described in the plans.

(g) All site lighting shall be controlled so as not to extend a direct light source onto abutting properties. Cutoff type luminaries shall be used and all lighting sheds shall be indicated in the plans.

(h) The physical attributes of the site shall be respected with particular concern for preservation of natural features, tree growth and open space.

(5) Definitions.

(a) **Floor Area.** The sum of the gross floor area for each of a building's stories

measured from the exterior limits of the faces of the structure. The floor area of a building includes basement floor area. It does not include cellars and unenclosed porches or any floor space in an accessory building or in the principal building which is designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance.

(b) **Bufferyard.** A unit of land, together with a specified type and amount of planting thereon, and any structures which may be required between land uses to eliminate or minimize conflicts between them.

(c) **Floor Area Ratio.** An intensity measured as a ratio derived by dividing the total floor area of a building by the gross site area. Where the lot is part of a larger development and has no bufferyard, that lot area may be used instead of the gross site area.

(d) **Impervious Surface.** Impervious surfaces are those which do not absorb water. They consist of all buildings, parking areas, driveways, road, sidewalks, and any areas of concrete or asphalt. In the case of lumberyards, areas of stored lumber constitute impervious surfaces.

(e) **Impervious Surface Ratio.** A measure of the intensity of land use which is determined by dividing the total area of all impervious surfaces on a site by the gross site area.

(f) **Usable Open Space.** Usable open space is that part of the ground level of a zoning lot, other than in a required front or corner side yard, which is unoccupied by driveways, drive aisles, service drives, off street parking spaces and/or loading berths and is unobstructed to the sky. This space of minimum prescribed dimension shall be available to all occupants of the building and shall be usable for greenery, drying yards, recreational space, gardening, and other leisure activities normally carried on outdoors. Where and to the extent prescribed in these regulations, balconies and roof areas, designed and improved for outdoor activities, may also be considered as usable open space. The usable open space shall be planned as an assemblage or singularly designed area that maximizes the size for open space usage. The only exception to this standard is where the required open space is designed to be part of the individual living units in the form of patios or decks.

(g) **Abutting.** Having property or district lines in common; e.g. two lots are abutting if they have property lines in common.

(h) **Adjacent.** Neighboring or within visible proximity; e.g. includes property that is across the street or public right of way and includes all properties directly impacted by a proposed development whether abutting or not.

(i) **Gross Site Area.** The area of land which is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. The gross site area shall be legally described and made a part of the application for zoning approvals.

## **10.95 AIRPORT HEIGHT LIMITATIONS.**

(1) **Statutory Authorization.** This Ordinance is adopted pursuant to Wis. Stats. §114.136.

(2) **Definitions.**

(a) “Airport” refers to Morey Airport, which is located in Section 3, Town 7 North, Range 8 East, in the City of Middleton, Dane County, Wisconsin.

(b) “Nonconforming use” means any structure which does not conform to the provisions of this Ordinance or an amendment thereto, as of the effective date of this ordinance.

(c) “Person” means any individual, firm, partnership, corporation, company, limited liability company, limited liability partnership, association, joint stock associations, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(d) “Structure” means any object, including a mobile object, constructed, installed or located by a person.

(e) “Height” means the elevation above Mean Sea Level of the top of the structure, including any appurtenance installed thereon.

(f) “Permit” means written permission from the City of Middleton on a form provided by the municipality stating that the proposed structure site either conforms to this Ordinance or has been granted a variance, per Section (6).

(3) **Airport Height Restriction Areas.** All zones established by this section are as shown on the map dated September 4, 2003 entitled, “Height Limitation Zoning Map, Morey Airport, Dane County, Wisconsin,” which is attached hereto and adopted as part of this Ordinance.

(4) **Nonconforming Uses.**

(a) **Not Retroactive.** The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering or other change or alteration of any structure not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use, except as otherwise provided by Section 6(b). Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, if the construction or alteration of such was begun prior to the effective date of this Ordinance, and if such is diligently prosecuted.

(b) **Removal by Purchase.** This section shall not interfere with the removal of nonconforming uses by purchase or the use of eminent domain.

(5) **Airport Height Limitations.** Not structure shall be constructed, altered or located to a

height in excess of the elevation indicated on the map referred to in Section (3) of this Ordinance. Any structure constructed, altered or located in violation of this Ordinance shall be removed at the owner's expense.

**(6) Permits.**

(a) **Future Uses.** No structure shall hereafter be constructed or located that exceeds the height indicated in any zone created by Section (3) of this Ordinance until the owner or his or her agent shall have applied in writing and obtained a permit from the City Zoning Administrator. Application for such permit shall indicate the purpose for which the permit is desired, with sufficient information to permit the Zoning Administrator to determine whether such structure would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(b) **Existing Uses.** Before any nonconforming structure may be replaced, altered, or rebuilt, a permit shall be applied for and secured in the manner prescribed in Section (6)(a) authorizing such change, replacement or repair. Such permit shall be granted if the structure will not become a greater hazard to air navigation than it was on the effective date of this ordinance, or than it was when the application for permit was made.

(c) **Exemptions.** Permits are not required for structures which are less than thirty five (35) feet in height above ground level at the structure site.

(d) **Posting.** Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment.

(e) **Variances.** Upon appeal in special cases the Board of Appeals may, after investigation and public hearing, grant a variance from the terms of this ordinance. Such variance shall not be contrary to the public interest or create a hazard to the safe, normal operation of aircraft.

(7) **Administration.** It shall be the duty of the City Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made on a form provided by the Zoning Administrator. Applications for permits and applications for variances shall be granted or denied within 45 days of the date of filing. Applications for variances shall include evidence of Federal Aviation Administration review of the proposed construction (FAA Form 7460-1, "Notice of Proposed Construction"). Appeals shall be transmitted by the Zoning Administrator to the Board of Appeals for hearing and decision.

(8) **Board of Appeals.** The City Zoning Board of Appeals, as established under Section 10.117, shall:

(a) **Hear and decide appeals from any determination made by the Zoning Administrator in the enforcement of this Ordinance; and**

(b) Hear and decide specific variances.

(9) **Appeals and Review.**

(a) **Aggrieved Person.** Any person aggrieved or affected by any decision or action of the Zoning Administrator made in the administration of this Ordinance may appeal such decision or action to the Board of Appeals.

(b) **Procedure.** Any appeal taken pursuant to this section shall be in conformity with the procedure established by the applicable Wisconsin statutes.

(c) **Meetings.** In reviewing appeals under this Ordinance, all meetings and hearings of the Zoning Board of Appeals shall be open to the public. Notice of all meetings of the Zoning Board of Appeals under this Ordinance shall be given to the applicant, the Zoning Administrator and to the Clerk of the municipality where the property of the aggrieved person is located, if that property is outside the corporate limits of the City of Middleton. The Zoning Board of Appeals shall conduct a public hearing on each such matter that comes before it, preceded by publication of a Class 1 notice.

(10) **Fees.** Permit and appeal fees shall be paid in the amount set forth in the Fee Schedule under Section 3.12

(11) **Penalties.** Any person violating any of the provisions of this Ordinance shall, upon conviction, be subject to a forfeiture as set forth in Section 30.04 of the Middleton General Ordinances.

(12) **Severability.** If any of the provisions of this Ordinance or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

(13) **Conflicting Regulations.** Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of the structure or any other matter, the more stringent limitations or requirements shall govern and prevail.

(14) **Effect.** This Ordinance shall take effect and be in force upon passage and publication. This Ordinance supersedes any previous Ordinance regulating the height of structures in the vicinity of the airport.

**10.96 ZONING REGULATIONS IN MIDDLETON/WESTPORT JOINT PLANNING AREA.**

(1) **Lands Affected.** The lands affected by this ordinance are those shown as the Joint

Planning Area on Exhibit A attached hereto and incorporated herein by reference.

(2) **Joint Planning Committee.**

(a) **Establishment.** A Joint Planning Committee (JPC) shall be appointed in accordance with the Intergovernmental Cooperation Agreement Between the City of Middleton and the Town of Westport dated November 17, 1998, and as that Agreement may hereafter be amended. A copy of the Agreement and all amendments thereto shall be available for inspection at the City Hall.

(b) **Composition.** The JPC shall consist of six members, three of whom shall be appointed by the City of Middleton and three of whom shall be appointed by the Town of Westport. The three members appointed by the City shall be citizen members of the City Plan Commission, and shall be appointed by the Mayor, subject to the approval of the City Council. The initial City members shall be appointed for staggered terms of one, two and three years, with staggered three-year terms thereafter.

(c) **Powers and Duties.** The JPC shall have the power and duty to take all actions required of it pursuant to the Intergovernmental Cooperation Agreement Between the City of Middleton and the Town of Westport dated November 17, 1998, and as that Agreement may hereafter be amended, and as required by law for an extraterritorial zoning joint committee. The JPC may be delegated powers or duties of the Town and the City so long as such delegations do not violate any law, rule and regulation and are necessary to effectuate the purposes of the above-mentioned Agreement.

(d) **Meetings and Rules.** Public notice of all regular and special meetings of the JPC shall be given to the public and news media as required by the law. The rules of procedure of the JPC shall be governed by *Robert's Rules of Order, Newly Revised (1984)*, as modified for small bodies.

(3) **Middleton/Westport Joint Planning Area.**

(a) **Definition.** The Middleton/Westport Joint Planning Area or JPA is that area of land within the Town of Westport and as defined in the Intergovernmental Cooperation Agreement Between the City of Middleton and the Town of Westport dated November 17, 1998, or as thereafter amended by the Town and the City.

(b) **General Purpose of this Section.** In the above area, the City of Middleton and Town of Westport governing bodies have agreed to delegate certain review and approval abilities over land use decisions to the Joint Planning Committee (JPC) created by that agreement. By this section, it is the intent of the City to specify those powers of the JPC in this area under this Chapter. No action of the JPC is effective unless approved by a majority vote of the entire membership of the JPC.

(c) **Reserved for Future Provisions.**

(d) **Amendment.** The provisions of this section shall not be amended unless and until approval of such amendment has been recommended by a majority vote of the entire membership of the JPC after following the procedures for amendment under section 62.23(7a), Wis. Stats.

(4) **CR-5ac Countryside Residential District.**

(a) **Intent.** The CR-5ac Countryside Residential District is intended to permit development which has a very low density, countryside community character. Unlike the case for the Agricultural Use Districts, the land use standards for this district permit primarily single-family detached residential development and a variety of related land uses, and are not oriented to a wide range of agricultural activities. Density and intensity standards for this district are designed to ensure that the Countryside Residential (CR-5ac) District shall serve as a designation which preserves and protects the countryside community character of its area. This district is used to provide for the permanent protection of a very low density residential area for those who want to live in a countryside environment and who retain enough land with their residence, or in their development, to ensure that the countryside community character is maintained as long as the Countryside Residential (CR-5ac) District designation is retained, regardless of how much development occurs within that area. This district is designed to accommodate existing subdivisions of this character and to allow such future development of this character and density consistent with adopted comprehensive land use plans of the Town and City.

(b) **Permitted Uses.**

- (1) Permitted uses in the Single-Family Residential (R-1) District.
- (2) Selective tree cutting.
- (3) Passive outdoor public recreational activities.

(c) **Conditional Uses.**

- (1) Permitted uses in the Agricultural/Holding (A-1) District.
- (2) Conditional uses in the Agricultural/Holding (A-1) District.
- (3) All accessory buildings and uses allowed in the Agricultural/Holding (A-1) District, and any additional accessory buildings and uses other than those permitted by subsection (d), below, shall be allowed only as conditional accessory uses in the Countryside Residential (CR-5ac) District, and shall require a conditional use permit in compliance with other provisions of this Chapter.

(d) **Accessory Buildings and Uses.** Accessory buildings and uses in the Countryside Residential (CR-5ac) District are those accessory buildings and uses permitted in the Single-Family Residential (R-1) District.

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

- (1) **Maximum Building Height:**
  - a. Principal residential building: Thirty-five (35) feet.
  - b. Detached permitted accessory building: Fifteen (15) feet.
  - c. Other detached conditional accessory buildings and uses allowed per

conditional use permit shall have the maximum building height as provided by the conditional use permit.

- (2) *Lot area:* At least three (3) acres and up to a maximum of five (5) acres.
- (3) *Minimum Lot Width:* One hundred fifty (150) feet.
- (4) *Front Yard Setback:* Thirty-five (35) feet, or sixty-eight (68) feet from the center-line of the abutting roadway, whichever is greater.
- (5) *Rear Yard Setback, Principal Building:* Twenty-five (25) feet.
- (6) *Side Yard Setback, Principal Building:* Forty-five (45) feet on each side.
- (7) *Side and Rear Yard, Accessory Building:* Nine (9) feet on each side.

(5) **ER-1 Estate Residential District.**

(a) **Intent.** The ER-1 Estate Residential District is intended to permit development which has a low density, estate community character. Like the case for the Countryside Residential (CR-5ac) District, the land use standards for this district permit primarily single family detached residential development and a variety of related institutional land uses. Density and intensity standards for this district are designed to ensure that the Estate Residential (ER-1) District shall serve as a designation which preserves and protects the estate community character of its area. This district is used to provide for the permanent protection of a low density residential area for those who want to live in an estate environment and who retain enough land with their residence, or in their development, to ensure that the estate community character is maintained as long as the Estate Residential (ER-1) District designation is retained, regardless of how much development occurs within that area. This district is designed to accommodate existing subdivisions of this character and to allow such future development of this character and density consistent with adopted comprehensive land use plans of the Town and City.

(b) **Permitted Uses.**

- (1) Permitted uses in the Single-Family Residential (R-1) district.
- (2) Selective tree cutting.
- (3) Passive outdoor public recreational activities.

(c) **Conditional Uses.** Conditional uses in the Estate Residential (ER-1) District are those conditional uses allowed in the Single-Family Residential (R-1) district.

(d) **Accessory Buildings and Uses.** Accessory buildings and uses in the Estate Residential (ER-1) District are those accessory buildings and uses permitted in the Single-Family Residential (R-1) District.

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

- (1) **Maximum Building Height:**
  - a. Principal residential building: Thirty-five (35) feet.
  - b. Detached accessory building: Fifteen (15) feet.
- (2) *Lot Area:* At least one (1) acre and less than three (3) acres.

- (3) **Minimum Lot Width:** One hundred twenty-five (125) feet.
- (4) **Front Yard Setback:** Thirty (30) feet, or sixty-three (63) feet from the center-line of the abutting roadway, whichever is greater.
- (5) **Rear Yard Setback, Principal Building:** Twenty-five (25) feet.
- (6) **Side Yard Setback, Principal Building:** At least fifteen (15) feet on each side, but not less than forty-five (45) feet total for combined setbacks.
- (7) **Side and Rear Yard, Accessory Building:** Nine (9) feet on each side.

(6) **SR-4 Suburban Residential District.**

(a) **Intent.** The SR-4 Suburban Residential District is intended to permit development which has a moderate density, suburban community character. This district is intended to be the principal district for single-family development in urban service areas of the Town. Unlike the case for the previously described residential districts, the land use standards for this district permit both single-family detached residential development and certain types of moderate density single-family attached development, as well as a variety of related institutional land uses. Density and intensity standards for this district are designed to ensure that the Suburban Residential (SR-4) District shall serve as a designation which preserves and protects the suburban residential community character of its area. This district is used to provide for the permanent protection of a moderate density residential area for those who want to live in a suburban residential environment and who retain enough land with their residence, or in their development, to ensure that the suburban character is maintained as long as the Suburban Residential (SR-4) District designation is retained, regardless of how much development occurs within that area. This district is designed to accommodate new subdivisions of this character in urban service areas and to allow such future development of this character and density consistent with the adopted comprehensive land use plans of the Town and the City.

(b) **Permitted Uses.**

- (1) Permitted uses in the Single-Family Residential (R-1) District.
- (2) Selective tree cutting.
- (3) Passive outdoor public recreational activities.

(c) **Conditional Uses.**

- (1) Two-family Dwelling Units.
- (2) Conditional Uses in the Single-family Residential (R-1) District.

(d) **Accessory Buildings and Uses.** Accessory buildings and uses in the Suburban Residential (SR-4) District are those accessory buildings and uses permitted in the Single-Family Residential (R-1) District.

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

- (1) **Maximum Building Height:**
  - (a) Principal building: Thirty-five (35) feet.
  - (b) Detached accessory building: Fifteen (15) feet.
- (2) **Lot Area:** At least 1/4 acre and less than 1 acre.

- (3) *Minimum Lot Width:* Ninety (90) feet.
- (4) *Front Yard Setback:* Twenty-five (25) feet.
- (5) *Rear Yard Setback, Principal Building:* Twenty (20) feet.
- (6) *Side Yard Setback, Principal Building:* Nine (9) feet on each side.
- (7) *Side and Rear Yard, Accessory Building:* Nine (9) feet on each side.

(7) **Agriculture Transition District.** The Agriculture Transition District as established under Section 10.80 is hereby made applicable to the Middleton/Westport Joint Planning Area

(8) **Special Temporary Zoning Classifications And Related Regulations In The Joint Planning Area.**

(a) **Intent.** This section adopts the permitted uses and applicable standards from the Dane County Zoning Code (as in effect October 17, 2000) to apply only to property in the Middleton/Westport Joint Planning Area as defined at section 10.96(3) (the “JPA”), so that property in the JPA can be placed in a zoning district which has the same permitted uses and standards which applied to such property as it was classified under the Dane County Zoning Code prior to creation of the JPA. This section does not adopt any conditional uses from the Dane County Zoning Code.

(b) **Limited Use Of Zoning Classifications And Regulations.**

(1) *Application.* The zoning classifications and regulations in this section shall apply only to properties in the JPA which were in a zoning classification contained in this section under a corresponding provision of the Dane County Zoning Code at the time the JPA was created. No other property under the City's zoning jurisdiction may be zoned any of the zoning classifications in this section.

(2) *Rezoning.* No property in the JPA classified as one of the districts set forth in this section may be rezoned to any other district in this section, it being the intent that these provisions are to be used temporarily until such time as the parcels in the JPA are rezoned using only the zoning classification found in other sections of the City Zoning Code, above.

(3) *Land Divisions.* No division of property with a zoning classification under this section shall be approved or allowed until that property is rezoned to an appropriate zoning classification other than under this section, pursuant to the procedures in this chapter.

(4) *Regulations Outside this Section.* The regulations of this section shall apply only in the JPA and only to property designated one of the zoning classifications contained in this section. To the extent such regulations conflict with other regulations of this chapter, the regulations of this section shall apply to property both in the JPA and classified under one of the zoning districts contained in this section. The regulations in this section shall not apply outside the JPA. Any other regulations contained in this chapter which do not conflict with any regulations in this section (including definitions) shall be applicable in the JPA, and shall apply to property in a zoning district classification found in this section, such provisions being supplementary to the provisions of this section.

**(5) *Utility and Governmental Facilities.*** Utility and governmental facilities, as defined under § 10.150(59), but not including utility services under § 10.96(7)(c)(3), shall be conditional uses in all non-residential zoning classifications under this section.

**(c) Definitions.** The following definitions shall apply in this section only:

**(1) *Animal Unit.*** One animal unit shall be defined as being the equivalent of 1 cow, 4 hogs, 10 sheep, 10 goats, 100 poultry, 1 horse, 1 pony, 1 mule or 100 rabbits or an equivalent combination thereof.

**(2) *Home Occupation.*** A home occupation is any occupation carried on by a member of the immediate family residing on the premises, which meets all of the following conditions:

- a. That the occupation is conducted within a dwelling and not in an accessory building;
- b. That only members of the immediate family residing on the premises may be employed on the premises, plus a maximum of one other unrelated person;
- c. That no stock-in-trade is kept or commodities sold, other than those made on the premises;
- d. That samples may be kept but not sold on the premises;
- e. That no mechanical equipment is used except such as may be used for purely domestic or household purposes;
- f. That such occupation shall not require internal or external alterations, or involve construction features not customary in a dwelling;
- g. That not more than 25 percent (25%) of the floor area of one (1) story of the dwelling is devoted to such home occupation;
- h. That the entrance to the space devoted to such occupation is from within the building;
- i. That there is no evidence, other than the sign referred to in subsection (j) below, that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; and
- j. That one (1) sign shall be permitted, which sign shall be attached to the building, shall not exceed two (2) square feet in area and shall not be lighted at night.

**(3) *Utility Services.*** Transmission and distribution lines both above and below ground which carry electricity, petroleum products, natural or manufactured gas, water, sewer or telephone messages. Included are buildings necessary to operate transmission and distribution lines such as substations, transformer installations, repeater stations, pumping stations, but not including offices, garages, manually operated exchanges, terminal distribution facilities, electric generating plants and sewage disposal plants.

**(d) County R-1 Residence District.**

**(1) Permitted Uses.**

- a. Single family detached dwellings.
- b. Utility services.
- c. Home occupations, as defined in sec. (c)(2), above.

- d. Uses and buildings, clearly incidental and necessary to permit use on the premises.
  - e. Community living arrangements for less than nine (9) persons. Foster homes for less than five (5) children licensed under sec. 48.62, Wis. Stats.
- (2) **Building Height Limit.**
- a. For residential dwelling two and one-half (2-1/2) stories or 35 feet.
  - b. Accessory buildings shall not exceed 12 feet in height.
- (3) **Lot Width and Area.**
- a. Unsewered lots shall be not less than 100 feet in width at the building setback line and have an area of not less than 20,000 square feet.
  - b. Sewered lots shall be not less than 100 feet in width at the building setback line and have an area of not less than 15,000 square feet.
- (4) *Lot Coverage.* No building together with its accessory buildings shall occupy in excess of 30 percent (30%) of the area of an interior lot or 35 percent (35%) of the area of a corner lot.
- (5) *Setback Requirements.* Setback from front lot line or highway right-of-way lines shall conform to the requirements of sec. (u), below.
- (6) *Side Yard Requirements.* There shall be total side yards of not less than 25 feet and no single side yard shall be less than 10 feet.
- (7) *Rear Yard Requirements.* The minimum depth of any rear yard shall be 50 feet.
- (e) **County R-1A Residence District.**
- (1) *Permitted Uses.* All uses permitted in the County R-1 Residence District.
  - (2) *Building Height Limit.* Shall be the same as the County R-1 Residence District.
  - (3) *Lot Width and Area.* Lots shall be not less than 100 feet in width at the building setback line and have an area of not less than one (1) acre.
  - (4) *Lot Coverage.* No building together with its accessory buildings shall occupy in excess of 20 percent (20%) of an interior lot or 25 percent (25%) of the area of a corner lot.
  - (5) *Setback Requirements.* Setback from the front lot line or highway right-of-way lines shall conform to the requirements of sec. (u), below.
  - (6) *Side Yard Requirements.* Shall be the same as for the County R-1 Residence District.
  - (7) *Rear Yard Requirements.* Shall be the same as for the County R-1 Residence District.
- (f) **County R-3 Residence District.**
- (1) *Permitted Uses.* All uses permitted in the County R-1 Residence District.
  - (2) **Building Height Limit.**
    - a. For a residential dwelling two and one-half (2-1/2) stories or 35 feet.
    - b. Accessory buildings shall not exceed 12 feet in height.
  - (3) **Lot Width and Area.**
    - a. Unsewered lots shall be not less than 100 feet in width at the building setback line and have an area of not less than 20,000 square feet.
    - b. Sewered lots shall be not less than 60 feet in width at the building setback line and have an area of not less than 8,000 square feet.

(4) *Lot Coverage.* No building together with its accessory buildings shall occupy in excess of 35 percent (35%) of the area of an interior lot or 40 percent (40%) of the area of a corner lot.

(5) *Setback Requirements.* Setback from front lot line or highway right-of-way lines shall conform to the provisions of sec. (u), below.

(6) *Side Yard Requirements.* The minimum width of any side yard shall be 10 feet.

(7) *Rear Yard Requirements.* The minimum depth of any rear yard shall be 25 feet.

(g) **County R-3A Residence District.**

(1) **Permitted Uses.**

a. All uses permitted in the County R-1 Residence District.

b. Duplexes.

(2) **Building Height Limit.**

a. Residential dwellings, two and one-half (2-1/2) stories or 35 feet.

b. Accessory buildings shall not exceed 12 feet in height.

(3) **Lot Width and Area.**

a. Unsewered lots for both single family and duplex dwellings shall be not less than 100 feet in width at the building setback line and have an area of not less than 20,000 square feet.

b. Sewered lots for single family dwellings shall be not less than 60 feet in width at the building setback line and have an area of not less than 8,000 square feet.

c. Sewered lots for duplex dwellings shall be not less than 75 feet in width at the building setback line and have an area of not less than 10,000 square feet.

(4) *Lot Coverage.* No building together with its accessory buildings shall occupy in excess of 30 percent (30%) of the area of an interior lot or 35 percent (35%) of the area of a corner lot.

(5) *Setback Requirements.* Setback from front lot line or highway right-of-way line shall conform to the requirements of sec. (u), below.

(6) *Side Yard Requirements.* The minimum width of any side yard shall be 10 feet.

(7) **Rear Yard Requirements.**

a. For single family dwellings, the minimum depth of any rear yard shall be 25 feet.

b. For duplex dwellings, the minimum depth of any rear yard shall be 35 feet.

(8) *Off-Street Parking.* For duplex dwelling units, off-street parking shall be provided as required in sec. (v), below.

(h) **County R-4 Residence District.**

(1) **Permitted Uses.**

a. All uses permitted in the County R-3A Residence District.

b. Multiple family dwellings, condominiums.

c. Community living arrangements for from nine (9) to fifteen (15) persons.

(2) **Building Height Limit.**

- a. **Single family and duplex dwellings, two and one-half (2-1/2) stories or 35 feet.**
  - b. **Multiple family dwellings, 4 stories.**
  - c. **Accessory buildings shall not exceed twelve (12) feet in height.**
- (3) Lot Width and Area.**
- a. **Unsewered lots for single family, duplex dwellings and multiple family dwellings shall be not less than 100 feet in width at the building setback line and have an area of not less than 20,000 square feet.**
  - b. **Sewered lots.**
    - (1) Lots for single family and duplex dwelling units shall be the same as the County R-3A Residence District.**
    - (2) Lots for multiple family dwellings shall be not less than 60 feet in width at the building setback line and have an area of not less than 8,000 square feet.**
- (4) Lot Area and Coverage.**
- a. **For single family and duplex dwellings the *lot coverage* shall be the same as for County R-3A Residence District.**
  - b. **Unsewered lots for multiple family dwellings shall provide a minimum of 5,000 square feet of lot area for each dwelling unit.**
  - c. **Sewered lots for multiple family dwellings shall provide a minimum of 2,000 square feet of lot area for each efficiency, one bedroom, and two bedroom dwelling unit and a minimum of 2,250 square feet of lot area for each three bedroom or more dwelling units. If a building contains a mixture of efficiency, one and two bedroom and three or more bedroom dwelling units the lot area requirements shall be pro-rated. In computing lot areas for multiple family dwelling complexes, private roads, driveways, parking areas, recreational areas common to all of the buildings in the complex shall be considered as part of the total area of the complex.**
- (5) Setback and Front Yard Requirements.**
- a. **Setback from both the front lot line and any road right-of-way lines shall conform to the requirements of sec. (u), below.**
  - b. **Private roads or driveways within a multiple family dwelling complex shall not be considered a road for determining setback.**
  - c. **Multiple family dwelling buildings located in the interior of a complex shall provide a front yard of not less than 15 feet, each building shall be provided with its own front yard area irrespective of the yards required for other buildings.**
- (6) Side Yard Requirements.**
- a. **For single family and duplex buildings the side yards shall be a minimum of 10 feet on each side.**
  - b. **Multiple family dwelling buildings shall adhere to the following requirements:**

**(1) Buildings which are 2 stories or less in height shall have a minimum 10 foot side yard on each side of the building.**

**(2) Buildings which are more than 2 stories in height shall have side yards as follows:**

**a. If the side of a building does not include any windows for apartment dwellings a minimum side yard of 10 feet on that side is required.**

**b. If the side of a building does include windows for apartment dwellings an additional 5 feet of side yard for each story over 2 stories is required on that side.**

**(3) Buildings located within a complex shall each be provided with their own side yard areas irrespective of the yards required for other buildings.**

**(7) Rear Yard.**

**a. For single family dwellings and duplex buildings the rear yards shall be a minimum of 25 feet.**

**b. For multiple family dwellings not exceeding 2 stories the rear yard shall be not less than 25 feet. For buildings exceeding 2 stories, the rear yard shall be increased by 5 feet for each story over 2 stories.**

**(8) Off-Street Parking.** Off-street parking shall be provided as required in sec. (v), below.

**(i) County RH-1 Rural Homes District.**

**(1) Permitted Uses.**

**a. All uses permitted in the County R-1 Residence District.**

**b. Agricultural uses, the number of livestock kept on a zoning lot in the County RH-1 District shall not exceed one animal unit for each full area.**

**c. Home occupations, as defined in sec. (c)(2), above.**

**d. Utility services.**

**e. Uses and buildings, clearly incidental and necessary to a permitted use on the premises.**

**(2) Building Height Limit.** Residential buildings shall not exceed two and one-half (2-1/2) stories or 35 feet.

**(3) Lot Width and Area.** The minimum lot width shall be 150 feet to be measured at the front building line of a residence, also at the location of any accessory building for the housing of livestock. The minimum lot area shall be not less than 2 acres.

**(4) Lot Coverage.** No residential building together with its accessory buildings shall cover in excess of 10% of the lot area.

**(5) Setback Requirements.** Setback from front lot line or highway right-of-way lines shall conform to the requirements of sec. (u), below.

**(6) Side Yard Requirements.**

**a. For residential buildings there shall be a total of 25 feet of side yards and no single side yard shall be less than 10 feet.**

- b. Accessory buildings for the housing of livestock shall be located not less than 50 feet from any side lot line.
- c. Other accessory buildings shall be located not less than 10 feet from any side lot line.

**(7) Rear Yard Requirements.**

- a. For residential buildings, the minimum rear yards shall be not less than 50 feet.
- b. Accessory buildings for the housing of livestock shall be located not less than 50 feet from any rear lot line.
- c. Other accessory buildings shall be located not less than 10 feet from any rear lot line.

**(j) County RH-2 Rural Homes District.**

(1) *Permitted Uses.* All uses permitted in the County RH-1 Rural Homes District.

(2) *Building Height Limit.* Shall be the same as the County RH-1 Rural Homes District.

(3) *Lot Width and Area.* The minimum lot width shall be 150 feet to be measured at the front building line of a residence, also at the location of any accessory building for the housing of livestock. The minimum lot area shall be not less than 4 acres.

(4) *Lot Coverage, Setback, Side Yard and Rear Yard Requirements.* Shall be the same as for the County RH-1 Rural Homes District.

**(k) County RH-3 Rural Homes District.**

(1) *Permitted Uses.* All uses permitted in the County RH-1 Rural Homes District.

(2) *Conditional Uses.* All conditional uses permitted in the County RH-1 Rural Homes District.

(3) *Building Height Limit.* Shall be the same as the County RH-1 Rural Homes District.

(4) *Lot Width and Area.* The minimum lot width shall be 150 feet to be measured at the front building line of a residence, also at the location of any accessory building for the housing of livestock. The minimum lot area shall be not less than 8 acres.

(5) *Lot Coverage, Setback Requirements, Side Yard Requirements and Rear Yard Requirements.* Shall be the same as County RH-1 Rural Homes District.

**(l) County RH-4 Rural Homes District.**

(1) *Permitted Uses.* All uses permitted in the County RH-1 Rural Homes District.

(2) *Building Height Limit.* Shall be the same as the County RH-1 Rural Homes District.

(3) *Lot Width and Area.* The minimum lot width shall be 150 feet to be measured at the front building line of a residence, also at the location of any accessory building for the housing of livestock. The minimum lot area shall be not less than 16 acres.

(4) *Lot Coverage, Setback, Side Yard and Rear Yard Requirements.* Shall be the same as for the County RH-1 Rural Homes District.

**(m) County B-1 Local Business District.**

**(1) *Intent and Purpose.*** The County B-1 Local Business District is to provide a zoning district for retail businesses and services that do not include manufacturing or major assembly of items or products. Residential use is intended to be limited, outside storage of items is restricted and landscaping of properties is required.

**(2) *Permitted Uses.*** The following are permitted uses in the County B-1 Local Business District:

- a. Retail sales or retail service businesses including related services but not including sales, servicing or repair of motor vehicles or any business or service for which the items offered for sale or which require service are stored, parked or displayed outside of a building, except as provided by this section.
- b. Outdoor sales events limited to two (2) events per year. For purposes of this paragraph, a single event is one which is held on consecutive days of not more than ten (10) days in duration.
- c. Storage of items or materials incidental to an established retail or service use on the premises but not to serve any other business or location. Said storage shall be in an enclosed building or enclosed area as provided by sec. (t), below. Mini-warehouses are considered to be warehousing and are not permitted in the County B-1 Local Business District.
- d. Medical, dental and veterinary clinics.
- e. Banks, offices and office buildings.
- f. Utility services.
- g. Schools and educational facilities except truck driving or construction equipment operator schools.
- h. Recreational facilities affiliated with a permitted B-1 use and which are not lighted for night operation.
- i. Rental or lease of boat slips.
- j. Private clubs or organizations.
- k. Theaters and auditoriums.

**(3) *Building Height Limit.*** Building height shall be limited to the lesser of six (6) stories or 75 feet. A conditional use permit is required for buildings proposed to be over 4 stories in height.

**(4) *Area, Frontage and Population Density Regulations.***

- a. For parcels or sites to be used exclusively for business purposes, there is no minimum parcel width and no area limitations. Buildings shall not occupy in excess of 60 percent (60%) of the area of a parcel.
- b. Parcels or sites which will be used for multi-family residential purposes or for combined business and apartment uses shall not be less than 60 feet in width at the building setback line and shall provide parcel areas as follows:
  - (1) On parcels not serviced by public sewer a minimum of 5,000 square feet of parcel area shall be provided for each apartment.
  - (2) On parcels serviced by public sewer a minimum parcel area shall be provided as follows:

- a. For each efficiency apartment and apartments which have one or two bedrooms a parcel area of 2,000 square feet shall be provided.
  - b. For each apartment containing three or more bedrooms a minimum of 2,250 square feet of parcel area shall be provided.
  - (3) The setback, side yard, rear yard and parking space areas may be used to satisfy the required parcel area for apartments.
- (5) **Setback from Road and Front Property Line and Front Yard Requirements.**
  - a. Buildings in rural areas shall be set back from both the front lot line and any road right-of-way as provided by sec. (u), below.
  - b. Buildings in urban areas which are used strictly for commercial uses shall be set back from both the front lot line and any road right-of-way a minimum distance of 5 feet.
  - c. Buildings in urban areas which are used for residential uses or a combination of commercial and residential uses shall be set back from the front property line and any road right-of-way as provided by sec. (u), below.
  - d. Private roads or driveways within a multiple family dwelling or business building complex shall not be considered a road for determining setback.
  - e. Buildings located in the interior of a complex shall provide a front yard of not less than 15 feet. Each building shall be provided with its own front yard area irrespective of the yards required for other buildings.
- (6) **Side Yard Requirements.**
  - a. Buildings which are 2 stories or less in height shall have a minimum 10 foot side yard on each side of the building.
  - b. Buildings which are more than 2 stories in height shall have side yards as follows:
  - c. If the side of a building does not include any windows for apartment dwellings or offices a minimum side yard of 10 feet on that side is required.
  - d. If the side of a building does include windows for apartment dwellings or offices an additional 5 feet of side yard for each story over 2 stories is required on that side.
  - e. Buildings located within a complex shall each be provided with their own side yard areas irrespective of the yards required for other buildings.
- (7) **Rear Yard Area Requirements.**
  - a. Buildings which are 2 stories or less in height shall have a minimum rear yard of 10 feet.
  - b. Buildings which are more than 2 stories in height shall have rear yards as follows:
    - (1) If the rear of a building does not include any windows for apartment dwellings or offices a minimum rear yard of 10 feet is required.
    - (2) If the rear of a building does include windows for apartment dwellings or offices an additional 5 feet of rear yard for each story over 2 stories is required.

c. Buildings located within a complex shall each be provided with their own rear yard areas irrespective of the yards required for other buildings.

(8) *Off-Street Parking.* Off-street parking space shall be provided in accordance with the provisions of sec. (v), below.

(9) *Screening Provisions.* On lots adjacent to or abutting land in a residence district, screening shall be provided in accordance with the provisions of sec. (t)(7), below.

(10) *Landscaping.* All properties on which new construction or expansion of use is proposed shall provide landscaping in accordance with sec. (t)(7), below.

(11) *Truck Parking.* Truck parking is subject to sec. (t)(1)a.2, below.

(n) **County A-B Agriculture Business District.** The County A-B Agriculture-Business District is designed to provide for those uses which are commercial in nature; are associated with local agricultural production; require a rural location due to extensive land area needs or proximity of resources; and do not require urban services.

(1) **Permitted Uses.**

- a. Sales, service and repair of machinery and equipment used in farming.
- b. Sales distribution, mixing, blending and storage of feeds, seeds and fertilizer.
- c. Livestock and farm commodity trucking services.
- d. Processing and preserving of natural agricultural products, fruits and vegetables.
- e. Sale, service and repair of lawn and garden equipment.
- f. Sales and distribution of nursery stock and plants.
- g. Residential use for an owner of the business.
- h. Sales and service of small scale methane generating equipment and alcohol distilling equipment that is designed for use in a farm operation.
- i. Sales and service of wind driven electrical generating equipment.

(2) **Building Height Limit.**

- a. For buildings containing offices, sales rooms and service areas, and residential buildings, the maximum height shall be two and one-half (2-1/2) stories or 35 feet.
- b. For all other buildings such as silos, bins and feed and seed storage facilities, no maximum height.

(3) *Area and Lot Width.* A lot shall be not less than 100 feet in width at the building setback line and have an area of at least 20,000 square feet.

(4) *Density.* Buildings shall not occupy more than sixty percent (60%) of the area of an interior or corner lot.

(5) *Setback Requirements.* Buildings that are erected, altered or moved shall be set back not less than is prescribed in sec. (u), below.

(6) **Side Yard Requirements.** Ten (10) feet.

(7) **Rear Yard Requirements.** Ten (10) feet.

(8) *Off-Street Parking.* Off-street parking shall be provided as required by sec. (v), below.

(o) **County A-1 Agriculture District (Exclusive).**

(1) *Statement of Purpose.* The purposes of the County A-1 Exclusive Agriculture are to: preserve productive agricultural land for food and fiber production; preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs; maintain a viable agricultural base to support agricultural processing and service industries; prevent conflicts between incompatible uses; reduce costs for providing services to scattered non-farm uses; pace and shape urban growth; implement the provisions of the county agricultural plan when adopted and periodically revised; and comply with the provisions of the Farmland Preservation Law to permit eligible landowners to receive tax credits under sec. 71.09(11) of the Wisconsin Statutes.

(2) *Lands to Be Included Within the County A-1 Exclusive Agriculture.* This district is generally intended to apply to lands in productive farm operations including: lands historically exhibiting good crop yields or capable of such yields; lands which have been demonstrated to be productive for dairying, livestock raising and grazing; other lands which are integral parts of such farm operations; land used for the production of specialty crops such as mint, sod, fruits and vegetables; and lands which are capable of productive use through economically feasible improvements such as irrigation.

(3) **Permitted Uses.**

- a. **Agricultural uses.**
- b. **Residence for farm owner/operator. Substantial income must be derived from the farm operation.**
- c. **Residences for owners of at least 35 acres of land who were approved by the Dane County Zoning & Natural Resources Committee under the site approval process between November 1, 1992 and April 14, 1994 shall be considered a permitted use.**
- d. **Secondary farm residences which are occupied by a person who, or a family at least one member of which, earns a substantial part of his or her livelihood from farm operations on the farm.**
- e. **Rental of existing or secondary residences no longer utilized in the operation of the farm.**
- f. **Day care for not more than 8 children.**
- g. **Utility services as defined in sec. (c)(3), above, and small scale electric generating stations not requiring approval under sec. 196.941 of the Wis. Stats.**
- h. **Road side stands.**
- i. **Structures and improvements that are consistent with agricultural uses.**
- j. **Home occupations as defined in sec. (c)(2), above.**

(4) **Building Height Limits.**

- a. **Residential dwellings shall not exceed 2-1/2 stories or 35 feet in height.**
- b. **Residential accessory buildings shall not exceed 16 feet in height.**
- c. **For agricultural accessory buildings there is no limitation on height.**
- d. **The height of utility and governmental facilities shall be determined as part of the conditional use permit process.**

(5) **Area, Frontage and Population Density Regulations.**

- a. **The minimum lot size to establish or maintain a farm operation is 35 acres.**

- b. **The minimum lot size for residential uses shall be the same as for the County R-1 Residence District.**

**(6) *Setback Requirements.*** No building, including barns and other farm buildings of any description whatsoever, shall be erected, moved or structurally altered so as to be nearer the highway than is prescribed by sec. (u), below.

**(7) Side Yard Requirements.**

- a. **Side yards for residential dwellings and residential accessory buildings shall be the same as for the County R-1 Residence District.**
- b. **Accessory buildings, cages or hives for housing of animals or insects shall be located at least 100 feet from a County R-1, R-1A, R-2, R-3, R-3A or R-4 Residence District, except with respect to existing structures when the residence district has been created for an existing farm residence or by separating a farm residence from a farm property and the separated parcel has been rezoned to a residence district after or at the time of the division.**

**(8) Rear Yard Requirements.**

- a. **Rear yards for residential dwellings and residential accessory buildings shall be the same as for the County R-1 Residence District.**
- b. **Accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from a County R-1, R-1A, R-2, R-3, R-3A or R-4 Residence District, except with respect to existing structures when the residence district has been created for an existing farm residence or by separating a farm residence from a farm property and the separated parcel has been rezoned to a residence district after or at the time of the division.**

**(9) *General Provisions Applicable to the County A-1 Exclusive Agriculture District.*** In addition to the conditions provided for in secs. (t)(1) through (8), below the following additional conditions shall apply:

- a. **Residential and residential accessory buildings on parcels of less than 35 acres in the County A-1 Exclusive Agriculture District shall comply with the lot width and area standards applicable in the County R-1 Residence District.**
- b. **The keeping or raising of livestock is not permitted on parcels in the County A-1 Exclusive Agriculture District which have an area of less than 5 acres.**
- c. **Any residential building or its accessory building that is located on a substandard parcel as defined herein and which is destroyed by fire, explosion, act of God or act of public enemy may be rebuilt provided the locational requirements of the County R-1 Residence District are complied with.**
- d. **The provisions of sec. (t)(1)b.1., below, pertaining to real estate offices do not apply to lands in this district.**

**(p) County A-2 Agriculture District.**

**(1) *Statement of Purpose.*** The purpose of the County A-2 Agriculture District is to provide for low density land uses compatible with agricultural and other rural uses and to accommodate agricultural uses on parcels of less than 35 acres.

**(2) Permitted Uses.**

- a. Agricultural uses.
- b. Single family detached residences.
- c. Utility services.
- d. Home occupations as defined in sec. (c)(2), above.
- e. Accessory buildings.
- f. Accessory buildings include private garages and buildings clearly incidental to a permitted use of the premises. Such buildings shall not be used for residential purposes. The building shall not be used for the storage of goods or merchandise considered to be a dealer's inventory or for storage of machinery or equipment used off of the premises for other than agricultural purposes.
- g. Accessory buildings may be built on parcels of land in the County A-2 Agriculture District without the necessity of there being a residence on the property.

**(3) Building Height Limits.**

- a. Residential dwellings shall not exceed 2-1/2 stories or 35 feet in height.
- b. Residential accessory buildings shall not exceed 16 feet in height.
- c. For agricultural accessory buildings there is no limitation on height.

**(4) Area, Frontage and Population Density Regulations.**

- a. A-2 (1) = Minimum 1 acre.
- b. A-2 (2) = Minimum 2 acres.
- c. A-2 (4) = Minimum 4 acres.
- d. A-2 (8) = Minimum 8 acres.
- e. A-2 = Minimum 16 acres.
- f. Keeping of livestock:
  - (1) On parcels of less than 2 acres the keeping of livestock is not permitted.
  - (2) On parcels of less than 3 acres through 16 acres livestock shall be limited to 1 animal unit per each full acre.
  - (3) On parcels of more than 16 acres, no limit to the number of livestock.
- g. Salvage recycling centers: Minimum area is three acres.
- h. For residential uses the lot width and area shall be the same as for the County R-1 Residence District.
- i. For other permitted uses, there shall be no minimum width or area except for those uses for which special setback and sideyard requirements have been established.

**(5) *Setback Requirements.*** No building, including barns and other farm buildings of any description whatsoever, shall be erected, moved or structurally altered so as to be nearer the highway than is prescribed by sec. (u), below.

- a. Side Yard Requirements.

- (1) Side yards for residential dwellings and residential accessory buildings shall be the same as for the County R-1 Residence District.
- (2) Accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from a County R-1, R-1A, R-2, R-3, R-3A or R-4 Residence District, except with respect to existing structures when the residence district has been created for an existing farm residence or by separating a farm residence from a farm property and the separated parcel has been rezoned to a residence district after or at the time of the division.

**b. Rear Yard Requirements.**

- (1) Rear yards for residential dwellings and residential accessory buildings shall be the same as for the County R-1 Residence District.
- (2) Accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from a County R-1, R-1A, R-2, R-3, R-3A or R-4 Residence District, except with respect to existing structures when the residence district has been created for an existing farm residence or by separating a farm residence from a farm property and the separated parcel has been rezoned to a residence district after or at the time of the division.

**(q) County A-3 Agriculture District.**

- (1) *Permitted Uses.* All uses permitted in the County A-1 Exclusive Agriculture.
- (2) *Building Height Limit.* Building height shall be the same as for the County A-1 Exclusive Agriculture District.
- (3) *Area, Frontage and Population Density Regulations.* As per the County A-1 Exclusive Agriculture District.
- (4) *Setback Requirements.* Setback requirements shall be the same as for the County A-1 Exclusive Agriculture District.
- (5) *Side Yard Requirements.* Side yard requirements shall be the same as for the County A-1 Exclusive Agriculture District.
- (6) *Rear Yard Requirements.* The minimum rear yard shall be the same as for the County A-1 Exclusive Agriculture District.
- (7) General provisions applicable to the County A-3 Agriculture District shall be the same as for the County A-1 Exclusive Agriculture District.

**(r) County C-1 Commercial District.**

**(1) Permitted Uses.**

- a. Retail and service uses including, but not limited to, grocery stores, drugstores, hardware stores, appliance and furniture stores, barbershops and beauty shops without limitation as to size.
- b. Self-service laundries and dry cleaning establishments.
- c. Warehousing and storage incidental to a permitted use on the premises. Mini-warehouses are excluded from use in this (County C-1) district.
- d. Medical, dental and veterinary clinics.
- e. Banks, offices, office buildings and condominium office buildings devoting not more than two (2) floors to office space.

- f. Utility services.
- g. Rooming and boarding houses.
- h. Bakeries, printing plants, laundries, dry cleaning plants.
- i. Distribution centers and wholesale businesses.
- j. Woodworking shops, machine shops, manufacturing and assembly plants.
- k. Bicycle sales and service.
- l. Rental businesses, except for motor vehicles and construction machinery and equipment.
- m. Experimental laboratories not to exceed 5,000 square feet of floor area.
- n. Sales and repair of lawn and garden equipment.
- o. Games such as horseshoes, volleyball or similar activities not lighted for night operation.
- p. Marinas.

**(2) Building Height Limit.**

- a. For business buildings, including offices, the maximum building height shall be four (4) stories, provided however, that no building may provide more than two (2) stories devoted to office space.
- b. Lots or building sites for residential purposes or for combined business and residential uses shall comply with the requirements of the County R-4 Residence District.

**(3) Area, Frontage and Population Density Regulations.** Area, frontage and population density regulations shall be the same as for the County B-1 Local Business District.

**(4) Setback Requirements.** Setback from front lot line or highway right-of-way shall comply with the provisions of sec. (u), below.

**(5) Side Yard Requirements.** Side yard requirements shall be the same as for the County B-1 Local Business District.

**(6) Rear Yard Requirements.**

- a. For buildings to be used exclusively for business purposes the minimum depth of any rear yard shall be 10 feet.
- b. For residential buildings, or buildings combining residential and business uses, the minimum depth of any rear yard shall be 25 feet.

**(7) Off-Street Parking.** Off-street parking space shall be provided in accordance with the provisions of sec. (v), below.

**(8) Screening Provisions.** On lots adjacent to or abutting land in a residence district, the screening provisions of sec. (t)(7), below, shall be complied with prior to the issuance of a certificate of compliance or occupancy permit.

**(s) County C-2 Commercial District.**

**(1) Permitted Uses.**

- a. All uses permitted in the County C-1 Commercial District without limitations as to size.
- b. Major repairs to motor vehicles.

- c. Sales of new and used motor vehicles.
- d. Sales of new and used mobile homes, recreational equipment rental, sales and service.
- e. Sales of new and used contractor's machinery and equipment.
- f. Repairs, storage and service of contractor's machinery and equipment.
- g. Rental and leasing of motor vehicles, contractor's machinery and equipment.
- h. Bulk fuel storage, sales and storage of lumber and building material.
- i. Truck and bus terminals.
- j. Auxiliary or supplemental electric generating stations.
- k. Fertilizer mixing or blending plants.
- l. Slaughterhouses, meat processing plants.
- m. Bottling plants.
- n. Utility services.
- o. Storage, repair and maintenance of carnival, concession and circus machinery and equipment.
- p. Automobile and truck driver training schools and construction equipment operator training schools that are privately owned and operated for profit.
- q. Parking or storing of motor vehicles.
- r. Storage or processing of scrap or waste materials, conducted entirely within a building.
- s. Warehouses.
- t. Games such as horseshoes, volleyball or similar activities not lighted for night operation.
- u. Mini-warehouses.

(2) *Building Height Limit.* The maximum height for all buildings shall be fifty (50) feet. Tanks, storage bins, silos and towers shall not be subject to this limitation.

(3) *Area, Frontage and Population Density Regulations:*

- a. The area and frontage shall be the same as for the County B-1 Local Business District.
- b. Any principal building together with its accessory building shall not cover more than sixty percent (60%) of the lot area.

(4) *Setback Requirements.* Setback from front lot line or highway right-of-way shall conform to the provisions of sec. (u), below.

(5) *Side Yard Requirements.* Side yard requirements shall be the same as for the County B-1 Local Business District.

(6) *Rear Yard Requirements.* For business and commercial buildings, the minimum depth of any rear yard shall be 10 feet.

(7) *Screening Provisions.* On lots adjacent to or abutting land in a residence district, the screening provisions of sec. (t)(7), below, shall be complied with prior to the issuance of a certificate of compliance or occupancy permit.

(t) *General Provisions and Exceptions.* The following provisions apply only in the JPA and only to property designated one of the zoning classifications contained in this section.

**(1) Use.**

- a. Any use not listed as a permitted use in a district is prohibited in that district and, except as otherwise expressly provided, any use listed as a permitted use in any other district shall be construed as a prohibited use in any other district.**
- b. The following uses shall be permitted in the districts specified when these uses do not alter the character of the premises in respect to their use for the purposes permitted in that district:**
  - (1) In any district, real estate offices and signs advertising property for sale for a period not to exceed one (1) year.**
  - (2) In any district, temporary buildings and the temporary storage of materials and equipment incidental to the construction of buildings on the premises, for a period not to exceed one (1) year.**
- c. Storage or parking of motor vehicles.**
  - (1) In the County R-1, R-2, R-3, R-3A, R-4 and RH-1 Residence Districts and on any lot in the County A-2 Agriculture District on which the principal use is residential, motor vehicles used for personal transportation, recreational vehicles and trailers owned by persons who are resident on the premises may be parked or stored provided that the gross vehicle weight does not exceed twelve thousand (12,000) pounds.**
  - (2) In the Agriculture-Business District, County B-1 Local Business District and the County C-1 Commercial District, motor vehicles that are accessory to a permitted and principal use on any lot can be stored or parked.**
  - (3) Any automobile licensed as an antique or special interest vehicle under sec. 341.266, Wis. Stats., or parts cars therefore, can be stored on a lot in any district provided that those vehicles are stored as required by subsection 341.266(4) of the Wis. Stats.**
  - (4) Farm trucks or trailers licensed under secs. 341.26(3)(a) or (b), 340.01(73) or 341.30, Wis. Stats., may be parked in an agriculture district.**
  - (5) Trucks, whose gross vehicle weight exceeds twelve thousand (12,000) pounds, semi-tractors and semi-trailers shall be stored or parked only in the County C-2 Commercial or County M-1 Industrial Districts, except as otherwise provided by this section.**
  - (6) Subject to sec. 341.266(4), Wis. Stats., a motor vehicle that is inoperable or unlicensed is considered as salvage or junk and can only be stored in a licensed salvage recycling center. A parts car stored as provided for in subparagraph 3 above shall not be subject to this subparagraph.**
  - (7) Trucks licensed on a monthly or quarterly basis shall be considered as currently licensed if they have been licensed for at least one (1) period during the previous year.**

- (8) The storage of not more than one (1) motor vehicle of a type commonly known as a “stock car,” “hobby car” or the storage of any racing vehicle and parts therefore shall at all times be stored in an enclosed building, secluded from public view.
- (9) School buses that are driven by a person who is a resident on the premises may be parked on a lot or parcel in any zoning district except for the following restriction in the residence districts: in the residence districts the lot area shall be not less than one (1) acre.
- d. Parking of one (1) truck or one (1) road tractor or semi-tractor and its trailer in excess of 12,000 pounds gross vehicle weight is permitted in the residence and agricultural districts, subject to the following conditions:
  - (1) The vehicle shall be owned or operated by a person resident on the premises.
  - (2) In the residence districts the lot area shall be not less than one acre.
  - (3) The vehicle shall not be parked or stored within the required highway or road setback area.
  - (4) The vehicle shall not be parked closer than 300 feet to another residence.
  - (5) No new buildings shall be constructed for the housing of any aforescribed vehicle.
  - (6) Before any truck or semi-tractor or its trailer can be parked or stored subject to the foregoing conditions, a certificate of compliance shall be issued by the zoning administrator.
- e. In the agriculture districts: The production of fuel, using products or byproducts from a farm operation on the premises, is a permitted use incidental to the farm operation. Surplus fuel not needed for the farm operation may be sold as any other farm commodity.
- f. Airports that are listed as "Personal by Owner Only" on an application to the Wisconsin Department of Transportation, Bureau of Aeronautics, for airport site approval are permitted to locate in the Agricultural and Rural Homes Districts.

(2) *Height.* Hospitals, churches, schools, radio transmission towers, water towers, chimneys, spires, penthouses, cupolas, silos, windmills and similar structures may be erected to a height greater than the maximum permitted in the district in which they are located; provided, however, that no part of that structure above the height limit shall be used for residential purposes.

(3) *Setback, Front Yard.*

- a. In a district in which retail fuel sales are permitted, pumps, pump islands and related canopies may be located within the setback lines, but not closer to the lot line or highway right-of-way line than 20 feet. On corner lots no pump, pump island or related canopy shall be closer to either street or highway than 20 feet. The total height of any overhead canopy shall not exceed 20 feet as measured to the highest point of the structure and shall be located a minimum of 8 feet above grade.

- b. In case of interior lots having frontage on two (2) side streets, no accessory building shall extend into the setback area of either street.
- c. When the side line of an interior lot is formed wholly or in part by the rear line of an abutting corner lot and the street side yard for the main building is less than the setback from the main building facing such street, the setback for the building on such interior lot may be modified so as to be midway between the side yard for the building on the corner lot and the setback from such street.
- d. In platted subdivisions recorded before the adoption of this section where a building line shall have been established by the construction of buildings on 30 percent of the lots in any one (1) block, such established setback line shall be the setback for that block, but in no event shall such setback be less than 20 feet.
- e. No existing building, erected prior to the adoption of this section, which projects into the setback area shall be moved, structurally altered or added to so as to increase that part of the building projecting into the setback area. This provision shall not be construed to prohibit additions or alterations which conform to the setback requirements.
- f. For purposes of entry to a commercial or multi-family building, steps or stoops may be constructed in such a manner that they intrude into the required setback area provided such structures are not more than three (3) feet above ground level and do not extend more than four (4) feet into the required setback area.
- fm. For purposes of entry to single family or duplex residence buildings, steps, stoops or decks may be constructed in such a manner that they intrude into the required front yard setback area provided that any such steps, stoop or deck does not exceed a maximum height of 5 feet above ground level or exceed a width of 12 feet side to side and provided further any such structure does not extend any further into the required setback area than a distance that would be the lesser of either 10 feet or 50% of the distance from the building to the appropriate lot line. No such structure shall be enclosed. Railings which do not exceed 3-1/2 feet in height and which are of open architecture and not solid in appearance are permitted.
- fn. For single family residences or duplex residence buildings, single story bay windows may be constructed in such a manner that they project three (3) feet or less into the front yard provided that such windows do not occupy, in the aggregate, more than one-third (1/3) of the front wall of the building.
- g. On lake front lots, accessory buildings may be located in front yards subject to the locational requirements of sec. (t)(5)a.(1), below, provided, however, that the setback requirements are met.

**(4) Side Yards.**

- a. Lots of nonconforming width.
  - (1) On lots 50 feet or more in width but less than 60 feet, the minimum

aggregate side yards shall be 15 feet and no single side yard shall be less than five (5) feet.

- (2) On lots less than 50 feet in width the minimum side yard on each side shall be five (5) feet.

**b. Corner lots.**

- (1) When the long side of a corner lot is formed by a class A, B or C highway the side yard on that street shall conform to the setback requirements for such highway.
- (2) When the long side of a corner lot is formed by a class D or E highway, the setback from the lot line of the long side shall not be less than one-fifth (1/5) of the lot depth measured from the long side except on lots of less than 60 feet, then the setback shall not be less than 12 feet. For buildings with attached garages facing the long side and having access to the long side of the lot, the minimum setback of the garage from the lot line shall be not less than 20 feet.

**(5) Rear Yards.**

**a. Location of accessory buildings in rear yards.**

- (1) On interior lots 60 feet or more in width no accessory building shall be erected, moved or added to so as to be nearer than four (4) feet to the side lot or rear lot line; provided, however, if the front building line of any accessory building is located closer than 10 feet from the rear building line of a residence, the same side and rear yards as required for a principal or residential building shall be maintained.
- (2) On interior lots less than 60 feet in width no accessory building shall be erected, moved or added to so as to be nearer than two and one-half (2-1/2) feet to a side or rear lot line; provided, however, if the front building line of any accessory building is located closer than 10 feet from the rear building line of a residence, the same side and rear yards as required for a principal or residential building shall be maintained.
- (3) On interior lots abutting one two (2) streets, or corner lots abutting on three (3) streets, no accessory building shall be erected, moved or added to so as to be nearer the rear street than the setback for that street. This provision shall not apply to alleys.
- (4) On corner lots abutting on two (2) streets, no accessory building shall be erected, moved or added to so as to be nearer to the side street than the distance required for the main building on that street; provided, however, that for garages with entrances facing the side street, the minimum distance from such side street shall be 20 feet. When the rear lot line of the corner lot forms the side line of an adjoining or abutting lot, no accessory building shall be erected, moved or added to so as to be nearer such rear lot line than the side line required for the building on the adjoining lot.

**b. Permitted obstructions in a required rear yard.**

- (1) Steps or stoops to provide access to a building that is not more than three (3) feet above ground level and which do not extend more than

four (4) feet into a required rear yard.

- (2) One story bay windows projecting three (3) feet or less into the yard provided that such windows do not occupy, in the aggregate, more than one-third (1/3) of the rear wall of the building.
- (3) Uncovered decks and porches that are supported by piers or posts may extend into any required rear yard by not more than twelve (12) feet.
- (4) Uncovered swimming pools both above and below ground provided that they be located not closer than 10 feet from any lot line.
- (5) Free standing solar collectors provided that they be located not closer than 3 feet from any lot line and not exceeding 12 feet in height.
- (6) Provisions applicable to all yards.
  - a. No existing building, erected prior to the adoption of this section, which projects into a required yard shall be moved, structurally altered or added to so as to increase that part of the building projections into the required yard. This provision shall not be construed to prohibit additions or alterations which conform to the setback requirements.
  - b. Roof overhangs, soffits and awnings that are not supported to the ground may extend into any required yard by not more than three (3) feet.
- (7) *Screening*. Screening shall consist of either a planted evergreen screen at least six (6) feet in width and initially landscaped with four (4) foot tall evergreen shrubs to ultimately form a continuous hedge not less than five (5) feet in height and maintained with healthy shrubs, or a decorative wall or fence without signs and impervious to sight not less than six (6) feet nor more than eight (8) feet in height shall be maintained along the interior boundaries of any lot in the County B-1, C-1, C-2, LC-1, LC-2 or M-1 districts that are adjacent to land in the residence district to a point 15 feet from the street right-of-way.
- (8) Snowmobile and off-road vehicle operations.
  - a. The operation of snowmobiles is permitted in any district provided the operation is confined to those areas which are marked as part of the county-wide snowmobile trail system.
  - b. Off-trail use of snowmobiles, motorcycles and ATVs is permitted in the agricultural districts with the consent of the affected landowner.

(u) **Street/Highway Setback Regulations.** For the purpose of determining the distance buildings and other structures shall be set back from streets and highways, the streets and

highways in the JPA are divided into the following classes. The following provisions apply only in the JPA and only to property designated under one the zoning classifications contained in this section.

- (1) **Class A Highways.**
  - a. All state and federal highways are hereby classified class A highways.
  - b. The setback line for a class A highway shall be 100 feet from the centerline of the highway right-of-way or 42 feet from the right-of-way line, whichever is greater.
  - c. Service roads to class A highways a distance of 100 feet from the centerline of said highways shall be considered class C, D or E highways for the purpose of determining the setback along said service roads.
- (2) **Class B Highways.**
  - a. All county trunks except as otherwise provided, are hereby designated class B highways. For the purpose of this section any road will be considered as a county trunk after it has been placed on the county trunk system by the county board and approved by the state highway commission.
  - b. The setback from class B highways shall be 75 feet from the centerline of any highway right-of-way or 42 feet from the right-of-way, whichever is greater.
- (3) **Class C Highways.**
  - a. All town roads and village streets not included within the boundaries of a recorded subdivision or plat are hereby designated class C highways.
  - b. The setback from class C highways shall be 63 feet from the centerline of such highway right-of-way or 30 feet from the right-of-way line, whichever is greater; provided, however, that in the case of a service road, contiguous to the right-of-way of a main highway, where buildings can be built on only one (1) side of such service road, the minimum setback shall be 30 feet, regardless of the width of such service road, and provided, further, that is such service road shall be a street in a platted subdivision, then the setback provisions governing such platted street shall apply.
- (4) **Class D Highways.**
  - a. Roads and streets in subdivisions platted prior to the adoption of this section, except those designated class A or class B highways, are hereby designated as class D highways.
  - b. For all class D highways setback lines are hereby established, parallel to and distant 20 feet from the right-of-way line or front lot line.
- (5) **Class E Highways.**
  - a. All streets, highways and roads not otherwise classified are hereby designated class E highways.
  - b. For all class E highways setback lines are hereby established, parallel to and distant 30 feet from the right-of-way or front lot line.

**(v) Off-Street Parking.** The following provisions apply only in the JPA and only to property designated one of the zoning classifications contained in this section:

- (1) An off-street parking space shall be not less than eight (8) feet in width, if parallel to a curb or building, and not less than nine (9) feet in width if angle parking is provided, and in no case shall any space be less than 19 feet in length. Parking spaces may be provided in either an open or enclosed area and shall be provided with adequate ingress or egress from a public street or road.**
- (2) No building for which off-street parking space is required may be added to, structurally altered or converted in use so as to encroach upon or reduce the parking space below the required minimum.**
- (3) No parking spaces required under this section may be used for any other purposes; provided, however, that open spaces required by this section for setback and side yards may be used for such parking spaces and approaches thereto.**
- (4) Parking Space Required.**
  - a. In the local business, commercial and light manufacturing and industrial districts, in addition to other parking spaces herein required, there shall be provided adequate off-street parking for the loading and unloading of trucks and other commercial vehicles and for the vehicles of employed personnel.**
  - b. Duplexes shall provide two (2) off-street parking spaces; multiple family dwellings, apartment houses and apartment house complexes shall provide two (2) off-street parking spaces for each dwelling unit.**
  - c. Establishments offering curb service or services to customers who remain in the vehicle shall provide adequate space to accommodate all vehicles to be so serviced.**
  - d. Except for banks, office buildings and clinics, retail or local places of business shall provide one (1) parking space for each three hundred (300) square feet of floor space devoted to retail sales. Banks, office buildings and clinics shall provide one such space for each three hundred (300) square feet of floor area.**
  - e. Buildings combining business and residential uses shall provide one (1) parking space for each 200 square feet of area devoted to business uses, plus two (2) parking spaces for each dwelling unit.**
  - f. Theaters, churches, auditoriums, lodges or fraternity halls and similar places of public assemblage shall provide one (1) parking space for each seven (7) seats. Outdoor theaters shall provide sufficient off-street parking for overflow parking.**
  - g. Hotels, lodging houses and dormitories shall provide one (1) parking space for each three (3) guest rooms.**
  - h. Restaurants, taverns and the like, except curb service establishments, shall provide one (1) parking space for each 50 square feet of space devoted to the use of patrons.**

- i. Funeral parlors and mortuaries shall provide one (1) parking space for each 50 square feet of floor space devoted to parlors.
- j. Bowling alleys shall provide five (5) parking spaces for each alley.
- k. Garages and service stations shall provide adequate parking space for vehicles waiting to be serviced or repaired.
- l. Motels shall provide one (1) parking space for each lodging room plus one (1) space for each dwelling unit.

**(9) Height, Setback, And Area Exceptions.**

(a) **JPA Highway Setback.** In the Joint Planning Area (JPA) as defined at section 10.96(3), the following shall be the setbacks from the particular highways as stated below. This shall be the distance buildings and other structures shall be setback from said highways in the JPA. This setback shall prevail over any other lesser setback from such highways for a particular zoning classification in the JPA.

(1) *State and Federal Highways.* The setback line for all state and federal highways shall be 100 feet from the centerline of the abutting highway right-of-way(s), or 42 feet from the right-of-way line, whichever is greater.

(2) *County Trunk Highways.* The setback line for all county trunks shall be 75 feet from the centerline of the abutting highway right-of-way(s), or 42 feet from the right-of-way line, whichever is greater.

(3) *Amendment.* The provisions of this subsection shall not be amended unless and until approval of such amendment has been recommended by a majority vote of the entire membership of the Joint Planning Committee (see section 10.96(2)) after following the procedures for amendment under section 62.23(7a), Wis. Stats.

(10) **ETJ Zoning Regulations Generally.** All other provisions of the City's Zoning Code, Chapter 10, City of Middleton Code of Ordinances, in addition to the provisions to Section 10.96 noted above, shall be the regulations applicable in the Joint Planning Area created under the Agreement. The City Zoning Code, with the amendments noted above, shall be considered the regulations adopted pursuant to section 62.23(7a), Wis. Stats. (Extraterritorial Zoning Ordinance). Any amendment to the above provisions shall require following the procedures of section 62.23(7a), Wis. Stats.

(11) **Severability.** If any section or part of this Section 10.96 is adjudged to be unconstitutional, unlawful, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**10.97 WELLHEAD PROTECTION**

(a) **Purpose, Authority and Applicability.**

(1) Residents in the City of Middleton depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Section is to institute land use regulations and restrictions to protect the City's drinking water and well fields, and to

promote the health, safety and general welfare of the residents of the City of Middleton.

(2) Authority of the City to enact these regulations is established by the Safe Drinking Water Act in 42 U.S.C. § 300h-7; Wis. Stats. § 281.62(2)(a)5; Wis. Stats. §§ 62.23(7)(a) and (c); and Wis. Admin. Code § NR811.16(5).

(3) The regulations specified in this Section shall apply within the City's corporate limits.

(b) **Definitions.**

(1) **Aquifer.** A saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.

(2) **Cone of Depression.** The area around a well, in which the natural water level has been lowered at least by one-tenth of a foot by pumping of the well.

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

(4) **Five Year Time of Travel.** The recharge area upgradient of the cone of depression, the outer boundary of which is defined by the estimated distance at all points from any pumping well that groundwater will take five years to travel to any pumping well.

(5) **Recharge Area.** The land area which contributes water to a well by infiltration of water into the subsurface and movement with groundwater toward the well. This area extends beyond the corporate limits of the City of Middleton.

(6) **Well Field.** A parcel of land used for construction of a well to supply a municipal water system.

(c) **Wellhead Protection Area.**

Wellhead Protection Areas are hereby established consisting of requirements for minimum separation distances from municipal wells and designation of wellhead protection zones, in which land uses are regulated. These regulations overlay the regulations for the underlying zoning district designated for the area. Whenever the regulations in the Wellhead Protection Area and the underlying zoning regulations conflict, the more restrictive regulation shall apply.

(1) **Separation Distances.** The following minimum separation distances shall be

**maintained from all municipal wells.**

- (a) Fifty feet between a municipal well and storm sewer main.**
- (b) Two hundred feet between a municipal well and:**
  - (1) any sanitary sewer main, sanitary sewer manhole, or lift station. A lesser separation distance may be allowed for sanitary sewer mains where the sanitary sewer main is constructed of water main materials and joints and pressure tested in place to meet current American Waterworks Association (AWWA) C600 specifications. In no case may the separation distance between a municipal well and sanitary sewer main be less than 50 feet.; or**
  - (2) a single family residential fuel oil tank.**
- (c) Four hundred feet between a municipal well and:**
  - (1) a septic tank or soil adsorption unit receiving less than 8,000 gallons per day; or**
  - (2) a cemetery; or**
  - (3) a storm water drainage pond.**
- (d) Six hundred feet between a municipal well and any gasoline or fuel oil storage tank installation that has received written approval from the Wisconsin Department of Commerce (hereafter Commerce) or its designated agent under Wis. Admin. Code § Comm. 10.10.**
- (e) One thousand feet between a municipal well and:**
  - (1) land application of municipal, commercial or industrial waste; or**
  - (2) the boundaries of a landspreading facility for spreading of petroleum-contaminated soil regulated under Wis. Admin. Code Chap. NR 718 while that facility is in operation; or**
  - (3) industrial, commercial or municipal waste water lagoons or storage structures; or**
  - (4) manure stacks or storage structures; or**
  - (5) a septic tank or soil adsorption unit receiving 8,000 gallons per day or more.**
- (f) Twelve hundred feet between a municipal well and:**
  - (1) any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or small demolition facility; or**
  - (2) a sanitary landfill; or**
  - (3) any property with residual groundwater contamination that exceeds Wis. Admin. Code Chap. NR 140 enforcement standards that is shown on the Department of Natural Resources' geographic information system registry of closed remediation sites; or**
  - (4) a coal storage area; or**
  - (5) a salt or deicing material storage area; or**

- (6) gasoline or fuel oil storage tanks that have not received written approval from Commerce or its designated agent under Wis. Admin. Code § 10.10; or
- (7) bulk fuel storage facilities; or
- (8) pesticide or fertilizer handling or storage facilities.

(2) **Wellhead Protection Zones.**

(a) **Zone A.** Zone A is the primary source of water for the municipal well aquifer and as the area most likely to transmit groundwater contamination to the municipal wells. Zone A is equal to the Five Year Time of Travel.

(b) **Permitted uses – Zone A.** The following uses are permitted within Zone A of the Wellhead Protection Area. Uses not listed shall be considered prohibited:

- (1) Parks, provided there is no on-site wastewater disposal or fuel storage tank facilities associated with this use.
- (2) Playgrounds.
- (3) Wildlife areas.
- (4) Non-motorized trails, such as bike, skiing, nature and fitness trails.
- (5) Residential, commercial and industrial property which is: municipally sewered; and free of underground and above-ground storage tanks.

(c) **Zone B.** Zone B is the secondary source of water for the municipal well aquifer because of the large cone of depression and a greater time of travel. Zone B is the area beyond the boundary of Zone A but within a 1200 foot radius of a municipal well.

(d) **Permitted Uses – Zone B.** The following uses are permitted within Zone B of the Wellhead Protection Area. Uses not listed shall be considered prohibited:

- (1) All uses listed as permitted in Zone A.
- (2) Modified agricultural activities, including any crop free of pesticides and/or synthetic fertilizers.
- (3) Above-ground petroleum product storage tanks less than 660 gallons. All new or replaced tanks shall be installed in compliance with Wis. Admin. Code Chap. Comm. 10.
- (4) Residential, commercial and industrial property which is municipally sewered or has a state-approved sewer and septic system.
- (5) Motor vehicle filling and service stations that have received written approval

from the Wisconsin Department of Commerce under Wis. Admin. Code Chap. Comm. 10.

(e) **Mapping.**

(a) The location and boundaries of the Wellhead Protection Areas established by this Section shall be set forth in the City of Middleton Wellhead Protection Plan adopted pursuant to Wis. Admin. Code § NR 811.16(5) including plan components for existing wells. The provisions of the City of Middleton Wellhead Protection Plan and all future amendments thereto, are hereby incorporated into this Section as though fully set forth and described herein. The official copy of the City of Middleton Wellhead Protection Plan shall be kept in the office of the City Clerk and shall be available for view at City Hall.

(d) **Review of Building Permit Application.**

Prior to the issuance of a building permit for any use in the Wellhead Protection Area, the Zoning Administrator shall review the proposed use to ensure that the use is consistent with this ordinance.

(e) **Exceptions and Revocations.**

(1) Applicants may seek exceptions to this ordinance by requesting a variance from the Zoning Board of Appeals. The Zoning Board of Appeals shall apply the same standards for granting variances to this Section as for all zoning variances. Under no circumstances shall a variance be issued unless the Zoning Board of Appeals finds that the variance along with any conditions attached thereto will adequately protect the groundwater from contamination. Such conditions may include, but are not limited to requirements to post a bond or surety to guarantee funds to meet obligations, future groundwater monitoring. No variances shall be granted for any gasoline or fuel oil storage tank.

(2) Applicants for a variance shall be solely and exclusively responsible for any cost associated with the application, including but not limited to all of the following:

(a) The cost of any environmental impact study or other information gathering reasonably required by the Zoning Board of Appeals.

(b) The cost of City employees' time associated in any way with the application based on the hourly rate paid to the employee multiplied by a factor, determined by the City Administrator, representing the City's costs for expenses, benefits, insurance, sick leave, holidays, overtime, vacation and other similar benefits.

(c) The cost of City equipment employed in evaluating the application.

(d) The cost of mileage reimbursed to City employees in evaluating the application.

(3) The Zoning Board of Appeals may revoke a variance if any one or more of the

following occur:

(a) A provision of this ordinance has been violated, and the violation has not been or cannot be satisfactorily remedied within a reasonable time frame as determined by the Zoning Board of Appeals.

(b) A condition imposed on the approval has been violated, and the violation has not been or cannot be satisfactorily remedied within a reasonable time frame as determined by the Zoning Board of Appeals.

(c) Use of the property is discontinued for a period of one (1) year.

(f) **Requirements for Existing Facilities and Land Uses Within Wellhead Protection Areas.**

(1) Existing facilities and land uses shall, unless such facilities constitute a public nuisance or an imminent threat to public health and safety, shall be entitled to continue as a legal nonconforming use pursuant to Section 10.14. This section shall not be interpreted to prohibit normal maintenance or minor repairs.

(2) The Director of Public Works may require existing facility owners to create, file, and maintain with and satisfactory to the Director of Public Works a contingency plan which details how the facility owner intends to respond to any emergency which may cause or threaten to cause environmental pollution that may occur at the facility, including, but not limited to plans for notifying State, County, and local officials.

(g) **Enforcement and penalties.**

(1) In the event any contaminants are released which could endanger the water quality within a Wellhead Protection Area, the owner, operator or other responsible party causing said release shall immediately cease and desist all activities and operations posing any risk to groundwater quality, and shall provide notification and cleanup satisfactory to the Director of Public Works. Following any such discharge, the Director of Public Works may require owner to perform additional groundwater monitoring or other environmental analysis.

(2) The owner, operator or other responsible party shall be responsible for all costs of cleanup, including but not limited to, all of the following:

(a) The actual cost of City consultant fees at the invoice amount.

(b) The cost of City employees' time associated in any way with the cleanup based on the hourly rate paid to the employee multiplied by a factor determined by the City Administrator, representing the City's cost for expenses, benefits, insurance, sick leave, holidays, overtime, vacation, and similar benefits.

(c) The cost of City equipment employed in the cleanup.

(d) The cost of mileage reimbursed to the City employees attributed to the cleanup.

(3) **Violations.**

It shall be unlawful to construct or use any structure, land or water in violation of this Ordinance. Violations of this Section shall constitute a public nuisance. Any person who is specifically damaged by such violations may institute appropriate action or proceeding to enjoin a violation of this Section.

(4) **Penalties.**

Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) plus statutory costs, fees and penalties. Each day a violation exists or continues shall constitute a separate offense.

(h) Severability Clause. If any section, subsection, sentence, clause paragraph or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or other applicable administrative or governing body, such decision shall not affect the validity of any other section, subsection, sentence, clause, paragraph or phrase or portion thereof. The Common Council of the City of Middleton hereby declares that they would have passed this Ordinance and each section, subsection, sentence, clause, paragraph or phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses, paragraphs, or phrases may be declared invalid or unconstitutional.

(i) All Ordinances in conflict with the foregoing are hereby repealed or amended to read consistent with this Ordinance.

**10.98 DESIGN REVIEW; OBJECTIVES.**

Design review is implemented under municipal authority to promote the public health, safety and welfare under municipal zoning authority. Requirements for design review and approval apply to uses and developments regardless of the characterization of the use or development within this Ordinance as a Permitted Use or Conditional Use.

**10.99 DEVELOPMENTS REQUIRING DESIGN REVIEW.**

(1) Site and structural development of residential projects having three or more dwelling units.

(2) Site and structural development in business districts.

- (3) Site and structural development in industrial districts.**
- (4) Site and structural development in planned development districts.**
- (5) Utility and governmental facilities.**
- (6) Those variance cases deemed by the Zoning Board of Appeals to justify design review. Design review shall be advisory to the Zoning Board of Appeals.**
- (7) Any parking area, even if not accompanying an otherwise included development, if it has fifty or more parking spaces.**
- (8) In addition, Design Review Districts may be designated by Ordinance adopted by the Common Council. Once adopted, design review standards shall apply to such districts within the terms of such designation Ordinance.**

#### **10.100 ADMINISTRATION OF DESIGN REVIEW.**

- (1) The Zoning Administrator shall advise applicants when they apply for zoning permits or other approvals whether design review applies. If design review applies, the applicant will be given checklists, application forms and timetables. These documents shall have prior Plan Commission approval as to format and content. Applicants may request and have pre-application conferences with staff.**
- (2) Completed applications and supporting materials must be reviewed by staff prior to placement on the Plan Commission agenda. Staff must be satisfied that a complete packet of information will be available to the Plan Commission prior to the commencement of the Plan Commission meeting at which the item is set for decision review.**
- (3) The Plan Commission will review applications set for design review. Following such review, discussions with applicants and agents, and discussion within the Plan Commission and with staff, the Commission shall render a decision of approval, conditional approval or rejection. Decisions shall be in writing and shall identify those elements of the approved design which the Commission intends to be mandatory. The Zoning Administrator shall have applicants sign acknowledgments of receipts of written Plan Commission design review decisions prior to issuance of a zoning/building permit.**
- (4) A project that has had design review and that has a zoning/building permit is approved for execution only in accord with the directives included in the design review approval. Construction or execution that deviates from directives may not occur within the terms of this Ordinance without prior City approval. The Zoning Administrator is responsible for determining whether to give staff approval to such deviations on a finding that they are minor variations as to the Plan Commission's decision or whether full Plan Commission review and approval is needed upon a finding that the deviations are major.**

#### **10.101 DESIGN REVIEW STANDARDS.**

**(1) Jurisdiction.** Design review applies to exterior structural and design features, landscaping and site planning.

**(2) Directives.** The following specific design standards are established and are intended to be applied in the informed judgment of the Plan Commission.

**(a)** The land forms and landscape will be preserved in their natural state, insofar as practicable, by minimizing soil and tree removal that is not essential to project development and by retaining grades and contours in keeping with the general appearance of neighboring developed areas.

**(b)** Building masses and long, straight building fronts and sides (relative to the overall length of the building) that are visually accessible shall be broken up and made more variegated with staggerings and offsets, with landscaping or surficial features or with accumulation of mass in the form of smaller, related units. This is a directive standard as to residential and commercial structures and those industrial structures that are visually accessible to larger volumes of traffic and a recommendatory standard to industrial buildings within the center core of industrial districts.

**(c)** Within residential properties, parking areas that are located in front or street side yards must have landscape screening and/or screening by fencing having decorative character to soften views of parked vehicles. All design reviewed parking lots shall have decorative landscape treatment at the perimeter of the lot and, for larger lots, in island areas within the lot, to provide break up of the expanse of paving.

**(d)** Rooftop mechanical equipment that will be readily visible when viewed from ground level from other properties or from major public ways should be softened by screening or covered in a manner that forms an integral part of the building design.

**(e)** External garbage or refuse containers shall be screened by walls, fences, berms or effective landscaping, or combinations thereof.

**(f)** Landscaping. Each project subject to design review must provide landscaping of sufficient height and density to accomplish positive visual impact within three years from the time of planting.

**(g)** All developments and occupancies subject to design review shall plan and construct so that surface drainage positively drains from the structures and so that compliance is achieved with the Erosion Control and Stormwater Drainage Ordinance.

**(h)** The following principals of landscape design are stated as guides to be applied with discretion by the Plan Commission taking into account how visible the site is to public view, sensitivity of neighboring properties and the cost considerations: Overhead canopy trees contribute to a pattern within the neighborhood and streetscape focus plantings (trees or shrubs) accomplish screening of less attractive elements, afford privacy, noise control

and windbreak, soften transitions from vertical to horizontal features and create visual focal points. Ground plane plantings (lawns, ground cover, etc.) provide lower level continuity, and retard soil erosion. Terraces, trellises, walks, drives, garden walls and berms and related elements increase variety. Park, Recreation and Forestry Commission preferences on species shall be made available in writing to project applicants.

(i) Storage of materials, fuel, scrap, inoperative vehicles and similar objects in places that are readily visible from major public rights of way or parts of neighboring properties where a significant amount of viewing is expected shall be minimized and, where necessary, shall be reasonably screened. Where other portions of this Ordinance establish more stringent standards, the other portions shall govern.

(j) Exterior lighting shall comply with the terms of Chapter 33 of this Code of Ordinances.

#### **10.102 RECOMMENDATIONS.**

Other features of site design and construction, building and structural design and construction and landscaping that are not listed under directives may also be addressed by Plan Commission advisory suggestions within the design review process upon a finding that the suggestion would be desirable to make the development a positive asset to the visual appearance of the community and positive contribution to the growth and stability of the community tax base.

#### **10.103 MOBILE SERVICE STRUCTURE AND FACILITIES SITING REGULATIONS.**

##### **(1) Purpose and Scope.**

(a) The purpose and intent of this section is to strike a balance between the state and federal interest concerning the construction, modification and siting of mobile service facilities and mobile service support structures for use in providing personal wireless services, and the City's interests in:

1. Protecting residential areas and land uses from the potential adverse impacts of towers and antennas.
2. Minimizing the total number of towers throughout the community.
3. Encouraging the joint use of new and existing tower sites as a primary siting option rather than construction of additional single-use towers.
4. Avoiding potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

(b) The regulations contained in this section are subject to the limitations combined in Wis Stats. §66.0404 (4) and such other federal laws preempting or limiting local authority including but not limited to 47 U.S.C. §1455. In the event the applicant believes this section or any part thereof imposes requirements upon the applicant's proposed facility that are in excess of the City's authority, the applicant shall notify the zoning administrator in writing including a

citation to the state or federal limitation in question. In such event, the Zoning Administrator may affirm the City's ordinance or may recommend to the Common Council that the subject provision be amended, replaced, or that a variance be granted.

(2) **Definitions.** Unless expressly indicated, all terms in this Section shall have the meanings established in Wis. Stats. §66.0404(1).

(3) **New Construction and Substantial Modification of Facilities and Support Structures.**

(a) An application for a permit to engage in the siting or construction of a new mobile service support structure and facilities or to engage in a Class 1 collocation shall be submitted in writing to the Zoning Administrator. The Zoning Administrator shall submit a copy of the application to the Building Inspector for review and recommendation on all structural requirements. The application shall contain the following information:

1. The name and business address of, and the contact individual for, the applicant.

2. The location of the proposed or affected support structure.

3. The location of the proposed mobile service facility.

4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

6. If the application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

7. If the application is to construct a new mobile service support structure, the application shall demonstrate that the structure will be located a distance from any residential dwelling structure that is equal to the height of the mobile service support structure plus 10 feet measured from the base of the support structure to the nearest portion of the residential dwelling structure (including roof overhangs, porches and patios). Alternatively, the applicant may demonstrate through submittal of an engineering certification showing that the mobile service support structure is designed to collapse within a smaller distance than the height of the structure.

(b) The Zoning Administrator shall inform the applicant within ten (10) days of receipt of the application if the application is not complete. Notification shall be in writing and shall specify in detail the information that was incomplete.

(c) Within ninety (90) days of receipt of a completed application, the Zoning

Administrator shall issue a written decision to approve or deny the application. If the application is denied, the written decision shall set forth the reasons for denial based upon substantial evidence. The Zoning Administrator and the applicant may agree in writing to an extension of the ninety-(90) day period.

(d) Decisions to deny an application shall be supported by substantial evidence. Such evidence shall be included in the written decision.

(e) Pursuant to Wis Stats. § 66.0404 (2)(f), the decision of the Zoning Administrator, or of the Common Council under subsection (1)(b), is a final decision appealable to circuit court.

(4) **Abandonment.** If a mobile service support structure shall cease to be used for a period exceeding one year and a day, it shall be considered abandoned. The owner or operator of said structure shall remove the structure and related improvements upon at no cost to the City within ninety (90) days thereafter and return the site to an erosion and dust free condition. Prior to the issuance of any building or zoning permits to construct the support structure, a performance bond shall be provided to guarantee that a support structure that has ceased being used for mobile service facilities purposes is removed. The bond amount shall be the lesser of twenty thousand dollars (\$20,000) or an amount based on a written estimate of a person qualified to remove such structures. Responsibility to remove abandoned structures may be assigned to the owner of property upon which the structure is located or any other mobile service provider with facilities on the structure upon notice to the Zoning Administrator that such assignment has been made and accepted and filing of a new bond for the new responsible party. Notwithstanding the forgoing, the owner of property upon which the structure sits may be held jointly and severally liable by the City for the obligation and cost of removal of any abandoned structure and in the event the structure is not removed in accordance with this Section, upon sixty day's notice, the City may cause the structure to be removed and assess the cost thereof to the property under Wis. Stats. §66.0627.

(5) **Structural Requirements.** Every mobile service support structure and mobile service facility shall be designed and constructed so as to comply with the requirements of Chapter 11 of the City of Middleton Code of Ordinances, and International Building Code (IBC) 3108, as amended from time to time. If, upon inspection, the Building Inspector concludes that a structure or facility fails to comply with such codes in effect at the time of construction, and constitutes a danger to persons or property, then upon notice being provided to the owner of the structure or facility, the owner shall have thirty (30) days or such time as determined by the Building Inspector to bring such tower into compliance with said codes. Failure to bring such structure or facility into compliance within said thirty (30) days or such time as determined by the Building Inspector shall constitute grounds for the removal of the structure or facility at owner's expense.

(6) **Tower and Building Design.** All new mobile service support structures and facilities shall be designed as follows:

(a) Mobile service facilities and mobile service support structures shall be constructed out of metal or other nonflammable material.

(b) Mobile service facilities and mobile service support structures shall insure that sufficient anti-climbing measures have been incorporated into the facility, as needed, to reduce potential for trespass and injury.

(c) Emergency back-up generators shall be completely enclosed on all sides. Other efforts to mitigate noise from such generators may be required.

(d) All new mobile service support structures shall be structurally and electrically designed to accommodate at least three (3) separate antenna arrays, unless credible evidence is presented that said construction is economically and technologically unfeasible. Multiple-user mobile service support structures shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights. Parking areas, access roads, and utility easements shall be shared by site users.

(e) Mobile service support structures are not subject to the height restrictions established for any district in which they are located except that Airport Height Limitations established under Section 10.95 shall apply.

**(7) Location.** A good faith effort in achieving collocation shall be required of the applicant and host entity, subject to existing collocation contracts, and all of the following measures shall be implemented for new mobile service support structures and Class 1 collocations:

(a) No mobile service support structure shall be installed closer than one-quarter (1/4) mile from another mobile service support structure, measured from the base of the existing structure to the base of the proposed structure, unless the applicant provides a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring:

1. Would not result in the same mobile service functionality, coverage, and capacity;
2. is technically infeasible, or
3. is economically burdensome to the mobile service provider.

(b) Mobile service support structure(s) may be located on a lot in a residential district, only if said lot is greater than two (2) acres in area and the principal use is other than residential.

(c) Mobile service support structures towers, guy wires, appurtenant equipment and buildings shall comply with the yard and set back requirements of the zoning district in which they are located.

(d) Mobile service support structures shall be located no closer to any residential dwelling structure than a distance that is equal to the height of the mobile service support structure and attached facilities (including possible future collocated facilities) plus 10 feet measured from the base of the support structure to the nearest portion of the residential dwelling structure (including roof overhangs, porches and patios) unless the applicant demonstrates through submittal of an engineering certification showing that the mobile service support structure is designed to collapse within a smaller distance than the height of the structure and attached facilities (including possible future collocated facilities). Unless the Building Inspector can demonstrate by substantial evidence that the engineering certification is flawed, the mobile service support structure shall be located no closer to any residential dwelling structure than zone of collapse established by the engineering certification plus 10 feet.

**(8) Class 2 Collocations.**

(a) An application for a permit to engage in Class 2 Collocation shall be submitted in writing to the Building Inspector and shall contain the following:

1. The name and business address of, and the contact individual for, the applicant.

2. The location of the proposed or affected support structure.

3. The location of the proposed mobile service facility.

(b) The Building Inspector shall inform the applicant within five (5) days of receiving the application if the application is not complete. Notification shall be in writing and shall specify in detail the information that was incomplete.

(c) Within forty-five (45) days of receipt of a completed application, the Building Inspector shall issue a written decision to approve or deny the application, except that the Building Inspector and the applicant may agree in writing to an extension.

(d) Decisions to deny an application shall be supported by substantial evidence. Such evidence shall be included in the written decision.

(e) The decision of the Building Inspector is a final decision appealable to circuit court.

#### **10.105 OFF STREET PARKING AND LOADING.**

This section provides for the regulation of accessory off street parking and loading facilities. The regulations are intended to:

(1) Increase the safety and capacity of public streets by requiring off street loading facilities to be provided.

(2) Minimize adverse effects of off street parking and loading facilities on adjoining properties.

(3) Lessen congestion and prevent the overtaxing of public streets by regulating the location and capacity of accessory off street parking or off street loading facilities.

#### **GENERAL REGULATIONS:**

(4) Application to changed circumstances:

(a) When the intensity of use of any building, structure or premises shall be increased through addition of dwelling units, gross floor area, seating capacity or other units of measurements specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of use.

(b) When the existing use of a building or structure is changed to a new use, parking or loading facilities shall be provided as required for such new use.

(c) Accessory off street parking or loading facilities in existence on the effective date of this Ordinance and located on the same lot as the building or uses served shall not

hereafter be reduced below, or if already less than, shall not be further reduced below, the requirements for a similar new building or use under the provisions of this Ordinance.

(5) **Permissive parking and loading facilities.** Nothing in this Ordinance shall be deemed to prevent the voluntary establishment of accessory off street parking or loading facilities to serve an existing use of land or buildings, provided that there is adherence to all regulations herein governing the location, capacity, design and operation of such facility.

(6) **Control of off street parking facilities.** In cases where parking facilities are permitted on land other than the zoning lot on which the building or use served is located, such facilities shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory. Such possession shall be by deed whereby the owner of land on which the parking facilities are to be located shall be bound by a covenant filed and recorded in the Dane County Register of Deeds Office, requiring such owner, his or her heirs or assigns to maintain the required number of parking facilities for the duration of the use served.

(7) **Off street parking facilities.** Off street parking facilities shall be provided in accord with the regulations set forth herein as well as subsection (3) above.

(a) **Utilization.** 1. In the residence district, accessory off street parking facilities provided for uses listed therein shall be solely for the parking of passenger automobiles of occupants or guests and not more than one truck limited to three and one half tons. Inoperable and unlicensed vehicles are prohibited in accordance with section 10.22(4)(h)(ii).

(b) **Computation.** When determination of the number of off street parking spaces required by the City results in a requirement of a fractional space, any fraction of one half or less may be disregarded, while a fraction in excess of one half shall be counted as one parking space.

(c) **Mixed uses.** Where two or more uses are located on the same zoning lot or within the same building, parking spaces equal in number to the sum of the separate requirements for each such use shall be provided. Where parking demand for particular parcels or uses have definite time patterns, the parking area for one may be shared with another use having a complementary time pattern, subject to conditional use approval. Parking areas that are provided off site and/or shared parking facilities shall be subject to Plan Commission conditional use review and conditions to assure workability.

(d) **Numbers, size, layout, landscaping and surfacing.** The standards of the City for number of parking spaces, size of spaces, layouts of parking areas, surface access from parking areas to streets or driveways, and landscaping shall be governed by Specifications and Standards, promulgated administratively by the Director of Public Works and approved by the Plan Commission. These Specifications and Standards shall be periodically reviewed and updated, as necessary. In the formulation and review of such standards, requirements as to handicapped access, variations in size and type of vehicles

and other relevant considerations shall be taken into account.

(e) **Lighting.** Illumination of off street parking areas shall be established and directed so as not to be cast directly upon public rights of way or occupied structures or neighboring properties or to be illuminated in intensity or color or character that is likely to be seriously disturbing to neighboring properties.

#### **10.107 OFF STREET LOADING FACILITIES.**

Off street loading berths accessory to uses allowed by this Ordinance shall be provided in accordance with the regulations set forth herein.

(1) **Utilization.** Space allocated to any off street loading berths shall not, while so allocated, be used to satisfy the space requirements of any off street parking facilities or portions thereof and off street loading berths shall be available for its designated purpose when needed.

(2) **Size.** Unless otherwise specified, a required off street loading berth shall be at least ten (10) feet in width by at least thirty five (35) feet in length, exclusive of aisle and maneuvering space and shall have a vertical clearance of at least fourteen (14) feet.

(3) **Access.** Each required off street loading berth shall be designed with appropriate means of vehicular access to a street or alley in such manner that will least interfere with traffic movements or the safety of intersections.

(4) **Applicability of parking area requirements.** Parking area requirements as to design, paving and maintenance shall be applied to loading berths.

(5) **Schedule of off street loading facilities.** The required number of loading facilities and standards for layout, surfacing, and landscaping shall be established by a Schedule promulgated administratively by the Director of Public Works with prior approval of the Plan Commission. Said Schedule shall be reviewed and updated periodically.

#### **10.108 COMMUNITY GARDEN.**

(1) Unless permitted by the underlying zoning district or the grant of a special exception, on-site sale of community garden products shall be prohibited.

(2) Mechanical equipment, other than the type customarily identified as lawn and garden equipment, creating offensive noise, dust, odor or electrical disturbance shall be prohibited. Within a residential zoned district, the use of motorized equipment shall be restricted to hours beginning at 8:00 a.m. and ending at 8:00 p.m.

(3) The site shall be designed and maintained to prevent any chemical pesticide, fertilizer or other garden waste from draining on to adjacent properties.

(4) An on-site trash storage container shall be provided and located as close as practicable to the rear lot line. Compost bins or piles shall also be located as close as practicable to the rear lot line. Trash shall be removed from the site at least once a week.

- (5) Accessory structures including buildings or signs shall comply with requirements of the underlying zoning district.**
- (6) Only individuals, or organizations authorized by the property owner shall participate in the community garden.**
- (7) A sign, legible from the public right of way, no greater than eight (8) square feet in display surface area, giving notice of the property owner's or the owner's agent's name, address, and telephone number shall be posted on any lot containing a community garden, beginning no less than thirty (30) days prior to the start of any community garden use.**
- (8) The owner of any lot used for a community garden shall give each abutting property owner or occupant written notice of the owner's or the owner's agent's name, address, and telephone number and the use conditions provided in this Code for community gardens, no less than thirty (30) days prior to the start of any community garden use.**
- (9) Cultivated areas shall be prevented from encroaching onto adjacent properties.**
- (10) The property shall be maintained free of high grass, weeds or other debris. Dead garden plants shall be regularly removed and, in any instance, no later than October 31 of each year.**
- (11) Within a residential zoned district, operating hours for community garden activities shall be restricted to between 5:00 a.m. and 11:00 p.m. daily.**

#### **10.109. KEEPING OF BEES.**

**Notwithstanding any other provision of this Code, bees may be kept in any zoning district, but only in accordance with this Section. Any person found in violation of this Section shall be subject to enforcement procedures and penalties under Section 10.130.**

- (1) No bees shall be intentionally kept and maintained other than honey bees.**
- (2) No hive shall exceed 20 cubic feet in volume.**
- (3) No more than six hives may be kept on a zoning lot.**
- (4) No hive shall be located closer than three feet from any property line of a zoning lot in different ownership.**
- (5) No hive shall be located closer than ten feet from a public sidewalk or 25 feet from a principal building on an abutting lot in different ownership.**
- (6) An ever-present supply of water shall be provided for all hives.**
- (7) A flyway barrier at least six feet in height shall shield any part of a property line of a zoning lot in different ownership that is within 25 feet of a hive. The flyway barrier must effectively direct bees to fly up and over the barrier when flying in the direction of the barrier. The flyway barrier shall consist of a wall, fence, dense vegetation or combination thereof, and it shall be positioned to transect both legs of a triangle extending from an apex at the hive to each end point of the part of the property line to be shielded. The barrier shall further comply with any applicable fence regulations contained in this Code of Ordinances.**

## **10.110 ADMINISTRATION AND ENFORCEMENT.**

### **10.111 PLAN COMMISSION.**

**(1) Creation; Membership. See s. 2.06.**

**(2) General Duties and Responsibilities. The Plan Commission shall:**

**(a) Approve a recommended annual budget for the Plan Commission; when requested, review and comment on the budgets of agencies or functions that pertain to planning.**

**(b) Develop, adopt and review the City Master Plan and elements thereof, including elements applicable to extraterritorial areas.**

**(c) Make reports and recommendations relative to the planning and development of the City and its environs to public officials and agencies, utility companies, civic, educational, professional and other organizations, and citizens.**

**(d) Receive referrals pursuant to Wis. Stat. sections 62.23(5) and (6), or otherwise, and make reports upon the following matters: the location and architectural design of public buildings; the location of statues or memorials; the location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any street, alley or other public way, park, playground, airport, parking areas, or memorials or public grounds; the location, extension, abandonment or authorization for any public utility; plats of land or certified survey maps within the City limits or within the extraterritorial platting jurisdiction; location, character and extent of acquisition, leasing or sale of lands for public or semi-public housing, redevelopment, and the amendment or repeal of any zoning or official map ordinance. Referrals and reports under this section are in addition to zoning/design reviews under other provisions of the Zoning Ordinance.**

**(e) Additional Duties and Responsibilities. The Plan Commission shall have such powers under Wisconsin Statutes, or City Ordinances as may be necessary to enable it to perform its functions and promote municipal planning.**

### **10.112 ZONING AMENDMENTS.**

**(1) The City of Middleton Zoning Ordinance may be amended pursuant to procedures provided by the Wisconsin Statutes.**

**(2) Petitions to amend the Zoning Ordinance may be initiated by any Alderperson or any City Board, Committee, Commission or Officer. Petitions to amend zoning districts may, in addition, be initiated by any person owning real estate, provided that the proposed amendment affects real estate owned by such person or a larger parcel that includes real estate owned by such person.**

**(3) The Plan Commission shall direct that application forms for Zoning Ordinance amendment petitions be developed and approved by the Commission and that such, or close equivalents, shall be used to initiate amendment petitions.**

**(4) All petitions for amendment shall be introduced to the Zoning Administrator and referred to the Plan Commission with information notice of the introduction and referral being given by the Administrator to the Common Council.**

**(5) The Plan Commission shall establish a date for public hearing before the Plan Commission on all proposals for zoning amendments. Class 2 Notice shall be given prior to such hearing. At least ten (10) days prior written notice shall be given to the Clerk of any municipality whose boundaries are within 1,000 feet of any lands affected by a proposed change in zoning district boundaries. Failure to give such notice to nearby municipalities shall not invalidate the hearing or the change, if adopted. The public hearing shall be conducted by the Plan Commission in accord with the notice, unless recessed and rescheduled in accord with State law.**

**(6) At least ten (10) days prior written notice shall be given by ordinary mail to owners of record of all lots or parcels within the protest petition area under Wis. Stat. s. 62.23(7).**

**(7) Protest petitions may be lodged regarding amendments to zoning district maps in accord with provisions of state law (Wis. Stat. s. 62.23(7)).**

**(8) Following the public hearing, the Plan Commission shall issue its recommendations on the proposed amendment to the Common Council.**

**(9) Following receipt of the recommendations and report of the Plan Commission, the Common Council may take action upon the proposed amendment.**

**(10) Where allowed by Wisconsin zoning law, rezonings may be conditioned where the Common Council deems imposition of conditions a necessity to achieve the public interest and the intent of this Ordinance.**

#### **10.115 CONDITIONAL USES.**

**(1) Identification and Purpose. The City of Middleton Zoning Ordinance identifies certain uses of property within each zoning district as Conditional Uses. Applications to establish or modify such uses shall be decided pursuant to this section as a matter of discretionary judgment, upon consideration of the specific proposal in relation to the site, uses of neighboring properties, area conditions and the provisions of the City Master Plan.**

**Approval of Conditional Uses shall be accompanied by conditions established by the Plan Commission.**

**(2) Procedures:**

**(a) Applications for Conditional Use approval shall be made on application forms developed and approved by the Plan Commission.**

**(b) An application fee, as set forth under the Fee Schedule under Section 3.12, shall be paid at the time an application is filed and shall not be refundable unless the application is withdrawn prior to consideration by the Plan Commission. Applications originated by the City shall be exempt from application fee.**

**(c) A Conditional Use application that has been rejected shall not be accepted for resubmittal within six (6) months from the date of rejection unless the Plan Commission determines that there has been a significant change in the proposal or in relevant conditions.**

**(d) When the Plan Commission staff has received a complete application, and the application fee, and when the staff has completed such research and staff review as the Plan Commission has directed be applied to such applications, the application and related file shall be transmitted to the Plan Commission for its review and consideration.**

**(e) The Plan Commission shall establish a date for public hearing before the Plan Commission on all proposals for Conditional Use approvals. Class 1 Notice shall be given prior to such hearing. At least ten (10) days prior written notice shall be given to the Clerk of any municipality whose boundaries are within 1,000 feet of any lands affected by a proposed change in zoning district boundaries. Failure to give such notice to nearby municipalities shall not invalidate the hearing or the use, if adopted. The public hearing shall be conducted by the Plan Commission in accord with the notice, unless recessed and rescheduled in accord with state law.**

**(f) At least ten (10) days prior written notice shall be given by ordinary mail to owners of record of all lots or parcels within the protest petition area under Wis. Stat. s. 62.23(7), and to other parties of interest.**

**(g) The Plan Commission may approve, disapprove, or approve with modifications, a Conditional Use application. The decision of the Plan Commission shall be recorded in the minutes and shall contain a written statement of reasons with reasons specifically related to the standards of this**

**Ordinance or of documents related to this Ordinance by cross referencing provisions.**

**(h) Adopted motions to approve Conditional Uses shall include identification of conditions. These conditions may address the site plan, timetable of development, operation of the activities, or other considerations relevant to applicable standards. All**

such conditions shall be recorded in the minutes, in correspondence sent to the applicant and other parties of interest, and may, at the discretion of the Plan Commission, be recorded in legal documentation filed in relation to the property at the Dane County Register of Deeds. All such conditions shall be fully binding upon the property as if they were specific terms of this Ordinance.

(i) A decision of the Plan Commission in granting or denying a Conditional Use may be appealed to the Common Council. Applications for such appeals shall be signed by the applicant or by persons who would have protest petition rights under Wis. Stat. s. 62.23(7), were the matter one of rezoning, or by any Alderperson of the City. Such application for appeal shall be filed within ten (10) days of the date of the Plan Commission action. Upon such a filing, the entire Plan Commission file shall be submitted by Commission staff to the City Clerk for transmittal to the Common Council and all Plan Commission minutes on the matter shall be reproduced and sent to members of the Common Council. The Common Council may deal with the matter with or without a public hearing, at its discretion. The Common Council may either affirm, reverse or modify the action of the Plan Commission. In making its determination, the Common Council shall be guided and controlled by (1) of this section.

(j) Where an approved Conditional Use contemplates construction or erection of buildings and structures, failure to commence such construction within one year after the approval of a Conditional Use shall render the approval void. Upon timely application and for good cause, the Plan Commission may grant specified extensions.

#### **10.117 ZONING BOARD OF APPEALS.**

(1) **Appointments, Terms, Rules and Procedures.** The Zoning Board of Appeals shall be appointed and shall be governed as to terms, vacancies, removals, and as to rules and procedures by Wis. Stat. s. 62.23(7)(e) and the provisions herein.

(2) **Functions of Zoning Board of Appeals.** Functions of the Zoning Board of Appeals shall be to hear and decide applications for appeal of administrative interpretations.

(3) **Public Hearings.** The Zoning Board of Appeals shall conduct a public hearing on all administrative appeals, variances and other decision matters before it and shall cause a Class 1 Notice under Wis. Stat. Chapter 985 to be published and shall give due notice of the hearing to all parties in interest.

(4) **Procedure and Record.** Any party may appear in person or by agent at such hearing. The Chair may administer oaths to parties testifying and may compel attendance of witnesses. All testimony before the Board by persons other than Board members and all documentary evidence or material pertaining to matters before the Board shall be received at hearings conducted by the Board, provided that the content of relevant ordinance or statutory materials shall be deemed to be before the Board in all cases and need not be entered into the record. All parties in interest shall be afforded reasonable opportunity to comment on all materials or information so received. Board members who are in

possession of facts that may have a bearing on the matter before the Board shall enter the same into the record of the hearing and opportunity shall be allowed for comment on such entries.

(5) **Deliberations and Decisions.** The Board shall deliberate on matters before it. The concurring vote of a majority of the members of the Board present shall be necessary to approve any appeal, variance or other decision by the Board. The vote of each matter decided by the Board shall be recorded in the minutes. If a member is absent or if a member fails to vote, such facts shall similarly be recorded. The minutes of the Board shall show the Board's decisions and votes of members thereon. Each decision of the Board shall be accompanied by written reasons in support of the decision. All decisions shall be made in strict accordance with the standards of the Ordinance and the Board shall decide all matters before it within a reasonable time.

#### **10.119 APPEALS BOARD FUNCTIONS: APPEALS OF INTERPRETATIONS OF THE ZONING ADMINISTRATOR .**

(1) **Appealable Matters.** Decisions by the Zoning Administrator that consist of interpretations of the terms of the Middleton Zoning Ordinance and that are made in the course of determining whether a permit or approval will be issued by the Administrator are appealable to the

Zoning Board of Appeals as administrative appeals. Decisions by the Zoning Administrator to issue an enforcement demand or to commence other enforcement activities, where the Administrator has determined that a violation of the Ordinance exists, are appealable to the Board of Appeals as an administrative appeal.

(2) **Procedures for Initiating an Administrative Appeal.**

(a) **Eligible appellants.** Administrative appeals may be initiated by any person aggrieved by the decision or interpretation being appealed, or by any officer, department, board or committee of the City government.

(b) **Time for Appeals.** An appeal shall be commenced within thirty (30) days after decision or interpretation was made.

(c) **Initiating an Appeal.** An appeal may be commenced by filing with the Zoning Administrator a notice of appeal identifying the decision being appealed, the grounds for the requested relief and payment of applicable fees. Upon receipt of such a notice, the Zoning Administrator shall notify the Board of Appeals and shall transmit to the Board all papers and files which constitute the record of the decision being appealed.

(d) **Stays.** An appeal of a decision to issue a permit or approval or to issue an enforcement demand or to commence other enforcement proceedings shall cause the permit or approval action to be suspended or shall stay further enforcement prosecution unless the Zoning Administrator or City Attorney files with the Board of Appeals a certificate,

supported by a statement of facts, alleging that suspension or stay will cause imminent peril to life or property. If such a certificate is filed, proceedings shall not be stayed except upon a restraining order issued by a court.

(e) **Decisions of the Zoning Board of Appeals.** Following the procedures specified in sections 10.117(3) through (5) hereof, the Board shall decide the matter based upon whether the decision, determination or interpretation being appealed was in error. The Board may reverse or affirm, wholly or partly, or may modify the decision appealed from, or may make such decision as ought to have been made, and to that end shall have all powers of the officer from whom the appeal is taken. Decisions by the Board on administrative appeals shall be based upon the terms of the Ordinance and evidence as to legislative intent.

#### **10.120 APPEALS BOARD FUNCTIONS: VARIANCES.**

(1) **Initiating a Request for a Variance.** Applications for variances in zoning regulations may be filed by any party having a property interest in the property in question, along with payment of the applicable fee as set forth in the Fee Schedule under Section 3.12. The Zoning Administrator shall transmit the application to the Board.

(2) **Review and Decision.** Following a public hearing and other investigations, including review of Plan Commission recommendations, if available, the Board shall decide the matter based upon the following standards:

(a) No variance may be granted that would have the effect of allowing a use of land or property that would violate state law or administrative rules.

(b) To grant a variance, the Board must find that the variance will not be contrary to the public interest where, owing to special and peculiar conditions, applicable only to the specific property in question, a literal enforcement will result in exceptional practical difficulty or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public health, safety and welfare secured and substantial justice done.

(i) Exceptional practical difficulty and unnecessary hardship shall be construed as a whole, with no distinction made.

(ii) When considering a dimensional standard variance that will not involve significant change in the character of the neighborhood, the hardship/difficulty test is whether compliance with the strict letter of the restrictions on lot area, setbacks, frontage, height, lot area coverage or occupancy or density would unreasonably prevent the owner from using the property for an allowed purpose or would render conformity unnecessarily burdensome.

(iii) When considering a dimensional variance that would, if approved, cause significant change in the character of the neighborhood, the hardship/difficulty test is whether, in absence of approval, no feasible use can be made of the property.

(iv) Use variances (variances allowing a use not specified for that district by this Ordinance) should be considered only when the use in question is new or is one not provided for anywhere in the Ordinance. The Board may consider such variances only when the use is very similar in its inherent characteristics and impact characteristics to uses within the district in question.

(c) The Board may grant a variance to extend a zoning district boundary for a distance not to exceed 25 feet, but only where the boundary of a district divides a lot in a single ownership.

(3) An application for a variance that has been rejected shall not be accepted for resubmittal within six (6) months from the date of rejection unless the Zoning Administrator determines that there has been a change in the proposal or, if rejection was based solely upon subsection (2)(a), there has been a change in the applicable state law or administrative rule.

#### **10.125 ZONING ADMINISTRATOR.**

(1) A Zoning Administrator shall be designated through City personnel procedures.

(2) Duties, Responsibilities, and Authority.

(a) Records. The Zoning Administrator shall be responsible for keeping all records of applications received, committee, board or office actions on such applications, permits issued, inspections made, enforcement actions undertaken and similar activities, as well as general correspondence pertaining to the functions of the office and program.

(b) Inspections. Zoning Administration shall make such inspections of premises as are required, to determine compliance of land use activities with the terms of this Ordinance. Except in cases of emergency, such inspections shall be made only at reasonable hours, with reasonable notice to property owners and/or occupants and with consent, unless made pursuant to an inspection warrant issued pursuant to Wisconsin Statutes.

(c) Determinations and interpretations. The Zoning Administrator shall make those administrative decisions and determinations required for administration of this Ordinance.

(d) Permits, Approvals, Fees or Certificates of Occupancy. The Zoning Administrator shall receive applications under this Ordinance and shall process the applications and collect and dispose of fees in accordance with City ordinance and administrative procedures. Permits or approvals issued by the Zoning Administrator shall be issued on the basis of plans and applications as submitted and authorize only the uses, arrangements and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use, arrangement or construction at variance with

that authorized shall be deemed a violation of this Ordinance. Permits shall lapse and become void if operations described in the permit are not commenced within one year of issuance of the permit, unless otherwise specified in this Ordinance or by specific approval of and extension or variation.

(e) **Advice and Recommendations.** The Zoning administrator shall, upon general or specific request of the Plan Commission or Board of Appeals or other body or officer of the City, issue reports, and make recommendations on matters that come before such commission, board or officer.

#### **10.127 PERMITS.**

(1) In addition to a Building Permit under Chapter 11 of this Code, no structure shall be erected without obtaining a zoning permit. The Plan Commission is hereby delegated the authority to promulgate permit requirements, to establish forms for permit applications and permit forms themselves.

(2) Failure to obtain a required permit is a violation of this Ordinance.

(3) Issuance of a permit authorizes only the development or occupancy set forth in approved plans submitted as part of a permit application and not other development or occupancy. Issuance of a permit creates no liability on the part of the City or its issuing officers and does not limit the right of the City to change ordinance requirements.

#### **10.128 FEES AND DEPOSITS.**

(1) **Fees.** Fees for all approvals, appeals or permits under this Chapter, unless otherwise specified, shall be as set forth in the Fee Schedule under Section 3.12.

(2) **Escrow Deposits.**

(a) In addition to the fees specified in sub (1) above, applicants for all Rezoning, Conditional Use Permits, Design Review and Specific Implementation Plan Modifications shall be responsible to pay the actual cost of review of the application charged to the City by other agencies, or by outside consultants hired by the City including but not limited to Federal, State, or County Departments and Madison Metropolitan Sewerage District, Attorneys, Engineers or Planners. Upon application, the applicant shall deposit an amount set forth in the Fee Schedule under Section 3.12 to be held in escrow upon which the City shall draw to pay for said costs as they are incurred during the course of reviewing the application. Itemized statements reflecting the amounts drawn from the deposit shall be sent to the applicant each month. In the event that the escrow deposit has been drawn down to twenty-five percent (25%) of the required amount, the applicant shall replenish the escrow deposit to its original amount. If any funds remain in the escrow deposit following final determination of the application, such remaining funds shall be returned to the applicant within sixty (60) days of the determination together with an accounting of the deposits and draws on the escrow.

(b) Applicants may obtain a pre-application waiver of the required escrow deposit from the City Administrator if in the City Administrator's sole discretion he/she determines that no consultant review will be required. Said waiver shall not preclude the City Administrator from employing an outside consultant, charging the costs of any consultant review to the applicant or requiring an escrow deposit at any time after application.

#### **10.130 ENFORCEMENT.**

##### **(1) Declarations of unlawful conduct, activities and conditions.**

(a) It shall be unlawful for any building or structure to be erected, construction, 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 with any condition or qualification placed upon the issuance of a permit or approval or variance granted in due course under this Ordinance.

##### **(2) Liability.**

(a) Owners of lands or properties, occupiers of land or premises, and agents of owners or occupiers including, without limitation because of enumeration, contractors, surveyors, plumbers, installers, soils technicians, or their agents, or lending institutions and insurers or their agents are responsible for compliance with all provisions of this Ordinance which bear upon their area of competency and responsibility.

(b) Any such party who violates or aids or abets in a violation shall be liable to prosecution or remedial action.

(c) This Ordinance applies fully to all public governmental and quasi-public and quasi-governmental lands, developments and activities unless specifically exempted by state or federal law.

##### **(3) Investigation of Compliance, Notice of Violations.**

(a) The Zoning Administrator is responsible for inspecting and investigating compliance of land use activities with the terms of this Ordinance.

(b) If, upon such inspection or investigation, the Zoning Administrator becomes aware of a condition which he or she concludes is or likely to become unlawful, the Administrator shall immediately notify the parties to the situation whom he or she deems to be responsible and potentially liable. Such notice shall include:

(i) A demand that the condition that is alleged to constitute the present or potential violation be halted, prevented from occurring or remedied; or

(ii) A statement that a complaint on the condition and request for prosecution has been or will be transmitted to the City Attorney and/or to enforcement officials, state agencies, or both.

(c) If an enforcement demand is issued and is not complied with, the Zoning Administrator may file a request for prosecution with the City Attorney, unless an administrative appeal has been commenced and a stay order has been issued. See also citation alternative, s. 10.130(4)(e) hereof.

**(4) Prosecutions; Injunctions and Penalties in Court Proceedings.**

(a) The City Attorney has responsibility to prosecute violations of this Ordinance on behalf of the City.

(b) Nothing in this section shall be deemed to prevent private prosecutions of violations pursuant to Wis. Stat. s. 62.23 of other sections of the Wisconsin Statutes or common law.

(c) Forfeitures and penalties for violation of the provisions contained within this Ordinance are found in section 30.04(1)(a), which is adopted herein by reference and made a part of this Ordinance.

(d) As a substitute for, or an addition to, forfeiture actions, the City Attorney may, on behalf of the City, seek enforcement of any and all parts of his Ordinance by court actions seeking injunction or restraining orders.

(e) City officials designated in this City of Middleton Citation Enforcement Ordinance (s. 2.25 hereof ), may issue citations, as provided therein, for violations of portions of this Ordinance.

**(5) Other Enforcement Provisions.**

(a) Where a conditional use, variance, planned development or design review has been approved subject to specified conditions, and where such conditions are not complied with, the Board of Appeals may conduct a hearing pursuant to this section upon a petition submitted by any interested party or by the Zoning Administrator to revoke the approval. A finding of non-compliance with the conditions imposed shall be grounds for revocation.

(b) Relationship to Nuisance Actions. No provision of this Ordinance shall be construed to bar an action to enjoin or abate the use or occupancy of any land or structure as a nuisance upon the laws of the State of Wisconsin.

(c) Conditions placed on rezonings, approvals or permits may include requirements of bonds or similar surety arrangements to assure performance of required obligations.

## **10.135 INTERPRETATION AND DEFINITIONS; GENERAL.**

(1) **Relationship of Zoning to Plan Documents.** City Master Plan documents or plans for components of City development shall, unless otherwise specified herein, be guides to interpretation of this Ordinance. Wherever possible, interpretation decisions rendered under this Ordinance shall harmonize zoning regulation decisions with plans and with other plan implementation regulations.

(2) **General Intent.** The intent of this Ordinance is to contribute to the betterment of the community for the benefit of persons who reside in the community. The Ordinance intends to promote the public health, safety and welfare, to promote orderly development in all sectors, and to maintain and improve the quality of the community.

(3) **Rule of Language Construction.** The language set forth in the text of this Ordinance shall be interpreted in accord with the following rules of construction:

(a) The singular number includes the plural and the plural the singular.

(b) The present tense includes the past and future tenses and the future the present.

(c) The word "shall" is mandatory and the word "may" is permissive.

(d) The masculine gender includes the feminine and neuter gender and the feminine gender includes the masculine and neuter gender.

(e) Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition thereof.

(4) **Liberal Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.

(5) **Conflicting Regulations.** Where the standards of this Ordinance are either more restrictive or less restrictive than standards imposed by any other laws, ordinances, statutes, resolutions or regulations, the regulation that is more restrictive or imposes higher standards or requirements shall prevail.

**(6) Classification of Uses.** In each zoning district there are uses which are permitted uses and uses which are conditional uses.

(a) Permitted uses for each district may be undertaken in that district upon issuance of a zoning permit for those permitted uses that require a permit, and upon compliance of the use with other applicable laws and ordinances.

(b) Uses listed in each zoning district as conditional uses may be undertaken in that district only upon approval of a conditional use application pursuant to this Ordinance and upon compliance of the use with other applicable laws and ordinances.

(c) A term "allowable uses" in this Ordinance refers to both permitted and conditional uses.

**(7) Uses Not Classified.** When a use is not specifically provided for in this Ordinance, the Plan Commission or a property owner may request a study by the Plan Commission to determine whether the proposed use is compatible with the Master Plan, what zoning district would be appropriate and a determination as to conditions and standards relating to such use. The Common Council may, upon receipt of the study, initiate an amendment to this Ordinance to provide for the particular use under consideration or find that the use is not compatible in the particular location.

**(8) Separability.** It is hereby declared to be the intent of the Common Council that the several provisions of this Ordinance are separable. If a court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to particular property, building or structure, such judgment shall not affect application of said provision to any other properties, building or structures not specifically included in said judgment.

**(9) SIC Reference.** Use listings in the Business and Industrial Districts generally employ terminology of the Standard Industrial Classification Manual published by the US Printing Office and interpretative decisions shall be guided by reference to that publication.

#### **10.136 STANDARDS FOR LOTS AND SETBACKS.**

(1) Each lot newly created shall provide appropriate size, shape and configuration for the uses that predominate or typify the zoning district in which the lot is established.

(2) Each structure or occupancy for which a minimum lot size and lot dimensions are specified in this Ordinance shall have a lot prescribed for it, either a traditional legal land parcel or a zoning lot. A zoning lot is a lot equivalent, exclusively identified for the particular structure or occupancy to allow determination of lot standards. The structure or occupancy need not have exclusive legal possession of the zoning lot, but no two zoning lots shall overlap. The Zoning Administrator or Plan Commission may establish rules so

that zoning lots function in a manner equivalent to traditional lots, but condominium forms of ownership shall not be discriminated against in the administration of this Ordinance.

(3) All lots shall have at least 15 feet of frontage on a public street.

(4) No required yard shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this Ordinance.

(5) **Setbacks.** Setbacks are established within the various use districts and are illustrated in the charts, tables and diagrams section that follows. No structure to accommodate a principal or accessory use, including any portion thereof such as roof eave and rake overhangs, may be established or maintained within a setback except as otherwise specified or permitted under Section 10.22(4).

(6) **Transitional setbacks.**

(a) For each foot by which a pre-existing lot of record on the effective date of this Ordinance is narrower than sixty (60) feet, two (2) inches may be deducted from the required least width of any side setback; provided, however, that no sideyard shall be narrower than four (4) feet.

(b) On any corner lot abutting in the rear on a residential district, the width of the side yard along the side street need not be greater than the depth of the front yard of any existing building on the lot adjoining such corner lot in the rear, but shall not be less than twenty four (24) feet.

(c) Where a business or industrial lot is adjacent to a lot zoned for residential use, the minimum setback on the business or industrial lot from the common lot line shall be eight (8) feet and development on the business or industrial lot shall require design review to determine whether landscape screening should be mandated to soften impact on the residential lot.

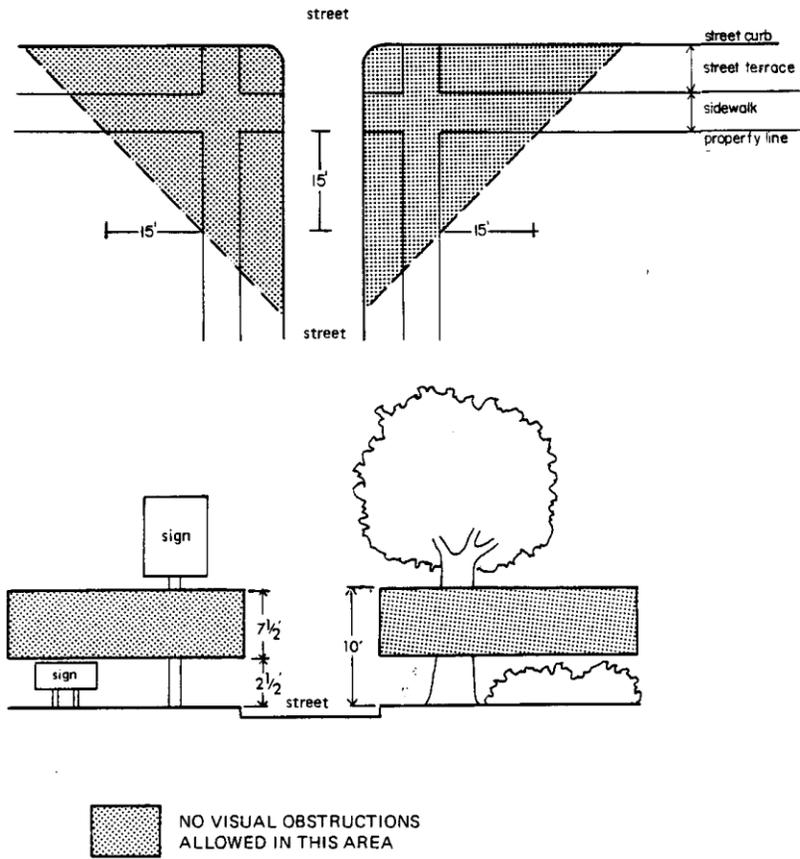
(7) **Vision Clearance Triangle.** On corner lots in all districts, except "B-4" zones, no structures or planting in excess of thirty (30) inches above the abutting curb line shall be permitted within the vision clearance triangle as shown below.

#### **10.140 CHARTS, TABLES AND DIAGRAMS.**

In this section are found charts, tables and diagrams illustrating concepts and principles of this Ordinance. These materials are employed to explain and clarify the meaning of the Ordinance. Where conflicts arise between the content of an illustration and the specific terms of the Ordinance, the Ordinance terms shall control.

# Illustration 1: Visual Clearance Triangle

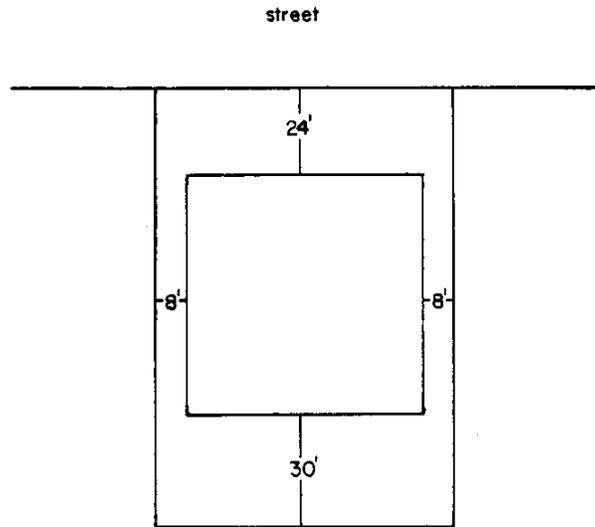
ILLUSTRATION 1.  
VISUAL CLEARANCE TRIANGLE



# SETBACKS IN R-1 DISTRICT

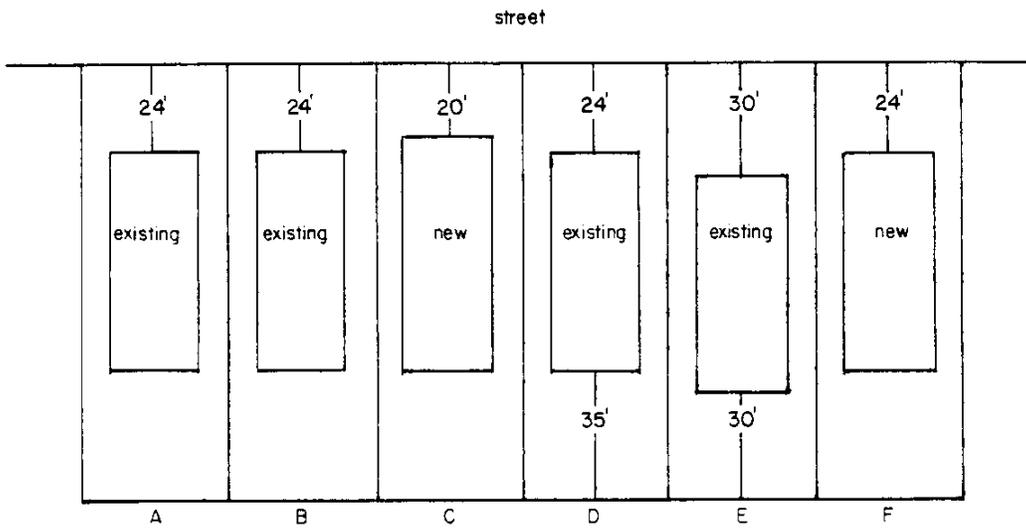
## STANDARD SETBACKS

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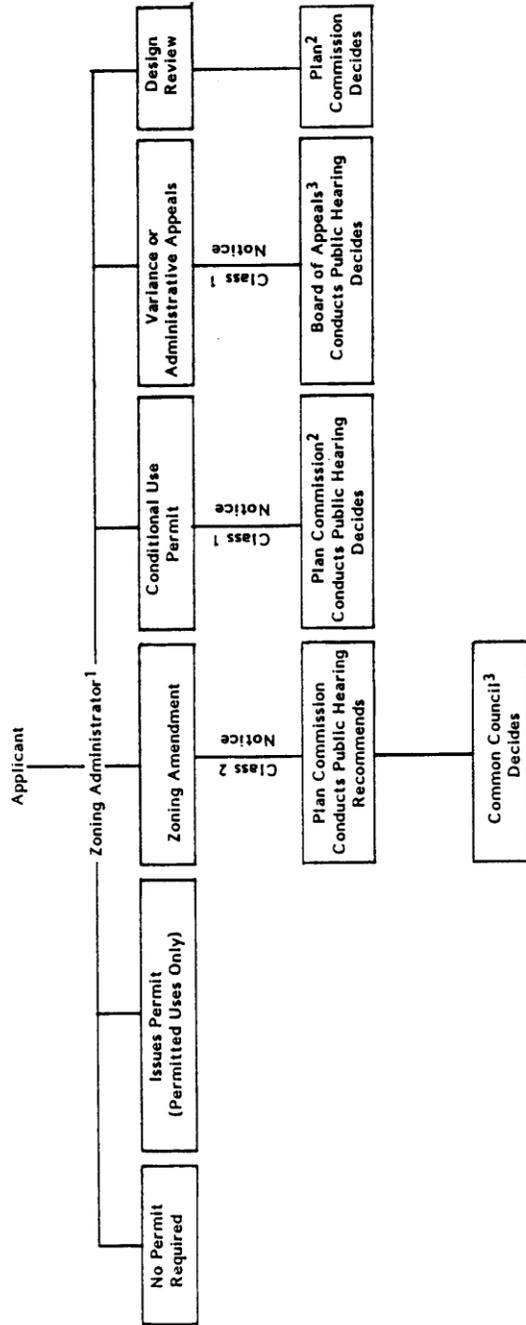
## R-1 SETBACKS MODIFIED

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**NOTE:** Front setback on Lot C can be reduced to 20 feet because the difference between 20 feet and house locations on adjoining parcels is no more than 6 feet. Lot F could not use a 20' setback because Lot E has a house located farther back on the lot.

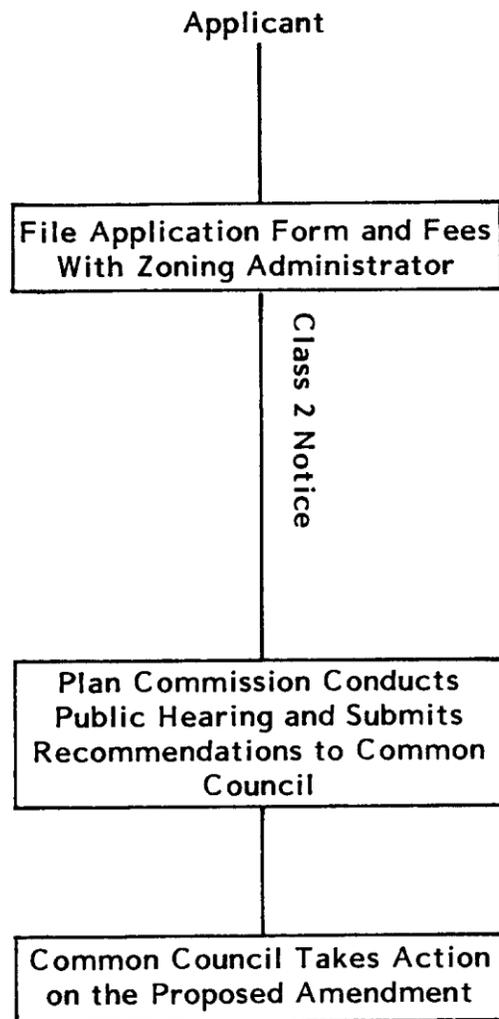
### ILLUSTRATION 3: ZONING PROCEDURES SUMMARY



- NOTES:
- <sup>1</sup> Applicant or aggrieved persons may appeal any Zoning Administrator's administrative decision to the Board of Appeals.
  - <sup>2</sup> Applicant or aggrieved persons may appeal Plan Commission decision to the Common Council.
  - <sup>3</sup> Any action of the Common Council or Board of Appeals may be appealed to courts.

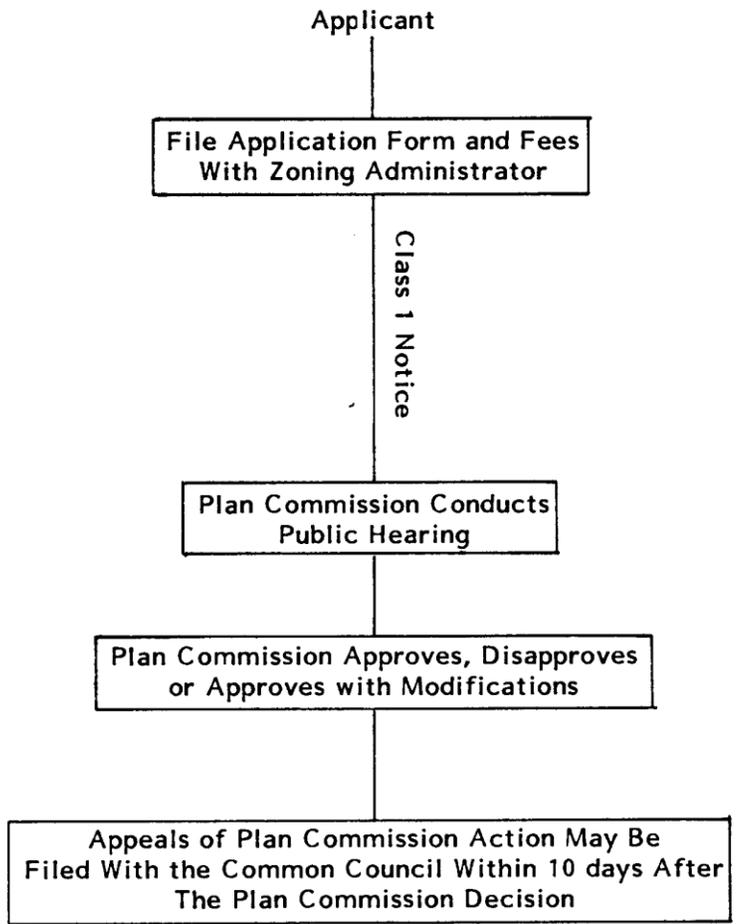
**ILLUSTRATION 4: ZONING ORDINANCE AMENDMENT APPLICATION PROCESS**

**ZONING ORDINANCE AMENDMENT APPLICATION PROCESS**

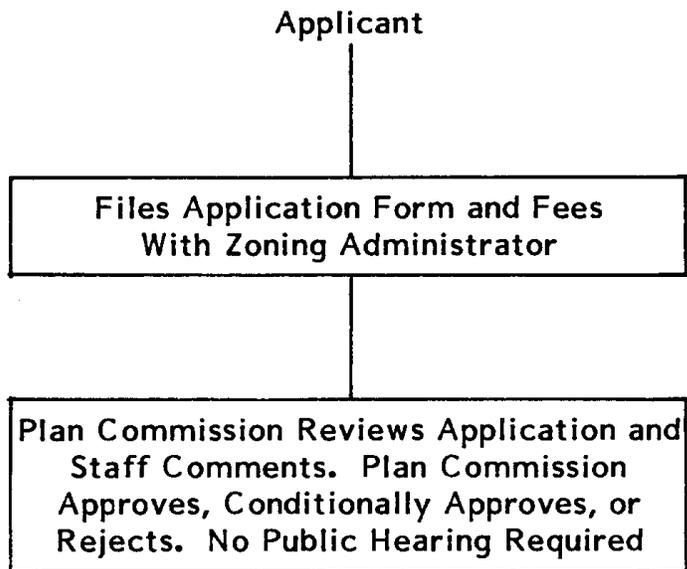


# ILLUSTRATION 5: CONDITIONAL USE APPLICATION PROCESS

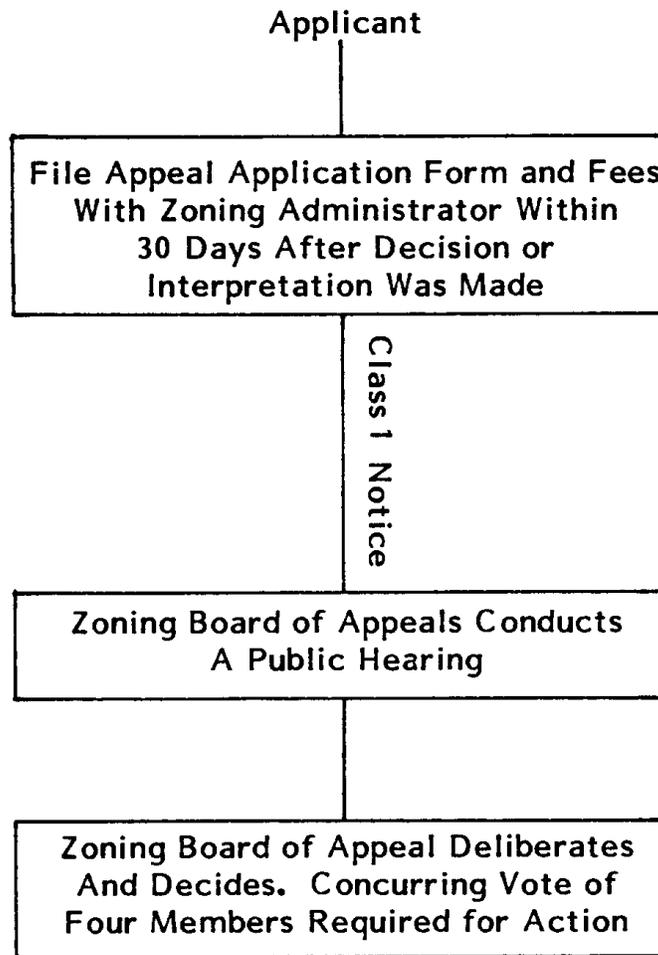
## CONDITIONAL USE APPLICATION PROCESS



## DESIGN REVIEW APPLICATION PROCESS

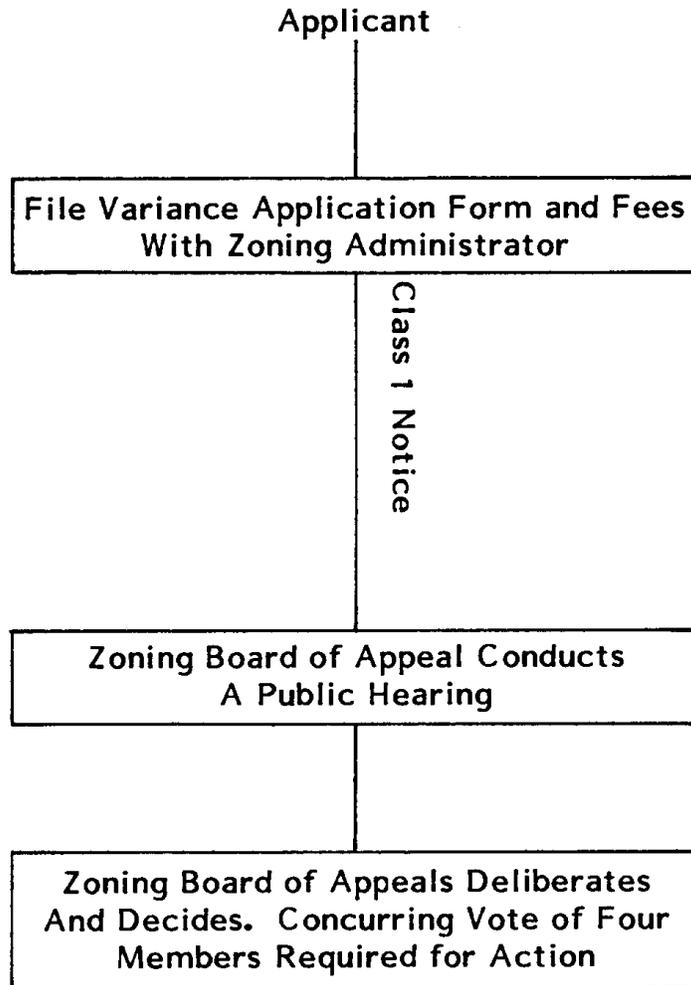


## ADMINISTRATIVE APPEAL APPLICATION PROCESS



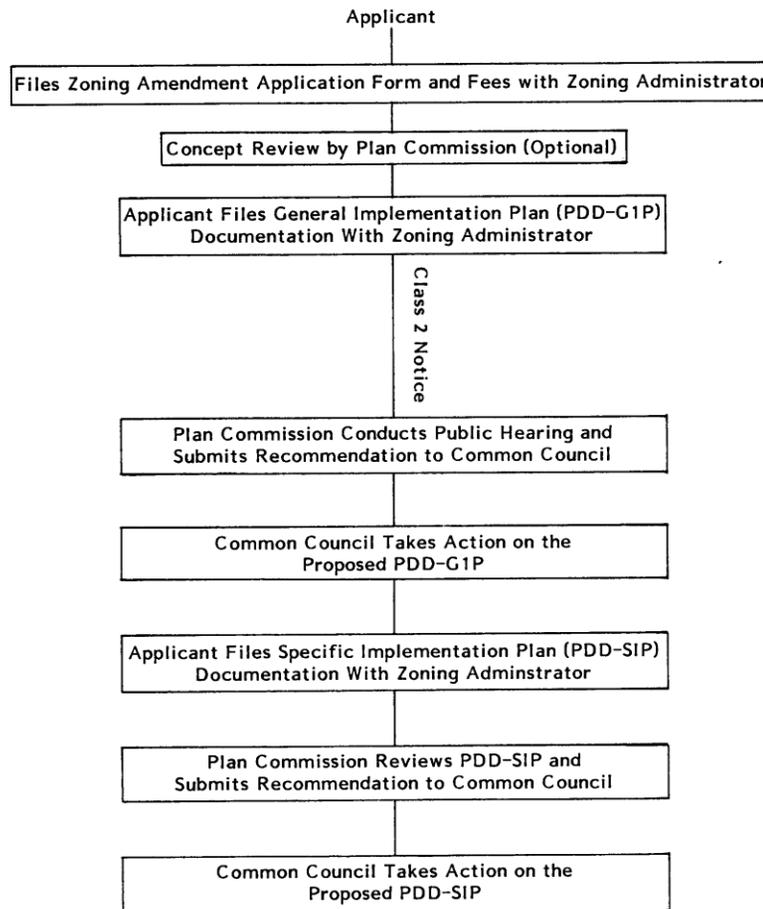
**ILLUSTRATION 8: VARIANCE APPLICATION PROCESS**

**VARIANCE APPLICATION PROCESS**



# ILLUSTRATION 9: PLANNED DEVELOPMENT DISTRICT (PDD) APPLICATION PROCESS

PLANNED DEVELOPMENT DISTRICT (PDD) APPLICATION PROCESS



**SUMMARY OF ZONING DISTRICTS**

ZONING DISTRICT	DESCRIPTION	MINIMUM LOT AREA	MAXIMUM LOT COVERAGE	MINIMUM SETBACK			MAXIMUM BUILDING HEIGHT	MAXIMUM DENSITY D.U. / ACRE	MINIMUM LOT WIDTH
				FRONT	REAR	SIDE			
R-1	RESIDENTIAL, SINGLE FAMILY DETACHED UNITS	7,200 SQ.FEET	0.35	24 FEET*	30 FEET	8 FEET*	35' OR 3 STORIES, WHICHEVER IS LESS	4.8	60 FEET
R-2	RESIDENTIAL TWO FAMILY ATTACHED UNITS	10,000 SQ. FEET	0.35	24 FEET*	30 FEET	8 FEET*	35' OR 3 STORIES, WHICHEVER IS LESS	6.9	80 FEET
R-3	RESIDENTIAL STRUCTURES HAVING 3 - 8 DWELLING UNITS	DEPENDS ON NUMBER OF D.U.	0.35	30 FEET	30 FEET	10 FEET (20 FEET IF ABUT R-1)	35' OR 3 STORIES, WHICHEVER IS LESS	8.2	120 FEET
R-3A	HIGH DENSITY RESIDENTIAL*** *	12,000 SQUARE FEET	N/A	30 FEET	40 FEET	15 FEET OR 1/2 BLDG. HEIGHT (GREATER OF)	60' OR FIVE STORIES, WHICHEVER IS GREATER		120 FEET
B-1	OFFICE DISTRICT	7,200 SQ. FEET	-	20 FEET	30 FEET	8 FEET	35' OR 3 STORIES, WHICHEVER IS LESS		60 FEET

B-2	BUSINESS/ OFFICE DISTRICT	7,200 SQ. FEET	-	20 FEET* *	30 FEET**	8 FEET**	MAY EXTEND TO 5 STORIES WITH PC APPROVAL		60 FEET
B-3	HIGHWAY BUSINESS DISTRICT	7,200 SQ. FEET	-	24 FEET	30 FEET	8 FEET	35' OR 3 STORIES, WHICHEVE R IS LESS		60 FEET
I	INDUSTRIAL/ MANUFACTURIN G	20,000 SQ. FEET	0.7	30 FEET	20 FEET	10 FEET	35' AS P.U., ABOVE 35' AS C.U.		100 FEET
Ag	AGRICULTURAL/ OPEN SPACE	40 ACRES	-	50 FEET	50 FEET	50 FEET	NON-FARM 35' OR 3 STORIES, WHICHEVE R IS LESS		325 FEET
CO	CONSERVANCY WETLAND AND UPLAND OPEN SPACE	N/A	N/A	N/A	N/A	N/A	N/A	N/A	

PDD	PLANNED DEVELOPMENT DISTRICT	100,000 SQ. FEET SUGGESTED	NO SPECIFIC STANDARDS						
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\* Can be less if certain conditions are met.

\*\* Except where abuts residentially zoned property.

\*\*\* Density calculated on assumption of 80% net usable area; duplex units in R-2 and 2-bedroom units for R-3.

\*\*\*\* Applies to area developed or committed to development under former higher density zoning.

## 10.150 DEFINITIONS.

(1) **Accessory**. A use of property or an activity that is subordinate and incident to the primary use and/or activity and that does not alter the appearance of the premises or the external impacts that the premises has on the neighborhood so as to be out of character with dominant, principal uses allowed under this Ordinance.

Bed and Breakfast. See subsection (64) hereof.

(2) **Boathouse**. A building having the exclusive purpose of storing a water craft and which is located within 30 feet of the ordinary high water mark of a navigable water body or in or on the bed of such water body.

(3) **Building**. A structure having a supported roof intended for a shelter or enclosure.

(4) **Building Height (Measurement)**. A distance to be measured from the mean ground level immediately adjoining the front of the structure to the top of the cornice of a flat roof, or to the deck line of a mansard roof, or to a point on the roof directly above the highest wall of a shed roof, or to the uppermost point on a round or other arch type roof, or to the midpoint of the highest gable on a pitched or hip roof.

(5) **Building Permit**. The permit or permits issued by the Zoning Administrator in enforcing this Ordinance.

(6) **Building Separation**. The intended purpose of sideyard setbacks, specifically to allow adequate separation for privacy, fire safety, emergency vehicular access and open space provision.

(7) **Church**. Defined in s. 10.37(6).

(8) **Classes of Notice**. Established pursuant to Wis. Stat. Chapter 985.

(9) **Club**. A non-profit association of persons paying membership fees, whose premises are generally restricted to members and their guests.

(10) **Commercial Animal Operation**. An establishment for the housing, grooming, breeding, boarding, training or selling of animals on a commercial, for gain basis.

(11) **Community Garden**. One or more lots or parcels of land, less than one acre in size, which are not located within an Agricultural (Ag) District, used to produce vegetables, fruits, flowers or other plant material for personal use by the property owner or individuals authorized by the property owner.

(12) **Conceal from View**. Substantially block view from most offsite locations. A site is not required to be concealed from view from locations that have considerably higher elevation.

(13) **Day Care.** Provision of custodial care for persons for remuneration. If done within a dwelling unit in which residential living is the primary usage in residential occupancy, the use is classified as family day care. If one in other premises, the use is classified as general day care.

(14) **Development.** Construction, reconstruction, conversion, structural alteration, relocation or enlargement of structures, equipment, mining, land disturbance or related permanent or substantially permanent activities on lots.

(15) **Dwelling Structures.** Buildings having one or more dwelling units plus associated areas (storage, utility spaces, recreation spaces, hallways, entryways). Dwelling structures do not, for purposes of this Ordinance, include mobile homes or manufactured homes.

(16) **Dwelling Units.** Sets or rooms or spaces within which sleeping, kitchen, bathroom facilities are provided, contained within the unit, and serving a single person or group of persons who constitute the household that is occupying the Dwelling Unit.

(17) **Equipment.** Apparatus not constituting a structure.

(18) **Electrical Interconnection.** The point at which the wind tower electrical system is connected to an existing electric distribution system.

(19) **Family.** An individual, or two or more persons living together as a single housekeeping unit in a dwelling unit.

(20) **Garage.** That part of a building or structure, including a carport, intended or used primarily for storing passenger vehicles, trailers, motor homes, and trucks.

(21) **Garage Sale.** Any display of used goods, and sale of said goods on a property customarily used as a residence. The person or persons conducting the sale shall reside on the lot where the sale is conducted.

(22) **Group Home.** Community living arrangements under Wis. Stat. s. 46.03(22), including those child welfare agencies, group homes for children and community based residential facilities identified therein.

(23) **Hard Surfaced Parking and Drive Areas.** Effectively dust-proofed, through means as specified by the City Zoning Administrator. The Administrator shall, from time to time, consult with the Plan Commission in regard to this list of means.

(24) **Incidental.** In this Ordinance, "incidental" encompasses "secondary" and "accessory" and means developments and occupancies that are subordinate or secondary to the actual dominant use or the uses that are intended to be dominant in the District.

(25) **Incidental Retail Sales.** Sales provided for the convenience of occupants of the building.

(26) **Large Retail Development.** The term "large retail development" shall mean any retail

development exceeding 75,000 square feet of gross floor area, regardless of the number of buildings, on a single zoning lot. The term “retail” does not encompass the term “large retail development” which shall be considered a distinct and separate use under this Chapter.

(27) **Lot.** For purposes of this Ordinance, "lot" includes all designated tracts of land, and includes the terms "parcel" and "tract".

(28) **Lot Coverage.** The portions of a lot or parcel occupied by the principal structure or structures; detached garages and carports; detached gazebos, screen enclosures and patios and decks as provided in s. 10.22(4)(f); storage buildings, sheds and enclosures; pet houses/runs. The first three feet of roof eave or rake overhang measured horizontally from the building exterior wall shall not be counted as structure occupancy for lot coverage purposes.

(29) **Lot Area.** The area of a lot in a horizontal plane bounded by the lot lines, but not including any area occupied by waters of an existing lake or river or by wetlands or by lands which have been dedicated as a public thoroughfare, street, park, conservation area, path or trail. Each dwelling structure shall have a lot and a lot area within that lot specified for it and all submission for City approval and all approvals shall specifically reference the lot area for each dwelling structure. Required lot areas shall be owned in fee title. It shall not be legal to establish required lot dimensions by combining lands owned in fee title with lands in which the owner has only an easement or similar interest.

(30) **Lot Line.** A perimeter line of a lot, except where any portion of a lot extends into the public right of way or a proposed public right of way, the nearest line of such public right of way shall be the lot line for applying the provisions of this Ordinance.

(31) **Lot Line Front.** The boundary of a lot which abuts an existing public street, and in the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are within ten percent of being equal, the front lot line shall be that street line designated by the owner and filed in the office of the Zoning Administrator.

(32) **Lot Line Rear.** That boundary line of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be aligned ten feet in length within the lot, connecting the side lot lines and parallel to the front lot line.

(33) **Lot Line Side.** Any boundary of a lot which is not a front lot line or a rear lot line.

(34) **Lot Width.** The minimum distance between the side lot lines of any lot measured parallel to the front lot line measured at the setback distance required by this Ordinance.

(35) **Lot Zoning.** See Zoning Lot.

Lubrication Service Station: (see s. 62 hereof)

**(36) Motor Fuel Station:**

**(a) Motor Fuel Station, Class I. Retail place of business engaged only in the sale of motor fuels and incidental petroleum products.**

**(b) Motor Fuel Station, Class II. Retail place of business engaged primarily in the sale of motor fuel, but also engaged in supplying goods and services generally associated with the operation and maintenance of motor vehicles. This may include the sale of petroleum products, sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services and the performance of automotive maintenance and repair.**

**(c) Motor Fuel Station, Class III. A retail place of business engaged in the sale of motor fuels and dispensing of services generally associated with the operation and maintenance of motor vehicles; the dispensing of food when food is served to a customer and consumed by him or her while seated at a counter or table; and providing places of temporary residence for motorists, tourists or travelers.**

**(37) Municipalities. City, Village, or town.**

**(38) Neighboring Properties. Properties directly affected by deck or related developments, see section 10.22(4)(f). If the neighboring property is not occupied by a dwelling structure, the Plan Commission must approve variations in separations.**

**(39) Non-Conforming. This term is a "legal term of art" and means more than a condition that pre-dated this Ordinance. See s. 10.14.**

**(40) Notice, Classes. See Classes of Notice.**

**(41) Occupancy. Human or human directed occupation of a lot, with or without physical, structural development.**

**(42) Owner of Record. Owner of a lot as per the then current City tax records.**

**(43) Parking Space, Structured. Spaces inside garages roofed and enclosed on at least three sides.**

**(44) Persons Aggrieved. Any individual, partnership, corporation, association, public or private organization, officer, department, board, commission or agency of the municipality, whose rights, duties or privileges are adversely affected by a determination under this Ordinance.**

**(45) Premises. A lot together with buildings, structures or equipment thereon.**

(46) **Principal**. The primary or dominant use of a lot or premises.

(47) **Recreational Facility**. Defined in s. 10.37(7).

(48) **Residential Occupancy**. The occupancy of a dwelling unit, dwelling structure and parcels containing such entities for residential living purposes.

(49) **Restaurant**. An establishment where food and drink is prepared and served. Restaurants are classified by this Ordinance as follows:

(a) I - sit down, substantially all of patrons sit at tables inside.

(b) II - A predominant percentage of patrons sit down inside, although some may carry out food.

(c) III - A predominant number of patrons carry out, although some inside seating is provided.

(d) IV - All patrons carry food out.

(e) V - Concession establishments without seating, selling ice cream, popcorn and comparable items as the primary use.

(50) **Rotor**. A system of rotating aerodynamic elements attached to a single shaft that converts the kinetic energy in the wind into mechanical shaft energy.

(51) **School**. Defined in s. 10.37(5).

(52) **Setback**. The zone upon a lot established between two vertical planes perpendicular to the ground and parallel to one another, the first of which is established along a specified property line, and the other along a line which is the specified setback distance measured perpendicular to the specified property line at each point.

(53) **Shooting Range, Indoor**: a totally enclosed building that is equipped for the practice of shooting firearms where no activity associated with shooting is conducted outside the building.”

(54) **Sleeping Room Rental**. Rental, on a regular basis, of sleeping accommodations, whether or not combined with meals or related services, within a dwelling unit that is also occupied by the lessor.

(55) **Small Animals**. Animals generally below a weight of 100 pounds kept on a domesticated basis as household pets, also includes birds such as parrots, parakeets, canaries and the like.

(56) **Soften Views**. Impose partial interference with direct visual contact from most offsite

locations, so that the object of view is not constantly dominant.

(57) **State Classified Manufacturing.** Manufacturing uses and operations as defined in Wis. Stat. s. 70.955(1) to (3).

(58) **Story (measurement of height).** That portion of the building located above the basement. A space is considered a basement if it is below grade or partly below grade but located so that the vertical distance from average grade to the floor below is more than the vertical distance from average grade to ceiling.

(59) **Structure.** Materials forming a construction for use, occupancy or ornamentation, whether installed on or above lands or waters. Includes buildings and other constructed objects.

(60) **Tower Height.** Full height measured from ground level at base to the top of the blade vertically extended.

(61) **Use.** Purpose of activity of a development or occupancy.

(62) **Utility and Governmental Facility.** Defined in s. 10.37(9). (a) This category includes:

1. Lines (wires, pipe, cable, etc.), transmission, switching and related facilities, antenna, and similar equipment or installations necessary to conduct public utility, gas, electric, telephone, cable communications with the community or through the community, but not including mobile service facilities as defined by Wis. Stats. §66.0404(1)(L); and

2. Municipal lands, facilities, installations or equipment necessary to perform governmental functions. For purposes of this section, municipal includes city, town, county, state, educational agencies, metropolitan sewerage commission, federal entities, and private entities performing public services under service contracts with the municipality. Municipality also includes private entities performing public services under service contracts with a municipality. Municipal lands and facilities include those leased by or to a municipality.

(b) Conditional use approval shall be required for utility and governmental facilities that involve any of the following, individually or in combination:

1. Installation or removal or significant modification of major utility lines or facilities. Major means primary system facilities (lines, interceptors, mains, pumping stations, principal pipelines, substations, new structures, housing equipment and the like).

2. Acquisition, development or significant modification or removal of municipal facilities, municipal buildings or structures, yards or sites for storage, transfer, waste management, installation or modification of roads.

3. Utility and governmental agencies are encourage to submit system plans to the City for

review and comment, including periodic update submissions, so that individual facility reviews can occur in a planning framework.

4. In submitting either system plans or facility plans, applicants may identify the necessity of the facility. The City shall, at a minimum, comment on consistency between the facility or the system plan and the City Master Plan, even when City approval cannot legally be required. Where the City is legally entitled to require full conditional use review and approval, the full conditional use review procedure shall occur.

(c) It shall be City policy that visible utility and governmental facilities be sited, designed and screened so as to be reasonably compatible with the appearance of the surrounding areas.

(d) The Zoning Administrator shall be responsible to define the inclusion of facilities by the terms of this section. Appeal from the Administrator's determination shall be made to the Zoning Board of Appeals.

(63) Wind Tower System. Any mechanical device designed for the purpose of converting wind energy into electrical or mechanical power.

(64) Zoning Lot. A single tract of land that is designated by its owner or developer as a site for a development or occupancy, providing for required lot area and setbacks. A zoning lot need not be a legal land parcel (lot of record).

(65) Lubrication Service Station. Engaged only in oil changing, greasing, oil and gas filters, PVC valves and filters, and the incidental sale of these products, but not engaged in sale of other goods and services generally associated with the operation and maintenance of motor vehicles (all sales and servicing shall be within an enclosed building).

(66) Reserved.

(67) Bed and Breakfast Establishment. Any place of temporary lodging that provides four (4) or fewer rooms for rent for a length of stay not to exceed three weeks, is the owner's personal and principal residence, and in which the only meal served to registered guests is breakfast.

(68) Zero-Lot-Line Lot. A lot created with no side yard setback on one side of the lot to create a shared building envelope between two lots sharing a single structure. The shared building envelope shall only be used to build or divide a duplex where the common wall between the two lots is built, or determined to be, the common boundary line between two separate attached single family lots. No zero lot line lot can have more than one side yard with a zero setback.

## 10.205 OFFICIAL ZONING MAP

(1) The City of Middleton is hereby divided into zoning districts as shown upon a map

designated as the Official Zoning Map of the City of Middleton and made part of this Chapter. The Official Zoning Map, and all the notations, references and other information found thereon are a part of this Chapter and shall have the same force and effect as if the matters and information set forth on said map were fully described herein. The Official Zoning Map shall be properly attested and kept on file along with the text of the City zoning ordinances in the office of the City Clerk-Treasurer.

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

(3) The Official Zoning Map dated May 24, 2005 is hereby adopted as the Official Zoning Map of the City. All further zoning changes shall be made by reference to the map.

## APPENDIX A

### 10.10 "R-3" MULTIPLE FAMILY RESIDENTIAL DISTRICT.

(1) Permitted Uses. Within any "R-3" Multiple Family Residential District, no Structure or land shall be used except for one or more of the following uses:

(a) Multiple dwelling unit structures.

(b) One family townhouses subject to the following:

1. The structure containing a townhouse shall have three to eight dwelling units with no single wall greater in length than eighty (80) feet without an offset of ten (10) feet or more or an angle of 22.5 degrees or more extending at least fourteen (14) feet.
2. All driveways and parking areas shall be surfaces with a permanent hard surfaced material.
3. Townhouse projects shall have a recreation area containing a total area equal to four hundred (400) square feet per unit.

(c) Public parks and playgrounds.

(2) Conditional Uses. Within any "R-3" Multiple Family Residential district, no structure or land shall be used for any of the following uses unless a Conditional Use Permit is issued:

(a) Any use listed in Sec. 10.08(2), except as modified herein:

(b) Rooming houses, provided the site shall contain at least one thousand (1,000) square feet for each person to be accommodated.

(c) Private clubs and lodges, recreational and social facilities when operated as a part of a residential complex.

(d) Professional and similar offices having no retail sales up to a maximum of six thousand (6,000) square feet in any one building.

(e) Two family dwelling units.

(f) Retail sales and service may be provided by vending devices or by personnel when such retail area is within a building so constructed and maintained that all access is from a lobby, hall or court, and not directly from the out of doors, it being the intent that such sales and services are provided for the convenience of the occupants of the building.

(g) Public and parochial schools, provided that no building shall be located nearer than twenty-five (25) feet from any lot line.

(h) Churches, including those related structures located on the same site which are an integral part of the church proper, convents and homes for persons engaged in a religious function on the same site, provided no building shall be located nearer than twenty-five (25) feet from any lot line.

(3) Permitted Accessory Uses. Within any “R-3” Multiple Family Residential District, the following uses shall be permitted accessory uses:

(a) Any use permitted in Sec. 10.07(3), (a) through (g), except as modified herein.

(b) Recreational equipment, provided it is five (5) feet or more from any lot line except as provided in Sec. 10.04(6), (a).

(4) Height, Lot Width and Yard Requirements.

(a) No structure shall exceed three (3) stories or thirty-five (35) feet in height, whichever is least.

(b) Minimum lot width shall be one hundred twenty (120) feet and lot area of fifteen thousand (15,000) square feet.

(c) Front yard shall be not less than forty (40) feet.

(d) Side yard shall be not less than fifteen (15) feet.

(e) Rear yard shall be not less than forty (40) feet.

(f) Side street yard shall be not less than twenty (20) feet.

**(g) No more than 20% of lot area may be occupied by the principal building.**

**(5) Minimum Lot Area per Dwelling Unit.**

**(a) Efficiency units – not less than three thousand (3,000) square feet.**

**(b) One bedroom – Not less than three thousand eight hundred fifty (3,850) square feet.**

**(c) Two bedroom – not less than four thousand two hundred fifty (4,250) square feet.**

**(d) Three bedroom or more – not less than four thousand two hundred fifty (4,250) square feet, plus five hundred (500) square feet for each bedroom over two (2).**

**(e) No development shall have more than one-half (1/2) the units in efficiency type apartments, provided that if one-half (1/2) or more in a structure are efficiency units, the lot area of (b) above shall apply to all efficiency units over one-half (1/2) thereof.**

**(f) A credit of not to exceed five hundred (500) square feet shall be given for each parking space provided in or under the principal building or underground detached from the building.**

**(g) Each dwelling shall be increased three hundred (300) square feet if principal vehicular access to the site is not located on a primary, principal or secondary arterial, as designated in the Master Plan.**