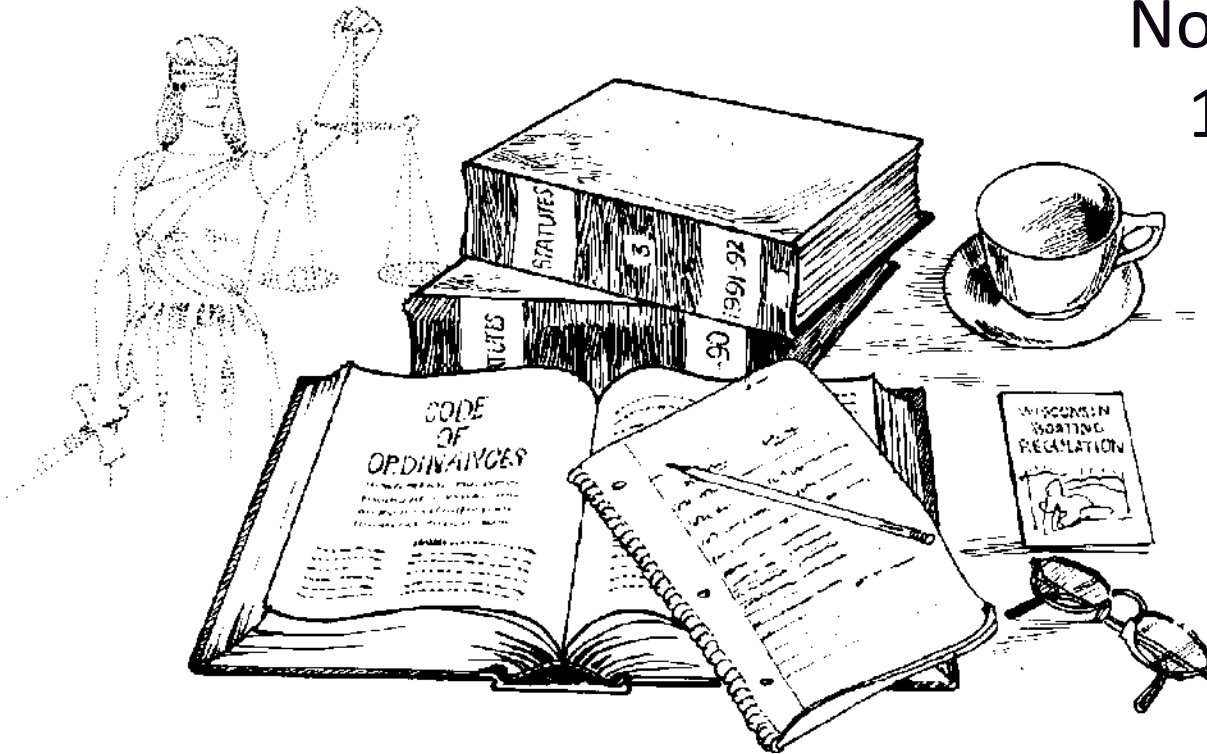


# Refreshing Your Zoning Ordinance

November 30, 2020  
10:00-11:00 am



Rebecca Roberts  
Center for Land Use Education  
UW-Stevens Point & Extension



Center for Land Use Education  
College of Natural Resources  
University of Wisconsin - Stevens Point



Extension  
UNIVERSITY OF WISCONSIN - MADISON

# Poll: Why did you attend?

Pick one statement that best illustrates your situation:



Topic sounded interesting. We are exploring ideas.



We have identified several items to update in our ordinance and are looking to get started.



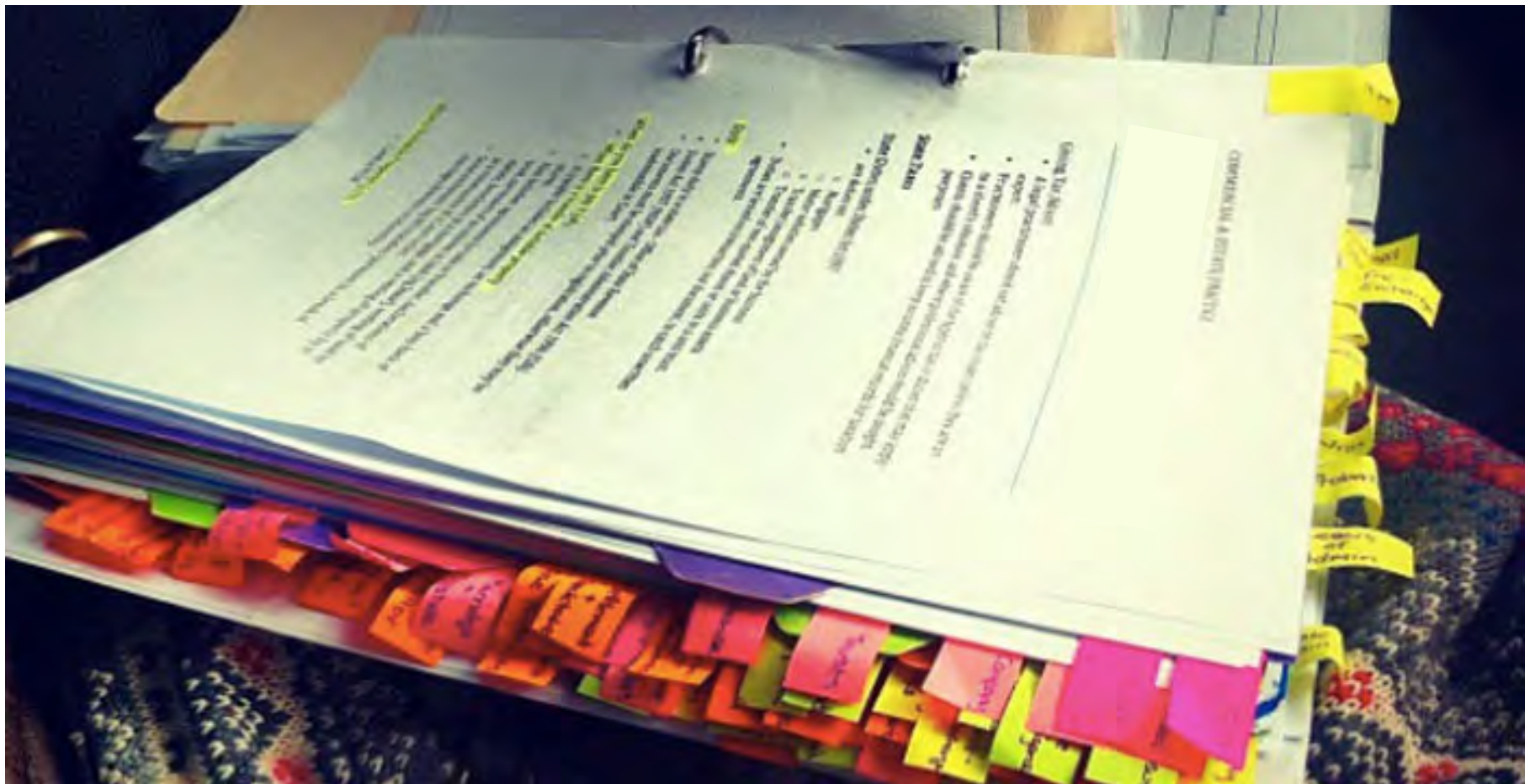
Our ordinance is a mess. We don't know where to start!



We tried updating our ordinance and failed. Help!

# Does your ordinance look like this?

Paper copy, all text, heavily annotated, subject to interpretation, last updated 1984



There are two things wrong with almost all legal writing. One is its **style**. The other is its **content**.

— Fred Rodell



Fred Rodell, "Goodbye to Law Reviews," 23 Virginia Law Review 38-45 (November 1936).

# Ordinance Drafting Goals



Good legal writing is  
**clear, concise, and  
engaging**

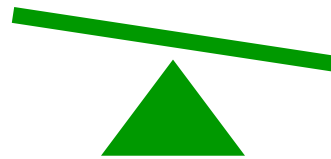
Goal is to assist readers  
in **decision-making**

What is “Good Legal Writing” and Why Does it Matter? Mark Osbeck, Michigan Law School, 2012.  
<https://repository.law.umich.edu/articles/938/>

# A Balancing Act



**Content** must be  
clear and concise



**Presentation** must  
engage and inform

# Factors Influencing Change

## Environment



Policy changes  
Societal expectations  
Advances in technology

## Stakeholders

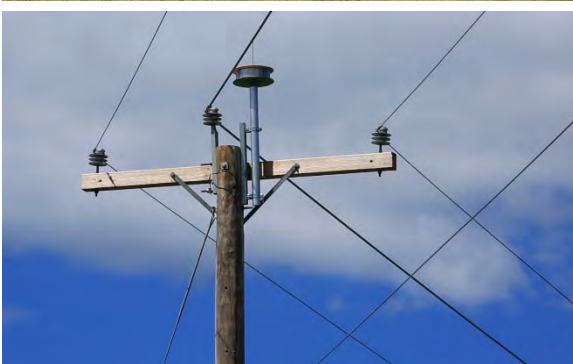


Staff  
Local officials  
Developers  
Special interests  
Community members

## Process



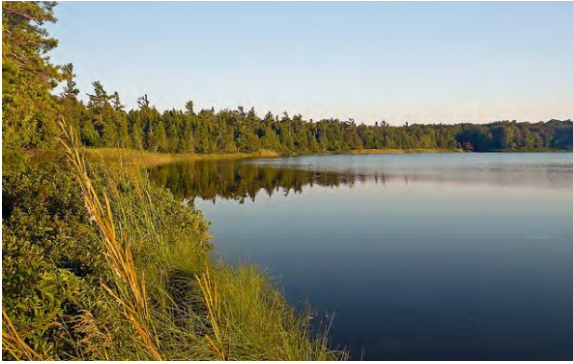
Surveys  
Interviews  
Focus groups  
Workshops  
Website  
Data analysis  
Mapping



# Federal Influence on Zoning

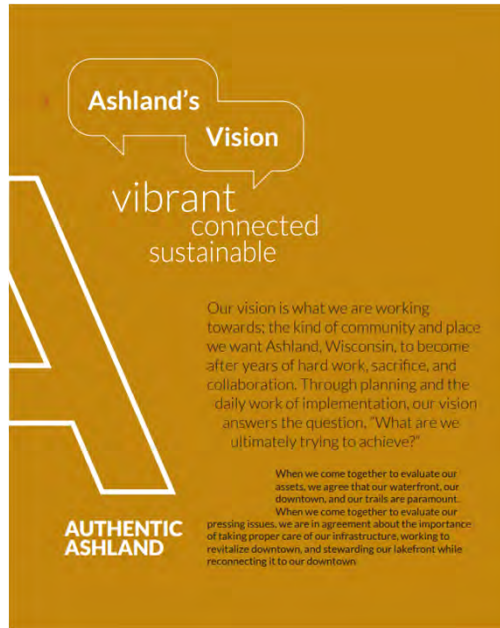
- Billboards and signs
- Telecommunications
- Places of worship
- Sexually oriented businesses
- Manufactured housing
- Fair housing and ADA





# State Influence on Zoning

- Shoreland, wetland, floodplain zoning
- Stormwater management
- Nonmetallic mining
- Livestock facility siting
- Mobile telecommunications siting
- Solar and wind energy
- Group homes, short-term rentals, shooting ranges, event barns, etc.
- Nonconforming uses, structures, and lots
- Development moratoria and downzoning
- Conditional uses and variances



# Local Policy Influence

## Section 4.1 Zoning District Regulations

### A. Intent

The intent of Part 4: Zoning Districts is to establish zoning districts within the City of Ashland that correspond with the Land Use Plan and the City's vision, goals, objectives, and policies for sustainable growth and development as described in the City's Comprehensive Plan.

### B. Relationship of Zoning Districts to the Comprehensive Plan

The zoning district requirements and the delineation of zoning district boundaries on the Zoning Map shall be consistent with the goals, objectives, and policies of the City of Ashland Comprehensive Plan. The zoning district boundaries and rezoning requests shall also relate to the Land Use Plan Map and the Staged Growth plans of the Comprehensive Plan. The official Comprehensive Plan is on file in the office of the Zoning Administrator.

**Helpful Note.**

Any rezoning request that is not consistent with the Comprehensive Plan shall also include a request for a Comprehensive Plan amendment pursuant to the procedures specified in Part 3: Review, Application, and Approval Procedures.

### C. Establishment of Zoning Districts

The City of Ashland is divided into the following base (underlying) zoning districts as regulated in this Ordinance and as shown on the Zoning Map.

1. R-E Residential Estate District
2. R-1 Single-Family Residential District
3. R-2 Single and Two-Family Residential District
4. R-3 Medium Density Residential District
5. R-4 High Density Residential District
6. MHC Manufactured Home Community (Mobile Home Park) District
7. MRC Mixed Residential/Commercial District

**Helpful Note.**

A copy of the Comprehensive Plan may be downloaded from the City's website: <http://www.ci.ashland.wi.us/> Contact the Office of the Zoning Administrator to verify if amendments have been made to the Plan.

**UNIFIED DEVELOPMENT ORDINANCE**  
**TABLE OF CONTENTS**

This table of contents lists the parts and sections of this Unified Development Ordinance. If you are viewing this document from the City's website ([www.ci.ashland.wi.us](http://www.ci.ashland.wi.us)), clicking on the Part you want to view will call up that part in your viewer. Once that document is up, you will see a more detailed table of contents specific to that part. Clicking on sections and subsections in that table of contents will bring you to those sections or subsections in the document that you wish to read.

<b>Part 1 General Provisions</b>	
Section 1.1 Title, Authority, and Effective Date	1-1
Section 1.2 Purpose and Intent	1-3
Section 1.3 Organization and Use of the Ordinances	1-4
Section 1.4 Integration of Principles of Sustainability	1-5
Section 1.5 Interpretation and Separability	1-6
Section 1.6 Transitional Provisions	1-7
Section 1.7 Applicable Codes Pertaining to Development	1-8
<b>Part 2 Review and Approval Authorities</b>	
Section 2.1 General Provisions	2-3
Section 2.2 Zoning Administrator	2-5
Section 2.3 Building Inspector	2-5
Section 2.4 Director of Public Works	2-6
Section 2.5 Plan Commission	2-6
Section 2.6 Common Council	2-7
Section 2.7 Zoning Board of Appeals	2-7
<b>Part 3 Application, Review, and Approval Procedures</b>	
Section 3.1 General Provisions	3-6
<b>Applications Requiring a Public Hearing</b>	
Section 3.2 Comprehensive Plan Amendment	3-17
Section 3.3 Zoning Map Amendment (Rezoning)	3-19

City of Ashland Unified Development Ordinance Adopted: January 10, 2012 TOC-1

Example: City of Ashland, Plan and Ordinance <https://www.coawi.org>





# Format and Organization

## **Section 1.1 Section Heading**

### **A. Subsection Heading**

#### **1. Paragraph heading.**

##### **a. Subparagraph heading.**

##### **(1) Clause.**

## **Chapter 1 Introductory Provisions**

Division 1 Authority

Division 2 Interpretation

Division 3 Nonconformities

## **Chapter 2 Zoning Districts**

Division 1 General Provisions

Division 2 Base Districts

- Purpose Statements
- Principal Uses Table
- Accessory Uses Table
- Lot Dimension Standards Table
- Site Dimension Standards Table

# Ordinance Approach

## Conventional Zoning –

Traditional approach to zoning focusing on districts, uses, and standards

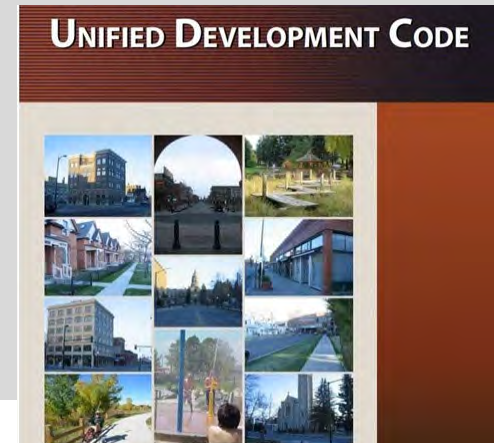


Hybrid Code –  
Incorporates elements of form based codes, performance zoning, or other approaches



## Unified Development Ordinance –

Incorporates zoning, subdivision, and other land development issues



# Organization

- Intuitive and logically organized
  - Separate different topics into different sections
  - Important materials first
- Consistent numbering and formatting
- Tables and graphics
- Hyperlinks and cross-referencing
- Index and table of contents

# Layout

Dynamic Header

Prominent Titles

Nested Text

Balance Between Text and White Space

Illustrations with Captions

Adoption Date

Page Numbers

District Specific Development Standards  
Town Center Residential District  
Subsection 5.3 Site Layout and Building Organization

## 5.3 Site Layout and Building Organization

**A. INTENT**

(i) To ensure the layout and organization of infill development is compatible with the overall pattern of established residential development in the Town Center Residential District, and

(ii) To facilitate a range of housing options within existing structures of the Town Center District.

**B. CONTEXTUAL FRONT YARD SETBACKS**

(i) Town Center Residential development shall comply with standards for Contextual Front Yard Setbacks as contained in Section 2 of the Ordinance (Figure 18).

(ii) Where the established pattern of setbacks has not been established along the Street by means of existing front yard setbacks shall be a minimum of:

(1) 10 feet for detached single-family, and

(2) 15 feet for townhouses and multi-family.

*Figure 18*

**SITE LAYOUT AND BUILDING ORIENTATION: TOWN CENTER RESIDENTIAL DISTRICT**

(i) Controlled front yard setback not applicable where lots have three existing homes exist on a block

(ii) Minimum front yard setback applies

(iii) Existing homes oriented towards street

(iv) Orientation of infill development is consistent with existing development

(v) Multi-family building with multiple street frontages provide setbacks along each street frontage.

Morrisonville Town Center Code—Final Draft, December 2009 FZB Recommendation Version 49

# Language

- Goal of ordinance is to help people understand what actions are required or prohibited
- Use language that anyone can understand:
  - Plain language
    - Ex. ~~prior to~~ = “before”, ~~cease~~ = “stop”
  - Active voice
    - Ex. ~~When the forms have been submitted, a hearing will be set.~~ The city clerk will set a hearing date after you submit the forms.
  - Short, simple sentences



# Definitions

Organized alphabetically

Linked to state statutes

Illustrations help define related terms

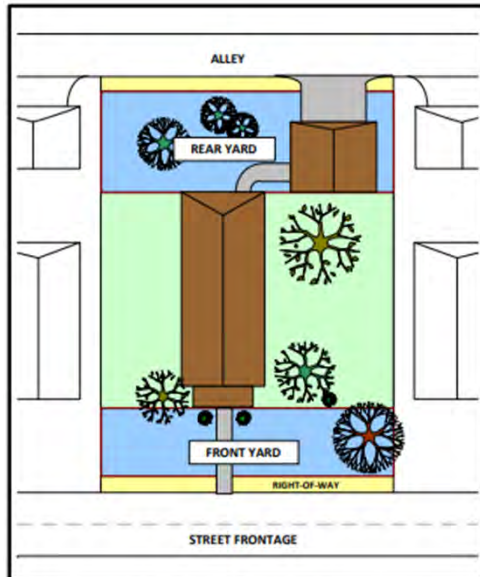


Figure 6.1 A-2b: Front & Rear Yard (Interior Parcel)

**Wholesale and distribution facility.** Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, construction contractors, and professional business users; or to other wholesalers, or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

**Wildlife management area.** An area specifically managed for wildlife and related uses.

**Wind energy facility.** Equipment that converts and then stores or transfers energy from wind into usable forms of energy as defined by *Section 66.0403(1)(m) of the Wisconsin Statutes*. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system.

**Wind generator.** Blades and associated mechanical and electrical conversion components mounted on top of the tower.

**Workmanlike.** Executed in a skilled manner; for example, plumb, level, square, in line, undamaged, done without marring adjacent work and done by using materials that match adjacent work.

## Y

**Yard.** All areas of a parcel not covered by a principal building.

**Yard: corner side yard.** The yard extending from the front yard to the rear yard and lying between an open public right-of-way and the principal structure.

**Yard: front.** The area extending the full parcel width and situated between the front parcel line and the face of the principal building that is parallel to, or most nearly parallel to, the front parcel line.

**Yard: rear.** The area extending the full parcel width and situated between the rear parcel line and the face of the principal building that is parallel to, or most nearly parallel to, the rear parcel line.

**Yard: side.** The area extending between the front yard and the side yard and situated between the side parcel line and the face of the principal building that is parallel, or most nearly parallel to, the side parcel line.

**Yard waste.** All accumulations of grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.

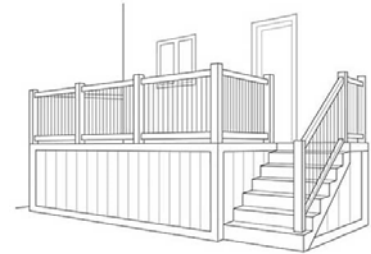
## Z

**Zoning Board of Appeals.** The Zoning Board of Appeals of the City Ashland.

Example: City of Ashland <https://www.coawi.org/181/Zoning-Development>

# Illustrations

**Deck** A structure characterized by a flat, unroofed, horizontal surface or platform suspended above the grade of the land it covers and which may be supported by posts, beams, cantilever, or other similar methods. A deck must have a permeable surface to allow the infiltration of precipitation.



**Patio** An at-grade surfaced area intended for outdoor living that may be next to a building or separated from a building.



**Porch** A part of a building with a roof of its own that covers an entrance.



**Stoop** A raised platform in front of an entrance to a building with one or more steps.



# B

## Purpose Statements

- Purpose statements provide justification for regulations
- Help elected and appointed officials, zoning staff, and courts interpret and apply regulations
- Statements may be found in several locations throughout ordinance

LEGAL BASIS:  
PROTECT HEALTH, SAFETY,  
WELFARE OF CITIZENS

# Review Purpose Statements

Look for general statements found at the beginning of the ordinance

## 1.01 Authority

This Ordinance is adopted under the authority granted by Sections 60.62, 61.35, 62.23(7), 87. Chapter 236 of the Wisconsin Statutes and amendments thereto.

## 1.02 Purpose

The purpose of this Ordinance is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of the residents of the Town of Newton. The Ordinance is a comprehensive, unified set of regulations that govern the subdivision of land, the development of land, and the use of land.

## 1.03 Intent

It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands, and waters; and to:

1. Regulate lot coverage and the size and location of all structures to prevent overcrowding and to provide adequate sunlight, air, sanitation, and drainage.
2. Regulate population density and distribution to avoid sprawl or undue concentration and to facilitate the provision of adequate public service and utilities.
3. Regulate parking, loading, and access to lessen congestion in, and promote the safety and efficiency of, streets and highways.
4. Secure safety from fire, pollution, contamination and other dangers.
5. Stabilize and protect existing and potential property values.
6. Preserve and protect the beauty of the Town of Newton.
7. Prevent and control erosion, sedimentation, and other pollution of the surface and subsurface waters.
8. Further the maintenance of safe and healthful water conditions.

# Review Purpose Statements

Look for purpose statements describing each zoning district

## 12.03 A-1 Agricultural/Rural Residential District

This district is intended to allow for limited rural residential development on lands that are not suited for agricultural production or, due to the proposed location, would have limited impact on agricultural production. It is also intended to improve growth management related to residential development within the planned agricultural areas established by the Comprehensive Plan. Lots are limited in number, size and location to minimize the impacts associated with rural residential development within predominantly agricultural areas. Residents of this district may experience conditions associated with preferred agricultural land uses that are not necessarily compatible with rural residential use.

## 12.07 R-2 Residential District

This district is intended to provide for preferred areas to accommodate residential growth in order to minimize impacts to agricultural resource lands, retain the Town's rural character, and maintain efficiency and provision of rural governmental services. Lands within this district include areas centered around existing town rural centers (e.g., Newton, Clover}, near the City of Manitowoc, and other limited areas. This district may be considered within the Rural center and Agricultural Transition Preferred Land Use Management Areas established by the Comprehensive Plan.

## 12.12 I-1 Industrial District

This district is intended to provide for manufacturing, warehousing, and other industrial operations, which on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reason of noise, dust, smoke, odor, traffic, physical appearance, degradation of groundwater or other nuisance factors; and to subject industrial operations to such regulatory controls as will reasonably insure compatibility in this respect.

*Analyze statements describing the purpose of the zoning ordinance, the purpose of specific zoning districts, and the purpose of specific regulations. They should provide support for conditions you are likely to attach to conditional use permits.*

Look for purpose statements related to specific sections

## Chapter 17.803

## Conditional Use Permits

### Section 17.803.01 PURPOSE AND AUTHORITY

A. **Purpose.** Certain uses are of such a nature or their effects are as dependent upon specific circumstances as to make impractical the determination in advance of where and when and under what conditions they should be permitted. Provision has been made in this chapter for the determination of such uses as conditional uses. Conditional uses are land uses listed as such in [Table 3](#) Uses Permitted by District. They may be established in such district only upon approval by the Board of Adjustment.

The procedures and standards in this Chapter are intended to provide a consistent and uniform method for review of conditional use permit proposals. These review procedures and standards are intended to accomplish the following purposes:

1. Ensure full compliance with the standards contained in this ordinance and other applicable local ordinances, and state and federal laws.
2. Achieve efficient use of the land.
3. Prevent adverse impact on adjoining or nearby properties.
4. Protect natural resources.
5. Facilitate development in accordance with the County's land use objectives per the Comprehensive Plan.



# Zoning Districts

Residential 1 Family <b>R-1</b>		Regional Commercial <b>C-3</b>	
Residential 1-2 Family <b>R-2</b>		Light Industrial <b>I-1</b>	
Residential 1-3 Family & Town House <b>R-3</b>		Medium Industrial <b>I-2</b>	
Residential Low-Rise Multifamily <b>R-4</b>		Heavy Industrial <b>I-3</b>	
Residential Mid-Rise Multifamily <b>R-5</b>		Mixed-Use 1 Residential & Commercial <b>MX-1</b>	
Residential High-Rise Multifamily <b>R-6</b>		Mixed-Use 2 Residential, Commercial, Welcome <b>MX-2</b>	
Neighborhood Commercial <b>C-1</b>		Port <b>PORT</b>	
Community Commercial <b>C-2</b>		Port & Airport Support <b>EWR &amp; EWR-S</b>	
		<b>RDV/SD</b>	

## Residential

- R-1 One Family
- R-2 1-2 Family
- R-3 1-3 Family/Townhouse
- R-4 Multifamily Low-Rise
- R-5 Multifamily Mid-Rise
- R-6 Multifamily High-Rise

## Commercial

- C-1 Neighborhood
- C-2 Community
- C-3 Regional

## Industrial

- I-1 Light
- I-2 Medium
- I-3 Heavy

## Mixed-Use

- MX-1 Low-Density RES/COMM
- MX-2 Med-Density Res/Comm/Ind
- MX-3 High-Density Res/Comm/Ind

## Other

- INST Institution
- PARK Parks/Open Space
- CEM Cemetery
- EWR/S Airport/Airport Support
- PORT Port Industrial
- RDV Redevelopment Zone



# Zoning Districts

- Consolidate zoning districts where distinctions between uses are minor
- Create new districts when needed to implement plans or policies
- Consider eliminating district-by-district list of uses and replacing with matrix showing uses allowed in each district



# Examine Districts

## Analysis of Zoning District Types, Uses, Purposes

Base Zoning Districts		Uses Listed?	Purpose?
R-1	Single-Family Residential District	Yes	No
R-160	Special Single-Family Residential District	Yes	Kind of
R-2	Single-Family and/or Duplex Residential District	Yes	No
R-4	Multi-Family Residential District	Yes	No
R-MMH	Manufactured and Mobile Home District	Yes	Kind of
TMD	Traditional/Mixed Neighborhood District	Yes	No
T-C	Transitional Commercial/Business District	Yes	No
B-1	Neighborhood Business District	Yes	No
B-2	Community Business District	Yes	No
M-1	Light Industrial District	Yes	Yes
M-2	Industrial District	Yes	No
M-3	Heavy Industrial District	Yes	No
A-1	Agricultural District	Yes	No
P-1	Public and Semi-Public District	Yes	No
PUD	Planned Unit Development Overlay (overlay also)	Yes; 13-3-5 (a, b)	No
MCD	Medical Campus District	Yes; 13-3-62 (i)	Yes

Example: City of Onalaska, Zoning Code Issue Diagnosis and Outline, Hoisington Koegler Group, 2019 <https://cityofonalaska.com/udc>

# Relationship to Comprehensive Plan

## Implement the 2016 Comprehensive Plan

One of the objectives of the city's UDC Rewrite project is to implement the regulatory recommendations of the 2016 Comprehensive Plan. The following is an overview of these recommendations:

- Revise and/or create the city's zoning districts that align with the Comprehensive Plan's Future Land Use Plan Districts including:
  - Environmentally Sensitive Development District
  - Mixed Density Residential District
  - Downtown Mixed Use District
  - "Smart Growth Areas" Mixed Use District
  - Commercial District
  - Industrial District
  - Medical Facility Campus District
  - Institutional District
  - Parks and Open Space District
  - Environmental Corridor
- Update the Zoning Map's application of zoning districts to align with the Future Land Use Plan Map

Example: City of Onalaska, Zoning Code Issue Diagnosis and Outline, Hoisington Koegler Group, 2019 <https://cityofonalaska.com/udc>

# Triage: keep, eliminate, consolidate

## Overview of the current and proposed zoning districts

Current Zoning District	Proposed Zoning District	Purpose of <u>Proposed</u> Zoning District ←
Agricultural	A-1 Agriculture	<ul style="list-style-type: none"> <li>♦ Intended for agricultural uses.</li> <li>♦ Meets zoning criteria for farmland tax credits through 2013.</li> <li>♦ Allows homes at density of 1 home per 35 acres.</li> </ul>
Agricultural District No. 2	A-2 General Agriculture	<ul style="list-style-type: none"> <li>♦ Intended for agriculture with limited residential.</li> <li>♦ Intended for rural areas with existing parcels smaller than 35 acres.</li> </ul>
None	A-3 Agriculture Business	<ul style="list-style-type: none"> <li>♦ Intended for agriculture-related businesses not desirable in A-1 district or general commercial or industrial districts.</li> </ul>
Agricultural Overlay	A-4 Agricultural Overlay	<ul style="list-style-type: none"> <li>♦ Provides zoning restriction against all but ag-building development.</li> <li>♦ Helps track density policy per county and town comprehensive plans.</li> </ul>
None	C-1 Light Commercial	<ul style="list-style-type: none"> <li>♦ Small-scale commercial, institutional, residential, and open space uses.</li> <li>♦ Character protected through building and site design standards.</li> <li>♦ May also be appropriate for pre-existing hamlet areas.</li> </ul>
Commercial	C-2 General Commercial	<ul style="list-style-type: none"> <li>♦ Wider range of commercial uses than C-1.</li> </ul>
Highway Interchange	C-3 Highway Interchange	<ul style="list-style-type: none"> <li>♦ Intended for areas close to highway interchanges.</li> <li>♦ Wider range of commercial uses than C-1, but more by conditional use.</li> <li>♦ Light industrial &amp; agricultural uses allowed with conditional use permit.</li> <li>♦ Character protected through building and site design standards.</li> </ul>

Example: Columbia County, Zoning Ordinance Update, User Guide, 2011

# Map Zoning Districts

Interactive zoning map with link to:

- Allowed uses
- Dimensions
- Procedures
- Definitions
- Applications

The screenshot displays the website for Wisconsin Rapids, featuring a navigation bar with links for Home, Interactive Map, Highlights, Administration, and Tools. Below the navigation bar is a search bar labeled "Zoning Code | Home" and a search input field with the placeholder text "I Want to...". The main content area is dominated by an aerial map overlaid with various colored zoning districts. A callout box with a hand icon and the text "Interactive Zoning Map" is positioned over the map. Below the map are three vertical navigation panels: "Highlights" (containing links for Zoning Districts, Land Uses, Dimensional Standards, Procedures, and Definitions), "Administration" (containing links for Pending Applications, Nonconformities, and Application Forms), and "Tools" (containing links for Find Your Zoning, Sign Up for eAlerts, and Submit An Application). At the bottom of the page is a "Disclaimer" section stating that the information is provided for informational use only and to review the Terms of Use.

Example: City of Wisconsin Rapids, Interactive Viewer <https://wisconsinrapids.zoninghub.com/home.aspx>



# Use Classifications

## VILLAGE CENTER; PERMITTED USES

- adult day-care homes
- bakery
- barber shop or salon
- bed and breakfast inn
- bicycle shop
- bookstore
- candy, pastry, ice cream, or snack shop
- child day-care homes
- copy center
- delicatessen
- financial institution
- florist
- fruit and vegetable market
- general office
- gift shop
- hardware/garden supply store
- health and fitness facility
- hotel/motel
- instructional services
- laundry and dry cleaning
- medical clinic
- neighborhood retail establishments
- multi-family dwelling units
- pharmacy
- place of worship
- plant nurseries, sales & greenhouses
- police, fire or rescue station
- post office
- printing and publishing
- restaurants
- retail sales
- single-family, attached dwelling unit
- single-family, detached dwelling unit
- theaters
- video rental store

## VILLAGE CENTER; CONDITIONAL USES

- automobile service station
- car wash
- motor vehicle repair
- retail gasoline sales
- veterinary



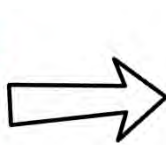
## Use Classifications

- Review long lists of dated uses
- Collapse similar uses into use categories
- List specific uses when there is a need to regulate differently or permit in different locations
- Organize uses so they are easily identifiable as permitted, conditional, or prohibited
- Use a table or matrix to organize uses

# Review Lists of Uses

## § 475-19 Commercial District.

Uses that are not listed are prohibited



A. Use regulations. Only the approved specified uses are allowed in the Commercial District.

(1) No building or land shall be used and no building shall be hereafter erected or structurally altered except for one or more of the following uses:

Permitted uses



- (a) Office buildings.
- (b) Buildings which are devoted to retail trade or service.
- (c) Indoor tennis facilities, public or private.
- (d) Health facilities, gymnasiums, yoga centers, meditation centers, martial arts training facilities and the like.
- (e) Dance studios.
- (f) Greenhouses.
- (g) Bank buildings and drive-up banking facilities in conjunction with bank buildings located on the same parcel.
- (h) Restaurants, excluding drive-in restaurants or food-serving facilities offering in-car service from a drive-through service window or counter.
- (i) Taverns and pubs, including licensed liquor establishments and excluding brewpubs and micro-breweries. **[Amended 8-18-2015 by Ord. No. 2015-06]**
- (j) Laundromats and dry-cleaning establishments providing direct retail customer services.
- (k) Day-care centers.
- (l) Hospital(s).
- (m) Clinic(s).
- (n) Hair styling salons, beauty salons, and/or health and beauty spa facilities.
- (o) The following, if approved as a conditional use under the provisions of Article VII,

Conditional uses



Conditional Uses: **[Added 8-18-2015 by Ord. No. 2015-06]**

- [1] Brewpub.
- [2] Micro-brewery.
- [3] Mixed residential and commercial uses.
- [4] Apartment buildings, multiple family dwellings, and residential condominiums for three or more families.



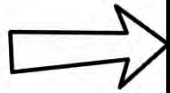
Please type observations in the chat box:

- What is good about this example?
- What is confusing?
- Does your ordinance look like this?



§ 475-20 Light Industrial District.

Uses that are not listed are prohibited



A. Use regulations. In a Light Industrial District no building or land shall be used and no building shall hereafter be erected or structurally altered except for one or more of the following uses:

Permitted uses



- (1) All uses permitted in the Commercial District, including those that require a conditional use permit. [Amended 8-18-2015 by Ord. No. 2015-06]
- (2) Storage of structural material, exclusive of coal or oil.
- (3) Privately owned athletic field operated for profit.
- (4) Warehousing or wholesaling materials not otherwise prohibited in this chapter.
- (5) Hospitals and clinics.
- (6) Any other use except the following:

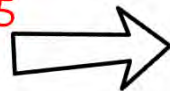
Are conditional uses permitted by-right?

(1) Look to commercial district for uses

(6) Any other use not listed is allowed

BONUS POINT:  
What is an abattoir?

100+ prohibited uses totaling 5 pages!



- Abattoirs
- Acetylene gas manufacture, storage or bottling
- Acid manufacture, storage or bottling
- Alcohol manufacture, storage or bottling
- Ammonia, bleaching powder or chlorine manufacture
- Arsenal, explosives manufacture or storage including fireworks
- Asbestos manufacture
- Asphalt manufacture or refining
- Assaying or smelting by the furnace method, but not including 1 furnace of 2 cubic feet capacity

# AFTER

**TABLE 7-1 – PRINCIPAL USE TABLE**

USE CATEGORY	Districts										Definition & Regulations
	Residential		Mixed-use						Special		
Use Subcategory	R1	R2	NX	GX	GXR	MXR	MX2	MX1	PI-1	PI-2	
Specific Use Type											

## INDUSTRIAL

### Fabrication and Production

Artisan	-	-	-	●*	●*	●*	●*	●*	-	-	<a href="#">475-75.A</a>
Low-Impact	-	-	-	-	-	-	-	-	-	-	<a href="#">475-75.A</a>
Greenhouse/Nursery	-	-	-	●*	●*	●*	●*	-	-	-	<a href="#">475-75.A</a>

### Storage, Distribution & Wholesaling

Self-service Storage	-	-	-	©	-	-	-	-	-	-	<a href="#">475-75.B</a>
Warehouse	-	-	-	-	-	-	-	-	-	-	<a href="#">475-75.B</a>
Wholesale Sales and Distribution	-	-	-	-	-	-	-	-	-	-	<a href="#">475-75.B</a>

**KEY:** ● = permitted by right | ● = permitted only above ground-floor | © = conditional use - = prohibited

Example: Village of Allouez, Zoning 2020, <https://www.ecode360.com/AL3593/laws/LF1209473.pdf>

# Modern Use Table

Zoning districts listed  
across top of table

Development standards  
linked in the text

Key:	P Permitted Use				C Conditional Use			(Blank) Use Not Permitted					
USE	Residential Districts				Agricultural Districts			Nonresidential Districts				Development Standards	
	U-R	L-D-R	R-R	R-E	F-P	G-A	C-V/R-C	N-C	C	B-R	L-I	H-I	
<b>COMMERCIAL, OFFICE, and SERVICE USES</b>													
Adult Entertainment									C				<a href="#">Section 17.204.35</a>
Bank or Financial Institution								P	P	P			
Bar, Tavern, or Micro-Brewery						C		P	P	P			
Bed and Breakfast			C	C		C		C					<a href="#">Section 17.204.36</a>
Business Service Establishment						C		P	P	P			
Car Wash						C		C	C	C			<a href="#">Section 17.204.37</a>
Drive-Through Facility (accessory to a principle use)								P	P				<a href="#">Section 17.204.38</a>
Gas Station								C	C				<a href="#">Section 17.204.39</a>
Motel or Hotel								C	C	C			
Office, Research, Professional Services								P	P	P	P	P	
Personal Service Establishment						C		P	P	P			
Gun Ranges					C	C	C						<a href="#">Section 17.204.40</a>
Archery Range					P	P	P						<a href="#">Section 17.204.41</a>
Place of Assembly						C		P	P				<a href="#">Section 17.204.49</a>
Public or Self-Storage						C		P					<a href="#">Section 17.204.42</a>
Recreation, Indoor		C	C	C		C	C	P	P				<a href="#">Section 17.204.43</a>
Recreation, Outdoor		C	C	C		C	C	C	C				<a href="#">Section 17.204.44</a>
Restaurant						C		P	P	P			

Uses are displayed down the left side of the table

Uses classified as permitted, conditional, or not permitted

# Modern Use Classification

## Use Category

### Use subcategory

Specific use type

## RESIDENTIAL

### Household Living

Single household (per lot)

Two households (per lot)

Three or more households (per lot)

### Group Living

Community living arrangement (up to 8 residents)

Community living arrangement (9-15 residents)

Community living arrangement (over 16 residents)

Institutional residential

## Practice Pointer

subcategories and  
specific uses are  
only listed if  
regulations differ

Example: Village of Mount Pleasant <https://ecode360.com/36325391>

# Modern Use Classification

## COMMERCIAL

### **Animal service**

- Boarding
- Grooming
- Veterinary

### **Assembly or entertainment**

- Type 1
- Type 2

### **Business or trade school**

### **Commercial services**

- Consumer maintenance and repair
- Personal service
- Studio or instructional service

### **Day care**

- Adult day care
- Family day-care home
- Day-care center (up to 30 enrollees)
- Day-care center (more than 30 enrollees)

### **Financial service**

- Convenient cash business
- All other financial services

### **Funeral or mortuary service**

### **Lodging**

- Bed-and-breakfast inn
- Hotel or motel
- Short-term rental

## Practice Pointer

subcategories and specific uses are only listed if regulations differ

## Use Table

Ⓟ = Permitted by-right

Ⓢ = Conditional use

↑ = Must be above ground floor

— = Prohibited use

USE CATEGORY	Residential			Mixed-Use				Business					Industrial			Public		Agricul.		Description and Supplement Regulations
	RE	RL	RM RH	MX1	MX2	MX3	MX4	B1	B2	B3	B4	BP	M1	M2	M3	P1	P2	AG1	AG2	
<b>COMMERCIAL</b>																				
<b>Animal service</b>																				
Boarding	—	—	—	—	—	—	Ⓢ	—	Ⓢ	Ⓢ	Ⓢ	—	—	Ⓟ	—	—	—	Ⓢ	Ⓟ	§ 90-320.80(a)
Grooming	—	—	—	—	—	Ⓟ	Ⓟ	—	Ⓟ	Ⓟ	Ⓟ	—	—	—	—	—	—	—	—	§ 90-320.80(a)
Veterinary	—	—	—	—	Ⓢ	Ⓟ	Ⓟ	—	Ⓢ	Ⓟ	Ⓟ	—	—	—	—	—	—	—	—	§ 90-320.80(a)
<b>Assembly or entertainment</b>																				
Type 1	—	—	—	—	—	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	—	—	—	—	—	—	—	—	§ 90-320.80(b)
Type 2	—	—	—	—	—	Ⓟ	Ⓟ	—	—	Ⓟ	Ⓟ	—	—	—	—	—	—	—	—	§ 90-320.80(b)
<b>Business or trade school</b>	—	—	—	—	—	—	Ⓟ	—	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	—	—	—	—	§ 90-320.80(c)
<b>Commercial service</b>																				
Consumer maintenance and repair service	—	—	—	—	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	—	Ⓟ	Ⓟ	—	—	—	—	—	§ 90-320.80(d)
Personal service	—	—	—	—	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	—	Ⓟ	Ⓟ	—	—	—	—	—	§ 90-320.80(d)
Studio or instructional service	—	—	—	—	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	Ⓟ	—	Ⓟ	Ⓟ	—	—	—	—	—	§ 90-320.80(d)

# Communicating Change

The following provides a color coded summary of use classifications proposed by the draft zoning ordinance.

Previously not permitted

Previously a special use permit

Use not previously identified

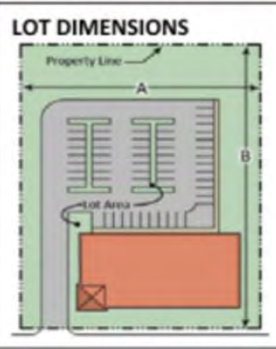
USE CATEGORY	Zoning Districts											Supplemental Regulations (Section)
Use Subcategory Specific Use Type	R-1	R-2	R-3	R-4	B-2	B-3A	B-3B	O	O-R	I-1	C/U	
<b>RESIDENTIAL</b>												
<b>Household Living</b>												
Detached House	P	P	P	P	-	-	S	-	-	-	-	
Duplex	-	-	P	P	-	-	S	-	-	-	-	
Townhouse	-	-	P	P	-	-	S	-	-	-	-	
Multi-Unit (except as follows)	-	-	-	P	-	S	S	-	S	-	-	
Multi-Unit Above Ground Floor	-	-	-	-	-	P	P	-	-	-	-	
<b>Group Living (except as follows)</b>	S	S	S	S	-	-	-	-	-	-	-	
<b>Community Residence</b>	P	P	P	P	-	-	-	-	-	-	-	5-7-5-2-a

Example: Village of Lisle, IL, Zoning Update <https://www.villageoflisle.org/760/Zoning-Ordinance-Update-Project>

# E

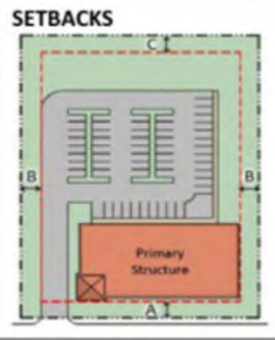
# Development Standards

## DEVELOPMENT STANDARDS



**A. Minimum Lot Width:**  
60 feet

**B. Minimum Lot Depth:**  
100 feet

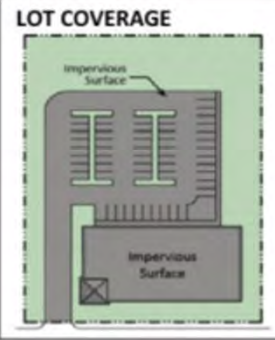


**A. Maximum Front Building Setback:** Min. 25' setback from 441, max. 15' setback from internal street

**B. Minimum Side Building Setback:** 5 feet

**C. Minimum Rear Building Setback:** 10 feet

**Minimum Distance between Buildings:** n/a



**Maximum Impervious Surface Coverage:**  
80%

**Parking Lot Placement:**  
No parking permitted between internal street and building unless the parking is designed as one row of parking (angle or parallel) located between the internal street and the pedestrian walkway

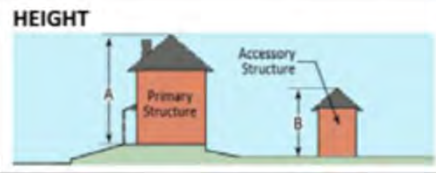
**Building Orientation:**  
parallel to internal street



**Maximum Residential Density:**  
4 d.u./acre single family  
16 d.u./acre multi-family

**Maximum FAR (Floor Area Ratio):** 2.0

**Minimum Common Open Space:** 15%



**Maximum Structure Height:**

**A. Primary:** 45 feet \*

**B. Accessory:** 35 feet \*

\*Exceptions for architectural features provided in additional sections.

## ADDITIONAL DEVELOPMENT STANDARDS

Dumpster Enclosures	Sect. 6.3	Building Massing	Sect. 7.3
Utility Equipment	Sect. 6.4	Building Façade Character	Sect. 7.4
Exterior Lighting	Sect. 6.5	Roof Form & Articulation	Sect. 7.5
Landscaping	Sect. 6.6	Rooftop Equipment	Sect. 7.6
Buffers	Sect. 6.7	Franchise Architecture	Sect. 7.7
Fences	Sect. 6.8	Architecture Unity	Sect. 7.8
Stormwater Mgmt.	Sect. 6.9	Signage	Article 8
Bldg Material & Color	Sect. 7.1	Viewshed Protection	Article 9
Building Height	Sect. 7.2	Parking	Article 10

Example: Jackson County, NC [https://library.municode.com/nc/jackson\\_county/](https://library.municode.com/nc/jackson_county/)





# Development Standards

- Use tables to summarize dimensional requirements (lot size, setbacks, density, etc.)
- Add specific use standards (regulations addressing uses such gravel pits, event barns, etc.)
- Consolidate and review general development standards (parking, landscaping, lighting, signage, site design, building design, environmental standards, etc.)
- Include clear, objective decision standards
- Add graphics to illustrate standards

**3.2.3. OLD TOWN RESIDENTIAL (OTR)**

**Purpose**

The purpose of the Old Town Residential district is to allow residential uses and densities that are consistent with the historic character of Old Town Carbondale. This area has unique scenic, historic, natural, and design features that should be preserved and integrated into new development. Special emphasis shall be placed on the quality and character of the built environment in this district, and the unique lot and home sizes characteristic of the original Townsite. The OTR district should emphasize pedestrians more than cars. Single-family dwelling units continue to be the predominant development type in this district.

**Applicable Regulations**

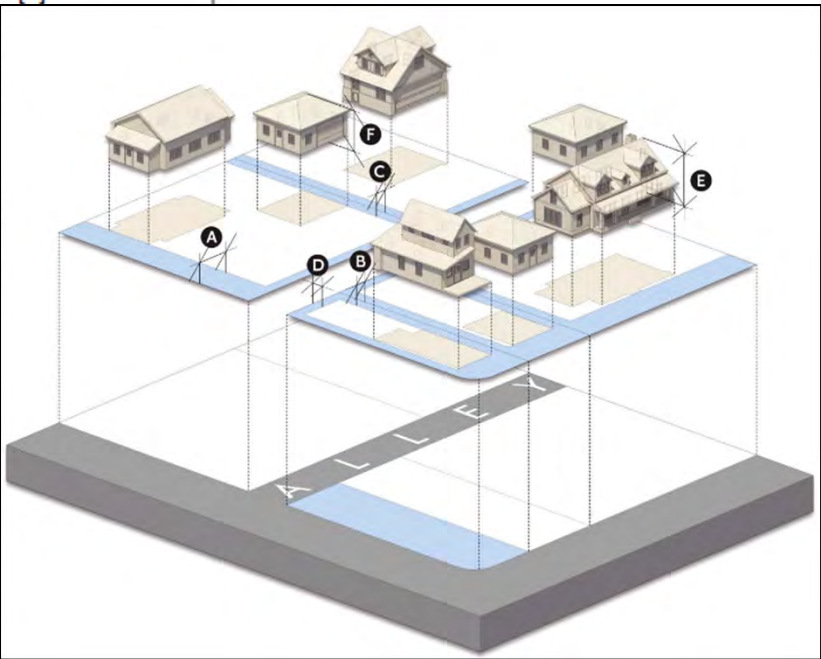
The following regulations apply in this district:

Summary Tables of Dimensional Standards	Section 3.7
Exceptions to Dimensional Standards	Section 3.7.5
Allowable Uses	Section 4.2
Use-Specific Standards	Section 4.3
Site and Building Design	Section 5.6 and 5.7
Landscaping and Screening	Section 5.4
Off-Street Parking	Section 5.8

## Dimensional Standards

<b>Table 3.2-3: OTR District Dimensional Standards</b>	
<b>Lot Standards</b>	
Lot area, minimum	4,125 sf
Lot area, minimum, with Accessory Dwelling Unit	5,500 sf
Lot depth, minimum	100 feet
Lot width, minimum	37.5 feet
Lot width, minimum, with Accessory Dwelling Unit	50 feet
Impervious lot coverage, maximum	See Table 3.7-2
<b>Setbacks, Minimum</b>	
<b>A</b> Front	15 feet
<b>B</b> Side	5 feet [1]
Side, street	10 feet
<b>C</b> Rear	5 feet
<b>D</b> Rear, adjacent to alley	5 feet
<b>Building Standards</b>	
<b>E</b> Height, principal dwelling unit, maximum	25 feet
	14 feet
<b>F</b> Height, accessory buildings, maximum	21 feet
	than 10 feet
<b>Notes:</b>	
[1] See Sec. 5.6.6.B for additional height limitations.	

## Dimensions Illustrated



Example: Town of Carbondale, CO [https://www.carbondalegov.org/document\\_center/Planning/Unified%20Development%20Code.pdf](https://www.carbondalegov.org/document_center/Planning/Unified%20Development%20Code.pdf)

## Specific-Use Standards

### F. Bed and Breakfast Establishments

Bed and breakfast establishments shall comply with the following standards:

1. Generally
  - a. The maximum number of bedrooms for any bed and breakfast establishment shall be five.
  - b. The number of proposed bedrooms shall be provided during the pre-application meeting for bed and breakfast establishments.
  - c. A proprietor or manager shall reside on the premises.
  - d. Guest rooms shall be located only in the principal building on a property or lot.
  - e. The kitchen shall not be altered to become a commercial kitchen within the meaning of the currently adopted Building Code.
  - f. Meals shall be served only to permanent residents and overnight guests.
  - g. No food catering operations shall be based on the bed and breakfast premises.
  - h. The maximum length of any guest's stay shall be 30 days.
  - i. Any violation of the standards above shall be justification for immediate termination or suspension of the conditional use permit or special use permit. Establishing or continuing operation of a bed and breakfast establishment without a valid permit is a violation of this Code.

# Clear and Objective Standards

Example: Eau Claire County Zoning Ordinance Analysis  
<https://www.co.eau-claire.wi.us/home/showdocument?id=29409>

Existing Section 18.50.30	Rewritten
<p>A. Removal. It is the express policy of Eau Claire County and this ordinance that mobile service support structures be removed once they are no longer in use and not a functional part of providing mobile service and that it is the mobile service support structure owner's responsibility to remove such mobile service support structures and restore the site to its original condition or a condition approved by the Eau Claire County Planning and Development Department. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to three feet below the surface. After a mobile service support structure is no longer being used for mobile service that is in operation, the mobile service support structure owner shall have one hundred eighty (180) days to effect removal and restoration unless weather prohibits such efforts. Permittee shall record a document with the Eau Claire County Register of Deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure.</p>	<p>A. <b>Removal.</b> Within 180 days after the use of a mobile service support structure ceases, the structure's owner must:</p> <ol style="list-style-type: none"> <li>1. Remove the structure and all subsurface structure or foundation materials to a depth of at least 3 feet below the ground surface,</li> <li>2. Restore the site to its original condition, or the condition required by the structure's land use permit, and</li> <li>3. Record a document with the Eau Claire County Register of Deeds identifying and describing all subsurface materials remaining below the ground surface, if any.</li> </ol>
<ul style="list-style-type: none"> <li>- 181 words</li> <li>- No white space</li> <li>- Passive voice</li> </ul>	<ul style="list-style-type: none"> <li>- 86 words</li> <li>- White space</li> <li>- Active voice</li> </ul>

# Hot Topics for Updating!

- Housing types (missing middle, accessory dwelling units)
- Residential lots (small lots, zero lot lines)
- Parking (maximums, eliminating requirements)
- Sustainability (solar, green infrastructure)
- Signs (content neutral after Reed vs Gilbert)
- Urban agriculture (chickens, community gardens)
- New Uses (short-term rentals, wedding barns)
- Dated definitions (family)

[Type additional ideas in the chat box]



# Administrative Procedures

## Division IV: Administration and Permits

<b>Chapter 17.30</b>	<b>Planning Authorities</b> .....	<b>Division IV, Page 1</b>
17.30.010	Purpose .....	Division IV, Page 1
17.30.020	City Council .....	Division IV, Page 1
17.30.030	Planning Commission.....	Division IV, Page 1
17.30.040	Community Development Director.....	Division IV, Page 2
17.30.050	Zoning Administrator .....	Division IV, Page 3
17.30.060	Summary of Review Authorities for Decisions and Appeals.....	Division IV, Page 4
<b>Chapter 17.31</b>	<b>Common Procedures</b> .....	<b>Division IV, Page 5</b>
17.31.010	Purpose .....	Division IV, Page 5
17.31.020	Application Forms and Fees.....	Division IV, Page 5
17.31.030	Pre-Application Review.....	Division IV, Page 6
17.31.040	Review of Applications.....	Division IV, Page 6
17.31.050	Environmental Review .....	Division IV, Page 7
17.31.060	Public Notice .....	Division IV, Page 7
17.31.070	Conduct of Public Hearings.....	Division IV, Page 8
17.31.080	Timing and Notice of Action and Findings Required .....	Division IV, Page 9

Figure 90-550-1  
Conditional Uses





# Administrative Procedures

- Describe process and authority
- Considered tiered review/permitting thresholds
- Reduce discretionary approvals such as conditional uses, planned unit developments, etc.
- Provide general ordinance flexibility to address non-conformities, variances, etc.
- Explain process with graphics, flowcharts, user manuals



# Types of Decisions (review process, authority, criteria)

## Adequacy of Decision Criteria in Zoning Code

Type of Application	Adequacy of Decision Criteria in Zoning Code
Filling permit	Decision criteria are established in s. 13-1-16(j); they are generally clear
Planned unit development district	Criteria are included in s. 13-1-56; they are generally inadequate and severely constrain the discretion of the City
Conditional use	Decision criteria are listed in s. 13-1-66; additional criteria could be added to more fully evaluate the desirability of conditional uses
Sign permit, but not including off-premise signs	Issuance of a sign permit is administrative, there is little discretion; no specific criteria are needed
Sign permit, off-premise signs	Decision criteria are needed to help the Plan Commission in making their decision
Certificate of compliance	Issuance of a sign permit is administrative, there is little discretion; no specific criteria are needed
Site plan	Criteria are included in s. 13-1-144(d) and (e); additional standards could be added
Code amendment – text and map	Text revisions are purely legislative; while map amendments are also legislative in nature, criteria can be added to ensure the map is consistent with sound land planning principles (i.e., no spot zoning)
Administrative appeal	Criteria are not necessary in that the Board of Appeals is reviewing an administrative decision made in the context of established standards
Variance	Criteria used by the courts are generally well established; these same criteria should be used in reviewing variance requests
Code interpretation	Criteria are lacking
Conversion of existing nonconforming use (substitutions)	Criteria are lacking
Authorization of unclassified/unspecified uses	Criteria are lacking
Authorization of temporary uses	Criteria are lacking

Example: Washburn Zoning Code Project, Technical Review Report, Civitek Consulting, 2013

# Permitting and Review Thresholds

**No Approval Required:** changes in use within same category, small projects where standards are explicit (shed, fence, minor home occupation, etc.)

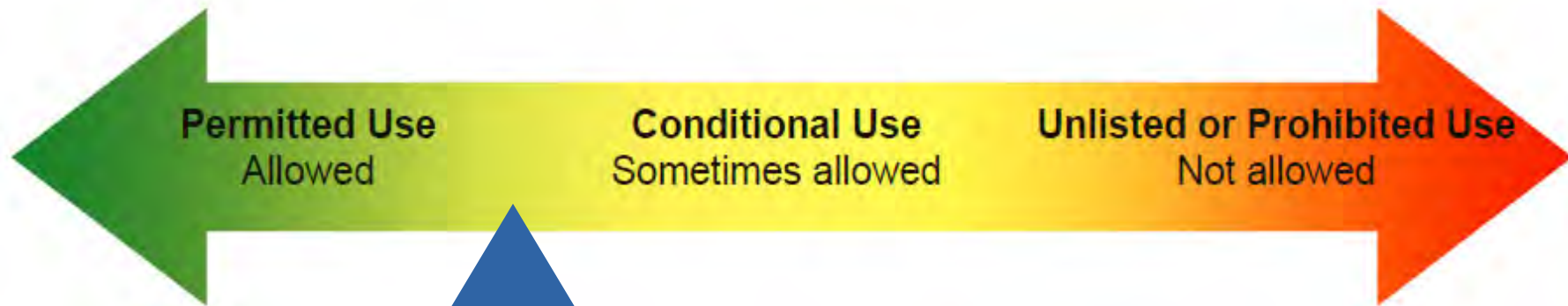
**Building Permit Only:** No zoning review required, if complies with all lot requirements

**Administrative Review:** Staff review if application is within 5% of by-right lot standards

<b>Site Plan Review Thresholds</b>			
	<b>Administrative Site Plan Review (Staff)</b>	<b>Minor Site Plan Review (Planning &amp; Zoning Commission)</b>	<b>Major Site Plan Review (Board Of Trustees)</b>
<b>Residential Districts<sup>[1][2]</sup></b>			
R/LD and OTR		Single-family with accessory dwelling unit	
R/MD	< 4 units	4-6 units	> 6 units
R/HD	< 6 units	6-9 units	> 9 units
<b>Commercial and Mixed-Use Districts<sup>[1][2]</sup></b>			
HCC	< 5,000 sf	5,001 – 10,000 sf	> 10,000 sf
C/T	< 7,000 sf	7,001 – 12,000 sf	> 12,000 sf
MU <sup>[3]</sup>	< 6 units or < 7,000 sf	6-9 units or 7,001 – 12,000 sf	> 10 units or > 12,000 sf
<b>All Other Districts</b>			
All other districts	< 10,000 sf	10,001 - 30,000 sf	> 30,000 sf

Example: Town of Carbondale, CO [https://www.carbondalegov.org/document\\_center/Planning/Unified%20Development%20Code.pdf](https://www.carbondalegov.org/document_center/Planning/Unified%20Development%20Code.pdf)

# Reduce Discretionary Approvals



## Restricted Uses

Conditional uses can be unpredictable in implementation. Restricted uses are a preferred method where the restrictions are clearly defined and can be implemented by right if complied with.

- (P) Use is permitted
- (R) Use is permitted, provided it complies with specific-use restrictions
- (C) Use may be permitted, subject to board approval
- (N) Use is not allowed

Example: Users' Guide to Zoning Reform, Congress for the New Urbanism, 2018  
[https://www.cnu.org/sites/default/files/Enabling\\_Better\\_Places\\_Jan\\_2018.pdf](https://www.cnu.org/sites/default/files/Enabling_Better_Places_Jan_2018.pdf)

# Administrative Waivers

## Chapter 17.37 Waivers

---

### 17.37.010 Purpose

The purpose of this Chapter is to establish an alternate means of granting relief from the requirements of this Ordinance when so doing would be consistent with the purposes of the Ordinance and it is not possible or practical to approve a Variance. It also allows the Director to grant waivers when necessary to comply with the Federal Fair Housing Act, the Americans with Disabilities Act, and the California Fair Employment and Housing Act to provide reasonable accommodation to persons with disabilities seeking fair access to housing through a waiver of the application of the City's zoning regulations.

### 17.37.020 Applicability

Waivers may be granted as follows:

- A. **Dimensional Requirements.** Relief from dimensional requirements of property development standards specified in this Ordinance, not to exceed 10 percent of the requirement, may be granted in accordance with the requirements of this Chapter.
- B. **Accommodation of Disabilities.** A waiver of any zoning regulation where the waiver is necessary to allow improvements to an existing building in order to provide reasonable accommodations to individuals with disabilities. This waiver is not available in the case of new buildings, demolitions and rebuilds, or additions where the proposed construction precludes a reasonable accommodation that would not require a waiver.
- C. **Exclusions.** Waivers cannot be granted for any of the following standards:
  - 1. Lot area, width, or depth.
  - 2. Residential density.

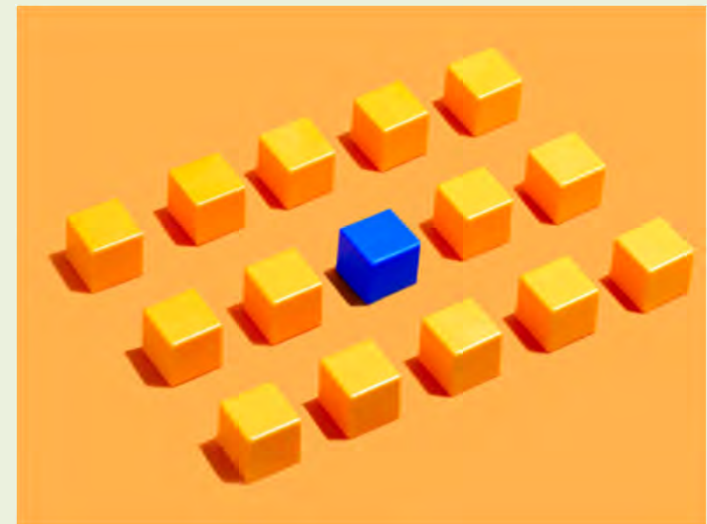
Example: Newark CA <http://www.newark.org/home/showdocument?id=4251>



# Nonconformities



Legal Nonconformity – use or development feature that was legal when it was established, but no longer meets current zoning requirements.





# Nonconformities

- Describe how to handle nonconforming uses, structures, lots, and other situations
- Legalize nonconformities when adopting new regulations
- Remain strict on nuisances while allowing continued use, maintenance, and repurposing of valuable community resources
- Refer to Wisconsin state statutes for guidance

## Municipal Code, City of Wausau, WI

### Title 23 – Zoning, Article V. – Nonconforming Situations

<https://library.municode.com/wi/wausau/codes>

#### 23.05.01 - Purpose.

The purpose of this article is to establish regulations for the following nonconforming situations created legally prior to the effective date of this title:



**Nonconforming Use** – use of land or structures does not meet current requirements



**Nonconforming Lot** – lot does not meet minimum area, width, frontage or other requirements



**Nonconforming Structure** – structure does not meet size, location or dimensional requirements



**Nonconforming Site** – site does not meet building or design requirements (i.e. materials, parking, landscaping, fencing, lighting)

Blanket statements were added to legalize and allow continuation of existing non-conforming situations upon adoption of new ordinance.

## MEMORANDUM

To: Cameron Clapper, City Manager

From: Wally McDonell, Whitewater City Attorney  
Chris Munz-Pritchard, Neighborhood Services Director

Date: March 22, 2019

Re: Nonconforming Lot, Use, and Structures amendment to zoning ordinance chapter 19.09 and 19.60.

---

The City is updating the Nonconforming Lot, Use, and Structures ordinance in chapter 19.09 and 19.60. The current language does not comply with state laws. It is important to note that this amendment is not a significant change of the substantive law related to nonconforming uses/structures, rather an update with some minor substantive changes. To help clarify the zoning ordinance I have provided definitions, diagrams and examples.

There are three types of nonconforming when discussing planning and zoning. There is the nonconforming lot, nonconforming structure, and the nonconforming use. There is a distinction between the nonconforming use of a structure and a nonconforming structure or nonconforming lot that is nonconforming for reasons of size or location.

A **nonconforming structure** is a structure that complied with zoning and development regulations at the time it was built but which, because of subsequent changes to the zoning and/or development regulations, no longer fully complies with those regulations. The example below shows two homes that are built over the setback line.

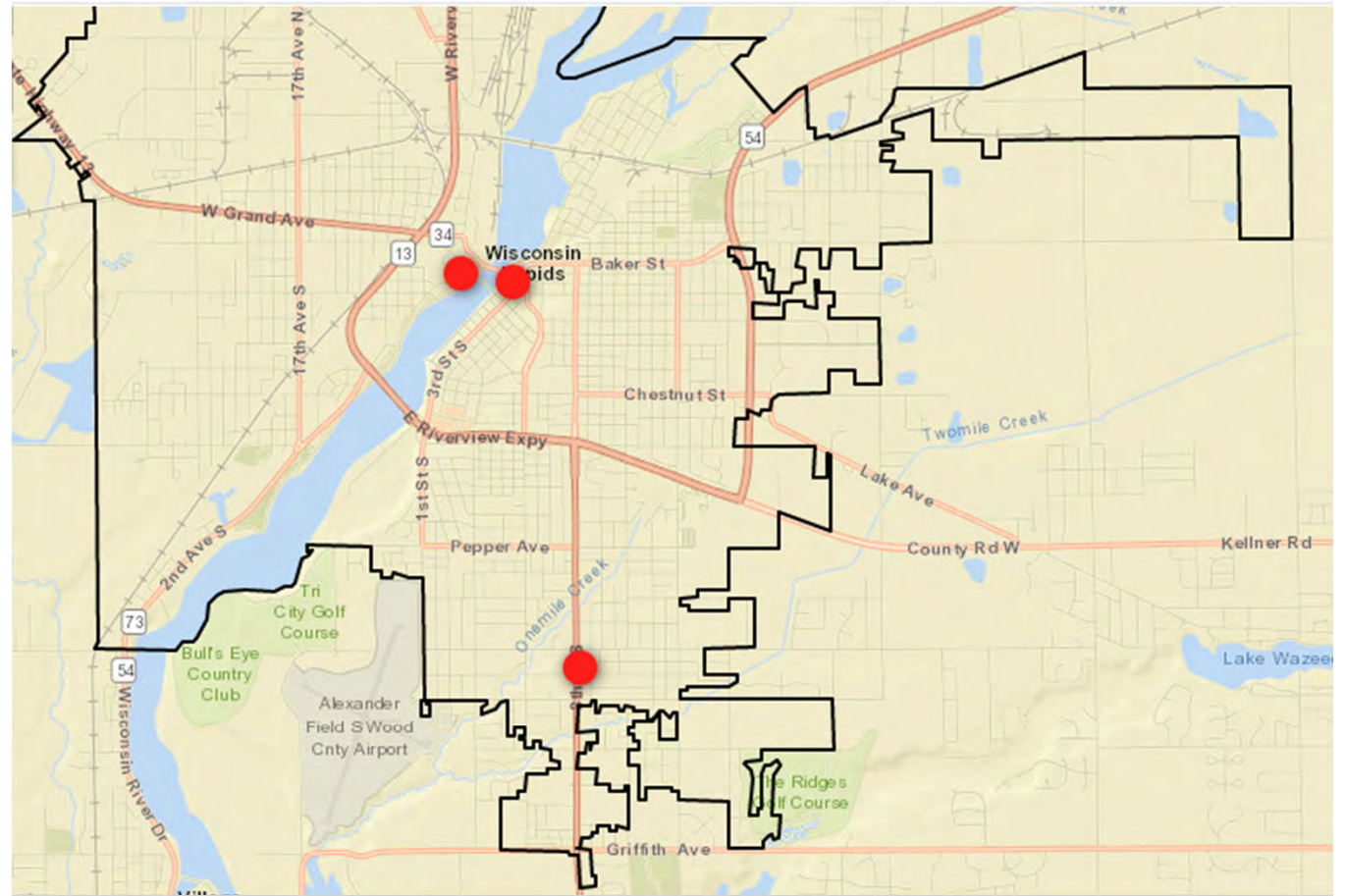
Example: City of Whitewater, Memorandum <https://whitewater-wi.gov/DocumentCenter/View/1699/Chapters-1909-and-1960-Nonconforming-Lot-Use-and-Structions-Amendment-Passed-April-4-2019-PDF>



# Register and Map Nonconformities



Zoning Code | Nonconformities



Location	Type	Description
132 2nd Avenue South	Use	Adult-oriented use
140 2nd Street North	Use	Adult-oriented use
3321 8th Street South	Use	Adult-oriented use

# Poll: What changes do you plan to make?

Select all that apply:



Add purpose statements



Review and simplify districts or uses



Update one or more sections of the ordinance



Improve layout, organization, or navigation



Add tables, graphics, and explanatory materials

# Code Review Techniques

- General Code Diagnosis
- Development History
- Planning Document Review
- Annual Report
- Audit for Specific Topics
- Ordinance Testing



# Development History

## 8. HISTORY OF DEVELOPMENT APPLICATIONS

The number and type of applications that were submitted for review from February of 2009 through October 31, 2012 are shown in the table below. Sign permits were the most common, followed by amendment of the zoning code (text and map). Of special note, there were no variance applications. During that period, the City reviewed and approved 13 conditional uses – two for animal/livestock, four for home occupations, five to allow residential structures/uses in commercial areas, and two for tourist rooming houses.

The number of text amendments, nearly one-third of the development applications, suggests that the current code does not adequately address the needs of the City and that a complete zoning code rewrite may be appropriate.

**Development Applications: February 2009 through October 2012**

	Approved	Denied	Withdrawn	Pending	Total
Administrative Appeal	0	0	0	0	0
Conditional use	13	0	0	0	13
Signs	28	0	0	0	28
Variance	0	0	0	0	0
Zoning code map amendment	2	0	0	0	2
Zoning code text amendment	20	0	0	0	20

# Link to Comprehensive Plan

## Comprehensive Plan Goal

## Assessment of Current Code

Preserve habitat by limiting housing in environmentally sensitive areas	The current code could do more
Ensure a variety of housing (e.g., single family and multi-family)	The current zoning code could do more to allow for variety of housing
Integrate low-, moderate-, and high-income housing in the same area	The current code could do more
Assure housing for the developmentally challenged	Difficult to do with a zoning code
Maintain open feel and rural character of much of the growth area around the City	Current code does a good job of accomplishing this goal
Encourage higher density near the Downtown core, and lower density in the more rural areas	The current code could do more
Provide land for manufactured housing	Not addressed in code
Allow "mixed-use" neighborhoods	Not addressed in code
Use the capacity of utilities and community facilities to direct future growth	Not addressed in code
Allow home businesses that have little or no impact on surrounding properties	Current code does a little to address this issue
Control lakeshore development	The current code could do more
Protect environmentally sensitive areas, especially those not protected by current floodplain, wetland zoning, or other regulation	The current code could do more
Protect surface water through lake, stream, and river corridor preservation and development policies	The current code could do more

Example: Washburn Zoning Code Project, Technical Review Report, Civitek Consulting, 2013

# Annual Report

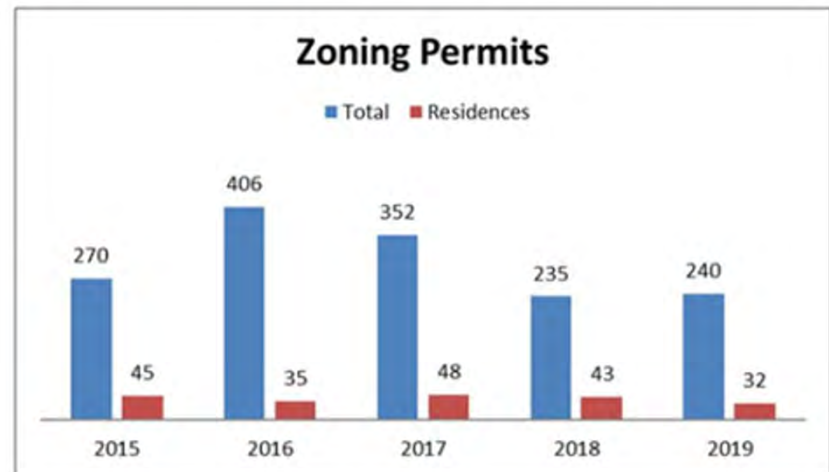
## Ordinance Revisions

- The Manure Storage and Management Ordinance was completely revised and updated to current standards. This was a collaborative effort with the Land Conservation Department and both oversight committees.
- Revisions were made to the Zoning Ordinance relating to commercial and residential kennels and Rural Residential Rentals
- The Airport Zoning Ordinance was revised and updated. This was in collaboration with the Airport Commission and Highway Department.

## Complaints & Violations

- There were 81 violations investigated in 2019. Of these, 61 or 75% have been resolved by staff assisting property owners to achieve compliance versus issuing citations.
- Contributing to the 2019 violations were 33 cases of structures found when reviewing the 2018 aerial photos that did not have record of permits.
- 9 violations were closed dating back to 2017.

## Five Year General Activity Comparisons



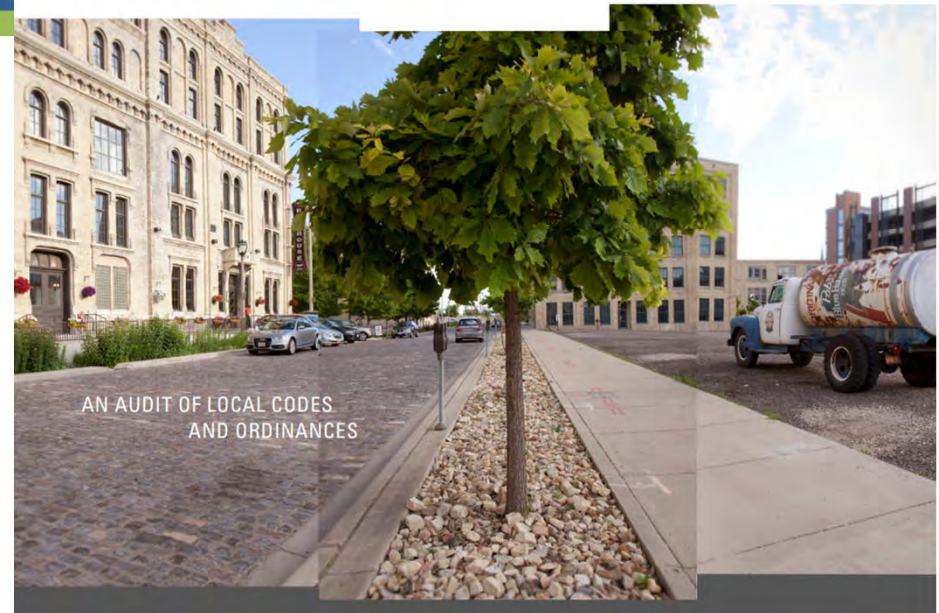
Example: Iowa County Annual Report, 2019  
<https://www.iowacounty.org/departments/PlanningDevelopment>

# Audit for Specific Topics

## Urban Agriculture Code Audit Milwaukee, Wisconsin



TACKLING BARRIERS TO Green Infrastructure



# Scorecard

## YOUR GREEN INFRASTRUCTURE AUDIT

The grading matrix helps indicate whether a code, policy or operation is enabling, conditional, ambiguous, discouraging or conflicted with regards to green infrastructure. An example of an audit question and grading follows.

Most municipal regulations are available online and can be downloaded as a document. As you use the worksheets to work through the codes and ordinances, highlight the language in the particular regulation for potential amendment and make note of it on the worksheets for easy reference.

Record your grades on the report card in this book or download at [gowisc.edu/greenreportcard](http://gowisc.edu/greenreportcard).

A+	Practice is enabled and described specifically; clearly allowed and approved as-of-right
A	Practice is specifically allowable/ as-of-right approval, but some ambiguity or potential conflict
A-	Practice is enabled or encouraged, with discretionary approval
B	Practice is mentioned but without standards or guidance for use
C	No policy or standards adopted, but not disallowed
D	Limitations or prohibitive language in the code, but could potentially be approved
F	Practice prohibited by code language, or an active conflict would prevent approval

Tackling Barriers to Green Infrastructure

<https://www.seagrant.wisc.edu/our-work/focus-areas/coastal-communities/green-infrastructure/>



# Evaluation Matrix

Do parking lot edge landscaping requirements (islands and edges) specifically allow or encourage use as stormwater control areas? Is a standard adopted?		
Grade	Classification	Details and comments
A+	Practice is enabled and described specifically; clearly allowed and approved as-of-right	Perimeter landscape areas shall be designed and installed to function as stormwater management areas or, where not required for stormwater management, to provide naturalized landscaping. A combination of vertical features such as green walls and fencing, along with a mix of plantings, shall be used to provide sufficient visual screening of the parking lot area. [Landscape areas are clearly intended to be designed for stormwater management function.]
A	Practice is specifically allowable/as-of-right approval, but some ambiguity or potential conflict	The use of perimeter landscape areas to infiltrate and treat stormwater is strongly encouraged; however, the plan commission shall require at a minimum one tree or woody shrub every ten (10) linear feet within the perimeter landscape area. [Encourages use of landscaping for stormwater management, but requires woody plantings at specific intervals that could conflict with bioretention designs.]
A-	Practice is enabled or encouraged, with discretionary approval	The use of perimeter landscape areas for bioretention, swales or other stormwater may be approved by the plan commission so long as the visual screening intent of this Section is accomplished through a combination of fencing, tree planting and vegetation. [The plan commission has discretionary approval (may or may not approve) and the listed standards for what the applicant must accomplish are not specific.]
B	Practice is mentioned but without standards or guidance for use	Portions of perimeter landscape areas may be designed as swales if approved by the plan commission. [Approval is discretionary and standards for what situations would be approvable are not specified.]
C	No policy or standards adopted, but not disallowed	Perimeter landscape areas shall be designed to accomplish 75% opacity within two years of planting. [While it can be difficult to design a perimeter landscape as a bioretention area and to achieve 75% opacity, it is potentially allowable.]
D	Limitations or prohibitive language in the code, but could potentially be approved	Perimeter landscape buffers shall be comprised of landforms, lawn areas, ground cover, shade trees, flowering trees, evergreen trees, shrubs and flowers. [While stormwater management or bioretention is not specifically prohibited, neither bioretention nor 'grasses' are listed; language "shall be" often interpreted to mean that no plantings or uses are allowed other than those listed.]
F	Practice prohibited by code language, or an active conflict would prevent approval	Perimeter landscape areas shall be graded into a berm or landform with a minimum slope of 2:1 topped by a planting plan that will form a dense evergreen screen within two years of planting. [Does not allow for water inflow or native plantings.]

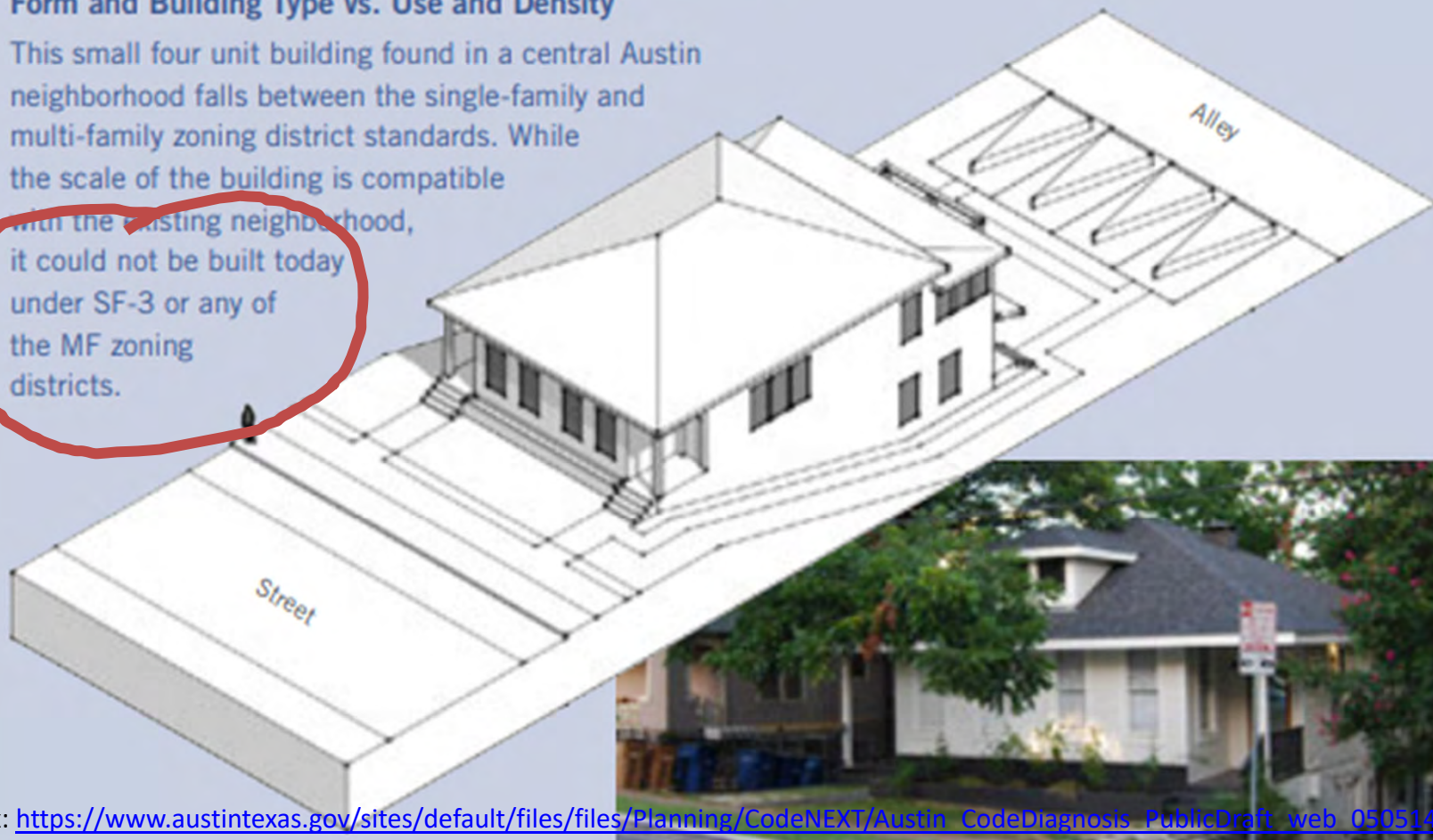
# Ordinance Testing

Could you build it today?

## Creative Example of Medium Density Housing

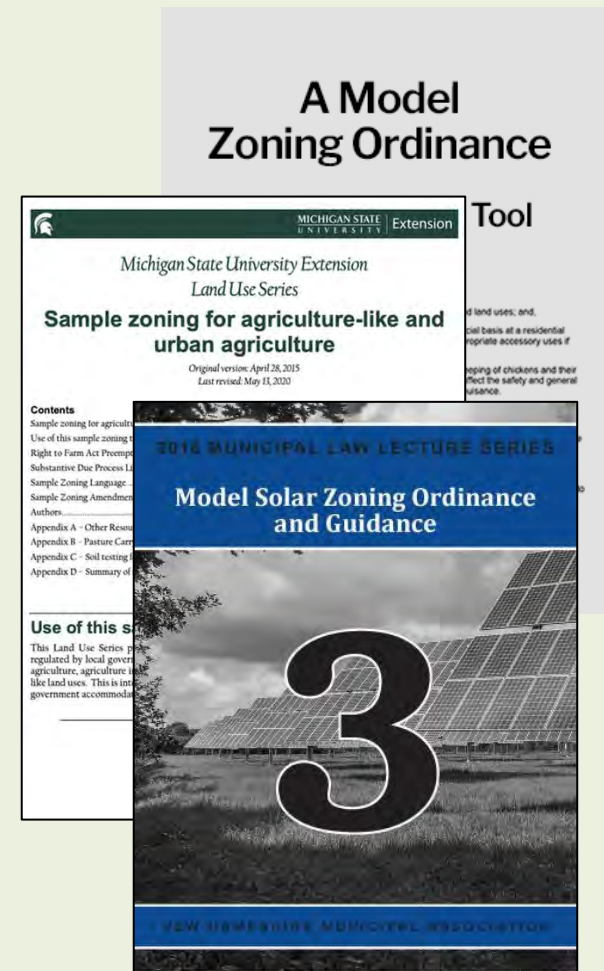
### Form and Building Type vs. Use and Density

This small four unit building found in a central Austin neighborhood falls between the single-family and multi-family zoning district standards. While the scale of the building is compatible with the existing neighborhood, it could not be built today under SF-3 or any of the MF zoning districts.



# Sources of Guidance

- Seek professional assistance and legal review
- Look to model ordinances and examples for inspiration, BUT...
  - Be wary of materials promoted by special interest groups
  - Recognize differences in state law
  - Older examples may not reflect existing best practice or laws
- Draft, review, revise, repeat!!



# Who can support you in this work?



Elected and appointed officials



Attorney



Community volunteers



Consultant



Planning or zoning staff



Professional networks



County or regional planning commission



Neighboring communities

# Poll: What are your greatest barriers?

Select all that apply:



Knowledge



Time



Money



Public support



Political support

Please type in the chat box:

- What resources do you need?
- How can we support you in this work?
- What questions do you have?

# Thank You!

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715-346-4322

[www.uwsp.edu/cnr-ap/clue](http://www.uwsp.edu/cnr-ap/clue)  
[fyi.extension.wisc.edu/landusetraining](http://fyi.extension.wisc.edu/landusetraining)



Center for Land Use Education  
College of Natural Resources  
**University of Wisconsin - Stevens Point**



**Extension**  
UNIVERSITY OF WISCONSIN - MADISON